

**STORAGE NAME:** h1037.flc

**DATE:** March 20, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
FAMILY LAW AND CHILDREN  
ANALYSIS**

**BILL #:** HB 1037

**RELATING TO:** Public Records/Domestic Violence

**SPONSOR(S):** Representative Pruitt

**TIED BILL(S):** HB 1039

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

- (1) FAMILY LAW AND CHILDREN
  - (2) LAW ENFORCEMENT AND CRIME PREVENTION
  - (3) GOVERNMENTAL OPERATIONS
  - (4) CRIMINAL JUSTICE APPROPRIATIONS
  - (5)
- 

**I. SUMMARY:**

This bill, which relates to exemptions from the public records laws, is a companion bill to HB 1039, regarding domestic violence fatality review prevention task forces or domestic violence fatality review teams. This bill provides that records obtained or produced by a domestic violence fatality prevention task force or fatality review team are exempt from public disclosure. Proceedings and meetings conducted by a fatality prevention task force or fatality review team are exempt from public meeting requirements. This bill also provides that the investigations, proceedings, and records of a fatality prevention task force or a fatality review team are not subject to discovery or introduction into evidence in any civil action or disciplinary proceeding by any department or employing agency arising out of matters that are the subject of evaluation and review by the fatality prevention task force or fatality review team. Any person who attends a meeting held by a fatality prevention task force or fatality review team may not be permitted or required to testify in any civil action or disciplinary proceeding as to any evidence or other matters produced or presented during the proceedings of the organization as to any findings, recommendations, evaluations, opinions, or other actions of the organization or the members.

Pursuant to s. 24 of Article I of the State Constitution, this bill provides a statement of public necessity for the exemption which finds that victims of domestic violence and participants at task force or team meetings must be able to disclose information without fear of reprisal. This statutory exemption from disclosure is subject to the Open Government Sunset Review Act of 1995, and will be repealed on October 2, 2005, unless reviewed and saved from repeal through reenactment by the Legislature. This bill would take effect on the same date as HB 1039 or similar legislation, if adopted by the legislature.

This bill should not have any fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**Public Records and Public Meeting Laws.**

Article I, s. 24, Florida Constitution, expresses Florida's public policy regarding access to government records in providing that:

(a) Every person has the right to inspect or copy any public records made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

Article I, s. 24, Florida Constitution, does, however, permit the Legislature to provide by general law for the exemption of records from the requirements of s. 24. The general law exempting the records must state with specificity the public necessity justifying the exemption and can be no broader than necessary to accomplish the stated purpose of the law.

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07, F.S., provides:

Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at a reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee.

Access to government meetings is addressed in the Florida Statutes as well. Section 286.011, F.S., states:

All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

Section 119.15, F.S., provides that an exemption to the public records and meeting requirements may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of the following purposes and the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption:

1. Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
2. Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this subparagraph, only information that would identify the individuals may be exempted; or
3. Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

### **Domestic Violence Fatality Review Teams**

Domestic violence fatality review teams or fatality prevention task forces are not addressed within the Florida Statutes. According to the Governor's Task Force on Domestic Violence, local fatality review teams are community-created. These teams may be started by community activists, local courts, and county boards, among others. Domestic violence may be prevented with appropriate community interventions; and strategies such as fatality reviews can highlight gaps in the system and areas in need of improvement and can increase cooperation and communications. See Executive Order 99-99.

### **HB 1039**

House Bill 1039 allows domestic violence fatality prevention task forces or domestic violence fatality review teams to review fatal and near fatal incidents of domestic violence to evaluate both the incidents and ways to prevent such incidents. HB 1039 provides a definition of domestic violence fatality prevention task force or domestic violence fatality review team, and who should be included within a local task force or team. The task force or team shall collect data, in a manner consistent statewide and in a form determined by the Department of Law Enforcement. The Department of Law Enforcement will use the data to prepare an annual report on domestic violence, submitted to the Governor, the

President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court, by July 1, of each year. The Governor's Task Force on Domestic Violence shall provide information and technical assistance to local fatality review teams. No immunity from liability is conferred upon any person, acting outside the scope of membership or functions of a task force or team. HB 1039 has an effective date of July 1, 2000.

**C. EFFECT OF PROPOSED CHANGES:**

This bill would allow records obtained or produced by a domestic violence fatality prevention task force or a fatality review team in the course of its duties, to be exempt from public disclosure. Proceedings and meetings of any fatality prevention task force or fatality review team regarding domestic violence fatalities and their prevention would be exempt from public meeting requirements.

The investigations, proceedings and records of fatality prevention task force or a fatality review team would not be subject to discovery or introduction into evidence in any civil action or disciplinary proceeding by any department or employing agency arising out of matters that are the subject of evaluation and review by the fatality prevention task force or fatality review team. Any person who attended a meeting of a fatality prevention task force or fatality review team could not be permitted or required to testify in any civil action or disciplinary proceeding as to any evidence or other matters produced or presented during the proceedings of a task force or team, as to any findings, recommendations, evaluations, opinions, or other actions of the organization or its members.

This bill would be repealed on October 2, 2005, unless reviewed and reenacted by the Legislature prior to that date.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Creates s. 741.3146, F.S., relating to certain information exempt from disclosure. This section provides that records obtained or produced by a domestic violence fatality prevention task force or fatality review team are exempt from public disclosure. Proceedings and meetings conducted by a fatality prevention task force or fatality review team are exempt from public meeting requirements.

This section also provides that the investigations, proceedings, and records of a fatality prevention task force or a fatality review team are not subject to discovery or introduction into evidence in any civil action or disciplinary proceeding by any department or employing agency arising out of matters that are the subject of evaluation and review by the fatality prevention task force or fatality review team. Persons who attend meetings held by a fatality prevention task force or fatality review team may not be permitted or required to testify in any civil action or disciplinary proceeding as to any evidence or other matters produced or presented during the proceedings of the organization, as to any findings, recommendations, evaluations, opinions, or other actions of the organization or the members.

This section provides that the exemptions are applicable only to records held by a domestic violence fatality prevention task force or a domestic violence fatality review team, and are subject to the Open Government Sunset Review Act of 1995. This section will be repealed on October 2, 2005, unless reviewed and reenacted by the Legislature prior to that date.

**Section 2.** Provides a statement of public necessity for exempting records and proceedings of a domestic violence fatality prevention task force or fatality review team from public disclosure, because victims of domestic violence must be able to disclose information without fear of reprisal. In addition, it is a public necessity that meetings of a fatality prevention task force or fatality review team be closed to the public so that participants in the proceedings are not threatened with the fear of reprisal.

**Section 3.** Provides that this act shall take effect on the date that HB 1039, or similar legislation, takes effect.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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 take an action requiring expenditures of funds.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of state sales tax shared with municipalities.

**V. COMMENTS:**

**A. CONSTITUTIONAL ISSUES:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. OTHER COMMENTS:**

None.

**VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

N/A

**VII. SIGNATURES:**

**COMMITTEE ON FAMILY LAW AND CHILDREN:**

Prepared by:

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