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Committee on Health, Aging, and Long-Term Care

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OPEN GOVERNMENT SUNSET REVIEW OF THE PUBLIC RECORDS AND MEETINGS EXEMPTIONS FOR CHILD ABUSE DEATH REVIEW COMMITTEES (S. 383.410, F.S.)

SUMMARY

Section 383.410, F.S., makes information that would reveal the name, address, or telephone number of, or information that would identify any of the deceased child's surviving siblings, family members, or others living in the home, which is contained in reports or records created by the State Child Abuse Death Review Committee, or a local committee, or a panel of the state committee or a local committee, which relates solely to child fatalities and in which specific persons or incidents are discussed confidential and exempt from the Public Records Law. All information that is confidential or exempt from public records requirements by operation of law and that is obtained by the child abuse death review committees or panels, or that is obtained by a hospital or a health care practitioner from a child abuse death review committee or panel, retains that status.

Section 383.410, F.S., also makes portions of meetings relating solely to child fatalities in which specific persons or incidents are discussed exempt from the Public Meetings Law.

All information and records acquired by the State Child Abuse Death Review Committee or a local committee are confidential and not subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceedings, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery or introduction into evidence from those sources solely because they were presented to or reviewed by a committee.

Staff has reviewed the exemptions pursuant to the criteria of the Open Government Sunset Review Act of 1995 and determined that the exemptions, with some modification, meet the requirements for reenactment.

Accordingly, staff recommends that s. 383.410, F.S., be amended to: delete an exemption for records disclosed to hospitals or health care practitioners, which has not been used by the child abuse death review committees; limit the criminal provisions of the section to apply to persons who knowingly or willfully make unauthorized disclosures of information made confidential and exempt by the section; state more clearly the confidential or exempt status of records already confidential or exempt under the Public Records Law; and clarify that records obtained by the committees that are not otherwise confidential are not made confidential.

BACKGROUND

Constitutional Access to Public Records and Meetings

Florida has a history of providing public access to the records and meetings of governmental and other public entities. The tradition began in 1909 with the enactment of a law that guaranteed access to the records of public agencies (s. 1, ch. 5945, 1909; RGS 424; CGL 490). Over the following nine decades, a significant body of statutory and judicial law developed that greatly enhanced the original law. The state's Public Records Act, in ch. 119, F.S., and the public meetings law, in ch. 286, F.S., were first enacted in 1967 (Chs. 67-125 and 67-356, L.O.F.). These statutes have been amended numerous times since their enactment. In November 1992, the public affirmed the tradition of government-in-the-sunshine by enacting a constitutional amendment which guaranteed and expanded the practice.

Article I, s. 24 of the State Constitution provides every person with the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf. The section

specifically includes the legislative, executive and judicial branches of government and each agency or department created under them. It also includes counties, municipalities, and districts, as well as constitutional officers, boards, and commissions or entities created pursuant to law or the State Constitution. All meetings of any collegial public body must be open and noticed to the public.

The term "public records" has been defined by the Legislature in s. 119.011(1), F.S., to include:

. . . all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

This definition of public records has been interpreted by the Florida Supreme Court to include all materials made or received by an agency in connection with official business, which are used to perpetuate, communicate or formalize knowledge. (*Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980)). Unless these materials have been made exempt by the Legislature, they are open for public inspection, regardless of whether they are in final form. (*Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979)).

The State Constitution authorizes exemptions to the open government requirements and establishes the means by which these exemptions are to be established. Under Art. I, s. 24(c) of the State Constitution, the Legislature may provide by general law for the exemption of records and meetings. A law enacting an exemption:

- Must state with specificity the public necessity justifying the exemption;
- Must be no broader than necessary to accomplish the stated purpose of the law;
- Must relate to one subject;
- Must contain only exemptions to public records or meetings requirements; and
- May contain provisions governing enforcement.

