

Tab 1	SB 7000 by MS ; Similar to H 07005 OGSR/Persons Provided Public Emergency Shelter						
329800	A	S	RCS	GO, Wright	Delete L.25:	01/12 02:59 PM	
Tab 2	SB 7002 by MS ; OGSR/Department of Military Affairs/United States Department of Defense						
344372	A	S	RCS	GO, Wright	Delete L.31 - 35:	01/12 02:59 PM	
Tab 3	SB 7004 by CJ ; Identical to H 07003 OGSR/Conviction Integrity Unit Reinvestigation Information						
Tab 4	SB 7006 by RI ; Identical to H 07009 OGSR/Florida Public Service Commission						
Tab 5	SB 7008 by RI ; Identical to H 07001 OGSR/Florida Gaming Control Commission						
Tab 6	SB 7012 by TR ; Similar to H 07013 OGSR/Department of Highway Safety and Motor Vehicles						
913622	A	S	RCS	GO, Massullo	Delete L.98:	01/12 02:59 PM	
Tab 7	SB 7014 by CM ; Compare to H 07015 OGSR/Department of Legal Affairs						
384138	PCS	S	RCS	GO		01/12 02:59 PM	
Tab 8	SB 7016 by CM ; Identical to H 07007 OGSR/Administration of Small Business Loan Programs Held by an Economic Development Agency						
Tab 9	SB 350 by Grall ; Identical to H 01113 Public Records/Crime Victims						

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Mayfield, Chair
Senator DiCeglie, Vice Chair

MEETING DATE: Monday, January 12, 2026

TIME: 1:30—3:30 p.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Mayfield, Chair; Senator DiCeglie, Vice Chair; Senators Arrington, Bracy Davis, Brodeur, Grall, McClain, Polsky, and Rodriguez

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 7000 Military and Veterans Affairs, Space, and Domestic Security (Similar H 7005)	OGSR/Persons Provided Public Emergency Shelter; Amending a provision which provides an exemption from public records requirements for the addresses and telephone numbers of persons provided public emergency shelter and held by the agency that provided the emergency shelter; deleting the scheduled repeal of the exemption, etc. GO 01/12/2026 Fav/CS RC	Fav/CS Yeas 9 Nays 0
2	SB 7002 Military and Veterans Affairs, Space, and Domestic Security	OGSR/Department of Military Affairs/United States Department of Defense; Amending a provision which provides an exemption from public records requirements for certain information held by the Department of Military Affairs stored in a United States Department of Defense system of records, transmitted using a United States Department of Defense network or communications device, or pertaining to the United States Department of Defense; deleting the scheduled repeal of the exemption, etc. GO 01/12/2026 Fav/CS RC	Fav/CS Yeas 9 Nays 0
3	SB 7004 Criminal Justice (Identical H 7003)	OGSR/Conviction Integrity Unit Reinvestigation Information; Amending a provision which provides an exemption from public records requirements for certain conviction integrity unit reinvestigation information; abrogating the scheduled repeal of such exemption, etc. GO 01/12/2026 Favorable RC	Favorable Yeas 9 Nays 0
4	SB 7006 Regulated Industries (Identical H 7009)	OGSR/Florida Public Service Commission; Deleting the scheduled repeal of an exemption from public meeting requirements for portions of a hearing before the Florida Public Service Commission wherein certain proprietary confidential business information is discussed, etc. GO 01/12/2026 Favorable RC	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
Monday, January 12, 2026, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 7008 Regulated Industries (Identical H 7001)	OGSR/Florida Gaming Control Commission; Amending a provision which provides an exemption from public records and public meeting requirements for exempt or confidential and exempt information obtained by the Florida Gaming Control Commission; deleting the scheduled repeal of the exemption, etc. GO 01/12/2026 Favorable RC	Favorable Yeas 9 Nays 0
6	SB 7012 Transportation (Similar H 7013)	OGSR/Department of Highway Safety and Motor Vehicles; Amending a provision which provides an exemption from public records requirements for information received by the Department of Highway Safety and Motor Vehicles as a result of an investigation or examination of a department-authorized private rebuilt inspection provider; amending provisions which provide exemptions from public records requirements for information received by the department as a result of an investigation or examination of a person suspected of having violated certain laws, rules, or orders; removing the scheduled repeal of such exemptions, etc. GO 01/12/2026 Fav/CS RC	Fav/CS Yeas 9 Nays 0
A proposed committee substitute for the following bill (SB 7014) is expected to be considered:			
7	SB 7014 Commerce and Tourism (Compare H 7015)	OGSR/Department of Legal Affairs; Amending a provision which provides an exemption from public records requirements for information received by the Department of Legal Affairs pursuant to an investigation by the department or a law enforcement agency of violations by certain social media platforms; extending the date for future legislative review and repeal of the exemption, etc. GO 01/12/2026 Fav/CS RC	Fav/CS Yeas 9 Nays 0
8	SB 7016 Commerce and Tourism (Identical H 7007)	OGSR/Administration of Small Business Loan Programs Held by an Economic Development Agency; Amending a provision which provides an exemption from public records requirements for certain information relating to the administration of small business loan programs held by an economic development agency; deleting the scheduled repeal of the exemption, etc. GO 01/12/2026 Favorable RC	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
Monday, January 12, 2026, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 350 Grall (Identical H 1113)	Public Records/Crime Victims; Expanding a public records exemption for crime victims to include the name and personal identification number of a victim and any other information or record that could be used to locate, intimidate, harass, or abuse the victim or the victim's family; providing that such exemption includes records generated by any agency that regularly generates information from or concerning the victims of crime; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. CJ 12/09/2025 Favorable GO 01/12/2026 Temporarily Postponed RC	Temporarily Postponed

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 7000

INTRODUCER: Governmental Oversight and Accountability Committee and Military and Veterans Affairs, Space, and Domestic Security Committee

SUBJECT: OGSR/Persons Provided Public Emergency Shelter

DATE: January 13, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Bellamy</u>	<u>Proctor</u>		MS Submitted as Comm. Bill/Fav
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
2.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7000 saves from repeal the current public records exemption that exempts from public records inspections and copying requirements the address and telephone number of a person provided public emergency shelter during a storm or catastrophic event and held by an agency that provided such shelter.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reenacted by the Legislature. The bill saves the exemption from repeal by deleting the scheduled repeal date, thereby maintaining the exempt status of the information.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Florida Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business

¹ FLA. CONST. art. I, s. 24(a).

of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions that relate to public records are found in various statutes and rules, depending on the branch of government involved.³ For instance, legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature. Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., the Public Records Act, provides requirements for public records held by executive agencies and constitutes the main body of public records laws.

