

CHAMBER ACTION

1 The Civil Justice Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to public records exemptions; creating s.
7 744.1076, F.S.; exempting from public records requirements
8 certain court records relating to appointment of certain
9 court monitors, reports of such monitors, and orders of a
10 court; providing for future legislative review and repeal;
11 providing findings of public necessity; providing a
12 contingent effective date.

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

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

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

20 (1) The order of any court appointing a court monitor
21 pursuant to s. 744.107 and the reports of such monitors relating
22 to the medical condition, financial affairs, or mental health of
23 the ward required pursuant to such section are confidential and

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24 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 25 Constitution. Such orders and reports may be subject to
 26 inspection as determined by the court as provided in s. 744.107.

27 (2) The order of any court appointing a court monitor on
 28 an emergency basis pursuant to s. 744.1075, the reports of such
 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 to
 32 show cause required pursuant to such section are confidential
 33 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 34 Constitution. Such orders and reports may be subject to
 35 inspection as determined by the court as provided in s.
 36 744.1075.

37 Section 2. Section 744.1076, Florida Statutes, is subject
 38 to the Open Government Sunset Review Act of 1995 in accordance
 39 with s. 119.15, Florida Statutes, and shall stand repealed on
 40 October 2, 2010, unless reviewed and saved from repeal through
 41 reenactment by the Legislature.

42 Section 3. (1) The Legislature finds that it is a public
 43 necessity that information concerning the appointment of a court
 44 monitor and the report of a court monitor to the court remain
 45 confidential and exempt from public disclosure requirements
 46 unless otherwise ordered by a court of this state. The
 47 Legislature finds that the release of such information would
 48 produce undue harm to the ward and any interested parties. In
 49 many instances, a monitor is appointed to investigate
 50 allegations which may rise to the level of physical neglect or
 51 abuse or financial exploitation. When such allegations are

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52 involved, if the order of appointment is public, the target of
53 the investigation may be made aware of the investigation before
54 the investigation is even underway, raising the risk of
55 concealment of evidence, intimidation of witnesses, or
56 retaliation against the reporter.

57 (2) The Legislature finds that public disclosure of such
58 information would hinder the ability of the monitor to
59 investigate, interview parties, and conduct a thorough
60 investigation since many parties involved in such investigation
61 would be reluctant to speak to a court monitor knowing that such
62 information may become public. Protecting such information would
63 provide an environment in which to discuss information in a free
64 and open way and would allow all parties to develop the
65 information needed to assist the monitor in conducting an
66 accurate and thorough investigation. The Legislature finds that
67 the harm to the public which would result from the release of
68 such information substantially outweighs any minimal public
69 benefit derived from the public disclosure of such personal
70 information.

71 Section 4. This act shall take effect on the same date
72 that House Bill 457 or substantially similar legislation takes
73 effect, if such legislation is adopted in the same legislative
74 session or an extension thereof and becomes law.