Exemptions to public records and meetings requirements are strictly construed because the general purpose of open records and meetings requirements is to allow Florida's citizens to discover the actions of their government. (*Christy v. Palm Beach County Sheriff's Office*, 698 So.2d 1365, 1366 (Fla. 4th DCA

1997)). The Public Records Act is liberally construed in favor of open government, and exemptions from disclosure are to be narrowly construed so they are limited to their stated purpose. (*Krischer v. D'Amato*, 674 So.2d 909, 911 (Fla. 4th DCA 1996); *Seminole County v. Wood*, 512 So.2d 1000, 1002 (Fla. 5th DCA 1987), review denied, 520 So.2d 586 (Fla. 1988); *Tribune Company v. Public Records*, 493 So.2d 480, 483 (Fla. 2d DCA 1986), review denied sub nom., *Gillum v. Tribune Company*, 503 So.2d 327 (Fla. 1987)).

There is a difference between records that the Legislature has made exempt from public inspection and those that are exempt and confidential. If the Legislature makes a record confidential, with no provision for its release such that its confidential status will be maintained, such information may not be released by an agency to anyone other than to the persons or entities designated in the statute. (Attorney General Opinion 85-62.) If a record is not made confidential but is simply exempt from mandatory disclosure requirements, an agency has discretion to release the record in all circumstances. (*Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991)).

Under s. 119.10, F.S., any public officer violating any provision of this chapter is guilty of a noncriminal infraction, punishable by a fine not exceeding \$500. In addition, any person willfully and knowingly violating any provision of the chapter is guilty of a first degree misdemeanor, punishable by potential imprisonment not exceeding one year and a fine not exceeding \$1,000. Section 119.02, F.S., also provides a first degree misdemeanor penalty for public officers who knowingly violate the provisions of s. 119.07(1), F.S., relating to the right to inspect public records, as well as suspension and removal or impeachment from office.

Under s. 286.011(3), F.S., any public officer violating any provision of the Public Meetings Law is guilty of a noncriminal infraction, punishable by a fine not exceeding \$500. In addition, any person who is a member of a board or commission who knowingly violates any provision of the Public Meetings Law is guilty of a second degree misdemeanor, punishable by potential imprisonment not exceeding 60 days and a fine not exceeding \$500. Section 286.011, F.S., also provides a second degree misdemeanor penalty for conduct which occurs outside the state which would constitute a knowing violation of the Public Meetings Law.

An exemption from disclosure requirements does not render a record automatically privileged for discovery purposes under the Florida Rules of Civil Procedure. (Department of Professional Regulation v. Spiva, 478 So.2d 382 (Fla. 1st DCA 1985)). For example, the Fourth District Court of Appeal has found that an exemption for active criminal investigative information did not override discovery authorized by the Rules of Juvenile Procedure and permitted a mother who was a party to a dependency proceeding involving her daughter to inspect the criminal investigative records relating to the death of her infant. (B.B. v. Department of Children and Family Services, 731 So.2d 30 (Fla. 4th DCA 1999)). The Second District Court of Appeal also has held that records that are exempt from public inspection may be subject to discovery in a civil action upon a showing of exceptional circumstances and if the trial court takes all precautions to ensure the confidentiality of the records. (Department of Highway Safety and Motor Vehicles v. Krejci Company Inc., 570 So.2d 1322 (Fla. 2d DCA 1990)).

The Open Government Sunset Review Act of 1995

Section 119.15, F.S., the Open Government Sunset Review Act of 1995, establishes a review and repeal process for exemptions to public records or meetings requirements. Under s. 119.15(3)(a), F.S., a law that enacts a new exemption or substantially amends an existing exemption must state that the exemption is repealed at the end of 5 years. Further, a law that enacts or substantially amends an exemption must state that the exemption must be reviewed by the Legislature before the scheduled repeal date. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records. An exemption is not substantially amended if the amendment narrows the scope of the exemption. In the fifth year after enactment of a new exemption or the substantial amendment of an existing exemption, the exemption is repealed on October 2nd, unless the Legislature acts to reenact the exemption.

In the year before the scheduled repeal of an exemption, the Division of Statutory Revision is required to certify to the President of the Senate and the Speaker of the House of Representatives each exemption scheduled for repeal the following year which meets the criteria of an exemption as defined in s. 119.15, F.S. An exemption that is not identified and certified is not subject to legislative review and repeal. If the division fails to certify an exemption that it subsequently determines should have been certified, it

shall include the exemption in the following year's certification after that determination.