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person. Each agency has a duty to provide access to public records.⁵

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated

² *Id.*; see *Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

³ Chapter 119, F.S., does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32, 36-37 (Fla. 1992) (providing that ch. 119, F.S., does not apply to legislative records); *Times Pub. Co. v. Ake*, 660 So. 2d 255, 255 (Fla. 1995) (providing the same but for judicial records).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S.

⁶ *Shevin v. Byron, Harless, Schaffer, Reid & Assoc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act and confidential.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the Act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁹ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰ An exemption serves an identifiable public purpose if it meets one of the following purposes and the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST. art. I, s. 24(c).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁶

General exemptions from the public records requirements are typically contained in the Public Records Act.²⁷ Specific exemptions are often placed in the substantive statutes which relate to a particular agency or program.²⁸

Florida Division of Emergency Management

The Florida Division of Emergency Management (DEM) is established within the Executive Office of the Governor.²⁹ The director of the DEM is appointed by and serves at the pleasure of the Governor.³⁰ The primary role of the DEM is to manage and respond to disasters by coordinating with the Federal Government and political subdivisions of the state.³¹ These disasters include, but are not limited to, hurricanes, floods, and radiological emergencies, such as those arising from nuclear power.³² The main body of law which governs emergency management responsibilities, requirements, funding, and authority is the State Emergency Management Act, ss. 252.31-252.60, F.S.³³

Public Shelters

The State Emergency Management Act specifies that the DEM is responsible for maintaining a comprehensive statewide program of emergency management.³⁴ As part of this responsibility,

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S.

²⁵ FLA. CONST. art. I, s. 24(c). *See generally* s. 119.15, F.S. (providing that an exemption “may be created, revised, or maintained only if it serves an identifiable public purpose, and the exemption may be no broader than is necessary to meet the public purpose it serves”).

²⁶ Section 119.15(7), F.S.

²⁷ *See, e.g.*, s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of exams administered by a governmental agency for the purpose of licensure).

²⁸ *See, e.g.*, s. 213.053(2), F.S. (exempting from public disclosure information received by the DOR, including investigative reports and information).

²⁹ Section 14.2016, F.S.

³⁰ *Id.*

³¹ *Id.*

³² Section 252.35(2), F.S. (providing that the DEM is responsible for emergency management for natural disasters and public health emergencies); s. 252.34, F.S. (providing the definitions for emergency management, natural emergency, and public health emergency); s. 252.60(4), F.S. (providing DEM’s duties in response to radiological emergencies).

³³ *See* s. 252.31 (providing short title).

³⁴ Section 252.35, F.S.

the DEM must prepare a state comprehensive emergency management plan (CEMP) that is integrated into and coordinated with the emergency management plans and programs of the Federal Government.³⁵ The CEMP must include an evacuation component, a shelter component, and a post disaster response and recovery component.³⁶ As part of the shelter component, the CEMP includes the Statewide Emergency Shelter Plan.³⁷ The CEMP must also contain other provisions addressing specific aspects of emergency management outlined in statute.³⁸ The CEMP must be submitted to the President of the Senate, the Speaker of the House, and the Governor on February 1 of every even numbered year.³⁹

County governments have the duty of evacuating and sheltering the public during a declared local or state emergency.⁴⁰ The State Emergency Management Act requires each county in the state to create a local emergency management agency.⁴¹ Local emergency management agencies must develop a county emergency management plan that contains shelter provisions and is coordinated and consistent with the CEMP.⁴² Each local emergency management agency has jurisdiction over and serves the entire county; however, adjoining counties may enter into interjurisdictional emergency management agreements delineated by the Governor through executive order or rule.⁴³

There are two types of emergency shelters open to the public during a declared local or state emergency: general population shelters⁴⁴ and special needs shelters.⁴⁵

During a declared local or state emergency, and at the request of the director of a local emergency management agency, district school boards must provide access to their facilities if the use of the facilities is consistent with the county emergency management plan and program.⁴⁶ These facilities are the primary source of public evacuation shelters.⁴⁷

Additionally, as part of its statewide emergency shelter plan, the DEM administers a program to survey schools, universities, community colleges, state and local government-owned buildings (excluding hospitals, hospice care facilities, assisted living facilities, and nursing homes), and private facilities with written consent of the owner, to identify appropriately designed and located spaces to serve as hurricane evacuation shelters.⁴⁸ During a local or state emergency,

³⁵ Section 252.35(2), F.S.

³⁶ *Id.*

³⁷ Division of Emergency Management, *2024 Statewide Evacuation Shelter Plan*, available at https://www.floridadisaster.org/globalassets/final_statewide-emergency-shelter-plan_2024.pdf (last visited Aug. 19, 2025).

³⁸ Section 252.34(2)(a), F.S.

³⁹ *Id.*

⁴⁰ Section 252.38, F.S.

⁴¹ Section 252.38 (a), F.S.

⁴² *Id.*

⁴³ Section 252.38(3)(b), F.S.

⁴⁴ Section 252.385, F.S.

⁴⁵ Section 252.355, F.S.

