

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: CS/SB 1126

SPONSOR: Committee on Children and Families and Senator Myers

SUBJECT: Public Records and Meetings

DATE: April 5, 2000

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dowds	Whiddon	CF	Favorable/CS
2.			RC	
3.				
4.				
5.				

I. Summary:

CS/SB 1126 provides for the retention of both confidentiality and exemption from public disclosure held by certain information when such information is provided to the domestic violence fatality review teams. Proceedings and meetings of domestic violence fatality review teams relating to domestic violence fatalities and their prevention, in which the identity of the victim or the children of the victim are discussed, are provided exemption from being open to the public. These exemptions are repealed on October 2, 2005 unless reenacted.

The bill includes statements concerning the necessity for information relating to domestic violence fatalities and domestic violence incidents to remain confidential in the hands of the domestic violence fatality review team. It is also a necessity for review team meetings, where specific individuals or incidents are discussed, to be confidential and exempt from public meeting requirements.

CS/SB1126 only becomes law if CS/SB 1124 or similar legislation is adopted by the 2000 Legislature.

The bill creates section 741.3165, of the 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.

Public records exemptions from disclosure are narrowly construed so they are limited to their stated purpose. The Second District Court of Appeal found in *Tribune Company v. Miller/Jent* case (493 So. 2nd 480, July 9, 1986) that all information given to individuals in connection with the criminal case against them was disclosable to the public when released to individuals or their counsel. As strictly applied, the exemption of public disclosure would not (unless specifically provided for in law) transfer to the individual or organization to whom the exempted information was provided.

Much of the information used to evaluate a domestic violence fatality, such as police reports after an investigation is closed or the medical examiners report, is public record and, as such, available to any person. Critical information can also be provided to the domestic violence fatality review teams that is exempt from public disclosure or in some manner protected as confidential, including medical records, law enforcement investigations still open, and testimony from domestic violence center staff. Such information is of a personal and sensitive nature concerning the victim and the victim's children and family members. The release of the exempted or confidential information received, as well as open discussion about the details of a victim's death resulting from domestic violence could be traumatic to the children of the victim and other family members. The inability to retain the confidentiality of information received and discussed could hamper open communication and coordination among the parties involved in the domestic violence fatality reviews.

There are no provisions in current law designating a review of the deaths of victims of domestic violence. The only review performed is the investigation of the death by law enforcement for the purpose of identifying and charging the perpetrator.

III. Effect of Proposed Changes:

CS/SB 1126 creates s. 741.3165, F.S., to exempt from disclosure certain information of the domestic violence fatality review teams. The bill specifies that information obtained by the domestic violence fatality review teams that is currently confidential or exempt from public disclosure pursuant to s. 119.07(1), F.S., and s. 24(a), Article I of the State Constitution, will retain its confidential or exempt status as provided by law. Any portion of the reports produced by the domestic violence review teams that contain this confidential or exempt information will remain confidential and exempt as provided by law. In addition, proceedings and meetings of domestic violence fatality review teams relating to domestic violence fatalities and their prevention, in which the identity of the victim or the children of the victim are discussed, are provided exemption from being open to the public, pursuant to s. 286.011, F.S., and s. 24(b), Article I of the State Constitution.

The bill specifies that the exemptions provided in this section are only applicable to the records held by the domestic violence fatality review team. These exemptions are repealed on October 2, 2005 unless reenacted.

The bill states that it is of public necessity for information relating to domestic violence fatalities and domestic violence incidents to remain confidential in the hands of the domestic violence fatality review team. Meetings where specific individuals or incidents are discussed at review team meetings should be confidential and exempt from public meeting requirements. If this confidentiality is not maintained, sensitive and personal information concerning the victim and the victim's children and family members would be disclosed. In addition, the open communication and coordination between the organizations involved in the domestic violence fatality review teams would be hampered.

CS/SB1126 only becomes law if CS/SB 1124 or similar legislation is adopted by the 2000 Legislature.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

CS/SB1126 retains the current confidentiality or exemption from disclosure status provided by law to information or a record when obtained by a domestic violence fatality review team, s. 741.316, F.S. The meetings and proceedings of the domestic violence fatality review team pursuant to s. 741.316, F.S., during which the identity of the victim or the children of the victim are discussed are closed to the public.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

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:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
