

By Senator Rossin

35-305-98

See CS/HB 1433

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.07, F.S.; deleting provisions relating to
 4 the release of records of the Department of
 5 Children and Family Services which pertain to
 6 the investigation of the death of a disabled
 7 adult or elderly person as a result of abuse,
 8 neglect, or exploitation or the death of a
 9 child as a result of abuse, neglect, or
 10 abandonment; amending s. 415.107, F.S., and
 11 repealing s. 415.107(1)(b), F.S.; revising
 12 provisions relating to release of records in
 13 the event of the death of a disabled adult or
 14 elderly person as a result of abuse, neglect,
 15 or exploitation; amending s. 415.51, F.S., and
 16 repealing s. 415.51(1)(b), F.S.; revising
 17 provisions relating to release of records in
 18 the event of the death of a child as a result
 19 of abuse, abandonment, or neglect; providing an
 20 effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Subsection (7) of section 119.07, Florida
 25 Statutes, is amended to read:

26 119.07 Inspection, examination, and duplication of
 27 records; exemptions.--

28 (7)(a) Any person or organization, including the
 29 Department of Children and Family ~~Health and Rehabilitative~~
 30 Services, may petition the court for an order making public
 31 the records of the Department of Children and Family ~~Health~~

1 ~~and Rehabilitative~~ Services that pertain to investigations of
2 alleged abuse, neglect, abandonment, or exploitation of a
3 child, a disabled adult, or an elderly person. The court shall
4 determine if good cause exists for public access to the
5 records sought or a portion thereof. In making this
6 determination, the court shall balance the best interest of
7 the disabled adult, elderly person, or child who is the focus
8 of the investigation, and in the case of the child, the
9 interest of that child's siblings, together with the privacy
10 right of other persons identified in the reports against the
11 public interest. The public interest in access to such records
12 is reflected in s. 119.01(1), and includes the need for
13 citizens to know of and adequately evaluate the actions of the
14 Department of Children and Family ~~Health and Rehabilitative~~
15 Services and the court system in providing disabled adults,
16 elderly persons, and children of this state with the
17 protections enumerated in ss. 415.101 and 415.502. However,
18 ~~nothing in this subsection does not shall~~ contravene the
19 ~~provisions of~~ ss. 415.51 and 415.107, which protect the name
20 of any person reporting the abuse, neglect, or exploitation of
21 a child, a disabled adult, or an elderly person.

22 ~~(b)1. In cases involving the death of a disabled adult~~
23 ~~or an elderly person as the result of abuse, neglect, or~~
24 ~~exploitation, there shall be a presumption that the best~~
25 ~~interest of the disabled adult or elderly person and the~~
26 ~~public interest will be served by full public disclosure of~~
27 ~~the circumstances of the investigation of the death and any~~
28 ~~other investigation concerning the disabled adult or elderly~~
29 ~~person.~~

30 ~~2. In cases involving the death of a child as the~~
31 ~~result of abuse, neglect, or abandonment, there shall be a~~

1 ~~presumption that the best interest of the child and the~~
2 ~~child's siblings and the public interest will be served by~~
3 ~~full public disclosure of the circumstances of the~~
4 ~~investigation of the death of the child and any other~~
5 ~~investigation concerning the child and the child's siblings.~~

6 (b)~~(c)~~ In cases involving serious bodily injury to a
7 child, a disabled adult or an elderly person, the Department
8 of Children and Family ~~Health and Rehabilitative~~ Services may
9 petition the court for an order for the immediate public
10 release of records of the department which pertain to the
11 investigation of abuse, neglect, abandonment, or exploitation
12 of the child, disabled adult, or elderly person who suffered
13 serious bodily injury. The petition must be personally served
14 upon the child, disabled adult, or elderly person, the child's
15 parents or guardian, the legal guardian of that person, if
16 any, and any person named as an alleged perpetrator in the
17 report of abuse, neglect, abandonment, or exploitation. The
18 court must determine if good cause exists for the public
19 release of the records sought no later than 24 hours,
20 excluding Saturdays, Sundays, and legal holidays, after ~~from~~
21 the date the department filed the petition with the court. If
22 the court has neither granted nor denied the petition within
23 the 24-hour time period, the department may release to the
24 public summary information including:

- 25 1. A confirmation that an investigation has been
- 26 conducted concerning the alleged victim.
- 27 2. The dates and brief description of procedural
- 28 activities undertaken during the department's investigation.
- 29 3. The date of each judicial proceeding, a summary of
- 30 each participant's recommendations made at the judicial
- 31 proceedings, and the rulings of the court.

