

By the Committee on Domestic Security; and Senator Diaz de la Portilla

583-1787-05

1                                    A bill to be entitled

2                    An act relating to public meetings and records;

3                    creating s. 943.0314, F.S.; providing that

4                    portions of meetings of the Domestic Security

5                    Oversight Council are exempt from the

6                    public-meetings law if information is discussed

7                    which concerns active criminal investigations

8                    or intelligence activities; requiring that the

9                    chair of the council disclose the reason for

10                   closing a meeting of the council; requiring

11                   that the closed session be recorded; providing

12                   that a recording of the minutes and notes

13                   generated during a closed meeting are exempt

14                   from the public-records law until the

15                   investigation or intelligence ceases to be

16                   active; specifying those persons who are

17                   authorized to attend a closed meeting of the

18                   council; providing for future repeal and

19                   legislative review under the Open Government

20                   Sunset Review Act; providing a statement of

21                   public necessity; providing a contingent

22                   effective date.

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

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26                    Section 1. Section 943.0314, Florida Statutes, is

27 created to read:

28                    943.0314 Public records and meetings exemptions for

29 the Domestic Security Oversight Council.--

30                    (1)(a) That portion of a meeting of the Domestic

31 Security Oversight Council at which the council will hear or

1 discuss active criminal investigative information or active  
2 criminal intelligence information as defined in s. 119.011 is  
3 exempt from s. 286.011 and s. 24(b), Art. I of the State  
4 Constitution, if:

5 1. The chair of the council announces at a public  
6 meeting that, in connection with the performance of the  
7 council's duties, it is necessary that active criminal  
8 investigative information or active criminal intelligence  
9 information be discussed;

10 2. The chair declares the specific reasons why it is  
11 necessary to close the meeting, or portion thereof, in a  
12 document that is a public record and filed with the official  
13 records of the council; and

14 3. The entire closed meeting is recorded. The  
15 recording must include the times of commencement and  
16 termination of the closed meeting, all discussion and  
17 proceedings, and the names of the persons present. No portion  
18 of the closed meeting shall be off the record. The recording  
19 shall be maintained by the council.

20 (b) An audio or video recording of, and any minutes  
21 and notes generated during, that portion of a closed council  
22 meeting are exempt from s. 119.07(1) and s. 24(a), Art. I of  
23 the State Constitution until such time as the criminal  
24 investigative information or criminal intelligence information  
25 ceases to be active, and shall be retained pursuant to the  
26 requirements of s. 119.021.

27 (2) Only members of the council, staff supporting the  
28 council's functions, and other persons whose presence has been  
29 authorized by the chair of the council shall be allowed to  
30 attend the exempted portions of council meetings. The council  
31 shall ensure that any closure of its meetings as authorized by

1 this section is limited so that the policy of this state in  
2 favor of public meetings is maintained.

3 (3) This section is subject to the Open Government  
4 Sunset Review Act of 1995 in accordance with s. 119.15 and  
5 shall stand repealed on October 2, 2010, unless reviewed and  
6 saved from repeal through reenactment by the Legislature.

7 Section 2. The Legislature finds that it is a public  
8 necessity to close that portion of a meeting of the Domestic  
9 Security Oversight Council at which criminal investigative  
10 information or criminal intelligence information is discussed.  
11 The council reviews information of a highly sensitive nature  
12 involving terrorism activity; counterterrorism methodologies;  
13 and planning, training, and operational activities of a  
14 coordinated intergovernmental prevention, protection, and  
15 response strategy that requires discussion of specific  
16 information related to these activities. Public discussion of  
17 these activities would result in the sharing of data, methods,  
18 and operational techniques that could be used by persons  
19 intent on doing harm to the state to perpetrate a terrorist  
20 attack. Knowledge of this level of planning and operational  
21 information could result in the successful execution of an  
22 attack against the residents of this state or nation. This  
23 information is exempt from public disclosure pursuant to  
24 sections 119.07(6) and 119.071, Florida Statutes, and if the  
25 meetings at which this exempt information is discussed were  
26 open to the public, the purpose of the exemptions would be  
27 defeated. The council must be able to hear and discuss this  
28 exempt information in full in order to make sound  
29 recommendations to the Governor and Legislature regarding  
30 strategies and activities to protect the welfare of the people  
31 of this state. The ability to fully understand and discuss the

1 details of criminal investigative information or criminal  
2 intelligence information related to terrorist activities and  
3 counterterrorism measures being considered as part of an  
4 overall discussion of strategic planning and funding  
5 recommendations for the purchase of specialized equipment,  
6 training, or services is critical to the ability of the state  
7 to defend against terrorist attacks.

8           Section 3. This act shall take effect on the same date  
9 that SB 1414 or similar legislation takes effect, if such  
10 legislation is enacted in the same legislative session, or an  
11 extension thereof, and becomes law.

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13                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
14                   COMMITTEE SUBSTITUTE FOR  
15                   Senate Bill 1416

16 This bill deletes references to confidentiality and security  
17 system plans information in order to conform the bill to its  
18 House companion, HB 1801. Security system plans are already  
19 exempt under s. 286.0113, F.S.

20 The bill clarifies that a portion of a Domestic Security  
21 Council meeting can be held in public and a portion of the  
22 meeting closed to the public and also adds a reference to s.  
23 119.071, F.S., regarding retention of audio or video records  
24 of closed meetings.  
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