

STORAGE NAME: h1433s1z.cfe
DATE: May 12, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
Children and Family Empowerment
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 1433

RELATING TO: Public Records

SPONSOR(S): Committee on Governmental Operations & Representative Brennan

COMPANION BILL(S): CS/SB 506 (Similar)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CHILDREN & FAMILY EMPOWERMENT YEAS 5 NAYS 0
- (2) GOVERNMENTAL OPERATIONS YEAS 4 NAYS 0
- (3) HEALTH AND HUMAN SERVICES APPROPRIATIONS
- (4)
- (5)

I. FINAL ACTION STATUS:

Passed the Legislature.

II. SUMMARY:

Committee Substitute for House Bill 1433 deletes certain provisions in s. 119.07(7), F.S., requiring court action to release the Department of Children and Family Services' records pertaining to the investigation of cases involving the death of a disabled adult or an elderly person as the result of abuse, neglect, or exploitation, and records pertaining to the investigation of cases involving the death of a child as the result of abuse, neglect, or abandonment. Committee Substitute for House Bill 1433 also amends s. 415.107, F.S., expressly allowing access to the department's records in the event of the death of a disabled adult or elderly person determined to be a result of abuse, neglect, or exploitation. However, the name of the reporter must be excluded from disclosure as well as other information which is otherwise made confidential or exempt by law. Likewise CS/HB 1433 amends s. 415.51, F.S., allowing access to department records regarding the death of a child determined to be a result of abuse, abandonment, or neglect. The name of the reporter must be excluded from disclosure as well as other information which is otherwise made confidential or exempt by law.

Committee Substitute for House Bill 1433 does not appear to have a fiscal impact on state or local government.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Under the provisions of s. 119.07(7)(a), F.S., the records of the Department of Children and Family Services pertaining to an investigation of abuse, neglect, or abandonment of a child, and the records pertaining to an investigation of abuse, neglect, or exploitation of a disabled adult or an elderly person may be opened by the court pursuant to a petition, if the court finds that good cause exists for so doing. The court, in making its determination, must balance the best interest of the disabled adult, elderly person, or child who is the focus of the investigation, and in the case of the child, the interest of that child's siblings, together with the privacy right of other persons identified in the reports against the public interest. However, s. 119.07(7)(a), F.S., provides that nothing in its provisions contravenes ss. 415.51 and 415.107, F.S., "which protect the name of any person reporting the abuse, neglect, or exploitation of a child, a disabled adult, or an elderly person."

Section 119.07(7)(b)1. and 2., F.S., states that in cases in which the death of a child, a disabled adult, or an elderly person occurs from abuse, neglect, abandonment, or exploitation, as applicable, a presumption exists that the best interests of the child, disabled adult, or elderly person are served by full public disclosure of the circumstances of the investigation of the death and any other investigation concerning the child, disabled adult, or elderly person. Section 119.07(7)(d), F.S., provides that in cases involving the death of a child or a disabled adult or an elderly person, the Department of Children and Family Services may petition the court for an order for the immediate public release of records of the department which pertain to the investigation of abuse, neglect, abandonment, or exploitation of the child, disabled adult, or elderly person who dies. Paragraph (d) further sets forth the requirements for so petitioning as well as directions to the court regarding determination of such a matter.

Section 415.107(1)(b), and s. 415.51(1)(b), F.S., provides that, except for the information that identifies individuals, all records involving the death of a child, a disabled adult, or an elderly person that is determined to be the result of abuse, abandonment, or neglect, as applicable, are released to the public within 10 days after the completion of the investigation.

B. EFFECT OF PROPOSED CHANGES:

Committee Substitute for House Bill 1433 deletes certain provisions in s. 119.07(7), F.S., requiring court action to release the Department of Children and Family Services' records pertaining to the investigation of cases involving the death of a disabled adult or an elderly person as the result of abuse, neglect, or exploitation, and records pertaining to the investigation of cases involving the death of a child as the result of abuse, neglect, or abandonment. Committee Substitute for House Bill 1433 also amends s. 415.107, F.S., expressly allowing access to the department's records in the event of the death of a disabled adult or elderly person determined to be a result of abuse, neglect,

or exploitation. However, the name of the reporter must be excluded from disclosure as well as other information which is otherwise made confidential or exempt by law. Likewise s. 415.51, F.S., is amended allowing access to department records regarding the death of a child determined to be a result of abuse, abandonment, or neglect. The name of the reporter must be excluded from disclosure as well as other information which is otherwise made confidential or exempt by law.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. *Does the bill create, increase or reduce, either directly or indirectly:*

i. *Any authority to make rules or adjudicate disputes?*

No.

ii. *Any new responsibilities, obligations or work for other governmental or private organizations or individuals?*

No.

iii. *Any entitlement to a government service or benefit?*

No.

b. *If an agency or program is eliminated or reduced:*

An agency or program is not eliminated or reduced.

i. *What responsibilities, costs and powers are passed on to another program, agency, level or government, or private entity?*

N/A

ii. *What is the cost of such responsibility at the new level/agency?*

N/A

iii. *How is the new agency accountable to the people governed?*

N/A

2. Lower Taxes:

a. *Does the bill increase anyone's taxes?*

No.

b. *Does the bill require or authorize an increase in any fees?*

No.

- c. *Does the bill reduce total taxes, both rates and revenues?*

No.

- d. *Does the bill reduce total fees, both rates and revenues?*

No.

- e. *Does the bill authorize any fee or tax increase by any local government?*

No.

3. Personal Responsibility:

- a. *Does the bill reduce or eliminate an entitlement to government services or subsidy?*

No.

