

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

An act relating to public records; creating s. 395.1056, F.S.; providing an exemption from public-records requirements for those portions of a comprehensive emergency-management plan which addresses the response of a public or private hospital to an act of terrorism; creating an exemption for those portions of a comprehensive emergency-management plan which address the response of a public hospital to an act of terrorism; providing an exemption from public-meeting requirements for any portion of a public meeting which would reveal information contained in a comprehensive emergency-management plan; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

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

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

(1) Those portions of a comprehensive emergency-management plan which address the response of a public or private hospital to an act of terrorism as defined by s. 775.30 and which are filed with or are in the possession 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 not exempt.  
3       Section 2. The Legislature finds that the exemption  
4 from public-records and public-meetings requirements provided  
5 in section 395.1056, Florida Statutes, is a public necessity  
6 because those portions of a comprehensive emergency-management  
7 plan which address the response of a public or private  
8 hospital to an act of terrorism are vital plan components that  
9 affect the health and safety of the public. If security  
10 systems or plans, vulnerability analyses, emergency evacuation  
11 transportation, sheltering arrangements, post-disaster  
12 activities (including provisions for emergency power),  
13 communications, food, and water, post-disaster transportation,  
14 supplies (including caches), staffing, emergency equipment,  
15 individual identification of residents, transfer of records,  
16 and methods of responding to family inquiries were made  
17 publicly available for inspection or copying, they could be  
18 used to hamper or disable the response of a hospital to a  
19 terrorist attack. If a hospital's response to an act of  
20 terrorism were hampered or disabled, an increase in the number  
21 of Floridians subjected to fatal injury would occur. While  
22 some skill would be required to use knowledge of plan  
23 components to disable a hospital's response to an act of  
24 terrorism, there is ample existing evidence of the  
25 capabilities of terrorists to plot, plan, and coordinate  
26 complicated acts of terror. The hijacking and crashing of  
27 planes, the destruction of the World Trade Center, the attack  
28 on the Pentagon on September 11, 2001, as well as the  
29 continued and purposeful spread of anthrax in Washington,  
30 D.C., other states, and communities within this state, which  
31 has resulted in the death of at least one Floridian, provide

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

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

19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31