⁴⁶ Section 252.38(1)(d), F.S.

⁴⁷ Division of Emergency Management, *2024 Statewide Evacuation Shelter Plan*, available at https://www.floridadisaster.org/globalassets/final_statewide-emergency-shelter-plan_2024.pdf (last visited Aug. 19, 2025).

⁴⁸ Section 252.385(2)(a), F.S.

spaces suitable as hurricane evacuation shelters shall be made available at the request of local emergency management agencies.⁴⁹

Generally, special needs shelters are available for people who meet the definition of special needs under the Florida Administrative Code⁵⁰ and require care that exceeds basic first aid provided at general population shelters.⁵¹ The DEM, in coordination with local emergency management agencies, is required to maintain a registry of people with special needs in the jurisdiction of such local emergency management agencies.

Public Records Exemption Relating to Emergency Shelters

State law does not require local emergency management agencies to collect information about a person who is provided general population or special needs public shelter during an emergency, however, nothing in law prevents the collection of this information. If available, local emergency management agencies must provide a complete special needs shelter roster to local law enforcement agencies upon request.⁵² All records, data, information, correspondence, and communications relating to the registration of people with special needs are confidential and exempt from public records disclosure requirements under the public records exemption in s. 252.355(5), F.S.

In 2021, s. 252.385(5), F.S., was enacted to exempt from public records inspection and copying requirements the address and telephone number of a person provided public shelter during a storm or catastrophic event:

The address and telephone number of a person provided public emergency shelter during a storm or catastrophic event and held by the agency, as defined in s. 119.011, that provided the emergency shelter is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.⁵³

If a local emergency management agency's county emergency management plan requires shelters to collect information from a person who is provided general population public shelter during a storm or catastrophic event, current law exempts the address and telephone number from public inspection and copying.

The public record exemption in s. 252.385(5), F.S. is set to be repealed on October 2, 2026, unless saved from repeal through reenactment by the Legislature.

⁴⁹ Section 252.385(4)(a), F.S.

⁵⁰ Florida Administrative Code R. 64-3.015 (2016) defines "person with special needs" to mean someone, who during periods of evacuation or emergency, requires sheltering assistance, due to physical impairment, mental impairment, cognitive impairment, or sensory disabilities.

⁵¹ Division of Emergency Management, *Important Shelter Information*, available at <https://www.floridadisaster.org/planprep-are/disability/evacuations-and-shelters/shelter-information/> (last visited Aug. 19, 2025).

⁵² Section 252.355(5), F.S.

⁵³ *Id.*

Open Government Sunset Review of the Public Records Exemption for Public Emergency Shelter Information

During the 2025 interim, Senate and House committee staff surveyed counties and their local emergency management agencies concerning the public record exemption in s. 252.385(5), F.S. These surveys were provided to each of the 67 counties of the State.⁵⁴

Staff received a total of 18 local emergency management agency responses. Of the 16 responses that provided feedback regarding the exemption in s. 252.385(5), F.S., 14 recommended that the Legislature reenact the public record exemptions “as is” without any changes. Additionally, of the 18 responses, 16 local emergency management agencies indicated they collect the names, addresses, or both, of a person who is provided public emergency shelter.⁵⁵

Public Record Exemption Findings

Legislative staff requested that the local emergency management agencies review the use of the public record exemption in s. 252.385(5), F.S. The responses did not report any issue interpreting or applying the exemption, and noted that the exemption was used, in particular, to protect records that could harm the safety of a vulnerable person provided public shelter during a storm or catastrophic event.⁵⁶

III. Effect of Proposed Changes:

The bill removes the scheduled repeal of the public records exemption for the address and telephone number of a person provided public shelter during a storm or catastrophic event and held by the agency that provided such shelter. This maintains the exempt status of such information.

The bill provides the act takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

⁵⁴ Email sent from Rachel Walker, Policy Analyst, House Government Operations Subcommittee to local emergency managements agencies (September 26, 2025) (on file with Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

⁵⁵ Most local emergency management agencies collected names and addresses on a voluntary basis. A few require a name or address, as well as an ID to enter a public shelter located at a school.

⁵⁶ Emails sent from local emergency management agencies to Jon Bellamy, Legislative Analyst, Senate Military and Veterans Affairs, Space, and Domestic Security Committee (on file with Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

B. Public Records/Open Meetings Issues:**Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records disclosure requirements. The bill continues a current public records exemption beyond its current date of repeal. The bill does not create or expand an exemption. Thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records copying and inspection requirements to state with specificity the public necessity justifying the exemption. The bill does not create or expand an exemption, and thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records disclosure requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemption in the bill does not appear to be broader than necessary to accomplish the purpose of the law. The bill provides the specific information that would be made exempt to prevent the release of information that may jeopardize the safety of a vulnerable person provided public shelter during a storm or catastrophic event.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

None identified.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

The bill substantially amends section 252.385(5) of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on January 12, 2026:

Changes the effective date of the bill from October 1, 2026, to “upon becoming a law.”

B. Amendments:

None.



329800

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2026	.	
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	.	

The Committee on Governmental Oversight and Accountability
(Wright) recommended the following:

Senate Amendment

Delete line 25
and insert:
Section 2. This act shall take effect upon becoming a law.

