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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/8/2008	.	
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	.	

1 The Committee on Judiciary (Gaetz) recommended the following
2 **amendment:**

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4 **Senate Amendment**

5 Delete line(s) 333-369
6 and insert:

7 (4) Notwithstanding subsections (1) and (2), the secretary
8 may make public the records of the department which pertain to an
9 investigation of alleged abuse, neglect, or exploitation of a
10 vulnerable adult which resulted in serious mental, emotional, or
11 physical injury to the adult, or any information included in such
12 records, if the secretary determines that the release of the
13 records is in the public interest.

14 (a) In making a determination of the public interest, the
15 secretary shall balance the best interests of the vulnerable
16 adult who is the focus of the investigation, together with the
17 privacy rights of other persons identified in the reports,



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18 against the public interest. The public interest in access to
19 such records is reflected in s. 119.01(1) and includes the need
20 for the public to know and adequately evaluate the actions of the
21 department and the court system in providing vulnerable adults
22 with the protections enumerated in s. 415.101. However, this
23 subsection does not contravene s. 415.107, which protects the
24 name of any person reporting the abuse, neglect, or exploitation
25 of a vulnerable adult.

26 (b) Before the records are made public, the secretary must
27 state in writing and with specificity the basis for the
28 determination of public interest.

29 (c) If the secretary determines that release of the records
30 is in the public interest, the department shall redact the name
31 of, and any other identifying information with respect to, any
32 person identified in the report of abuse, neglect, or
33 exploitation until the court finds that there is probable cause
34 to believe the person identified committed an act of alleged
35 abuse, neglect, or exploitation.

36 (d) Before releasing the records, the department shall make
37 a good faith effort to notify the vulnerable adult, the
38 vulnerable adult's guardian, if any, the vulnerable adult's
39 attorney, any person named as an alleged perpetrator in the
40 report of abuse, neglect, or exploitation, and any law
41 enforcement agency actively involved in investigating the alleged
42 abuse, neglect, or exploitation. Such notification must take
43 place at least 3 business days before the release of the records,
44 by hand or via overnight delivery service, with evidence of
45 delivery.

46 (e) After receiving notice, the vulnerable adult, the
47 vulnerable adult's guardian, if any, the vulnerable adult's



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48 attorney, any person named as an alleged perpetrator in the
49 report, and any law enforcement agency actively investigating an
50 allegation may petition a circuit court for an order preventing
51 the department from releasing the records.

52 (f) The circuit court may order the department not to
53 release the records only after finding that the best interests of
54 the petitioner outweigh the public interest. The public interest
55 in access to such records is reflected in s. 119.01(1), and
56 includes the need for the public to know and adequately evaluate
57 the actions of the department and the court system in providing
58 vulnerable adults with the protections enumerated in s. 415.101.
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