

**STORAGE NAME:** h1433.cfe

**DATE:** March 31, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
CHILDREN AND FAMILY EMPOWERMENT  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 1433

**RELATING TO:** Public Records

**SPONSOR(S):** Representative Brennan

**STATUTE(S) AFFECTED:** Section 119.07

**COMPANION BILL(S):** SB 888 [Similar]

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

- (1) CHILDREN AND FAMILY EMPOWERMENT
- (2) GOVERNMENTAL OPERATIONS
- (3) HEALTH AND HUMAN SERVICES [FISCAL]
- (4)
- (5)

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I. SUMMARY:

The bill amends the current provisions in s. 119.07(b)1. and 2., F.S., to shift the burden from demonstrating to the court why a record should be opened to demonstrating why it should be closed. The changes would affect investigative records of the Department of Children and Family Services in cases involving the death of a child, a disabled adult, or an elderly person as the result of abuse, neglect, abandonment, or exploitation.

Under the provisions of this bill, filing fees could be incurred by private citizens and organizations that petition the court to keep these records closed to the public.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Under the provisions of s. 119.07(7)(a) and (b), F.S., 1996 Supp., the records of the Department of Children and Family Services pertaining to the investigation of abuse, neglect, abandonment, or exploitation of a child, a disabled adult, or an elderly person are confidential. Upon receipt of a petition, the court may open the records for public inspection if good cause exists. The court, in making its determination, must balance public interest against the best interest of the affected child or the child's siblings; the disabled adult; or the elderly person; as well as the privacy rights of other persons identified in the reports.

Section 119.07(7)(b)1. and 2., F.S., 1996 Supp., 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, 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 415.107(1)(b), and s. 415.51(1)(b), F.S., state 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 are released to the public within 10 days after the completion of the investigation.

B. EFFECT OF PROPOSED CHANGES:

Under the bill, the current provisions in s. 119.07(b)1. and 2., F.S., would be amended to shift the burden from demonstrating to the court why a record should be opened to demonstrating why it should be closed. The changes would affect investigative records of the Department of Children and Family Services in cases involving the death of a child, a disabled adult, or an elderly person as the result of abuse, neglect, abandonment, or exploitation.

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.

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b. *If an agency or program is 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?*

The bill shifts the burden from demonstrating to the court why a record should be opened to demonstrating why it should be closed. The changes would affect investigative records of the Department of Children and Family Services in cases involving the death of a child, a disabled adult, or an elderly person as the result of abuse, neglect, abandonment, or exploitation. A person who opposes the release of the investigative records of the Department of Children and Family Services would have to petition the court to keep the record closed.

5. Family Empowerment:

- a. If the bill purports 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:*

i. *Parents and guardians?*

N/A

ii. *Services providers?*

N/A

iii. *Government employees/agencies?*

N/A

**D. SECTION-BY-SECTION RESEARCH:**

Section 1. Amends subsection (7) of section 119.07, F.S., 1996 Supplement.

Section 119.07(7)(b)1. and 2., F.S., 1996 Supp., is amended to provide that, in cases involving the death of a child, a disabled adult, or an elderly person as the result of abuse, neglect, abandonment, or exploitation, all records of the Department of Children and Family Services pertaining to an investigation of the alleged abuse, neglect, abandonment, or exploitation of that person are open to the public.

The bill specifies that information in the investigative reports that identifies individuals is not open to the public. Any other confidentiality provisions specified either by federal law or state law including, but not limited to, the confidentiality provisions contained in the Baker Act (s. 394.4615, F.S.) for children and adults with mental illness who are admitted to a mental health facility under the provisions of chapter 394, F.S., would be unaffected by the changes in the bill. The name of the person who reports alleged abuse, neglect, or exploitation of a disabled adult or an elderly person under s. 415.107, F.S., or the alleged abuse, neglect, or abandonment of a child under the provisions of s. 415.504, F.S., still would not be released to the public.

Any person who opposes the release of the investigative records of the Department of Children and Family Services would be authorized to petition the court. In considering a petition, the court is required to order that records remain confidential when a compelling interest is demonstrated for protecting the records. Under the bill, the burden is shifted from demonstrating to the court why a record should be opened to demonstrating why it should be closed.

III. 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:

Under the provisions of this bill, filing fees could be incurred by private citizens and organizations that petition the court to keep these records closed to the public.

2. Direct Private Sector Benefits:

None

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

None

D. FISCAL COMMENTS:

None

IV. 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 require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

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

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

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON CHILDREN AND FAMILY EMPOWERMENT:

Prepared by:

Legislative Research Director:

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Bob Barrios

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