

1 A bill to be entitled  
2 An act relating to Confidentiality of reports and  
3 records in cases of child abuse, abandonment and  
4 neglect.

5  
6 Be It Enacted by the Legislature of the State of Florida:

7  
8 Section 1 Section 39.00145, Florida Statutes, is  
9 created to read:

10 39.00145 Child Records.

11 (1) The case file of every child under the supervision  
12 of or in the custody of the department, the department's  
13 authorized agents, or contract providers for the department,  
14 including community-based care lead agencies and their  
15 subcontracted providers, must be maintained in a complete  
16 and accurate manner including, but not limited to, the  
17 child's case plan required by part VIII of this chapter, and  
18 the full name and street address of any and all shelters,  
19 foster parents, group homes, treatment facilities, or  
20 locations where the child is placed. The child shall be  
21 provided with a complete and accurate copy or his or her  
22 entire case file, at no cost, upon the request of the child  
23 or the child's caregiver, guardian ad litem, or attorney  
24 acting on behalf of the child.

25 (2) Notwithstanding any other provision of this  
26 chapter, the records in the case file shall be made  
27 available for review upon request of the child or child's  
28 caregiver, guardian ad litem, or attorney, at no cost. A  
29 request by the child's attorney or guardian ad litem must be  
30 submitted in writing.

31 (a) Release of records in the case file to the child,  
32 or the child's caregiver, guardian ad litem, or attorney,  
33 does not waive the confidential status of the information  
34 contained in the records.

**Coding: Words ~~stricken~~ are deletions; words underlined are additions.**

1 (b) If a child, or the child's caregiver, attorney, or  
2 guardian ad litem, requests access to the child's case file,  
3 any person who fails to provide records in the case file  
4 under an assertion of an exemption from the public records  
5 requirements of chapter 119, or who fails to provide access  
6 within a reasonable time, is subject to sanctions and  
7 penalties under s. 119.10.

8 Section 2 Subsections (1) and (2) of Section 39.202,  
9 Florida Statutes, are amended and subsection (9) of Section  
10 39.202, Florida Statutes, is created to read:

11 39.202 Confidentiality of reports and records in cases  
12 of child abuse, abandonment and neglect.

13 (1) All personal identifying information contained in  
14 records concerning reports of child abuse, abandonment or  
15 neglect, regarding the following individuals is confidential  
16 and exempt from Section 119.07(1):

17 (a) information which identifies the child or child's  
18 siblings;

19 (b) information which identifies the child's parents,  
20 legal custodian, permanent guardian, other adult household  
21 members responsible for the care of the child, and other  
22 individuals responsible for the child's welfare, unless any  
23 of the listed individuals are arrested as a result of the  
24 report of child abuse, abandonment or neglect, or any of the  
25 listed individuals are the subject of an injunction issued  
26 by a court pursuant to s.39.504; and,

27 (c) information which identifies the reporter of the  
28 alleged abuse, abandonment or neglect.

29 ~~(1) In order to protect the rights of the child and~~  
30 ~~the child's parents or other persons responsible for the~~  
31 ~~child's welfare, all records held by the department~~  
32 ~~concerning reports of child abandonment, abuse, or neglect,~~  
33 ~~including reports made to the central abuse hotline and all~~  
34 ~~records generated as a result of such reports, shall be~~  
35 ~~confidential and exempt from the provisions of s.119.07 (1)~~

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1 ~~and shall not be disclosed except as specifically authorized~~  
2 ~~by this chapter. Such exemption from s.119.07 (1) applies~~  
3 ~~to information in the possession of those entities granted~~  
4 ~~access as set forth in this section.~~

5 (2) Except as provided in subsection (4), access to  
6 the confidential information such records, excluding the  
7 name of the reporter which shall be released only as  
8 provided in subsection (5), shall be granted only to the  
9 following persons, officials, and agencies:

10 (a) Employees, authorized agents, and contract  
11 providers of the department or any agency which provides  
12 services to the child or the child's family and any federal,  
13 state, and local government entities that need the  
14 information to carry out their legal responsibilities to  
15 protect children from abuse, abandonment or neglect.

