

By Representatives Gelber, Harrell, Green, Ball and Cusack

1 A bill to be entitled
2 An act relating to public records; creating s.
3 395.1056, F.S.; providing an exemption from
4 public records requirements for those portions
5 of a comprehensive emergency management plan
6 which address the response of a public or
7 private hospital to an act of terrorism and
8 which are filed with the Agency for Health Care
9 Administration, a state or local law
10 enforcement agency, a county emergency
11 management agency, the Executive Office of the
12 Governor, the Department of Health, or the
13 Department of Community Affairs; providing an
14 exemption from public records requirements for
15 those portions of a comprehensive emergency
16 management plan which address the response of a
17 public hospital to an act of terrorism and
18 which are in the custody of that public
19 hospital; providing a statement of public
20 necessity; providing a contingent effective
21 date.

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

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25 Section 1. Section 395.1056, Florida Statutes, is
26 created to read:

27 395.1056 Plan components addressing hospital's
28 response to terrorism; public records exemption.--

29 (1) Those portions of a comprehensive emergency
30 management plan which address the response of a public or
31 private hospital to an act of terrorism, as defined by s.

1 775.30, and which are filed with the agency, a state or local
2 law enforcement agency, a county emergency management agency,
3 the Executive Office of the Governor, the Department of
4 Health, or the Department of Community Affairs are
5 confidential and exempt from the provisions of s. 119.07(1)
6 and s. 24(a), Art. I of the State Constitution. Portions of a
7 comprehensive emergency management plan which address the
8 response of a public or private hospital to an act of
9 terrorism include those portions addressing emergency
10 evacuation transportation; sheltering arrangements;
11 post-disaster activities, including provisions for emergency
12 power, food, and water; post-disaster transportation;
13 supplies, including drug caches; staffing; emergency
14 equipment; and individual identification of residents,
15 transfer of records, and methods of responding to family
16 inquiries. This subsection is subject to the Open Government
17 Sunset Review Act of 1995, in accordance with s. 119.15, and
18 shall stand repealed on October 2, 2007, unless reviewed and
19 saved from repeal through reenactment by the Legislature.

20 (2) Those portions of a comprehensive emergency
21 management plan which address the response of a public
22 hospital to an act of terrorism, as defined by s. 775.30, and
23 which are in the custody of that public hospital are exempt
24 from the requirements of s. 119.07(1) and s. 24(a), Art. I of
25 the State Constitution. Portions of a comprehensive emergency
26 management plan which address the response of a public
27 hospital to an act of terrorism include those portions that
28 contain components that address emergency evacuation
29 transportation; sheltering arrangements; post-disaster
30 activities, including provisions for emergency power, food,
31 and water; post-disaster transportation; supplies, including

1 drug caches; staffing; emergency equipment; and individual
2 identification of residents, transfer of records, and methods
3 of responding to family inquiries. This subsection is subject
4 to the Open Government Sunset Review Act of 1995, in
5 accordance with s. 119.15, and shall stand repealed on October
6 2, 2007, unless reviewed and saved from repeal through
7 reenactment by the Legislature.

8 Section 2. The Legislature finds that the exemption
9 from public records requirements provided by this act is a
10 public necessity because those portions of a comprehensive
11 emergency management plan which address the response of a
12 public or private hospital to an act of terrorism are vital
13 plan components that affect the health and safety of the
14 public. If emergency evacuation transportation, sheltering
15 arrangements, post-disaster activities, including provisions
16 for emergency power, food, and water, post-disaster
17 transportation, supplies, staffing, emergency equipment,
18 individual identification of residents, transfer of records,
19 and methods of responding to family inquiries were made
20 publicly available for inspection or copying, they could be
21 used to hamper or disable the response of a hospital to a
22 terrorist attack. If hospital response to an act of terrorism
23 were hampered or disabled, an increase in the number of
24 Floridians subjected to fatal injury would occur. While some
25 skill would be required to use knowledge of plan components to
26 disable a hospital response to an act of terrorism, there is
27 ample existing evidence of the capabilities of terrorists to
28 plot, plan, and coordinate complicated acts of terror. The
29 hijacking and crashing of planes, the destruction of the World
30 Trade Center and the attack on the Pentagon on September 11,
31 2001, as well as the continued and purposeful spread of

1 anthrax in Washington, D.C., other states, and communities
2 within this state, which has resulted in the death of at least
3 one Floridian, provide evidence of such skill. The aftermath
4 of these events has also showed the importance of viable plans
5 by which hospitals can respond to acts of terror. As a result,
6 the Legislature finds that those portions of a comprehensive
7 emergency management plan which address the response of a
8 public or private hospital to an act of terrorism and which
9 are filed with the Agency for Health Care Administration, a
10 state or local law enforcement agency, a county emergency
11 management agency, the Executive Office of the Governor, the
12 Department of Health, or the Department of Community Affairs
13 must be confidential and exempt and that the emergency
14 management plans of a public hospital which are in the custody
15 of a public hospital also must be exempt.

16 Section 3. This act shall take effect on the same date
17 that HB ____ or similar legislation defining "terrorism" for
18 purposes of the Florida Criminal Code takes effect, if such
19 legislation is adopted in the same legislative session or an
20 extension thereof and becomes law.

21 Section 4. This act shall take effect upon becoming a
22 law.

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LEGISLATIVE SUMMARY

Creates an exemption from public records requirements for those portions of a comprehensive emergency management plan which address the response of a public or private hospital to an act of terrorism and which are filed with the Agency for Health Care Administration, a state or local law enforcement agency, a county emergency management agency, the Executive Office of the Governor, the Department of Health, or the Department of Community Affairs. Provides an exemption from public records requirements for those portions of a comprehensive emergency management plan which address the response of a public hospital to an act of terrorism and which are in the custody of that public hospital. Provides a statement of public necessity. Provides for review and repeal of the exemptions. Provides that the act is contingent upon passage of legislation defining "terrorism" for purposes of the criminal code of the State of Florida.