

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SPB 7002

INTRODUCER: For consideration by the Health Regulation Committee

SUBJECT: Open Government Sunset Review/Child Abuse Death Review Committees

DATE: October 22, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson		Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The proposed committee bill saves from repeal under the Open Government Sunset Review Act the exemptions from the Public Records and Meetings Laws for information that reveals the identity of household members of a deceased child whose death is under review and that is held by the State Child Abuse Death Review Committee or local panels or committees and portions of meetings at which such information would be revealed.

This bill substantially amends s. 383.412, Florida Statutes.

II. Present Situation:

Public Records

Florida has a long history of providing public access to the records and meetings of governmental and other public entities. The first law affording access to public records was enacted by the Florida Legislature in 1909. In 1992, Floridians voted to adopt an amendment to the Florida Constitution that raised the statutory right of public access to public records to a constitutional level.

The Public Records Law, ch. 119, F.S., specifies the conditions under which public access must be provided to governmental records. Section 286.011, F.S., the Public Meetings Law, specifies the requirements for meetings of public bodies to be open to the public. While the state constitution provides that records and meetings are to be open to the public, it also provides that

the Legislature may create exemptions to these requirements by general law if a public need exists and certain procedural requirements are met.

Under s. 24(c), Art. I 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.

The Open Government Sunset Review Act, codified in s. 119.15, F.S., provides for the repeal and prior review of any public records or meetings exemptions that are created or substantially amended in 1996 and subsequently. The review cycle began in 2001. Chapter 119, F.S., defines the term “substantial amendment” for purposes of triggering a repeal and prior review of an exemption to include an amendment that expands the scope of the exemption to include more records or information or to include meetings as well as records. The law clarifies that an exemption is not substantially amended if an amendment limits or narrows the scope of an existing exemption.

Child Abuse Death Review

Section 383.402, F.S., establishes the State Child Abuse Death Review Committee and local child abuse death review committees within the Department of Health. The committees must review the facts and circumstances of all deaths of children from birth through age 18 which occur in Florida as the result of verified child abuse or neglect.

Section 383.412, F.S., makes any information that would reveal the identity of the surviving siblings, family members, or others living in the home of a deceased child who is the subject of review by, and which information is held by, the State Child Abuse Death Review Committee or local committee, or a panel or committee assembled by the state committee confidential and exempt from the Public Records Law. All information that is confidential and exempt from public records requirements by operation of law and that is obtained by the child abuse death review committees or panels retains that confidential status and is exempt from the Public Records Law.

Section 383.412, F.S., also makes portions of meetings of the State Child Abuse Death Review Committee or local committees or panels at which confidential and exempt information is discussed exempt from the Public Meetings Law. The State Child Abuse Death Review Committee and local committees may share with each other any relevant information regarding case reviews involving child death which is made confidential and exempt under the Public Records Law.

These exemptions are set to be repealed on October 2, 2010, unless they are reviewed under the Open Government Sunset Review Act and saved from repeal through reenactment by the Legislature.

Senate Interim Report 2010-220

Staff reviewed the public records and meetings exemptions in s. 383.412, F.S., pursuant to the Open Government Sunset Review Act and recommended that the exemptions to the public records and open meetings requirements in s. 383.412, F.S., be reenacted. Staff's findings and recommendations are detailed in *Interim Report 2010-220*.

III. Effect of Proposed Changes:

The proposed committee bill repeals subsection (5) of section 383.412, Florida Statutes, which would repeal the exemptions from the Public Records and Meetings Laws for information held by the State Child Abuse Death Review Committee or local panels or committees that would reveal the identity of household members of a deceased child whose death is under review and portions of meetings at which such information would be revealed. The bill saves the exemption from repeal under the Open Government Sunset Review Act.

The effective date of the bill is October 1, 2010.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

In accordance with a review under the Open Government Sunset Review Act, this bill reenacts s. 383.412, F.S., under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
