

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GEAC 07-13 OGSR Abandoned Newborns
SPONSOR(S): Government Efficiency & Accountability Council and Attkisson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1950

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Government Efficiency & Accountability Council	11 Y, 0 N	Williamson	Cooper
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public records and each public meetings exemption five years after enactment. If the Legislature does not reenact the exemption, it is automatically repealed on October 2nd of the fifth year after enactment.

In 2000, in response to a growing concern about the number of newborns who were discovered abandoned in dumpsters and other unsafe locations, the Florida Legislature joined a substantial number of other states in passing legislation designed to provide a safe alternative. Florida law provides the framework for a parent to leave a newborn infant, approximately three days old or younger, at a hospital, emergency medical services station, or fire station under certain circumstances without fear of civil or criminal investigation and prosecution.

Current law also provides that the identity of a parent who leaves a newborn infant at a hospital, emergency medical services station, or fire station is confidential and exempt from public records requirements. The identity of the parent leaving a child, however, must be disclosed to a person claiming to be a parent of the abandoned newborn infant.

The bill reenacts the public records exemption. The exemption will repeal on October 2, 2007, if this bill does not become law.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Open Government Sunset Review Act

The Open Government Sunset Review Act¹ sets forth a legislative review process for newly created or substantially amended public records or public meetings exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

The Act provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following purposes:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or,
- Protecting trade or business secrets.

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required because of the requirements of Art. 1, s. 24(c), Florida Constitution. If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created (e.g., allowing another agency access to the confidential or exempt records), then a public necessity statement and a two-thirds vote for passage are not required.

Abandoned Newborn Program

In 2000, in response to a growing concern about the number of newborns who were discovered abandoned in dumpsters and other unsafe locations, the Florida Legislature joined a substantial number of other states in passing legislation designed to provide a safe alternative. Florida law provides the framework for a parent to leave a newborn infant, approximately three days old or younger, at a hospital, emergency medical services station, or fire station under certain circumstances without fear of civil or criminal investigation and prosecution.² Additionally, unless there is actual or suspected child abuse or neglect, any parent who leaves a newborn infant with a firefighter, emergency medical technician, or paramedic at a fire station or who brings a newborn infant to an emergency room of a hospital "has the absolute right to remain anonymous and to leave at any time and may not be pursued or followed."³

Public Records Exemption for the Program

¹ Section 119.15, F.S.

² Section 383.50, F.S.

³ Section 383.50(5), F.S.

Current law provides that the identity of a parent who leaves a newborn infant at a hospital, emergency medical services station, or fire station is confidential and exempt from public records requirements. The identity of the parent leaving a child, however, must be disclosed to a person claiming to be a parent of the abandoned newborn infant.

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2007, unless reenacted by the Legislature.

EFFECT OF BILL

The bill removes the repeal date, thereby reenacting the public records exemption.

C. SECTION DIRECTORY:

Section 1 amends s. 383.51, F.S., to remove the repeal date.

Section 2 provides an effective date of October 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.