

Committee Substitute for House Bill No. 1433

An act relating to public records; amending s. 119.07, F.S.; deleting provisions relating to the release of records of the Department of Children and Family Services which pertain to the investigation of the death of a disabled adult or elderly person as a result of abuse, neglect, or exploitation or the death of a child as a result of abuse, neglect, or abandonment; amending s. 415.107, F.S., and repealing s. 415.107(1)(b), F.S.; revising provisions relating to release of records in the event of the death of a disabled adult or elderly person as a result of abuse, neglect, or exploitation; amending s. 415.51, F.S., and repealing s. 415.51(1)(b), F.S.; revising provisions relating to release of records in the event of the death of a child as a result of abuse, abandonment, or neglect; providing an effective date.

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

Section 1. Subsection (7) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(7)(a) Any person or organization, including the Department of Children and Family Health and Rehabilitative Services, may petition the court for an order making public the records of the Department of Children and Family Health and Rehabilitative Services that pertain to investigations of alleged abuse, neglect, abandonment, or exploitation of a child, a disabled adult, or an elderly person. The court shall determine if good cause exists for public access to the records sought or a portion thereof. In making this determination, the court shall balance the best interest of the disabled adult, elderly person, or child who is the focus of the investigation, and in the case of the child, the interest of that child's siblings, together with the privacy right of other persons identified in the reports against the public interest. The public interest in access to such records is reflected in s. 119.01(1), and includes the need for citizens to know of and adequately evaluate the actions of the Department of Children and Family Health and Rehabilitative Services and the court system in providing disabled adults, elderly persons, and children of this state with the protections enumerated in ss. 415.101 and 415.502. However, ~~nothing in this subsection does not shall~~ contravene the provisions of ss. 415.51 and 415.107, which protect the name of any person reporting the abuse, neglect, or exploitation of a child, a disabled adult, or an elderly person.

~~(b)1.— In cases involving the death of a disabled adult or an elderly person as the result of abuse, neglect, or exploitation, there shall be a presumption that the best interest of the disabled adult or elderly person and the public interest will be served by full public disclosure of the circumstances of the investigation of the death and any other investigation concerning the disabled adult or elderly person.~~

~~2. In cases involving the death of a child as the result of abuse, neglect, or abandonment, there shall be a presumption that the best interest of the child and the child's siblings and the public interest will be served by full public disclosure of the circumstances of the investigation of the death of the child and any other investigation concerning the child and the child's siblings.~~

(b)(c) In cases involving serious bodily injury to a child, a disabled adult or an elderly person, the Department of Children and Family Health and Rehabilitative Services may petition the court for an order for the immediate public release of records of the department which pertain to the investigation of abuse, neglect, abandonment, or exploitation of the child, disabled adult, or elderly person who suffered serious bodily injury. The petition must be personally served upon the child, disabled adult, or elderly person, the child's parents or guardian, the legal guardian of that person, if any, and any person named as an alleged perpetrator in the report of abuse, neglect, abandonment, or exploitation. The court must determine if good cause exists for the public release of the records sought no later than 24 hours, excluding Saturdays, Sundays, and legal holidays, ~~after from~~ the date the department filed the petition with the court. If the court has neither granted nor denied the petition within the 24-hour time period, the department may release to the public summary information including:

1. A confirmation that an investigation has been conducted concerning the alleged victim.
2. The dates and brief description of procedural activities undertaken during the department's investigation.
3. The date of each judicial proceeding, a summary of each participant's recommendations made at the judicial proceedings, and the rulings of the court.

The summary information may not include the name of, or other identifying information with respect to, any person identified in any investigation. In making a determination to release confidential information, the court shall balance the best interests of the disabled adult or elderly person or child who is the focus of the investigation and, in the case of the child, the interests of that child's siblings, together with the privacy rights of other persons identified in the reports against the public interest for access to public records. However, ~~nothing in this paragraph~~ does not shall contravene the provisions of ss. 415.51 and 415.107, which protect the name of any person reporting abuse, neglect, or exploitation of a child, a disabled adult, or an elderly person.

~~(d) In cases involving the death of a child or a disabled adult or an elderly person, the Department of Health and Rehabilitative Services may petition the court for an order for the immediate public release of records of the department which pertain to the investigation of abuse, neglect, abandonment, or exploitation of the child, disabled adult, or elderly person who died. The department must personally serve the petition upon the child's parents or guardian, the legal guardian of the disabled adult or elderly person, if~~

~~any, and any person named as an alleged perpetrator in the report of abuse, neglect, abandonment, or exploitation. The court must determine if good cause exists for the public release of the records sought no later than 24 hours, excluding Saturdays, Sundays, and legal holidays, from the date the department filed the petition with the court. If the court has neither granted nor denied the petition within the 24-hour time period, the department may release to the public summary information including:~~

~~1.— A confirmation that an investigation has been conducted concerning the alleged victim.~~

~~2.— The dates and brief description of procedural activities undertaken during the department's investigation.~~

~~3.— The date of each judicial proceeding, a summary of each participant's recommendations made at the judicial proceedings, and the ruling of the court.~~

~~In making a determination to release confidential information, the court shall balance the best interests of the disabled adult or elderly person or child who is the focus of the investigation and, in the case of the child, the interest of that child's siblings, together with the privacy right of other persons identified in the reports against the public interest. However, nothing in this paragraph shall contravene the provisions of ss. 415.51 and 415.107, which protect the name of any person reporting abuse, neglect, or exploitation of a child, a disabled adult, or an elderly person.~~

~~(c)(e) When the court determines that good cause for public access exists, the court shall direct that the department redact the name of and other identifying information with respect to any person identified in any unfounded report or proposed confirmed report or report closed without classification, or in any report that has not yet been classified pursuant to s. 415.1045(7), until such time as the court finds that there is probable cause to believe that the person identified committed an act of alleged abuse, neglect, or abandonment.~~

Section 2. Paragraph (b) of subsection (1) of section 415.107, Florida Statutes, is repealed, and paragraph (l) is added to subsection (2) of said section to read:

415.107 Confidentiality of reports and records.—

(2) Access to all records, excluding the name of the reporter which shall be released only as provided in subsection (6), shall be granted only to the following persons, officials, and agencies:

(l) Any person in the event of the death of a disabled adult or elderly person determined to be a result of abuse, neglect, or exploitation. Information identifying the person reporting abuse, neglect, or exploitation shall not be released. Any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

Section 3. Paragraph (b) of subsection (1) of section 415.51, Florida Statutes, is repealed, and paragraph (n) is added to subsection (2) of said section to read:

415.51 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Access to such records, excluding the name of the reporter which shall be released only as provided in subsection (9), shall be granted only to the following persons, officials, and agencies:

(n) Any person in the event of the death of a child determined to be a result of abuse, abandonment, or neglect. Information identifying the person reporting abuse, abandonment, or neglect shall not be released. Any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

Section 4. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 28, 1998.

Filed in Office Secretary of State May 27, 1998.