

HB 7129

2015

1 A bill to be entitled

2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 383.412, F.S., relating
4 to an exemption from public records and public meeting
5 requirements for child abuse death review committees;
6 removing the public records exemption for information
7 held by the State Child Abuse Death Review Committee
8 or a local committee that reveals the identity of
9 family members or others living in the home of a child
10 whose death occurred as a result of a verified report
11 of abuse or neglect; expanding the public records
12 exemption to include information held by the State
13 Child Abuse Death Review Committee or a local
14 committee that identifies a deceased child whose death
15 is not the result of abuse or neglect and to include
16 the identity of the surviving siblings, family
17 members, or others living in the home of such deceased
18 child; reenacting the public meeting exemption to
19 incorporate changes made by the act to the public
20 records exemption; authorizing release of the
21 confidential and exempt information to specified
22 persons under certain circumstances; providing for
23 future legislative review and repeal of the
24 exemptions; providing a statement of public necessity;
25 providing an effective date.
26

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 Be It Enacted by the Legislature of the State of Florida:

28

29 Section 1. Section 383.412, Florida Statutes, is amended
30 to read:

31 383.412 Public records and public meetings exemptions.—

32 (1) For purposes of this section, the term "local
33 committee" means a local child abuse death review committee or a
34 panel or committee assembled by the State Child Abuse Death
35 Review Committee or a local child abuse death review committee
36 pursuant to s. 383.402.

37 (2) (a) Any information held by the State Child Abuse Death
38 Review Committee or a local committee that reveals the identity
39 of the surviving siblings of a deceased child whose death
40 occurred as the result of a verified report of abuse or neglect
41 is confidential and exempt from s. 119.07(1) and s. 24(a), Art.
42 I of the State Constitution.

43 (b) Any information held by the State Child Abuse Death
44 Review Committee or a local committee that reveals the identity
45 of a deceased child whose death is reported to the central abuse
46 hotline but determined not to be the result of abuse or neglect,
47 or the identity of the surviving siblings, family members, or
48 others living in the home of such a deceased child, ~~who is the~~
49 ~~subject of review by and which information is held by the State~~
50 ~~Child Abuse Death Review Committee or a local committee is~~
51 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
52 of the State Constitution.

53 (c) ~~(b)~~ Information made confidential or exempt from s.
 54 119.07(1) and s. 24(a), Art. I of the State Constitution that is
 55 obtained by the State Child Abuse Death Review Committee or a
 56 local committee shall retain its confidential or exempt status.

57 (3) (a) Portions of meetings of the State Child Abuse Death
 58 Review Committee or a local committee at which information made
 59 confidential and exempt pursuant to subsection (2) is discussed
 60 are exempt from s. 286.011 and s. 24(b), Art. I of the State
 61 Constitution. The closed portion of a meeting must be recorded,
 62 and no portion of the closed meeting may be off the record. The
 63 recording shall be maintained by the State Child Abuse Death
 64 Review Committee or a local committee.

65 (b) The recording of a closed portion of a meeting is
 66 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 67 Constitution.

68 (4) The State Child Abuse Death Review Committee and local
 69 committees may share information made confidential and exempt by
 70 this section:

71 (a) With each other;

72 (b) With a governmental agency in the furtherance of its
 73 official duties and responsibilities; or

74 (c) With any person or entity authorized by the Department
 75 of Health to use such relevant information for bona fide
 76 research or statistical purposes. A person or entity who is
 77 authorized to obtain such relevant information for research or
 78 statistical purposes must enter into a privacy and security

79 agreement with the Department of Health and comply with all laws
 80 and rules governing the use of such records and information for
 81 research or statistical purposes. Anything identifying the
 82 subjects of such relevant information must be treated as
 83 confidential by the person or entity and may not be released in
 84 any form ~~any relevant information regarding case reviews~~
 85 ~~involving child death, which information is made confidential~~
 86 ~~and exempt by this section.~~

87 (5) Any person who knowingly or willfully makes public or
 88 discloses to any unauthorized person any information made
 89 confidential and exempt under this section commits a misdemeanor
 90 of the first degree, punishable as provided in s. 775.082 or s.
 91 775.083.

92 (6) This section is subject to the Open Government Sunset
 93 Review Act in accordance with s. 119.15~~7~~ and shall stand
 94 repealed on October 2, 2020 ~~2015~~, unless reviewed and saved from
 95 repeal through reenactment by the Legislature.

96 Section 2. The Legislature finds that it is a public
 97 necessity that any information held by the State Child Abuse
 98 Death Review Committee or a local committee as defined in s.
 99 383.412, Florida Statutes, that reveals the identity of a
 100 deceased child whose death is reported to the central abuse
 101 hotline but determined not to be the result of abuse or neglect,
 102 or the identity of the surviving siblings, family members, or
 103 others living in the home of such deceased child, be made
 104 confidential and exempt from public records requirements. The

105 Legislature further finds that it is a public necessity that
106 these committees have the authority to maintain the confidential
107 or exempt status of records otherwise confidential or exempt
108 which are provided to them regarding such children. The
109 Legislature also finds that it is a public necessity that
110 portions of meetings of the State Child Abuse Death Review
111 Committee or a local committee wherein the confidential and
112 exempt information is discussed be made exempt from public
113 meeting requirements, and that the recordings of closed portions
114 of such meetings be made exempt from public records
115 requirements. In 1999, the Legislature authorized the creation
116 of the committees to review the facts and circumstances
117 surrounding the deaths of children in this state, which occur as
118 the result of reported child abuse or neglect, and to prepare an
119 annual statistical report on the incidence and causes of death
120 resulting from child abuse. Since 2004, cases analyzed by the
121 committees have been limited to reports of verified abuse or
122 neglect. The Legislature made identifying information of the
123 surviving siblings, family members, or others living in the home
124 of the child who died as a result of verified abuse or neglect
125 confidential and exempt from public records requirements to
126 ensure that cases could be vetted thoroughly through open
127 communication without risk of disclosure of the identifying
128 information. In 2014, the Legislature expanded the scope of
129 cases reviewed by the committees to include all deaths reported
130 to the child abuse hotline, regardless of whether the deaths

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131 were the result of verified abuse or neglect, and this act
132 expands the public records and public meeting exemptions
133 accordingly. If the identifying information related to these
134 reports were to be disclosed, it could result in emotional or
135 reputational harm to the family and caregivers and an
136 unnecessary invasion of their privacy and the privacy of the
137 deceased child. In addition, the committees must be able to
138 maintain the otherwise confidential or exempt status of records
139 that are provided to them to ensure continued access to such
140 records and the opportunity for a thorough and open review of
141 cases. Therefore, the Legislature finds that the harm that may
142 result from the release of such information through a public
143 records request or a public meeting substantially outweighs any
144 minimal public benefit that may be derived from its disclosure.

145 Section 3. This act shall take effect upon becoming a law.