

By the Committee on Judiciary

590-596C-06

1 A bill to be entitled
2 An act relating to a review under the Open
3 Government Sunset Review Act; amending s.
4 787.03, F.S.; revising the public-records
5 exemption for certain information submitted to
6 a sheriff or state attorney as part of a
7 statutory exception to the offense of
8 interference with custody; narrowing the
9 public-records exemption to exclude the name of
10 the person who effects the taking; specifying
11 that the information covered by the
12 public-records exemption relates to the taking
13 of a minor; expanding the exemption to provide
14 confidentiality for information related to the
15 taking of an incompetent person; authorizing
16 disclosure of information under certain
17 conditions; providing for agencies to inspect
18 and copy confidential and exempt information in
19 the transaction of official business; providing
20 for future legislative review and repeal of the
21 public-records exemption under the Open
22 Government Sunset Review Act; deleting obsolete
23 provisions; providing a statement of public
24 necessity; providing a contingent effective
25 date.

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27 Be It Enacted by the Legislature of the State of Florida:
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29 Section 1. Paragraph (c) of subsection (6) and
30 subsection (7) of section 787.03, Florida Statutes, are
31 amended to read:

1 787.03 Interference with custody.--
2 (6)
3 (c)1. ~~The name of the person taking the child and~~ The
4 current address and telephone number of the person and the
5 minor or incompetent person which are child that are contained
6 in the report made to a sheriff or state attorney under
7 paragraph (b) are confidential and exempt from s. 119.07(1)
8 and s. 24(a), Art. I of the State Constitution until the
9 sheriff or state attorney completes his or her investigation
10 and determines that releasing the information would not
11 jeopardize the safety of the person or the minor or
12 incompetent person.
13 2. A sheriff or state attorney may allow an agency, as
14 defined in s. 119.011, to inspect and copy records or
15 information made confidential and exempt under this paragraph
16 exclusively for the purpose of the transaction of official
17 business by, or on behalf of, an agency. An agency that
18 receives the confidential and exempt information must maintain
19 the confidentiality of that information.
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21 ~~This paragraph(7)(a)~~ This section is subject to the Open
22 Government Sunset Review Act ~~of 1995~~ in accordance with s.
23 119.15 and is repealed on October 2, 2011 ~~2006~~, unless
24 reviewed and saved from repeal through reenactment by the
25 Legislature.
26 ~~(b) Pursuant to s. 119.15, the Division of Statutory~~
27 ~~Revision is directed to certify this section, in its entirety,~~
28 ~~in the list of Open Government Sunset Review exemptions to be~~
29 ~~certified by June 1, 2005.~~
30 Section 2. The Legislature finds that it is a public
31 necessity to expand an existing public-records exemption under

1 the interference-with-custody statute, s. 787.03, Florida
2 Statutes, for certain information contained in a report to a
3 sheriff or state attorney made by a person who takes a minor
4 in order to escape domestic violence, avoid domestic violence,
5 or preserve the welfare of the minor. The
6 interference-with-custody statute does not apply if a person
7 who takes a minor under these circumstances reports his or her
8 and the minor's whereabouts to the sheriff or state attorney.
9 The statutory exception and prescribed procedures balance the
10 state's interest in protecting individuals from harm and
11 protecting individuals' custody rights by encouraging those
12 seeking shelter from these acts to report their location and
13 contact information to proper authorities. If the alleged
14 perpetrator of domestic violence were able to obtain the
15 address and telephone information contained in a report to the
16 sheriff or state attorney, he or she could locate or contact
17 the person who takes a minor and the minor, thus exposing them
18 to potential additional harm. Keeping the address and
19 telephone number of that person and the minor exempt and
20 confidential protects their safety. For the same reasons, the
21 Legislature finds that it is a public necessity to expand this
22 public-records exemption to include the taking of an
23 incompetent person within the coverage of the exemption. The
24 underlying offense of interference with custody applies to the
25 taking of an incompetent person as well as to the taking of a
26 person younger than 18 years of age. In addition, the safety
27 of an incompetent person and the person seeking shelter with
28 an incompetent person is as vital as the safety of a minor and
29 a person seeking shelter with a minor. The underlying offense
30 of interference with custody envisions that an incompetent
31 person is as vulnerable as a minor. Therefore, the Legislature

1 finds that the public-records exemption should apply to the
2 address and telephone number of the person who takes an
3 incompetent person and the incompetent person which are
4 contained in a report submitted to a sheriff or state attorney
5 as prescribed in the interference-with-custody statute.
6 Including information concerning the taking of incompetent
7 persons within the coverage of the public-records exemption is
8 necessary to avoid jeopardizing the safety of incompetent
9 persons and those who seek shelter with incompetent persons in
10 order to escape domestic violence or to preserve the welfare
11 of the incompetent persons. If persons seeking shelter with
12 minors or incompetent persons knew that their addresses or
13 telephone numbers could be obtained through the reports to the
14 sheriff or state attorney, they would fear for their safety
15 and be unlikely to make the reports, as provided under the
16 statute, thereby thwarting the public policy of encouraging
17 the resolution of allegations of interference with custody
18 while also protecting individuals from harm. The
19 public-records exemption, therefore, principally protects the
20 safety of individuals, but also promotes the effective and
21 efficient administration of the interference-with-custody
22 statute.

23 Section 3. This act shall take effect October 1, 2006,
24 if Senate Bill ____, or similar legislation amending section
25 787.03, Florida Statutes, is adopted in the same legislative
26 session, or an extension thereof, and becomes law.

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SENATE SUMMARY

Revises the exemption from public-records requirements provided for information reported to a sheriff or state attorney under the interference-with-custody statute. Eliminates an exemption provided for the name of the person who effects the taking. Includes within the exemption certain information that is reported pursuant to the taking of an incompetent person. Provides for future legislative review and repeal of the exemption under the Open Government Sunset Review Act.