

By the Committee on Children, Families and Seniors and Senator Rossin

300-1132-98

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; creating ss.  
20          381.0022, 402.115, F.S.; providing for the  
21          sharing of confidential or exempt information  
22          between the Department of Health and the  
23          Department of Children and Family Services;  
24          providing an effective date.

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

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28           Section 1. Subsection (7) of section 119.07, Florida  
29 Statutes, is amended to read:

30           119.07 Inspection, examination, and duplication of  
31 records; exemptions.--

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

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

1 ~~other investigation concerning the disabled adult or elderly~~  
2 ~~person.~~

3         ~~2. In cases involving the death of a child as the~~  
4 ~~result of abuse, neglect, or abandonment, there shall be a~~  
5 ~~presumption that the best interest of the child and the~~  
6 ~~child's siblings and the public interest will be served by~~  
7 ~~full public disclosure of the circumstances of the~~  
8 ~~investigation of the death of the child and any other~~  
9 ~~investigation concerning the child and the child's siblings.~~

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

29             1. A confirmation that an investigation has been  
30 conducted concerning the alleged victim.

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

3           3. The date of each judicial proceeding, a summary of  
4 each participant's recommendations made at the judicial  
5 proceedings, and the rulings of the court.

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

20           ~~(d) In cases involving the death of a child or a~~  
21 ~~disabled adult or an elderly person, the Department of Health~~  
22 ~~and Rehabilitative Services may petition the court for an~~  
23 ~~order for the immediate public release of records of the~~  
24 ~~department which pertain to the investigation of abuse,~~  
25 ~~neglect, abandonment, or exploitation of the child, disabled~~  
26 ~~adult, or elderly person who died. The department must~~  
27 ~~personally serve the petition upon the child's parents or~~  
28 ~~guardian, the legal guardian of the disabled adult or elderly~~  
29 ~~person, if any, and any person named as an alleged perpetrator~~  
30 ~~in the report of abuse, neglect, abandonment, or exploitation.~~  
31 ~~The court must determine if good cause exists for the public~~

1 ~~release of the records sought no later than 24 hours,~~  
2 ~~excluding Saturdays, Sundays, and legal holidays, from the~~  
3 ~~date the department filed the petition with the court. If the~~  
4 ~~court has neither granted nor denied the petition within the~~  
5 ~~24-hour time period, the department may release to the public~~  
6 ~~summary information including:~~

7       1. ~~A confirmation that an investigation has been~~  
8 ~~conducted concerning the alleged victim.~~

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

11       3. ~~The date of each judicial proceeding, a summary of~~  
12 ~~each participant's recommendations made at the judicial~~  
13 ~~proceedings, and the ruling of the court.~~

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

25       (c)(e) ~~When the court determines that good cause for~~  
26 ~~public access exists, the court shall direct that the~~  
27 ~~department redact the name of and other identifying~~  
28 ~~information with respect to any person identified in any~~  
29 ~~unfounded report or proposed confirmed report or report closed~~  
30 ~~without classification, or in any report that has not yet been~~  
31 ~~classified pursuant to s. 415.1045(7), until such time as the~~

1 court finds that there is probable cause to believe that the  
2 person identified committed an act of alleged abuse, neglect,  
3 or abandonment.

4 Section 2. Paragraph (b) of subsection (1) of section  
5 415.107, Florida Statutes, is repealed, and paragraph (1) is  
6 added to subsection (2) of said section to read:

7 415.107 Confidentiality of reports and records.--

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

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

18 Section 3. Paragraph (b) of subsection (1) of section  
19 415.51, Florida Statutes, is repealed, and paragraph (n) is  
20 added to subsection (2) of said section to read:

21 415.51 Confidentiality of reports and records in cases  
22 of child abuse or neglect.--

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

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

3 Section 4. Section 381.0022, Florida Statutes, is  
4 created to read:

5 381.0022 Sharing confidential or exempt  
6 information.--Notwithstanding any other provision of law to  
7 the contrary, the Department of Health and the Department of  
8 Children and Family Services may share confidential or exempt  
9 information on clients served by both agencies. Information so  
10 exchanged remains confidential or exempt as provided by law.

11 Section 5. Section 402.115, Florida Statutes, is  
12 created to read:

13 402.115 Sharing confidential or exempt  
14 information.--Notwithstanding any other provision of law to  
15 the contrary, the Department of Health and the Department of  
16 Children and Family Services may share confidential or exempt  
17 information on clients served by both agencies. Information so  
18 exchanged remains confidential or exempt as provided by law.

19 Section 6. This act shall take effect upon becoming a  
20 law.

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22 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
23 COMMITTEE SUBSTITUTE FOR  
24 Senate Bill 506

25 Sections are created within chapters 381 and 402, F.S., to  
26 allow the sharing of confidential or exempt information  
27 regarding clients of both the Departments of Health and  
28 Children and Family Services.  
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