

By the Committee on Criminal Justice; and Senators Brown-Waite and Smith

307-737-02

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 addresses the response of a public or
7 private hospital to an act of terrorism;
8 creating an exemption for those portions of a
9 comprehensive emergency-management plan which
10 address the response of a public hospital to an
11 act of terrorism; providing an exemption from
12 public-meeting requirements for any portion of
13 a public meeting which would reveal information
14 contained in a comprehensive
15 emergency-management plan; providing for future
16 review and repeal; providing a statement of
17 public necessity; providing a contingent
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 395.1056, Florida Statutes, is
23 created to read:

24 395.1056 Plan components addressing a hospital's
25 response to terrorism; public-records exemption;
26 public-meetings exemption.--

27 (1) Those portions of a comprehensive
28 emergency-management plan which address the response of a
29 public or private hospital to an act of terrorism as defined
30 by s. 775.30 and which are filed with or are in the possession
31 of the agency, a state or local law-enforcement agency, a

1 county or municipal emergency-management agency, the executive
2 office of the Governor, the Department of Health, or the
3 Department of Community Affairs are confidential and exempt
4 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
5 the State Constitution. This exemption is remedial in nature,
6 and it is the intent of the Legislature that this exemption be
7 applied to plans filed with the agency before, on, or after
8 the effective date of this section. Information made
9 confidential and exempt by this subsection may be disclosed by
10 a custodial agency to another state or federal agency to
11 prevent, detect, guard against, respond to, investigate, or
12 manage the consequences of any attempted or actual act of
13 terrorism, or to prosecute those persons who are responsible
14 for such attempts or acts, and the confidential and exempt
15 status of such information shall be retained while in the
16 possession of the receiving agency. Portions of a
17 comprehensive emergency management plan which address the
18 response of a public or private hospital to an act of
19 terrorism include those portions addressing security systems
20 or plans; vulnerability analyses; emergency evacuation
21 transportation; sheltering arrangements; post-disaster
22 activities, including provisions for emergency power,
23 communications, food, and water; post-disaster transportation;
24 supplies, including drug caches; staffing; emergency
25 equipment; and individual identification of residents,
26 transfer of records, and methods of responding to family
27 inquiries. This subsection is subject to the Open Government
28 Sunset Review Act of 1995 in accordance with s. 119.15 and
29 shall stand repealed October 2, 2006, unless reviewed and
30 saved from repeal through reenactment by the Legislature.
31

1 (2) Those portions of a comprehensive
2 emergency-management plan which address the response of a
3 public hospital to an act of terrorism as defined by s. 775.30
4 and which are in the custody of that public hospital are
5 exempt from the requirements of s. 119.07(1) and s. 24(a),
6 Art. I of the State Constitution. Portions of a comprehensive
7 emergency-management plan which address the response of a
8 public hospital to an act of terrorism include those portions
9 addressing security systems or plans; vulnerability analyses;
10 emergency-evacuation transportation; sheltering arrangements;
11 post-disaster activities, including provisions for emergency
12 power, communications, food, and water; post-disaster
13 transportation; supplies, including drug caches; staffing;
14 emergency equipment; and individual identification of
15 residents, transfer of records, and methods of responding to
16 family inquiries. This subsection is subject to the Open
17 Government Sunset Review Act of 1995 in accordance with s.
18 119.15 and shall stand repealed October 2, 2006, unless
19 reviewed and saved from repeal through reenactment by the
20 Legislature.

21 (3) Any portion of a public meeting which would reveal
22 information contained in a comprehensive emergency-management
23 plan which addresses the response of a hospital to an act of
24 terrorism is exempt from the provisions of s. 286.011 and s.
25 24(b), Art. I of the State Constitution. This subsection is
26 subject to the Open Government Sunset Review Act of 1995 in
27 accordance with s. 119.15 and shall stand repealed October 2,
28 2006, unless reviewed and saved from repeal through
29 reenactment by the Legislature.

30 (4) The certification by the Governor, in coordination
31 with the Department of Health, of the sufficiency of a

1 comprehensive emergency-management plan that addresses the
2 response of a hospital to an act of terrorism is a public
3 record.

4 Section 2. The Legislature finds that the exemption
5 from public-records and public-meetings requirements provided
6 in section 395.1056, Florida Statutes, is a public necessity
7 because those portions of a comprehensive emergency-management
8 plan which address the response of a public or private
9 hospital to an act of terrorism are vital plan components that
10 affect the health and safety of the public. If security
11 systems or plans, vulnerability analyses, emergency evacuation
12 transportation, sheltering arrangements, post-disaster
13 activities (including provisions for emergency power),
14 communications, food, and water, post-disaster transportation,
15 supplies (including caches), staffing, emergency equipment,
16 individual identification of residents, transfer of records,
17 and methods of responding to family inquiries were made
18 publicly available for inspection or copying, they could be
19 used to hamper or disable the response of a hospital to a
20 terrorist attack. If a hospital's response to an act of
21 terrorism were hampered or disabled, an increase in the number
22 of Floridians subjected to fatal injury would occur. While
23 some skill would be required to use knowledge of plan
24 components to disable a hospital's response to an act of
25 terrorism, there is ample existing evidence of the
26 capabilities of terrorists to plot, plan, and coordinate
27 complicated acts of terror. The hijacking and crashing of
28 planes, the destruction of the World Trade Center, the attack
29 on the Pentagon on September 11, 2001, as well as the
30 continued and purposeful spread of anthrax in Washington,
31 D.C., other states, and communities within this state, which

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

15 Section 3. This act shall take effect on the same date
16 that Senate Bill 6-C or similar legislation defining
17 "terrorism" for purposes of the Florida Criminal Code takes
18 effect, if such legislation is adopted in the same legislative
19 session or an extension thereof and becomes law.

20

21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 Senate Bill 18-C

24

24 - Provides that information made confidential and exempt
25 by the bill may be disclosed by the custodial agency to
26 another state or federal agency for specified purposes
27 and that the confidential and exempt status of such
information is retained while in the possession of the
receiving agency.

27

28 - Provides that the exemption is remedial in nature and
29 that it applies to records received before, on, or
30 after, the effective date of the bill.

30

31

31