

Committee Substitute for Senate Bill No. 18-C

An act relating to public records; creating s. 395.1056, F.S.; providing an exemption from public-records requirements for those portions of a comprehensive emergency-management plan which addresses the response of a public or private hospital to an act of terrorism; creating an exemption for those portions of a comprehensive emergency-management plan which address the response of a public hospital to an act of terrorism; providing an exemption from public-meeting requirements for any portion of a public meeting which would reveal information contained in a comprehensive emergency-management plan; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 395.1056, Florida Statutes, is created to read:

395.1056 Plan components addressing a hospital's response to terrorism; public-records exemption; public-meetings exemption.—

(1) Those portions of a comprehensive emergency-management plan which address the response of a public or private hospital to an act of terrorism as defined by s. 775.30 and which are filed with or are in the possession of the agency, a state or local law-enforcement agency, a county or municipal emergency-management agency, the executive office of the Governor, the Department of Health, or the Department of Community Affairs are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption is remedial in nature, and it is the intent of the Legislature that this exemption be applied to plans filed with the agency before, on, or after the effective date of this section. Information made confidential and exempt by this subsection may be disclosed by a custodial agency to another state or federal agency to prevent, detect, guard against, respond to, investigate, or manage the consequences of any attempted or actual act of terrorism, or to prosecute those persons who are responsible for such attempts or acts, and the confidential and exempt status of such information shall be retained while in the possession of the receiving agency. Portions of a comprehensive emergency management plan which address the response of a public or private hospital to an act of terrorism include those portions addressing security systems or plans; vulnerability analyses; emergency evacuation transportation; sheltering arrangements; post-disaster activities, including provisions for emergency power, communications, food, and water; post-disaster transportation; supplies, including drug caches; staffing; emergency equipment; and individual identification of residents, transfer of records, and methods of responding to family inquiries. This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

(2) Those portions of a comprehensive emergency-management plan which address the response of a public hospital to an act of terrorism as defined by s. 775.30 and which are in the custody of that public hospital are exempt from the requirements of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Portions of a comprehensive emergency-management plan which address the response of a public hospital to an act of terrorism include those portions addressing security systems or plans; vulnerability analyses; emergency-evacuation transportation; sheltering arrangements; post-disaster activities, including provisions for emergency power, communications, food, and water; post-disaster transportation; supplies, including drug caches; staffing; emergency equipment; and individual identification of residents, transfer of records, and methods of responding to family inquiries. This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

(3) Any portion of a public meeting which would reveal information contained in a comprehensive emergency-management plan which addresses the response of a hospital to an act of terrorism is exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

(4) The certification by the Governor, in coordination with the Department of Health, of the sufficiency of a comprehensive emergency-management plan that addresses the response of a hospital to an act of terrorism is not exempt.

Section 2. The Legislature finds that the exemption from public-records and public-meetings requirements provided in section 395.1056, Florida Statutes, is a public necessity because those portions of a comprehensive emergency-management plan which address the response of a public or private hospital to an act of terrorism are vital plan components that affect the health and safety of the public. If security systems or plans, vulnerability analyses, emergency evacuation transportation, sheltering arrangements, post-disaster activities (including provisions for emergency power), communications, food, and water, post-disaster transportation, supplies (including caches), staffing, emergency equipment, individual identification of residents, transfer of records, and methods of responding to family inquiries were made publicly available for inspection or copying, they could be used to hamper or disable the response of a hospital to a terrorist attack. If a hospital's response to an act of terrorism were hampered or disabled, an increase in the number of Floridians subjected to fatal injury would occur. While some skill would be required to use knowledge of plan components to disable a hospital's response to an act of terrorism, there is ample existing evidence of the capabilities of terrorists to plot, plan, and coordinate complicated acts of terror. The hijacking and crashing of planes, the destruction of the World Trade Center, the attack on the Pentagon on September 11, 2001, as well as the continued and purposeful spread of anthrax in Washington, D.C., other states, and communities within this state, which has re-

sulted in the death of at least one Floridian, provide evidence of such skill. The aftermath of these events has also showed the importance of viable plans by which hospitals can respond to acts of terror. As a result, the Legislature finds that those portions of a comprehensive emergency management plan which address the response of a public or private hospital to an act of terrorism and which are filed with the Agency for Health Care Administration, a state or local law enforcement agency, a local emergency-management agency, the Executive Office of the Governor, the Department of Health, or the Department of Community Affairs must be confidential and exempt and that the emergency-management plans of a public hospital which are in the custody of a public hospital also must be exempt.

Section 3. This act shall take effect on the same date that Senate Bill 6-C or similar legislation defining “terrorism” for purposes of the Florida Criminal Code takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

Approved by the Governor December 10, 2001.

Filed in Office Secretary of State December 10, 2001.