

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Children, Families, and Elder Affairs Committee

BILL: CS/SB 1390

INTRODUCER: Senator Storms

SUBJECT: Children

DATE: March 28, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Jameson	CF	Fav/CS
2.			JU	
3.			HA	
4.			RC	
5.				
6.				

I. Summary:

The bill amends s. 839.13(2), F.S., to make it clear that it is unlawful to create, as well as to alter, destroy, deface, overwrite, remove or discard, official records relating to individuals in the care and custody of a state agency and certain records of the Department of Children and Families.

This bill amends the following sections of the Florida Statutes: s. 839.13(2)(a) and (c).

II. Present Situation:

Currently, s. 839.13(2)(a), F.S., provides that “[a]ny person who knowingly falsifies by altering, destroying, defacing, overwriting, removing, or discarding an official record relating to an individual in the care and custody of a state agency, which act has the potential to detrimentally affect the health, safety or welfare of that individual, commits a felony of the third degree . . .”

Similarly, s. 839.13(2)(c), F.S., provides that “[a]ny person who knowingly falsifies by altering, destroying, defacing, overwriting, removing, or discarding records of the Department of Children and Family Services or its contract provider with the intent to conceal a fact material to a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult . . . commits a felony of the third degree . . .”

Sections 839.13(2)(a) and (b), F.S., make it unlawful to falsify records if the falsification is made possible through certain actions: altering, destroying, defacing, overwriting, removing or

discarding. These actions apply specifically to documents already in existence. The prohibitions against falsification do not include documents that are falsely created or generated.

For example, an investigator might document a home visit that did not in fact occur. Because the false document was *created* rather than altered, destroyed, defaced, overwritten, removed or discarded, s. 839.13, F.S., may not apply to the document or the investigator.

III. Effect of Proposed Changes:

PCS/SB 1390 amends paragraphs (2)(a) and (2)(c) of s. 839.13, F.S., making it clear that any person who knowingly falsifies, alters, destroys, defaces, overwrites, removes or discards certain records commits a felony of the third degree. As amended, the statute will address individuals who create or generate falsified records, as well as those who falsify existing records.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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.

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

VIII. Summary of Amendments:

None.

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