Under the requirements of the Open Government Sunset Review Act of 1995, an exemption is to be maintained only if:

- The exempted record or meeting is of a sensitive, personal nature concerning individuals;
- The exemption is necessary for the effective and efficient administration of a governmental program; or
- The exemption affects confidential information concerning an entity.

As part of the review process, s. 119.15(4)(a), F.S., requires the consideration of the following specific questions:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?

Further, under the Open Government Sunset Review Act of 1995, an exemption may be created or maintained only if it serves an identifiable public purpose. An identifiable public purpose is served if the exemption:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, the administration of which would be significantly impaired without the exemption;
- Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

Further, the exemption must be no broader than is necessary to meet the public purpose it serves (Memorial Hospital –West Volusia, Inc. v. News-Journal Corporation, 2002WL 390687 (Fla.Cir.Ct)). In addition, the Legislature must find that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption.

The Child Abuse Death Review Committees

In 1999, the Florida Legislature authorized the development of independent, multidisciplinary statewide and local child abuse death review committees to review child abuse and neglect deaths in which the Florida Abuse Hotline had accepted at least one report of abuse or neglect. The purpose of the review by the committees is to: achieve a greater understanding of the causes and contributing factors of deaths resulting from child abuse; develop a community-wide approach to address such cases and contributing factors; identify any gaps, deficiencies, or problems in the delivery of services to children and their families which may be related to deaths that are the result of child abuse; and make and implement recommendations for changes in law, rules, and policies to support the safe and healthy development of children and reduce preventable child abuse deaths.

Section 383.402, F.S., establishes a statewide child abuse death review committee (state committee) within the Department of Health (DOH). This committee consists of a representatives from the DOH, Department of Legal Affairs, Department of Children and Family Services (DCF), Department of Law Enforcement, Department of Education, Florida Prosecuting Attorneys Association, and the Florida Medical Examiners Commission. Eleven other members are appointed by the Secretary of the Department of Health to ensure that the committee represents the regional, gender, and ethnic diversity of the state. The state committee includes: a board-certified pediatrician; a public health nurse; a mental health professional who treats children or adolescents; an employee of DCF who supervises family services counselors and who has at least 5 years of experience in protective investigations; the medical director of a child protection team; a member of a child advocacy organization; a social worker who has experience in working with victims and perpetrators of child abuse; a person trained as a paraprofessional in patient resources who is employed in a child abuse prevention program; a law enforcement officer; a representative of the Florida Coalition Against Domestic Violence; and a

representative from a private provider of programs preventing child abuse and neglect.

The state committee must develop a system for collecting data on child abuse deaths. The system must include a protocol for the uniform collection of data statewide. The state committee must provide training to cooperating agencies, individuals, and local child abuse death review committees on the use of the child abuse death data system. An annual statistical report on the incidence and causes of death resulting from child abuse and neglect in Florida during the prior calendar year must be prepared by the state committee. The state committee's report, which is submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives, must include recommendations for state and local action, including specific policy, procedural, regulatory, or statutory changes, and any other recommended preventive action.

The state committee must encourage and assist local child abuse death review committees and provide training and technical assistance to the local committees, including providing consultation on individual child abuse and neglect cases upon request. The state committee's duties include: developing guidelines for reviewing child abuse deaths which may be used by the law enforcement agencies, prosecutors, medical examiners, health care practitioners, health care facilities, and social agencies; studying the adequacy of laws, rules, training and, services to determine what changes are needed to decrease the incidence of child abuse deaths and developing strategies and recruiting partners to implement these changes; educating the public on the incidence and causes of child abuse death, and ways by which such deaths may be prevented; promoting continuing education for professionals who investigate, treat, and prevent child abuse or neglect; and recommending, when appropriate, the review of the death certificate of a child who died as a result of abuse or neglect. In 2002, the committee reviewed 35 deaths meeting the statutory criteria.

At the direction of the Secretary of DOH, the director of each county health department, or the directors of two or more county health departments, may convene and support a county or multicounty child abuse death review committee in accordance with protocols established by the state committee. Each local committee must include a local state attorney or his or her designee, and any other members that are determined by the guidelines developed by the state

committee. The members of a local team must be appointed to two year terms and may be reappointed.

