

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 928

SPONSOR: Senator Cowin

SUBJECT: Public Records and Meetings

DATE: February 22, 1999

REVISED: 03/04/99 \_\_\_\_\_

|    | ANALYST       | STAFF DIRECTOR | REFERENCE | ACTION                    |
|----|---------------|----------------|-----------|---------------------------|
| 1. | <u>Barnes</u> | <u>Whiddon</u> | <u>CF</u> | <u>Favorable/2 Amends</u> |
| 2. | _____         | _____          | <u>RC</u> | _____                     |
| 3. | _____         | _____          | _____     | _____                     |
| 4. | _____         | _____          | _____     | _____                     |
| 5. | _____         | _____          | _____     | _____                     |

## I. Summary:

Senate Bill 928 provides for the confidentiality and exemption from public records requirements of: 1) all confidential information that is obtained by the State Child Abuse Death Review Committee or a local committee, or a panel or committee assembled by the state committee or local committee, 2) all confidential information obtained by a hospital or health care practitioner from those committees, and 3) all reports and records of those committees which relate to child fatalities in which persons and incidents are discussed. The portion of those meetings and proceedings relating to the discussion of specific persons and incidents associated with child fatalities is also exempt from public meetings requirements. Information and records acquired by the state and local committees are not subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding or to a public records request.

The bill includes statements concerning the necessity for confidential information to be accessed by the committees so as to reduce the morbidity or mortality of children in order to improve their overall quality of life. It is also necessary for records and reports of these committees to be confidential because they contain sensitive and personal information about children.

This bill creates s. 383.410, Florida Statutes.

## II. Present Situation:

Section 119.07(1), F.S., specifies that a person who has custody of a public record must permit that record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee. Section 24(a) of Article I of the State Constitution specifies that persons have the right to inspect or copy any public record made or received in connection with official business except those which are exempt under law.

Section 286.011, F.S., specifies that meetings of any board or commission of any state agency at which official acts are taken must be open to the public. Section 24(b) of Article I of the State Constitution specifies that meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district where official acts are to be taken or at which public business is transacted or discussed must be open to the public.

Section 39.202(2)(o), F.S., specifies that except for the name of the reporter, child abuse records may be released to the public when it is determined that a child died as a result of child abuse, abandonment, or neglect.

Most of the information contained in a child abuse investigation file concerning the child and his/her family is of a personal and sensitive nature. Open discussions about the details of a child's death resulting from child abuse or neglect can be traumatic to the parents, other children in the home, and extended family members.

There are no provisions in current law designating a review of the deaths of children who die as a result of child abuse or neglect. The Department of Children and Family Services has an internal death review procedure governing the review of all child deaths resulting from alleged abuse or neglect and of all children who die while in the custody of or receiving services from one of the department's child welfare programs, whether or not there are allegations of death due to abuse or neglect. This child death review process is coordinated with the community-based child fatality review teams, where available, under the Children's Medical Services Medical Foster Care Program.

### **III. Effect of Proposed Changes:**

Senate Bill 932 creates s. 383.410, F.S., specifying that the following information is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution: 1) information that is confidential or exempt from public records that is obtained by the State Child Abuse Death Review Committee or a local committee, or a panel or committee assembled by the state committee or local committee pursuant to s. 383.402, F.S.; 2) information that is confidential or exempt from public records requirements that is obtained by a hospital or a health care practitioner as defined in s. 455.501, F.S., from the State Child Abuse Death Review Committee or a local committee or panel pursuant to s. 383.402, F.S.; and 3) all reports and records of the State Child Abuse Death Committee or a local committee, or a panel or committee assembled by the state committee or local committee relating to child fatalities in which specific persons or incidents are discussed.

Senate Bill 932 also specifies that the portion of the meetings or proceedings of the State Child Abuse Death Review Committee or a local committee or panel assembled by the state committee or a local committee relating to child fatalities in which specific persons or incidents are discussed is exempt from s. 286.11, F.S., and S. 24(b), Art. I of the State Constitution. The bill specifies that the state committee or a local committee may hold periodic public meetings to discuss nonconfidential information or issues.

The bill specifies that information and records acquired by the State Committee or a local committee are confidential and not subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceedings or to a public records request. Records from other sources, that are presented to or reviewed by a committee and are otherwise available are not immune from subpoena, discovery, or introduction into evidence.

The bill states that it is of public necessity for the state committee, a local district committee, a panel or committee assembled by them, to access confidential information. Also, the bill states that information obtained by these entities and obtained from these entities by a hospital or health care practitioner, must remain confidential as it increases the potential for reduced morbidity or mortality of children and improves the overall quality of life for children. Also, the bill states that it is of public necessity for records and reports of the State Child Abuse Death Review Committee or a local committee or a panel or committee assembled by them, and portions of meetings which relate to child fatalities where specific incidents are discussed to be confidential and exempt from public records and public meeting requirements. The information discussed in these meetings will contain material that is sensitive and personal in nature concerning children and families. Open communication and coordination among parties would be hampered if this information is disclosed to the public.

Senate Bill 928 only becomes law if SB 338 or similar legislation is adopted by the 1999 Legislature.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

Senate Bill 928 prohibits the disclosure of information, reports and records of the State Child Abuse Death Review Committee or a local committee, or a panel or committee assembled by the State committee or a local committee pursuant to s. 383.402, F.S., relating to child fatalities in which specific persons or incidents are discussed. The meetings and proceedings of the State Child Abuse Death Review Committee or a local committee, or a panel or committee assembled by the State committee or a local committee pursuant to s. 383.402, F.S., during which specific persons or incidents relating to child fatalities are discussed are closed to the public.

##### **C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

Amendment 1 specifies that SB 928 takes effect on the same date as SB 338 or similar legislation that is adopted in the same legislative session or in an extension of the 1999 Legislative session.

Amendment 2 does the following:

1) Specifies that any information that would reveal the name, address, or telephone number of, or information that would identify any of the deceased's surviving siblings, family members, or others living in the home in reports or records created by the State Child Abuse Death Review Committee or local committee or a panel or committee assembled by the state committee or local committee under s. 383.402, F.S., is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

2) Removes the provision from subsection (4) that all information and records acquired by the State Child Abuse Death Review Committee or a local committee are not subject to a public records request.