By the Committee on Military and Veterans Affairs, Space, and Domestic Security

583-00852-26

20267000__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 252.385, F.S., which provides an exemption from public records requirements for the addresses and telephone numbers of persons provided public emergency shelter and held by the agency that provided the emergency shelter; deleting the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Subsection (5) of section 252.385, Florida Statutes, is amended to read:

252.385 Public shelter space; public records exemption.—

(5) The address and telephone number of a person provided public emergency shelter during a storm or catastrophic event and held by the agency, as defined in s. 119.011, that provided the emergency shelter is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. ~~This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2026.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 7002

INTRODUCER: Governmental Oversight and Accountability Committee and Military and Veterans Affairs, Space, and Domestic Security Committee

SUBJECT: OGSR/Department of Military Affairs/United States Department of Defense

DATE: January 13, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Bellamy</u>	<u>Proctor</u>		MS Submitted as Comm. Bill/Fav
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
2.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7002 delays the repeal date from October 2, 2026, to October 2, 2031, for the current public records exemption relating to records held by the Department of Military Affairs (DMA) which:

- Are stored in a United States Department of Defense (DoD) system of records;
- Are transmitted using a DoD network or communications device; or
- Pertains to the DoD, pursuant to 10 U.S.C. s. 394.¹

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reenacted by the Legislature. The bill saves the exemption from repeal by delaying the scheduled repeal date, thereby maintaining the exempt status of the information until October 2, 2031.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect upon becoming a law.

¹ Federal law 10 U.S.C. s. 394(a), which addresses military cybersecurity operations, provides for the Secretary of Defense to develop, prepare, and coordinate; make ready all armed forces for purposes of; and, when appropriately authorized to do so, conduct, military cyber activities or operations in cyberspace, including clandestine military activities or operations in cyberspace.

II. Present Situation:

Florida Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.² This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.³

Additional requirements and exemptions that relate to public records are found in various statutes and rules, depending on the branch of government involved.⁴ For instance, Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature. Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁵ Lastly, ch. 119, F.S., the Public Records Act, provides requirements for public records held by executive agencies and constitutes the main body of public records laws.

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person. Each agency has a duty to provide access to public records.⁶

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

² FLA. CONST. art. I, s. 24(a).

³ *Id.*; see also, *Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

⁴ Chapter 119, F.S., does not apply to legislative or judicial records. See, *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); see also *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁵ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁶ Section 119.01(1), F.S.

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

Only the Legislature may create an exemption to public records requirements.¹⁰ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹¹ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹² and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act and confidential.¹⁴ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁵ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁶

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁷ (the Act) prescribes a legislative review process for newly created or substantially amended¹⁸ public records or open meetings exemptions, with specified exceptions.¹⁹ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.²⁰ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²¹ An exemption serves an identifiable public purpose if it meets one of the following purposes and the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;²²

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id.*

¹² The bill may, however, contain multiple exemptions that relate to one subject.

¹³ FLA. CONST. art. I, s. 24(c).

¹⁴ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁵ *Id.*

¹⁶ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁷ Section 119.15, F.S.

¹⁸ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁹ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

²⁰ Section 119.15(3), F.S.

²¹ Section 119.15(6)(b), F.S.

²² Section 119.15(6)(b)1., F.S.

- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²³ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²⁴

The Act also requires specified questions to be considered during the review process.²⁵ In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁶ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁷

General exemptions from the public records requirements are typically contained in the Public Records Act.²⁸ Specific exemptions are often placed in the substantive statutes which relate to a particular agency or program.²⁹

Federal System of Records

The Freedom of Information Act

The Freedom of Information Act (FOIA)³⁰ primarily governs the public's access to federal agency records. Under FOIA, an agency must promptly provide copies of government records to the public upon receiving a request.³¹ The request for such records must reasonably describe the records and be made in accordance with the agency's established procedural rules for the request.³² Federal agencies are exempt from disclosing records that are categorized into one of the following nine exemptions:

- Information authorized by executive order to be considered secret for national security or defense purposes.
- Related solely to internal personnel rules and practices of an agency.
- Information exempted by another federal statute.
- Trade secrets or financial information obtained from a person and privileged or confidential.

²³ Section 119.15(6)(b)2., F.S.

²⁴ Section 119.15(6)(b)3., F.S.

²⁵ Section 119.15(6)(a), F.S.

²⁶ FLA. CONST. art. I, s. 24(c). *See generally* s. 119.15, F.S.

²⁷ Section 119.15(7), F.S.

²⁸ *See, e.g.*, s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of exams administered by a governmental agency for the purpose of licensure).

²⁹ *See, e.g.*, s. 213.053(2), F.S. (exempting from public disclosure information received by the DOR, including investigative reports and information).

³⁰ 5 U.S.C. s. 552.

³¹ 5 U.S.C. s. 552(a)(3)(A).

³² 5 U.S.C. s. 552(a)(3)(A)(i) and (ii).

- Inter-agency or intra-agency communication that would not be available by law to a party other than an agency in litigation with the agency, provided the privilege shall not apply to records created 25 years or more before the date on which the records were requested.
- Personnel and medical files of an individual which would be an invasion of personal privacy.
- Certain information compiled by law enforcement.
- Information pertaining to examination, operating, or condition reports on behalf of or for the use of an agency responsible for regulation of financial institutions.
- Geological and geophysical information and data, including maps, concerning wells.³³

Information from a federal agency that is publicly available may be accessed by searching FOIA.gov.³⁴ If information is not available, an individual may submit a FOIA request to an agency's FOIA Office.³⁵

The Privacy Act of 1974 (Privacy Act)

The Privacy Act governs how personal identifying information held by federal agencies must be stored, may be accessed, and when the government may use or disclose such information.³⁶ A record is defined in the Privacy Act as

any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.³⁷

A federal agency that maintains a system of records³⁸ may not disclose such record without prior written consent of the individual or by written request of the individual to whom the record pertains.³⁹ There are 12 exemptions for certain records and system of records⁴⁰ and 12 exceptions to the written consent requirement.⁴¹ The Privacy Act authorizes disclosure in the following instances:

- To the officers and employees of the agency which maintains the record, who need the record in the performance of their duties;
- When the disclosure is made under the FOIA;
- For an established routine use;
- To the Census Bureau to carry out a census or survey;

³³ 5 U.S.C. s. 552(b).

³⁴ FOIA.gov, *Search Government Websites*, <https://www.foia.gov/search.html> (last visited Aug. 8, 2025).

