

STORAGE NAME: h1067.hcc.doc

DATE: February 14, 2002

**HOUSE OF REPRESENTATIVES
COUNCIL FOR HEALTHY COMMUNITIES
ANALYSIS**

BILL #: HB 1067 (PCB HP 02-01)

RELATING TO: Public Records/Parent's ID/Newborns

SPONSOR(S): Committee on Health Promotion and Representative Littlefield

TIED BILL(S):

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

- (1) HEALTH PROMOTION YEAS 9 NAYS 0
- (2) STATE ADMINISTRATION YEAS 5 NAYS 0
- (3) COUNCIL FOR HEALTHY COMMUNITIES YEAS 16 NAYS 0
- (4)
- (5)

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

At present, the identity of a parent who leaves a newborn infant at a hospital or fire station is confidential and exempt from public disclosure. This bill expands that public records exemption to include the identity of a parent who leaves a newborn infant at an emergency medical services station.

This bill provides a public necessity statement, as required by the Florida Constitution, which states that this exemption is necessary in order to encourage parents to leave infants safely and thus protect the life and health of those infants.

This bill does not appear to have a fiscal impact on state or local governments.

On February 14, 2002, the Council for Health Communities adopted an amendment which revised the Open Government Sunset Review and repeal date from October 2, 2005, to October 2, 2007.

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 checked="" type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |

One can construe this bill as increasing personal responsibility in that it encourages a parent to leave an unwanted infant at an emergency medical services station instead of leaving the child in a less safe location, thereby jeopardizing the life and health of that infant. However, one can also construe this bill as decreasing personal responsibility because it allows a parent to abandon a newborn infant rather than accept parental responsibility and raise the child or formally give it up for adoption.

- | | | | |
|------------------------------|------------------------------|-----------------------------|---|
| 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 Law

Florida Constitution

Article I, s. 24(a), Florida Constitution, expresses Florida's public policy regarding access to government records as follows:

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(c), 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 must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.

Florida Statutes

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07(1)(a), 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.

Open Government Sunset Review Act of 1995

Section 119.15, F.S., the Open Government Sunset Review Act of 1995, provides that an exemption 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.

Abandoned Newborns

At present, section 383.51, F.S., provides a public records exemption for the identity of a parent who leaves a newborn infant at a hospital or fire station. The identity of that parent must be disclosed to a person claiming to be a parent of the abandoned newborn infant.

C. EFFECT OF PROPOSED CHANGES:

This bill expands the public records exemption found in section 383.51, F.S., regarding the identity of a parent who leaves a newborn infant at a hospital or fire station to also include the identity of a parent who leaves a newborn infant at an emergency medical services station. Also, the bill provides that the identity of a parent leaving a newborn infant at an emergency medical services station must be disclosed to a person claiming to be a parent of such infant.

This bill provides a public necessity statement, as required by s. 24, Art. I of the State Constitution, which states that this exemption is necessary in order to encourage parents to leave infants safely and thus protect the life and health of those infants.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes".

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 expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities 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 tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 14, 2002, the Council for Health Communities adopted an amendment, which revised the Open Government Sunset Review and repeal date from October 2, 2005, to October 2, 2007. This amendment is identical to an amendment adopted to SB 1222 by the Senate Judiciary Committee.

VII. SIGNATURES:

COMMITTEE ON HEALTH PROMOTION:

Prepared by:

Phil E. Williams

Staff Director:

Phil E. Williams

AS REVISED BY THE COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

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