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2 The summary information may not include the name of, or other
3 identifying information with respect to, any person identified
4 in any investigation. In making a determination to release
5 confidential information, the court shall balance the best
6 interests of the disabled adult or elderly person or child who
7 is the focus of the investigation and, in the case of the
8 child, the interests of that child's siblings, together with
9 the privacy rights of other persons identified in the reports
10 against the public interest for access to public records.
11 However, nothing in this paragraph does not shall contravene
12 ~~the provisions of ss. 415.51 and 415.107, which protect the~~
13 ~~name of any person reporting abuse, neglect, or exploitation~~
14 ~~of a child, a disabled adult, or an elderly person.~~

15 ~~(d) In cases involving the death of a child or a~~
16 ~~disabled adult or an elderly person, the Department of Health~~
17 ~~and Rehabilitative Services may petition the court for an~~
18 ~~order for the immediate public release of records of the~~
19 ~~department which pertain to the investigation of abuse,~~
20 ~~neglect, abandonment, or exploitation of the child, disabled~~
21 ~~adult, or elderly person who died. The department must~~
22 ~~personally serve the petition upon the child's parents or~~
23 ~~guardian, the legal guardian of the disabled adult or elderly~~
24 ~~person, if any, and any person named as an alleged perpetrator~~
25 ~~in the report of abuse, neglect, abandonment, or exploitation.~~
26 ~~The court must determine if good cause exists for the public~~
27 ~~release of the records sought no later than 24 hours,~~
28 ~~excluding Saturdays, Sundays, and legal holidays, from the~~
29 ~~date the department filed the petition with the court. If the~~
30 ~~court has neither granted nor denied the petition within the~~
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1 ~~24-hour time period, the department may release to the public~~
2 ~~summary information including:~~

3 1. ~~A confirmation that an investigation has been~~
4 ~~conducted concerning the alleged victim.~~

5 2. ~~The dates and brief description of procedural~~
6 ~~activities undertaken during the department's investigation.~~

7 3. ~~The date of each judicial proceeding, a summary of~~
8 ~~each participant's recommendations made at the judicial~~
9 ~~proceedings, and the ruling of the court.~~

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11 ~~In making a determination to release confidential information,~~
12 ~~the court shall balance the best interests of the disabled~~
13 ~~adult or elderly person or child who is the focus of the~~
14 ~~investigation and, in the case of the child, the interest of~~
15 ~~that child's siblings, together with the privacy right of~~
16 ~~other persons identified in the reports against the public~~
17 ~~interest. However, nothing in this paragraph shall contravene~~
18 ~~the provisions of ss. 415.51 and 415.107, which protect the~~
19 ~~name of any person reporting abuse, neglect, or exploitation~~
20 ~~of a child, a disabled adult, or an elderly person.~~

21 (c)(e) ~~When the court determines that good cause for~~
22 ~~public access exists, the court shall direct that the~~
23 ~~department redact the name of and other identifying~~
24 ~~information with respect to any person identified in any~~
25 ~~unfounded report or proposed confirmed report or report closed~~
26 ~~without classification, or in any report that has not yet been~~
27 ~~classified pursuant to s. 415.1045(7), until such time as the~~
28 ~~court finds that there is probable cause to believe that the~~
29 ~~person identified committed an act of alleged abuse, neglect,~~
30 ~~or abandonment.~~

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1 Section 2. Paragraph (b) of subsection (1) of section
2 415.107, Florida Statutes, is repealed, and paragraph (1) is
3 added to subsection (2) of said section to read:

4 415.107 Confidentiality of reports and records.--

5 (2) Access to all records, excluding the name of the
6 reporter which shall be released only as provided in
7 subsection (6), shall be granted only to the following
8 persons, officials, and agencies:

9 (1) Any person in the event of the death of a disabled
10 adult or elderly person determined to be a result of abuse,
11 neglect, or exploitation. Information identifying the person
12 reporting abuse, neglect, or exploitation may not be released.
13 Any information otherwise made confidential or exempt by law
14 may not be released pursuant to this paragraph.

15 Section 3. Paragraph (b) of subsection (1) of section
16 415.51, Florida Statutes, is repealed, and paragraph (n) is
17 added to subsection (2) of said section to read:

18 415.51 Confidentiality of reports and records in cases
19 of child abuse or neglect.--

20 (2) Access to such records, excluding the name of the
21 reporter which shall be released only as provided in
22 subsection (9), shall be granted only to the following
23 persons, officials, and agencies:

24 (n) Any person in the event of the death of a child
25 determined to be a result of abuse, abandonment, or neglect.
26 Information identifying the person reporting abuse,
27 abandonment, or neglect may not be released. Any information
28 otherwise made confidential or exempt by law may not be
29 released pursuant to this paragraph.

30 Section 4. This act shall take effect upon becoming a
31 law.

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LEGISLATIVE SUMMARY

Revises requirements for releasing records of the Department of Children and Family Services which pertain to the investigation of the abuse, neglect, abandonment, or exploitation of a child, disabled adult, or elderly person. Deletes requirements that a person or organization obtain a court order to obtain access to such information in cases that involve the death of a child, disabled adult, or elderly person as a result of abuse, neglect, abandonment, or exploitation. Prohibits releasing information that identifies the person who reported the abuse, neglect, abandonment, or exploitation.