³⁵ FOIA.gov, *How do I make a FOIA Request*, <https://www.foia.gov/how-to.html> (last visited Aug. 8, 2025).

³⁶ Meghan M. Stuessy, Congress.gov, *The Privacy Act of 1974: Overview and Issues for Congress*, CRS Report Number R47863, available at <https://www.congress.gov/crs-product/R47863> (last visited August 8, 2025).

³⁷ 5 U.S.C s. 552a(a)(4).

³⁸ The term “system of records” means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. 5 U.S.C. s. 552a(a)(5).

³⁹ 5 U.S.C. s. 552a(b).

⁴⁰ 5 U.S.C. s. 552a(d)(5), (j), and (k).

⁴¹ 5 U.S.C. s.552a(b).

- For statistical research or reporting without release of individually identifying data, provided that adequate notice is given;
- To the National Archives and Records Administration as a record of historical value;
- To another agency or an instrumentality of the government for a civil or criminal law enforcement activity;
- To an individual under a compelling circumstance affecting health or safety, and the person whose health or safety is affected is sent a notification of the disclosure;
- To either House of Congress, or one of its committees or subcommittees;
- To the Comptroller General in the course of duties of the General Accountability Office;
- Pursuant to the order of a court of competent jurisdiction; or
- To a consumer reporting agency.⁴²

Florida Department of Military Affairs (DMA)

The DMA is a state agency created under ch. 250, F.S.⁴³ The DMA provides management oversight and administrative support to the Florida National Guard (FNG).⁴⁴ The head of the DMA is the Adjutant General.⁴⁵ The Adjutant General must be a federally-recognized officer of the FNG, have served in the FNG for five of the last ten years, have attained the rank of colonel or higher, and be appointed by the Governor subject to Senate confirmation.⁴⁶

As Commander in Chief,⁴⁷ the Governor may order the FNG to active state duty in order to preserve the public peace, execute the laws of the state, enhance domestic security, respond to terrorist threats or attacks, respond to an emergency, or respond to any need for emergency aid to civil authorities.⁴⁸ The FNG may also be activated by the Federal government.⁴⁹

Employees of the DMA, as part of their state government duties, use the U.S. Department of Defense information network (DoDIN). DoDIN is the DoD's "end-to-end set of electronic information capabilities and associated processes for collecting, processing, storing, disseminating, and managing digital information on-demand to warfighters, policy makers, and support personnel, including owned and leased communications and computing systems and services, software (including applications), data, security services, and other associated services, and National Security Systems."⁵⁰

⁴² United States Department of Legal Affairs, *Privacy Reminders, Privacy Act "Exceptions"*, available at https://www.dla.mil/Portals/104/Documents/GeneralCounsel/FOIA/PrivacyReminders/FOIA_Reminder12.pdf?ver=pmD36CFRR8zarytVh_aWCg%3d%3d (last visited Oct. 2, 2025).

⁴³ Section 250.05, F.S.

⁴⁴ Department of Military Affairs, *The Florida Department of Military Affairs*, available at <https://dma.myflorida.com/> (last visited Aug. 8, 2025).

⁴⁵ Section 250.05(3), F.S.

⁴⁶ Section 250.10(1), F.S.

⁴⁷ Section 250.06, F.S.

⁴⁸ Section 250.05(4), F.S.

⁴⁹ 10 U.S.C. s. 12406.

⁵⁰ Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, *10 USC § 130e Decisions*, Department of Defense Information Network; October 19, 2018, PDF, available at https://pelt.defense.gov/Portals/140/FOIA/FOIA_Resources/10-19-2018_Determination.pdf (last visited Aug. 8, 2025).

In 2018, the DoD determined information regarding the architecture, engineering, and cybersecurity assessments of DoDIN system was exempt from public disclosure.⁵¹

Public Records related to the Florida Department of Military Affairs

Federal versus State Exemptions

Although portion of the DoDIN information is exempt pursuant to the FOIA, the FOIA does not apply to State agencies.⁵² Without a state exemption from public records disclosure requirements, the DMA employees that use the DoDIN may create a state agency record that is not exempt from public record disclosure pursuant to ch. 119, F.S. These records include information on military missions, units, deployments, troop concentrations, rules on the use of force, highly deployable units, and personal identifying information of the FNG servicemembers and the DoD employees.⁵³ The public necessity statement of the exemption created in s. 119.0712(4), F.S., stated that the dissemination of these records could pose a national security risk or harm the safety of the FNG servicemembers.⁵⁴

Department of Military Affairs Public Record Exemption

In 2021, CS/CS/CS/HB 1069, was passed and signed into law.⁵⁵ This public record exemption created s. 119.0712(4), F.S., and aligned Florida Law with the FOIA and the Privacy Act. This makes records held by the DMA exempt from public records inspection and copying requirements which:

- Are stored in a DoD system of records;
- Are transmitted using a DoD network or communication device; or
- Pertain to the military cybersecurity operations law 10 U.S.C. s. 394.⁵⁶

Any information not made exempt by s. 119.0712(4), F.S., may be disclosed only after the DMA makes redactions in accordance with federal and state law.⁵⁷ The public may still access records pertaining to the DoD by using the FOIA submission process.

The public record exemption is set to be repealed on October 2, 2026, unless saved from repeal by the Legislature.

⁵¹ The exemption from public disclosure was based on exemption 3 of FOIA, which incorporates into the FOIA certain nondisclosure provisions that are contained in other federal statutes, because the information is exempted from public disclosure by 10 U.S.C. s. 130e. *Id.*; see Dep't of Justice, *Exemption 3*, in DEPARTMENT OF JUSTICE GUIDE TO THE FREEDOM OF INFORMATION ACT (Dec. 30, 2024), available at https://www.justice.gov/oip/foia-guide/exemption_3/dl (last visited Jan. 7, 2025) (explaining exemption 3 of FOIA).

