

Committee Substitute for Senate Bill No. 1098

An act relating to public-records exemptions; amending s. 39.202, F.S.; creating an exception to the exemption from public-records requirements for all records held by the Department of Children and Family Services concerning reports of child abandonment, abuse, or neglect; amending s. 39.0132, F.S.; creating an exemption from public-records requirements for information obtained by a guardian ad litem in the discharge of his or her official duty; providing an exception to the exemption; providing for review and repeal under the Open Government Sunset Review Act; providing a statement of public necessity; amending s. 119.07, F.S.; creating an exemption from public-records requirements for certain identification and location information regarding a current or former guardian ad litem or the spouse and children of the guardian ad litem; providing for review and repeal under the Open Government Sunset Review Act; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (q) is added to subsection (2) of section 39.202, Florida Statutes, and subsections (4) and (5) of that section are republished, to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

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

(g) The executive director or equivalent, and his or her designee, of a children's advocacy center that is established and operated under s. 39.3035.

(4) Notwithstanding any other provision of law, when a child under investigation or supervision of the department or its contracted service providers is determined to be missing, the following shall apply:

(a) The department may release the following information to the public when it believes the release of the information is likely to assist efforts in locating the child or to promote the safety or well-being of the child:

1. The name of the child and the child's date of birth;
2. A physical description of the child, including at a minimum the height, weight, hair color, eye color, gender, and any identifying physical characteristics of the child; and
3. A photograph of the child.

(b) With the concurrence of the law enforcement agency primarily responsible for investigating the incident, the department may release any additional information it believes likely to assist efforts in locating the child or to promote the safety or well-being of the child.

(c) The law enforcement agency primarily responsible for investigating the incident may release any information received from the department regarding the investigation, if it believes the release of the information is likely to assist efforts in locating the child or to promote the safety or well-being of the child.

The good faith publication or release of this information by the department, a law enforcement agency, or any recipient of the information as specifically authorized by this subsection shall not subject the person, agency or entity releasing the information to any civil or criminal penalty. This subsection does not authorize the release of the name of the reporter, which may be released only as provided in subsection (5).

(5) The name of any person reporting child abuse, abandonment, or neglect may not be released to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, the child protection team, or the appropriate state attorney, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. Any person specifically listed in s. 39.201(1) who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation. The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

Section 2. Subsection (4) of section 39.0132, Florida Statutes, is amended to read:

39.0132 Oaths, records, and confidential information.—

(4)(a)~~1.~~ All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, authorized agent of the department, correctional probation officer, or law enforcement agent is confidential and exempt from s. 119.07(1) and may not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, correctional probation officers, law enforcement agents, guardian ad litem, and others entitled under this chapter to receive that information, except upon order of the court.

2. Any information related to the best interests of a child, as determined by a guardian ad litem, which is held by a guardian ad litem, including but not limited to medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial records; and any

other information maintained by a guardian ad litem which is identified as confidential information under this chapter; is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such confidential and exempt information may not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, correctional probation officers, law enforcement agents, guardians ad litem, and others entitled under this chapter to receive that information, except upon order of the court. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

(b) The department shall disclose to the school superintendent the presence of any child in the care and custody or under the jurisdiction or supervision of the department who has a known history of criminal sexual behavior with other juveniles; is an alleged juvenile sex offender, as defined in s. 39.01; or has pled guilty or nolo contendere to, or has been found to have committed, a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless of adjudication. Any employee of a district school board who knowingly and willfully discloses such information to an unauthorized person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. The Legislature finds that it is a public necessity that information obtained by a guardian ad litem in discharging duties with respect to proceedings relating to children should be made confidential and exempt from public-records requirements. The Legislature finds that the information obtained by a guardian ad litem in ensuring the care, safety, and protection of children is sensitive and personal to the child and his or her family and that release of this information could expose the child to harm or injure the reputation of the child or the child's family. Providing confidential and exempt status to the information obtained by a guardian ad litem will facilitate the ability of the guardian ad litem to represent the best interests of the child in legal proceedings and thereby fulfill the purpose and administration of the guardian ad litem program.

Section 4. Paragraph (i) of subsection (6) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection and copying of records; photographing public records; fees; exemptions.—

(6)

(i)1. The home addresses, telephone numbers, social security numbers, and photographs of active or former law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the home addresses,

telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from the provisions of subsection (1). The home addresses, telephone numbers, and photographs of firefighters certified in compliance with s. 633.35; the home addresses, telephone numbers, photographs, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from subsection (1). The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from the provisions of subsection (1). The home addresses, telephone numbers, social security numbers, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from subsection (1) and s. 24(a), Art. I of the State Constitution.

2. The home addresses, telephone numbers, social security numbers, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from subsection (1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

3. The home addresses, telephone numbers, social security numbers, and photographs of current or former United States attorneys and assistant United States attorneys; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former United States attorneys and assistant United States attorneys; and the names and locations of schools and day care facilities attended by the children of current or former United States attorneys and assistant United States attorneys are exempt from subsection (1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s.

119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

4. The home addresses, telephone numbers, social security numbers, and photographs of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges; and the names and locations of schools and day care facilities attended by the children of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges are exempt from subsection (1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

5. The home addresses, telephone numbers, social security numbers, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from subsection (1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

6. The home addresses, telephone numbers, places of employment, and photographs of current or former guardians ad litem, as defined in s. 39.820, and the names, home addresses, telephone numbers, and places of employment of the spouses and children of such persons, are exempt from subsection (1) and s. 24(a), Art. I of the State Constitution, if the guardian ad litem provides a written statement that the guardian ad litem has made reasonable efforts to protect such information from being accessible through other means available to the public. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

7. An agency that is the custodian of the personal information specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., or subparagraph 5., or subparagraph 6., and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., or subparagraph 5., or subparagraph 6., shall maintain the exempt status of the personal information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

Section 5. The Legislature finds that it is a public necessity that home addresses, telephone numbers, places of employment, and photographs of

current or former guardians ad litem, and the names, home addresses, telephone numbers, and places of employment of the spouses and children of such persons, be made exempt from public-records requirements. Guardians ad litem provide a valuable service to the community. They interact with victims of child abuse and neglect and, at times, the perpetrators of that abuse or neglect. The capacity in which they work or volunteer their time does not always create good will. Different persons may be disgruntled with the testimony, report, or recommendation made by guardians ad litem. The testimony of guardians ad litem could create a safety risk. Thus, the guardians ad litem, or the spouses and children of guardians ad litem, could become a potential target for acts of revenge. If the information specified in this act remains available, the safety and welfare of guardians ad litem, and their spouses and children, could be seriously jeopardized. Accordingly, it is a public necessity that identifying and location information of guardians ad litem, and their spouses and children, be made exempt from public disclosure.

Section 6. This act shall take effect October 1, 2005.

Approved by the Governor June 13, 2005.

Filed in Office Secretary of State June 13, 2005.