Local committees assist the state committee in collecting data on deaths that are the result of child abuse, in accordance with the protocol established by the state committee. Local committees submit written reports at the direction of the state committee. The reports must include nonidentifying information on individual cases and the steps taken by the local committee and agencies to implement any necessary changes and improve coordination of services and reviews. At the end of the review of a death, a local committee must submit all records requested by the state committee. Local committees must abide by the standards and protocols developed by the state committee and, on a case-by-case basis, may request that the state committee review the data of a particular case.

To operate the state committee, DOH must administer funds appropriated and may apply for grants and accept donations. Staff or consultants may be hired by DOH to assist the state committee in performing its duties.

Each district administrator of DCF must appoint a child abuse death review coordinator for the district. The coordinator must have specified knowledge and expertise in the area of child abuse and neglect. Some of the coordinator's duties include: coordinating child abuse death review activities with DOH, the local committee, and individuals in the community; ensuring the appropriate implementation of the child abuse death review process and all district activities related to the review of child abuse deaths; working with the local committee to ensure that the reviews are thorough and that all issues are appropriately addressed; maintaining a system of logging child abuse deaths covered by this procedure and tracking cases during the child abuse death review process; conducting or arranging for a Florida Abuse Hotline Information System record check on all child abuse deaths covered by this procedure to determine whether there were any prior reports concerning the child, any siblings, or other children, or adults in the home; notifying the district administrator, the Secretary of DCF, the Deputy Secretary for Children's Medical Services, and the DOH Child Abuse Death Review Coordinator of all child abuse deaths meeting the criteria for review within 1 working day after verifying the child's death was due to abuse, neglect, or abandonment; and providing technical assistance to the local committee during the review of any child abuse death.

Committee Access to Records

Notwithstanding any other law, the chairperson of the state committee or local committee, must be provided with access to any information or records that pertain to a child whose death is being reviewed by the committee to carry out its duties, including information or records that pertain to the child's family. Such records include patient records in the possession of a public or private provider of medical, dental, or mental health care and information or records of any state agency or political subdivision which might assist a committee in reviewing a child's death, including but not limited to, information or records of DCF, DOH, the Department of Education, or the Department of Juvenile Justice. Child abuse death review committees must have access to all information of a law enforcement agency which is not the subject of an active investigation and which pertains to the death of a child. A member of a child abuse death review team may not contact, interview, or obtain information by request or subpoena directly from a member of a deceased child's family as part of a committee's review of a child abuse death. If a committee member is also a public officer or state employee, that member may contact, interview, or obtain information from a member of the deceased child's family, if necessary, as part of the committee's review. A member of the deceased child's family may voluntarily provide records or information to the child abuse death review committee.

The chairperson of the state committee may require the production of records by requesting a subpoena, through the Department of Legal Affairs, in any county of Florida. The subpoena is effective throughout Florida and may be served by any sheriff. Failure to obey the subpoena is punishable as provided by law. A person who has attended a meeting of a child abuse death review committee or who has otherwise participated in authorized activities of a committee may not be permitted or required to testify in any civil, criminal, or administrative proceeding as to any records or information produced or presented to a committee during meetings or authorized activities.

Exemptions from Public Records and Meetings Requirements

Section 383.410, F.S., makes information that would reveal the name, address, or telephone number of, or information that would identify any of the deceased child's surviving siblings, family members, or others living in the home, which is contained in reports or records created by the state or local committees, or a panel of the state committee or local committees, which

relates solely to child fatalities and in which specific persons or incidents are discussed confidential and exempt from the Public Records Law. All information that is confidential or exempt from public records requirements by operation of law and that is obtained by the committees or panels, or that is obtained by a hospital or a health care practitioner from a committee or panel, retains that status.

Section 383.410, F.S., also makes portions of meetings relating solely to child fatalities in which specific persons or incidents are discussed exempt from the Public Meetings Law. All information and records acquired by the state or local committee are confidential and not subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceedings, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery or introduction into evidence from those sources solely because they were presented to or reviewed by a committee. Any person who violates s. 383.410, F.S., commits a first degree misdemeanor punishable by up to 1 year in jail and a fine of up to \$1,000.