16 ~~(a) Employees, authorized agents, or contract~~  
17 ~~providers of the department, the Department of Health, the~~  
18 ~~Agency for persons with Disabilities, or county agencies~~  
19 ~~responsible for carrying out:~~

- 20 ~~1. Child or adult protective investigations;~~
- 21 ~~2. Ongoing child or adult protective services;~~
- 22 ~~3. Early intervention and prevention services;~~
- 23 ~~4. Healthy Start services;~~
- 24 ~~5. Licensure or approval of adoptive homes, foster~~  
25 ~~homes, child care facilities, facilities licensed under~~  
26 ~~chapter 393, or family day care homes or informal child care~~  
27 ~~providers who receive subsidized child care funding, or~~  
28 ~~other homes used to provide for the care and welfare of~~  
29 ~~children; or~~
- 30 ~~6. Services for victims of domestic violence when~~  
31 ~~provided by certified domestic violence centers working at~~  
32 ~~the department's request as case consultants or with shared~~  
33 ~~clients.~~

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1 ~~Also, employees or agents of the Department of Juvenile~~  
2 ~~Justice responsible for the provision of services to~~  
3 ~~children, pursuant to chapters 984 and 985.~~

4 ~~(b) Criminal justice agencies of appropriate~~  
5 ~~jurisdiction.~~

6 ~~(c) The state attorney of the judicial circuit in~~  
7 ~~which the child resides or in which the alleged abuse or~~  
8 ~~neglect occurred.~~

9 (b) ~~(d)~~ The parent or legal custodian of any child  
10 who is alleged to have been abused, abandoned, or neglected,  
11 and the child, and their attorneys, including any attorney  
12 representing a child in civil or criminal proceedings. This  
13 access shall be made available no later than 30 days after  
14 the department receives the initial report of abuse,  
15 neglect, or abandonment. However, any information otherwise  
16 made confidential or exempt by law shall not be released  
17 pursuant to this paragraph.

18 (c) ~~(e)~~ Any person alleged in the report as having  
19 caused the abuse, abandonment, or neglect of a child. This  
20 access shall be made available no later than 30 days after  
21 the department receives the initial report of abuse,  
22 abandonment, or neglect and, when the alleged perpetrator is  
23 not a parent, shall be limited to information involving the  
24 protective investigation only and shall not include any  
25 information relating to subsequent dependency proceedings.  
26 However, any information otherwise made confidential or  
27 exempt by law shall not be released pursuant to this  
28 paragraph.

29 (d) ~~(f)~~ A court upon its findings that access to such  
30 information records may be necessary for the determination  
31 of an issue before the court. †

32 (e) ~~(g)~~ A grand jury, by subpoena, upon its  
33 determination that access to such information records is  
34 necessary in the conduct of its official business.

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1 ~~(h) Any appropriate official of the department or the~~  
2 ~~Agency for persons with Disabilities who is responsible for:~~

3 ~~1. Administration or supervision of the department's~~  
4 ~~program for the prevention, investigation, or treatment of~~  
5 ~~child abuse, abandonment, or neglect, or abuse, neglect, or~~  
6 ~~exploitation of a vulnerable adult, when carrying out his or~~  
7 ~~her official function;~~

8 ~~2. Taking appropriate administrative action~~  
9 ~~concerning an employee of the department or the agency who~~  
10 ~~is alleged to have perpetrated child abuse, abandonment, or~~  
11 ~~neglect, or abuse, neglect, or exploitation of a vulnerable~~  
12 ~~adult; or~~

13 ~~3. Employing and continuing employment of personnel~~  
14 ~~of the department or the agency.~~

15 (f) ~~(i)~~ Any Person authorized by the department who  
16 is engaged in the use of such records or information for  
17 bona fide research, statistical, or audit purposes. Such  
18 individual or entity shall enter into a privacy and security  
19 agreement with the department and shall comply with all laws  
20 and rules governing the use of such records and information  
21 for research and statistical purposes. Information  
22 identifying the subjects of such records or information  
23 shall be treated as confidential by the researcher and shall  
24 not be released in any form.

25 (g) ~~(j)~~ The Division of Administrative Hearings for  
26 purposes of any administrative challenge.

27 (h) ~~(k)~~ Any appropriate official of a Florida  
28 advocacy council investigating a report of known or  
29 suspected child abuse, abandonment, or neglect; the Auditor  
30 General or the office of Program Policy Analysis and  
31 Government Accountability for the purpose of conducting  
32 audits or examinations pursuant to law; or the guardian ad  
33 litem for the child.

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1        (i) ~~(l)~~ Employees or agents of an agency of another  
2 state that has comparable jurisdiction to the agencies  
3 ~~jurisdiction described in paragraph (a).~~

4        ~~(m) The Public Employees Relations Commission for the~~  
5 ~~sole purpose of obtaining evidence for appeals filed~~  
6 ~~pursuant to s.447.207. Records may be released only after~~  
7 ~~deletion of all information which specifically identified~~  
8 ~~persons other than the employee.~~

9        ~~(n) Employees or agents of the Department of Revenue~~  
10 ~~responsible for child support enforcement activities.~~

11        (j) ~~(o)~~ Any person in the event of the death of a  
12 child determined to be a result of abuse, abandonment, or  
13 neglect. Information identifying the person reporting  
14 abuse, abandonment, or neglect shall not be released. Any  
15 information otherwise made confidential or exempt by law  
16 shall not be released pursuant to this paragraph.

