

# 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.