METHODOLOGY

Staff reviewed the exemption provisions and applicable law according to the criteria specified in the Open Government Sunset Review Act of 1995. Staff sought input from DOH, DCF and other state and local agencies, and other interested stakeholders to determine if any aspects of s. 383.410, F.S., should be revised and saved from repeal through reenactment.

FINDINGS

Section 119.15(4)(a), F.S., requires that certain questions be answered as part of the review process for a public records or meetings exemption. The review must address the nature of the records, the affected individuals, the public purpose for the exemption, and the availability of the records by alternative means.

What Specific Records or Meetings Are Affected by the Exemption?

The specific records affected by the exemption pertain to a child whose death is being reviewed by the state committee or a local committee to carry out its duties, including information or records that pertain to the child's family that would reveal the name, address, or telephone number of, or information which would identify, any of the deceased's surviving siblings,

family members, or others living in the home, which information is contained in records created by the committee. Such records include but are not limited to:

- Patient records in the possession of public or private providers of medical, dental, or mental health care.
- Information or records of any state agency or political subdivision which might assist a committee in reviewing a child's death, including but not limited to, information or records of DCF, DOH, the Department of Education, or the Department of Juvenile Justice.
- All information of a law enforcement agency which is not the subject of an active investigation and which pertains to the death of a child.

According to DOH and DCF, the committees typically obtain records which include, but are not limited to: child and parent's medical records; child delinquency records; DCF case file, including Florida abuse hotline reports; child and parent's mental health records; child and parent's substance abuse history and treatment records; identities of persons getting public assistance; identities of foster children and foster parents; school records of dependent children; the medical examiner's autopsy report; the state attorney's file, when there is no pending criminal investigation; vehicular accident reports; records regarding HIV status of individuals; domestic violence reports; child protection team reports; and criminal history reports on all family members. Such records, if they are confidential or exempt from the Public Records Law, retain that status when obtained by the committee under s. 383.410, F.S.

Section 383.410, F.S., makes portions of meetings of child abuse death review committees relating solely to child fatalities in which specific persons or incidents are discussed exempt from the Public Meetings Law.

Whom Does the Exemption Uniquely Affect, as Opposed to the General Public?

The exemptions uniquely affect any of the surviving siblings, family members, or others living in the home of the deceased child whose death is under review by a child abuse death review committee.

What Is the Identifiable Public Purpose or Goal of the Exemption?

The goal of the public records and meetings exemptions is to enable the state and local committees to protect the privacy of information identifying any of the surviving siblings, family members, or others living in the home of the deceased child whose death is under

review by the committee. The DOH and DCF mentioned that it could result in significant trauma or stigmatization to surviving family members if information regarding their identities is released within the context of the committee's records or meetings while reviewing a child's death.

The exemptions allow the child abuse death review committees to complete their work in candor. The exemptions allow the effective and efficient administration of a governmental program. Survey respondents mentioned that the exemptions are necessary to allow the committees to review facts and circumstances of a child's death in order to:

- achieve a greater understanding of the causes and contributing factors of death caused by abuse, and
- to identify problem areas and to implement and make recommendations for improvements.

The DOH and DCF also note that Florida uses the work of the state committee to satisfy the citizen review panel requirements of the Child Abuse Prevention and Treatment Act (CAPTA). At least three citizen review panels must be designated by a state for receipt of CAPTA grant funding and such panels must maintain specified confidentiality standards under federal law. The DCF is the lead agency to administer CAPTA grant funds and has indicated that during the current federal fiscal year Florida is expected to receive \$994,884 under CAPTA. The DCF allocates CAPTA grant funds directly to the department's 14 geographical areas for local community-based service delivery with private not-for-profit agencies.

Can the Information Contained in the Records Be Readily Obtained by Alternative Means?

For many, but not all, surviving siblings, family members, or others living in the home of the deceased child whose death is under review by the state or local committee, some of the information contained in the records created by the committees could be obtained by other means. The DCF case file, including Florida abuse hotline reports and the department's death review report, the medical examiner autopsy report, vehicular accident reports, and state criminal history reports on family members are a public record. The address of a parent or other adult living in the home of the deceased child could be listed in the telephone directory, local property records, public utility records, and drivers' license records.