⁵² *Wallace v. Guzman*, 687 So.2d 1351, 1353 (Fla. 3d DCA 1997); see also *Hous. Auth. of Daytona Beach v. Gomillion*, 639 So.2d 117, 118 (Fla. 5th DCA 1994).

⁵³ Department of Military Affairs, *2021 Agency Legislative Bill Analysis* (Jan. 21, 2021) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

⁵⁴ *Id.*

⁵⁵ Section 119.0712(4), F.S.; ch. 2021-86, s. 1 Laws of Fla.

⁵⁶ *Id.*

⁵⁷ Section 119.0712(4), F.S.

Open Government Sunset Review of the Public Records Exemption For the DoD Information Held by the DMA

During the 2025 interim, Senate and House staff jointly met with the DMA to review the public records exemption in s 119.0712(4), F.S.

Public Record Exemption Findings

The DMA did not report any issue interpreting or applying the exemption and noted that the exemption was used to protect records that could pose a national security risk or harm the safety of the FNG servicemembers.

Since December of 2022, the DMA has received 58 public records requests, 12 of which, in whole or part, were exempt from public records disclosure requirements pursuant to s. 119.0712(4), F.S. The DMA's preference is to preserve the current language of the exemption and to remove the sunset provision.⁵⁸

III. Effect of Proposed Changes:

CS/SB 7002 continues a public records exemption which is otherwise scheduled to be repealed on October 2, 2026, by delaying the scheduled repeal until October 2, 2031. The public records exemption applies to information held by the DMA that is stored in a DoD system of records, transmitted using a DoD network or communications device; or pertains to the DoD, pursuant to 10 U.S.C. s. 394.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records disclosure requirements. The bill continues a current public records exemption beyond its current date of repeal. The bill does not create or expand an exemption. Thus, the bill does not require an extraordinary vote for enactment.

⁵⁸ Email from Colonel Jason Hunt, Commander, 83rd Troop Command, Florida National Guard, to Tim Proctor, Staff Director, Senate Committee on Military and Veterans Affairs, Space, and Domestic Security. (September 20, 2025) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

Public Necessity Statement

Article I, section 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records disclosure requirements to state with specificity the public necessity justifying the exemption. The bill does not create or expand an exemption and thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, section 24(c) of the State Constitution requires an exemption to the public records disclosure requirements to be no broader than necessary to accomplish the stated purpose of the law.

The Open Government Sunset Review Act, in pertinent part, requires the review to consider (a) what specific records are affected by the exemption and (b) what is the identifiable public purpose or goal of the exemption.⁵⁹ The Act further allows an exemption to be created, revised, or maintained only if it serves an identifiable public purpose, and the exemption is no broader than necessary to meet the public purpose it serves.⁶⁰

The “identifiable public purpose” for the public records disclosure exemption in this bill is noted in the public necessity statement, contained ch. 2021-86, s. 2, Laws of Fla. That statement provides:

The Legislature finds that it is a public necessity that information held by the Department of Military Affairs and stored in a United States Department of Defense system of records, transmitted using a United States Department of Defense network or communications device, or pertaining to the United States Department of Defense, pursuant to 10 U.S.C. s. 394, be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The disclosure of such sensitive military information within these systems such as information on military missions, units, personnel, deployments, and troop concentration could adversely affect military members and national security. For this reason, it is necessary that such sensitive military information held by the Department of Military Affairs be protected from disclosure to the same degree that is required under federal law. Therefore, the Legislature finds that it is a public necessity that such information be made exempt from public record requirements and that such exemption be applied retroactively.

Based on this public necessity statement, it appears the intent of the Legislature is to protect sensitive military information, such as information on military missions, units,

⁵⁹ Section 119.15((6)(a)1. and 3., F.S.

⁶⁰ Section 119.15(6)(b), F.S.

personnel, deployments, and troop concentrations that could affect military members and national security.

The statutory language authorizing the exemption identifies the specific records affected. In this instance, the exemption applies to “information held by the Department of Military Affairs that is stored in a United States Department of Defense system of records, transmitted using a United States Department of Defense network or communication device, or pertaining to the United States Department of Defense, pursuant to 10 U.S.C. s. 394.” This statutory language appears to exempt any information, rather than sensitive military information only, stored in a DoD system of records or transmitted via a DoD computer or electronic device. As written, this public records exemption may be overbroad to meet the public purpose of protecting sensitive military information. If the DMA interprets the exemption to apply to sensitive military information only, the exemption may be applied consistently with the more narrowly-defined public purpose.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency’s review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

The bill substantially amends section 119.0172(4) of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on January 12, 2026:

Delays the scheduled repeal date of the current public records exemption for certain information held by the Department of Military Affairs until October 2, 2031.

B. Amendments:

None.



344372

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2026	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Wright) recommended the following:

Senate Amendment (with title amendment)

Delete lines 31 - 35
and insert:
exemption. This subsection is subject to the Open Government
Sunset Review Act in accordance with s. 119.15 and shall stand
repealed on October 2, 2031 ~~2026~~, unless reviewed and saved from
repeal through reenactment by the Legislature.

Section 2. This act shall take effect upon becoming a law.



344372

11 ===== T I T L E A M E N D M E N T =====

12 And the title is amended as follows:

13 Delete lines 10 - 11

14 and insert:

15 States Department of Defense; extending the scheduled
16 repeal date of the exemption; providing an effective
17 date.

