

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SCS/HCS/House Bill No. 362, Page 1, Section title, Line 3,

2 by striking "sunshine law" and inserting in lieu thereof the
3 following: "public access to records"; and

4 Further amend said bill and page, section A, line 3, by
5 inserting after all of said line the following:

6 "37.717. 1. The office shall create a safety
7 reporting system in which employees of the children's
8 division may report information regarding the safety of
9 those served by the children's division and the safety of
10 such division's employees.

11 2. The identity of any individual who reports to or
12 participates in the reporting system under subsection 1 of
13 this section shall:

14 (1) Be sealed from inspection by the public or any
15 other entity or individual who is otherwise provided access
16 to the department of social services' confidential records;

17 (2) Not be subject to discovery or introduction into
18 evidence in any civil proceeding; and

19 (3) Be disclosed only as necessary to carry out the
20 purpose of the reporting system under subsection 1 of this
21 section.

22 3. Any criminal act reported into the reporting system
23 under subsection 1 of this section shall be disclosed by the
24 office of child advocate to the appropriate law enforcement
25 agency or prosecuting or city attorney.

26 4. Any investigation conducted as a result of a report
27 made under this section shall be conducted by an unbiased
28 and disinterested investigator.

29 210.152. 1. All information, including telephone
30 reports reported pursuant to section 210.145, relating to
31 reports of abuse or neglect received by the division shall
32 be retained by the division or removed from the records of
33 the division as follows:

34 (1) For investigation reports contained in the central
35 registry, the report and all information shall be retained
36 by the division;

37 (2) (a) For investigation reports initiated against a
38 person required to report pursuant to section 210.115, where
39 insufficient evidence of abuse or neglect is found by the
40 division and where the division determines the allegation of
41 abuse or neglect was made maliciously, for purposes of
42 harassment, or in retaliation for the filing of a report by
43 a person required to report, identifying information shall
44 be expunged by the division within forty-five days from the
45 conclusion of the investigation;

46 (b) For investigation reports, where insufficient
47 evidence of abuse or neglect is found by the division and
48 where the division determines the allegation of abuse or
49 neglect was made maliciously, for purposes of harassment, or
50 in retaliation for the filing of a report, identifying
51 information shall be expunged by the division within forty-
52 five days from the conclusion of the investigation;

53 (c) For investigation reports initiated by a person
54 required to report under section 210.115, where insufficient
55 evidence of abuse or neglect is found by the division,
56 identifying information shall be retained for ten years from
57 the conclusion of the investigation. For all other
58 investigation reports where insufficient evidence of abuse

59 or neglect is found by the division, identifying information
60 shall be retained for five years from the conclusion of the
61 investigation. Such reports shall include any exculpatory
62 evidence known by the division, including exculpatory
63 evidence obtained after the closing of the case. At the end
64 of such time period, the identifying information shall be
65 removed from the records of the division and destroyed;

66 (d) For investigation reports where the identification
67 of the specific perpetrator or perpetrators cannot be
68 substantiated and the division has specific evidence to
69 determine that a child was abused or neglected, the division
70 shall retain the report and all information but shall not
71 place an unknown perpetrator on the central registry. The
72 division shall retain all information. The division shall
73 retain and disclose information and findings in the same
74 manner as the division retains and discloses family
75 assessments. If the division made a finding of abuse or
76 neglect against an unknown perpetrator prior to August 28,
77 2017, the division shall remove the unknown perpetrator from
78 the central registry but shall retain and utilize all
79 information as otherwise provided in this section;

80 (3) For reports where the division uses the family
81 assessment and services approach, information shall be
82 retained by the division;

83 (4) For reports in which the division is unable to
84 locate the child alleged to have been abused or neglected,
85 information shall be retained for eighteen years from the
86 date of the report and then shall be removed from the
87 records by the division.