Although much of the information is readily obtained by alternative means it would be difficult to ascertain the conclusive identity of all the surviving siblings,

family members, or others living in the home of the deceased child without exhaustive and comprehensive research. The anonymity of such individuals is important to the child abuse death review process and without such anonymity the release of the information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or in some cases would jeopardize the safety of such individuals. The child abuse death review committee uses a data form to capture detailed information surrounding a child's death, including information in records that it has authority to subpoena from parties. Such information, in this type of detail, likely would not be available from a single source.

Continued Necessity for the Exemption

The exemption protects the release of information that would identify the surviving siblings, family members, or others living in the home of the deceased child whose death is under review by the committee. The DOH states that without the current exemptions the specific problems and issues salient to child abuse death review could not be candidly and ethically discussed by committee members without causing undue embarrassment or trauma to surviving siblings, family members, or others living in the home of the deceased child whose death is under review by the committee. Some information disclosed to service providers by family members, in particular disclosure of domestic violence or other criminal activity leading to arrest, could put a family member in danger of retaliation if released.

An exemption may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the purpose it serves. The exemptions were created to protect the privacy of the sensitive and personal information concerning surviving family members and others living in the home of a deceased child when such information is discussed in a candid forum. The potential harm that would be caused to such individuals in the release of their identities must be balanced with any public benefit. The Legislature has on numerous occasions enacted and reenacted public records and meetings exemptions designed specifically to protect against the release of personal identifying information which could be defamatory or harmful to individuals. The exemption also allows the effective and efficient administration of a child abuse death reviews by state and local committees. Otherwise, open communication and coordination among the parties involved in the review would be hampered.

Can the Exemption be Narrowed?

Section 383.402, F.S., makes portions of meetings which relate solely to child fatalities and in which specific persons or incidents are discussed by a child abuse death review committee exempt from the Public Meetings Law. The exemption protects the identity of persons other than those who are the deceased child’s surviving family when discussed by a committee. The Public Meetings Law exemption should be narrowed to conform to the Public Records Law exemption which only protects the identity of the deceased’s surviving siblings, family members, or others living in the home.

It is unclear whether s. 383.410, F.S., provides that records already confidential or exempt under the Public Records Law retain that status when obtained by the committees or whether all records that the committees obtain are made confidential and exempt under the Public Records Law. Staff finds that the exemptions under review may be narrowed to clarify that records obtained by the committees that are not otherwise confidential are not made confidential by the committee’s receipt of the record.

The DOH mentioned that the child abuse death review committees have never provided hospitals or health care practitioners with information the committees have created and therefore the need to continue the public records exemption for such information is unnecessary.

Any person who violates s. 383.410, F.S., commits a first degree misdemeanor punishable by up to 1 year in jail and a fine of up to \$1,000. It is unclear whether criminal violations of s. 383.410, F.S., should be limited to unauthorized disclosures to conform to provisions governing similar records, such as child abuse and neglect records.

personal information that could detrimentally affect the candor of an in-depth review of such incidents.

Accordingly, staff recommends that exemptions in s. 383.410, F.S., be reenacted with modifications to: delete an exemption for records disclosed to hospitals or health care practitioners, which has not been used by the child abuse death review committees; limit the criminal provisions of the section to be applicable to persons who knowingly or willfully make unauthorized disclosures of information made confidential and exempt by the section; state more clearly the confidential or exempt status of records already confidential or exempt under the Public Records Law; narrow the Public Meetings Law exemption to only protect the identity of the deceased’s siblings, family members or others in the home when discussed by a child abuse death review committee; and clarify that records obtained by the committees that are not otherwise confidential are not made confidential.

RECOMMENDATIONS

Staff has reviewed the exemptions in s. 383.410, F.S., pursuant to the Open Government Sunset Review Act of 1995, and finds that the exemptions meet the requirements for reenactment with some substantive changes. The exemptions, viewed against the open government sunset review criteria, do protect information of a sensitive personal nature and allow the child abuse death review committees to effectively and efficiently administer their charge to review child fatalities by assuring the confidentiality of the sensitive