By the Committee on Military and Veterans Affairs, Space, and Domestic Security

583-00853-26

20267002__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 119.0712, F.S., which provides an exemption from public records requirements for certain information held by the Department of Military Affairs stored in a United States Department of Defense system of records, transmitted using a United States Department of Defense network or communications device, or pertaining to the United States Department of Defense; deleting the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Subsection (4) of section 119.0712, Florida Statutes, is amended to read:

119.0712 Executive branch agency-specific exemptions from inspection or copying of public records.—

(4) DEPARTMENT OF MILITARY AFFAIRS.—Information held by the Department of Military Affairs that is stored in a United States Department of Defense system of records, transmitted using a United States Department of Defense network or communications device, or pertaining to the United States Department of Defense, pursuant to 10 U.S.C. s. 394, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any information not made exempt by this subsection may be disclosed only after the department makes any redactions in accordance with applicable federal and state laws. This exemption applies to information made exempt by this subsection which is held by

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

583-00853-26

20267002__

the department before, on, or after the effective date of the exemption. ~~This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2026.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 7004

INTRODUCER: Criminal Justice Committee

SUBJECT: OGSR/Conviction Integrity Unit Reinvestigation Information

DATE: January 9, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Cellon	Stokes		CJ Submitted as Comm. Bill/Fav
1.	McVaney	McVaney	GO	Favorable
2.			RC	

I. Summary:

SB 7004 saves from repeal the current public records exemption that exempts from public records copying and inspection requirements the information or materials generated by a state attorney's conviction integrity unit while it is reinvestigating cases of previously convicted persons to review plausible claims of actual innocence.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reenacted by the Legislature. This bill saves the exemption from repeal by deleting the scheduled repeal date, thereby maintaining the current exempt status of the information.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*; see *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency-or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid & Assoc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²²

¹² FLA. CONST. art. I, s. 24(c).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are again required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

Agency Investigations

Section 119.071(2), F.S., contains general exemptions from the public records law for agency investigations. For purposes of ch. 119, F.S., the term “agency” means:

any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.²⁶

Public Records Exemption Under Review

In 2021, the Legislature created s. 119.071(2)(q), F.S., which made conviction integrity unit reinvestigation information exempt from s. 119.07(1), F.S., and article I, s. 24(a) of the State Constitution.

The information is exempt for a reasonable period of time during an active, ongoing, and good faith investigation of a claim of actual innocence in a criminal case that previously resulted in the conviction of the accused person and until the claim is no longer capable of further investigation.²⁷

In creating the exemption, the Legislature provided a public necessity statement articulating the following reasons for the exemption:

²³ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?
If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ Section 119.011(2), F.S.

²⁷ Section 119.071(2)(q)1.,2., F.S.

- Public release of conviction integrity unit reinvestigation information could result in the disclosure of sensitive information, such as the identity or location of an alternate suspect, a witness, or other evidence needed to exonerate a wrongfully convicted person, which could compromise the investigation of a wrongly convicted person's case.
- It is necessary to protect this information in order to encourage witnesses, who might otherwise be reluctant to come forward, to be forthcoming with evidence of a crime.
- It is in the interest of pursuing justice for persons who may have been wrongfully convicted that all conviction integrity unit reinvestigation information be protected until investigation of the claim of actual innocence is no longer capable of further investigation.
- The harm that may result from the release of such information outweighs any public benefit that may be derived from its disclosure, and that it is in the interest of the public to safeguard, preserve, and protect information relating to a claim of actual innocence by a person who may have been convicted of a crime that he or she did not commit.²⁸

The exemption of the information stands repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.²⁹

Conviction Integrity Review Units

A Conviction Integrity unit (sometimes referred to as a conviction integrity review (CIR) unit) is a unit established within a state attorney's office for the purpose of reviewing plausible claims of actual innocence.³⁰ In Florida, CIR units exist in state attorney offices in five of the twenty judicial circuits.³¹

All five of the CIR units have essentially the same procedures in place to begin an investigation. First, the CIR unit determines whether the case passes an initial screening. Some of the CIR units report that they rely upon an independent review panel of legal experts to work with the units to

²⁸ Chapter 2021-182, s. 2, Laws of Florida.

²⁹ Section 119.071(2)(q)1.2., F.S.

³⁰ Section 119.071(2)(q)1.a., F.S. For an example of how a CIR conducts and completes a review of a plausible claim of innocence, see the 2019 Case Report from a Fourth Judicial Circuit (Jacksonville) CIR investigation that resulted in the exoneration of two men, available at [cir_investigative_report_final_3-28-19_r.pdf](#). (last visited Oct. 9, 2025).

³¹ Office of the State Attorney for the Fourth Judicial Circuit, *Conviction Integrity Review*, available at <https://www.sao4th.com/about/programs-and-initiatives/conviction-integrity-review/>; Office of the State Attorney for the Ninth Judicial Circuit, *Conviction Integrity Policy*, available at <https://sao9.net/resources/conviction-integrity/>; Office of the State Attorney for the Thirteenth Circuit, *Conviction Review Unit*, available at <https://hillsboroughsao.gov/about/programs/>; Office of the State Attorney for the Fifteenth Judicial Circuit, *Conviction Review Unit*; available at <https://sa15.org/conviction-review-unit/>; Office of the State Attorney for the Seventeenth Circuit, *Conviction Review Unit*, available at <https://browardsao.com/conviction-review-unit/>. Additionally, two circuits have “hybrid” conviction review processes. In 2003, the Eleventh Circuit State Attorney’s Office created the Justice Project, an office initially formed to review claims of innocence based on DNA evidence. The office has expanded its scope to review all plausible claims of innocence. See Office of the State Attorney for the Eleventh Judicial Circuit, available at Our Work; Signature Programs; Justice Project. <https://miamisao.com/our-work/signature-programs/justice-project/>. Finally, the Eighth Judicial Circuit reports that no formal “unit” exists, but under certain circumstances, the office will review cases for concerns of actual innocence or unfair sentences. See Office of the State Attorney for the Eighth Judicial Circuit, survey on file with the Senate Criminal Justice Committee. (all sites last visited Oct. 9, 2025).

review and evaluate the cases under investigation. Ultimately, the CIR units require that the case present a plausible claim of innocence for the CIR investigation to take place.³²