17        (k) ~~(p)~~ The principal of a public school, private  
18 school, or charter school where the child is a student.  
19 Information contained in the records which the principal  
20 determines are necessary for a school employee to  
21 effectively provide a student with educational services may  
22 be released to that employee.

23        (l) ~~(q)~~ Staff of the children's advocacy center that  
24 is established and operated under s.39.3035.

25        (m) Persons with whom the department is seeking to  
26 place the child or with whom placement has been granted,  
27 including, but not limited to, foster parents for whom an  
28 approved home study has been conducted; the designee of a  
29 licensed residential group home pursuant to s. 39.523; an  
30 approved relative or nonrelative placement pursuant to s.  
31 39.402(4); or, preadoptive parents for whom a favorable  
32 preliminary adoptive home study has been conducted, adoptive  
33 parents, or an adoption entity acting on behalf or  
34 preadoptive or adoptive parents.

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1 (9) Notwithstanding any other provision of law, the  
2 secretary may release any record reasonably related to a  
3 case that is already in the public domain but shall redact  
4 the identify of the child unless the child's name is also in  
5 the public domain in the context of the case or is already  
6 reasonably identifiable from information in the public  
7 domain.

8 Section 2 Subsections (1) and (3) of Section 415.107,  
9 Florida Statutes, are amended; subsections (2) and (4) of  
10 Section 415.107, Florida Statutes, are deleted and  
11 subsequent subsections renumbered; and a new subsection (8)  
12 of Section 415.107, Florida Statutes, is created to read:

13 415.107 Confidentiality of reports and records in  
14 cases of abuse, neglect or exploitation of vulnerable  
15 adults.

16 (1) All personal identifying information contained in  
17 records concerning reports of abuse, neglect, or  
18 exploitation of a vulnerable adult regarding the following  
19 individuals is confidential and exempt from Section  
20 119.07(1):

21 (a) information which identifies the adult victim;

22 (b) information which identifies the victim's guardian  
23 or legal counsel unless any of the listed individuals are  
24 arrested as a result of the report of abuse, neglect, or  
25 exploitation of a vulnerable adult or any of the listed  
26 individuals are the subject of an injunction issued by a  
27 court; and,

28 (c) information which identifies the reporter of the  
29 alleged abuse, neglect or exploitation of a vulnerable  
30 adult.

31 ~~(1) In order to protect the rights of the individual~~  
32 ~~or other persons responsible for the welfare of a vulnerable~~  
33 ~~adult, all records concerning reports of abuse, neglect or~~  
34 ~~exploitation of the vulnerable adult, including reports made~~  
35 ~~to the central abuse hotline, and all records generated as a~~

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1 ~~result of such reports shall be confidential and exempt from~~  
2 ~~s.119.07(1) and may be not disclosed except as specifically~~  
3 ~~authorized by ss.415.101-415.113.~~

4 ~~— (2) Upon the request of the committee chairperson,~~  
5 ~~access to all records shall be granted to staff of the~~  
6 ~~legislative committees with jurisdiction over issues and~~  
7 ~~services related to vulnerable adults, or over the~~  
8 ~~department. All confidentiality provisions that apply to~~  
9 ~~the Department of Children and Family Services continue to~~  
10 ~~apply to the records made available to legislative staff~~  
11 ~~under this subsection.~~

12 (2) ~~(3)~~ Access to all records, excluding the name of  
13 the reporter which shall be released only as provided in  
14 subsection (6), shall be granted only to the following  
15 persons, officials, and agencies:

16 (a) Employees, authorized agents, and contract  
17 providers of the department or any agency which provides  
18 services to vulnerable adults and any federal, state, and  
19 local government entities that need the information to carry  
20 out their legal responsibilities to protect vulnerable  
21 adults from abuse, neglect or exploitation.

22 ~~(a) Employees or agents of the department, the Agency~~  
23 ~~for Persons with Disabilities, the Agency for Health Care~~  
24 ~~Administration, or the Department of Elderly Affairs who are~~  
25 ~~responsible for carrying out services for protective~~  
26 ~~investigations, ongoing protective services, or licensure or~~  
27 ~~approval of nursing homes, assisted living facilities, adult~~  
28 ~~day care centers, adult family care homes, home care for the~~  
29 ~~elderly, hospices, residential licensed under chapter 393,~~  
30 ~~or other facilities used for the placement of vulnerable~~  
31 ~~adults.~~

32 ~~(b) A criminal justice agency investigating a report~~  
33 ~~of known or suspected abuse, neglect, or exploitation of a~~  
34 ~~vulnerable adult.~~

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1 ~~\_\_\_\_\_ (c) The state attorney of the judicial circuit in~~  
2 ~~which the vulnerable adult resides or in which the alleged~~  
3 ~~abuse, neglect, or exploitation occurred.~~

4 (b) ~~(d)~~ Any victim, the victim's guardian, caregiver,  
5 or legal counsel, and any person who the department has  
6 determined might be abusing, neglecting, or exploiting the  
7 victim.