- b. *Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?*

No.

4. Individual Freedom:

- a. *Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?*

No.

- b. *Does the bill prohibit, or create new government interference with, any presently lawful activity?*

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

This bill does not purport to provide services to families or children.

- i. *Who evaluates the family's needs?*

N/A

- ii. *Who makes the decisions?*

N/A

iii. *Are private alternatives permitted?*

N/A

iv. *Are families required to participate in a program?*

N/A

v. *Are families penalized for not participating in a program?*

N/A

b. *Does the bill directly affect the legal rights and obligations between family members?*

No.

c. *If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:*

This bill does not create or change a program providing services to families or children.

i. *Parents and guardians?*

N/A

ii. *Services providers?*

N/A

iii. *Government employees/agencies?*

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 119.07(7), 415.107, and 415.51.

E. SECTION-BY-SECTION RESEARCH:

See above, section III. B. Effect of Proposed Changes.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties and municipalities.

VI. COMMENTS:

Bill History

03/13/97 H Filed

03/19/97 H Introduced -HJ 00230

03/24/97 H Referred to Children & Family Empowerment (GSC); Governmental Operations (GRC); Health & Human Services Appropriations -HJ 00324

04/01/97 H On Committee agenda-- Children & Family Empowerment (GSC),

04/07/97, 1:00 pm, 317C --Temporarily deferred

04/02/97 H On Committee agenda-- Children & Family Empowerment (GSC),

04/08/97, 1:00 pm, 317C --Not considered

04/11/97 H On Committee agenda-- Children & Family Empowerment (GSC),

04/17/97, 2:15 pm, 317C

04/17/97 H Comm. Action: Unanimously Favorable with 1 amendment(s) by Children & Family Empowerment (GSC) -HJ 00667

04/21/97 H Now in Governmental Operations (GRC) -HJ 00667

05/02/97 H Carried over to 1998 Session pursuant to House Rule 96, In House Committee on Governmental Operations (GRC)

08/28/97 H On Committee agenda-- Governmental Operations (GRC), 09/17/97, 2:00 pm, 413C

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09/18/97 H Comm. Action: Unanimously CS by Governmental Operations (GRC)
10/02/97 H Now in Health & Human Services Appropriations
12/17/97 H On Committee agenda-- Health & Human Services Appropriations,
01/08/98, 9:45 am, 317C
01/08/98 H Comm. Action:-Unanimously Favorable by Health & Human Services
Appropriations
01/15/98 H Pending Consent Calendar
03/03/98 H CARRIED OVER; Referred to Governmental Operations (GRC); Health &
Human Services Appropriations; On Committee agenda-- Governmental
Operations (GRC), 09/17/97, 2:00 pm, 413C; Comm. Action:
Unanimously CS by Governmental Operations (GRC) -HJ 00077; CS read
first time on 03/03/98 -HJ 00071; Now in Health & Human Services
Appropriations -HJ 00077; On Committee agenda-- Health & Human
Services Appropriations, 01/08/98, 9:45 am, 317C; Comm.
Action:-Unanimously Favorable by Health & Human Services
Appropriations -HJ 00080; Pending Consent Calendar -HJ 00080
03/06/98 H Available for Consent Calendar
03/17/98 H Placed on Consent Calendar; Read second and third times -HJ 00204;
CS passed; YEAS 118 NAYS 0 -HJ 00204
03/18/98 S In Messages
03/19/98 S Received, referred to Children, Families and Seniors; Governmental
Reform and Oversight -SJ 00232
04/23/98 S Withdrawn from Children, Families and Seniors; Governmental Reform
and Oversight -SJ 00848; Substituted for CS/SB 506 -SJ 00848; Read
second time -SJ 00848
04/24/98 S Read third time -SJ 00885; CS passed; YEAS 37 NAYS 0 -SJ 00885;
Immediately certified -SJ 00885
04/24/98 H Ordered enrolled -HJ 01366

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

An amendment was adopted in the Committee on Children and Family Services on April 17, 1997, making the Department of Children and Family Services' records involving the death of a child as a result of abuse, neglect, or abandonment and the records involving the death of a disabled adult, or an elderly person, as the result of abuse, neglect, or exploitation, open to the public, preserving the confidentiality of information as otherwise required by federal or state law. The amendment removes provisions from the original bill that allowed any person who opposes the release of the investigative records to petition the court to keep the records closed and provisions allowing the court to order that records remain confidential when a compelling interest was demonstrated for protecting the records. The amendment provides that information identifying "an individual" must remain closed. That is the same language found in ss. 415.507 and 415.51, F.S.

On September 17, 1997, the Committee on Governmental Operations adopted a substitute amendment to the amendment described above. The substitute amendment amends ss. 415.107 and 415.51, F.S., expressly making open to the public the department's records

involving the death of a child as a result of abuse, neglect, or abandonment and the records involving the death of a disabled adult, or an elderly person, as the result of abuse, neglect, or exploitation, but information otherwise made confidential or exempt by law would not be disclosed. Substantially similar changes were made in the committee amendment by way of amending s. 119.07(7), F.S. The substitute amendment also removes all provisions in s. 119.07(7), F.S., that conflict with the amendments made to ss. 415.107 and 415.51, F.S.

VIII. SIGNATURES:

COMMITTEE ON CHILDREN & FAMILY EMPOWERMENT:

Prepared by:

Legislative Research Director:

Bob Barrios

Bob Barrios

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Legislative Research Director:

J. Marleen Ahearn

Jimmy O. Helms

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Prepared by:

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FINAL RESEARCH PREPARED BY COMMITTEE ON Children and Family Empowerment:

Prepared by:

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