88 2. Within ninety days, or within one hundred twenty
89 days in cases involving sexual abuse, or until the
90 division's investigation is complete in cases involving a
91 child fatality or near-fatality, after receipt of a report

92 of abuse or neglect that is investigated, the alleged
93 perpetrator named in the report and the parents of the child
94 named in the report, if the alleged perpetrator is not a
95 parent, shall be notified in writing of any determination
96 made by the division based on the investigation. The notice
97 shall advise either:

98 (1) That the division has determined by a probable
99 cause finding prior to August 28, 2004, or by a
100 preponderance of the evidence after August 28, 2004, that
101 abuse or neglect exists and that the division shall retain
102 all information regarding the abuse or neglect; that such
103 information shall remain confidential and will not be
104 released except to law enforcement agencies, prosecuting or
105 circuit attorneys, or as provided in section 210.150; that
106 the alleged perpetrator has sixty days from the date of
107 receipt of the notice to seek reversal of the division's
108 determination through a review by the child abuse and
109 neglect review board as provided in subsection 4 of this
110 section;

111 (2) That the division has not made a probable cause
112 finding or determined by a preponderance of the evidence
113 that abuse or neglect exists; or

114 (3) The division has been unable to determine the
115 identity of the perpetrator of the abuse or neglect. The
116 notice shall also inform the child's parents and legal
117 guardian that the division shall retain, utilize, and
118 disclose all information and findings as provided in family
119 assessment and services cases.

120 3. The children's division may reopen a case for
121 review if new, specific, and credible evidence is obtained.

122 4. Any person named in an investigation as a
123 perpetrator who is aggrieved by a determination of abuse or
124 neglect by the division as provided in this section may seek

an administrative review by the child abuse and neglect review board pursuant to the provisions of section 210.153. Such request for review shall be made within sixty days of notification of the division's decision under this section. In those cases where criminal charges arising out of facts of the investigation are pending, the request for review shall be made within sixty days from the court's final disposition or dismissal of the charges. Nothing in this section shall preclude the office of child advocate from releasing findings regarding the professional performance of any individual member of the multidisciplinary team as described in section 660.520.

5. In any such action for administrative review, the child abuse and neglect review board shall sustain the division's determination if such determination was supported by evidence of probable cause prior to August 28, 2004, or is supported by a preponderance of the evidence after August 28, 2004, and is not against the weight of such evidence. The child abuse and neglect review board hearing shall be closed to all persons except the parties, their attorneys and those persons providing testimony on behalf of the parties.

6. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect review board, the alleged perpetrator may seek de novo judicial review in the circuit court in the county in which the alleged perpetrator resides and in circuits with split venue, in the venue in which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator is not a resident of the state, proper venue shall be in Cole County. The case may be assigned to the family court division where such a division has been established. The request for a judicial review shall be made within sixty days of notification of the

158 decision of the child abuse and neglect review board
159 decision. In reviewing such decisions, the circuit court
160 shall provide the alleged perpetrator the opportunity to
161 appear and present testimony. The alleged perpetrator may
162 subpoena any witnesses except the alleged victim or the
163 reporter. However, the circuit court shall have the
164 discretion to allow the parties to submit the case upon a
165 stipulated record.

166 7. In any such action for administrative review, the
167 child abuse and neglect review board shall notify the child
168 or the parent, guardian or legal representative of the child
169 that a review has been requested.

170 479.162. Notwithstanding any provision of law, supreme
171 court rule, or court operating rule, in a proceeding for a
172 municipal ordinance violation or any other proceeding before
173 a municipal court if the charge carries the possibility of
174 fifteen days or more in jail or confinement, a defendant
175 shall not be charged any fee for obtaining a police report,
176 a probable cause statement, or any video relevant to the
177 traffic stop or arrest. Such police report, probable cause
178 statement, or video shall be provided by the prosecutor upon
179 written request by the defendant for discovery."; and

180 Further amend the title and enacting clause accordingly.