8 (c) ~~(e)~~ A court, by subpoena, upon its finding that  
9 access to such records may be necessary for the  
10 determination of an issue before the court; however, such  
11 access must be limited to inspection in camera, unless the  
12 court determines that public disclosure of the information  
13 contained in such records is necessary for the resolution of  
14 an issue then pending before it.

15 (d) ~~(f)~~ A grand jury, by subpoena, upon its  
16 determination that access to such records is necessary in  
17 the conduct of its official business.

18 (e) ~~(g)~~ Any appropriate official of the Florida  
19 advocacy council or long-term care ombudsman council  
20 investigating a report of known or suspected abuse, neglect,  
21 or exploitation of a vulnerable adult.

22 ~~(h) Any appropriate official of the department, the~~  
23 ~~Agency for Persons with Disabilities, the Agency for Health~~  
24 ~~Care Administration, or the Department of Elderly Affairs~~  
25 ~~who is responsible for:~~

26 ~~1. Administration or supervision of the programs for~~  
27 ~~the prevention, investigation, or treatment of abuse,~~  
28 ~~neglect, or exploitation of vulnerable adults when carrying~~  
29 ~~out an official function; or~~

30 ~~2. Taking appropriate administrative action~~  
31 ~~concerning an employee alleged to have perpetrated abuse,~~  
32 ~~neglect, or exploitation of a vulnerable adult in an~~  
33 ~~institution.~~

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1        (f) ~~(i)~~ Any person engaged in bona fide research or  
2 auditing. However, information identifying the subjects of  
3 the report must not be made available to the researcher.

4        (g) (j) Employees or agents of an agency of another  
5 state that has jurisdiction comparable to the jurisdiction  
6 described in paragraph (a).

7        (h) ~~(k)~~ The Public Employees Relations Commission for  
8 the sole purpose of obtaining evidence for appeals filed  
9 pursuant to S.447.207. Records may be released only after  
10 deletion of all information that specifically identified  
11 persons other than the employee.

12        (i) ~~(l)~~ Any person in the event of the death of a  
13 vulnerable adult determined to be a result of abuse,  
14 neglect, or exploitation. Information identifying the  
15 person reporting abuse, neglect, or exploitation shall not  
16 be released. Any information otherwise made confidential or  
17 exempt by law shall not be released pursuant to this  
18 paragraph.

19        ~~(4) The Department of Health, the Department of  
20 Business and Professional Regulation, and the Agency for  
21 health Care Administration may have access to a report,  
22 excluding the name of the reporter, when considering  
23 disciplinary action against a licensee or certified nursing  
24 assistant pursuant to allegations of abuse, neglect, or  
25 exploitation.~~

26        (4) ~~(5)~~ The department may release to any  
27 professional person such information as is necessary for the  
28 diagnosis and treatment of, and service delivery to, a  
29 vulnerable adult or the person perpetrating the abuse,  
30 neglect, or exploitation.

31        (5) ~~(6)~~ The identity of any person reporting abuse,  
32 neglect, or exploitation of a vulnerable adult may not be  
33 released, without that person's written consent, to any  
34 person other than employees of the department responsible  
35 for protective services, the central abuse hotline, or the

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1 appropriate state attorney or law enforcement agency. This  
2 subsection grants protection only for the person who  
3 reported the abuse, neglect, or exploitation and protects  
4 only the fact that the person is the reporter. This  
5 subsection does not prohibit the subpoena of a person  
6 reporting the abuse, neglect, or exploitation when deemed  
7 necessary by the state attorney or the department to protect  
8 a vulnerable adult who is the subject of a report, if the  
9 fact that the person made the report is not disclosed.

10 (6) ~~(7)~~ for the purposes of this section, the term  
11 "access" means a visual inspection or copy of the hardcopy  
12 record maintained by the department ~~in the district~~.

13 (7) ~~(8)~~ Information in the central abuse hotline may  
14 not be used for employment screening.

15 (8) ~~Notwithstanding any other provision of law, the~~  
16 secretary may release any record reasonably related to a  
17 case that is already in the public domain but shall redact  
18 the identity of the victim unless the victim's name is also  
19 in the public domain in the context of the case or is  
20 already reasonably identifiable from information in the  
21 public domain.  
22

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