

By the Committee on Judiciary; and Senator Campbell

590-2031-05

1 A bill to be entitled
2 An act relating to public-records exemptions;
3 creating s. 744.1076, F.S.; exempting from
4 public-records requirements certain court
5 records relating to the appointment of certain
6 court monitors, reports of such monitors, and
7 orders of a court; providing for future
8 legislative review and repeal under the Open
9 Government Sunset Review Act; providing
10 findings of public necessity; providing a
11 contingent effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 744.1076, Florida Statutes, is
16 created to read:

17 744.1076 Court orders appointing court monitors and
18 emergency court monitors; reports of court monitors.--

19 (1) The order of any court appointing a court monitor
20 under s. 744.107 and the reports of the monitors relating to
21 the medical condition, financial affairs, or mental health of
22 the ward required under the section are confidential and
23 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
24 Constitution. The orders and reports may be subject to
25 inspection as determined by the court as provided in s.
26 744.107.

27 (2) The order of any court appointing a court monitor
28 on an emergency basis under s. 744.1075, the reports of the
29 monitors relating to the medical condition, financial affairs,
30 or mental health of the ward, court determinations relating to
31 probable cause, and court orders finding no probable cause or

1 to show cause required under this section are confidential and
2 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
3 Constitution. The orders and reports may be subject to
4 inspection as determined by the court as provided in s.
5 744.1075.

6 Section 2. Section 744.1076, Florida Statutes, is
7 subject to the Open Government Sunset Review Act of 1995 in
8 accordance with s. 119.15, Florida Statutes, and shall stand
9 repealed on October 2, 2010, unless reviewed and saved from
10 repeal through reenactment by the Legislature.

11 Section 3. (1) The Legislature finds that it is a
12 public necessity that information concerning the appointment
13 of a court monitor and the report of a court monitor to the
14 court remain confidential and exempt from public disclosure
15 requirements unless otherwise ordered by a court of this
16 state. The Legislature finds that the release of the
17 information would produce undue harm to the ward and any
18 interested parties. In many instances, a monitor is appointed
19 to investigate allegations that may rise to the level of
20 physical neglect or abuse or financial exploitation. When such
21 allegations are involved, if the order of appointment is
22 public, the target of the investigation may be made aware of
23 the investigation before the investigation is even underway,
24 raising the risk of concealment of evidence, intimidation of
25 witnesses, or retaliation against the reporter.

26 (2) The Legislature finds that public disclosure of
27 such information would hinder the ability of the monitor to
28 investigate, interview parties, and conduct a thorough
29 investigation since many parties involved in the investigation
30 would be reluctant to speak to a court monitor knowing that
31 the information may become public. Protecting the information

1 would provide an environment in which to discuss information
2 in a free and open way and would allow all parties to develop
3 the information needed to assist the monitor in conducting an
4 accurate and thorough investigation. The Legislature finds
5 that the harm to the public which would result from the
6 release of the information substantially outweighs any minimal
7 public benefit derived from the public disclosure of the
8 personal information.

9 Section 4. This act shall take effect on the same date
10 that House Bill 457 or substantially similar legislation takes
11 effect, if the legislation is adopted in the same legislative
12 session or an extension thereof and becomes law.

13
14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 Senate Bill 1810

17 The committee substitute reduces the scope of the public
18 records exemption provided in the underlying bill. Under the
19 bill, all court monitor reports were confidential and exempt
20 from public disclosure. Under the committee substitute, only
21 court monitor reports relating to the medical condition,
22 financial affairs, or mental health of a ward are confidential
23 and exempt from disclosure.