The term “conviction integrity unit reinvestigation information” means information or materials generated during a new investigation by a conviction integrity unit following the unit's formal written acceptance of an applicant's case.³³ The term does not include:

- Information, materials, or records generated by a state attorney's office during an investigation done for the purpose of responding to motions made pursuant to Rule 3.800, Rule 3.850, or Rule 3.853, Florida Rules of Criminal Procedure, or any other collateral proceeding.
- Petitions by applicants to the conviction integrity unit.
- Criminal investigative information generated before the commencement of a conviction integrity unit investigation which is not otherwise exempt from s. 119.07(2)(q), F.S.³⁴

Conviction Integrity Review Units Survey Responses

To determine whether and to what degree the public records exemption under review is utilized by the existing CIR units, legislative staff surveyed the state's 20 state attorneys.³⁵ The survey showed that there are five active CIR units in the state.³⁶

Number of Case Investigations

Since the public records exemption was created in 2021, the five circuits' CIR units have initiated the following number of cases that passed the initial petition phase and moved to the investigative phase:

- Fourth Circuit CIR: Of the 108 case investigations initiated 31 were active at the time of the survey responses in August 2025.
- Ninth Circuit CIR: At the time of the survey, the CIR had 98 cases awaiting initial review and 44 cases in the active investigation stage.
- Thirteenth Circuit CIR: Of the 312 petitions for investigation received, approximately 21 investigations were undertaken. Three investigations are still active.

³² Office of the State Attorney for the Fourth Judicial Circuit, *Conviction Integrity Review*, available at <https://www.sao4th.com/about/programs-and-initiatives/conviction-integrity-review/>; Office of the State Attorney for the Ninth Judicial Circuit, *Conviction Integrity Policy*, available at <https://sao9.net/resources/conviction-integrity/>; Office of the State Attorney for the Thirteenth Circuit, *Conviction Review Unit*, available at <https://hillsboroughsao.gov/about/programs/>; Office of the State Attorney for the Fifteenth Judicial Circuit, *Conviction Review Unit*; available at <https://sa15.org/conviction-review-unit/>; Office of the State Attorney for the Seventeenth Circuit, *Conviction Review Unit*, available at <https://browardsao.com/conviction-review-unit/>.

³³ Section 119.071(2)(q)1.b., F.S.

³⁴ Section 119.071(2)(q)1.(I)-(III), F.S.

³⁵ All survey responses are available *on file with the Senate Criminal Justice Committee*.

³⁶ Office of the State Attorney for the Fourth Judicial Circuit, *Conviction Integrity Review*, available at <https://www.sao4th.com/about/programs-and-initiatives/conviction-integrity-review/>; Office of the State Attorney for the Ninth Judicial Circuit, *Conviction Integrity Policy*, available at <https://sao9.net/resources/conviction-integrity/>; Office of the State Attorney for the Thirteenth Circuit, *Conviction Review Unit*, available at <https://hillsboroughsao.gov/about/programs/>; Office of the State Attorney for the Fifteenth Judicial Circuit, *Conviction Review Unit*; available at <https://sa15.org/conviction-review-unit/>; Office of the State Attorney for the Seventeenth Circuit, *Conviction Review Unit*, available at <https://browardsao.com/conviction-review-unit/>. (all sites last visited October 9, 2025).

- Fifteenth Circuit CIR: With 37 investigations having been initiated since 2021, 18 are still open.
- Seventeenth Circuit CIR: The Seventeenth Circuit CIR reports that between September 2019 and July 2025, the CIR had 460 inquiries with 203 closed cases. The CIR also reports approximately 70 petitions were open in June 2025 in various stages of review. The response does not specify any active or closed investigations.³⁷

Public Requests for the Protected Information Under Review

The survey asked the CIR units the approximate number of public records requests received *per year* for the exempt information under review and the type of entity requesting the information. The CIR units responded as follows to survey questions:

- Fourth Circuit CIR: One request made by the media.
- Ninth Circuit CIR: One request made by an applicant for his or her case to be investigated by the CIR requested exempt information.
- Thirteenth Circuit CIR: Five requests made by media and individuals.
- Fifteenth Circuit CIR: Four requests made by media.
- Seventeenth Circuit CIR: Approximately one or two per year made by defendants, family and friends of defendants, and media.³⁸

All CIR units report that they have received no complaints about the public record exemption under review. Based on information in the survey responses, the five CIR units are in complete agreement that the status of the public record exemption should remain active beyond October 2, 2026, its current repeal date.³⁹

III. Effect of Proposed Changes:

The bill removes the scheduled repeal of the public records exemption created in s. 119.071(2)(q), F.S., for information and materials generated by a conviction integrity unit while it is reinvestigating cases of previously convicted persons to review plausible claims of actual innocence.

The bill maintains the exempt status of information and materials generated by a conviction integrity unit while it is reinvestigating a case as defined in s. 119.07(2)(q), F.S., by deleting the scheduled October 2, 2026, repeal date.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities

³⁷ Responses from the five CIRs are available *on file with the Senate Criminal Justice Committee*.

³⁸ *Id.*

³⁹ *Id.*

have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption from the public records inspection and copying requirements. This bill does not expand an exemption; thus, the bill does not require a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption from the public records inspection and copying requirements to state with specificity the public necessity justifying the exemption. This bill does not expand an exemption; thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption from the public records inspection and copying requirements to be no broader than necessary to accomplish the stated purpose of the law. The release of the records protected from public records disclosure requirements could harm the integrity of an investigation if disclosed while the investigation is active. The exemptions in the bill, therefore, do not appear to be broader than necessary to accomplish the purposes of the laws.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By the Committee on Criminal Justice

591-01151-26

20267004

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 119.071, F.S., which provides an exemption from public records requirements for certain conviction integrity unit reinvestigation information; abrogating the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Paragraph (q) of subsection (2) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(q)1. As used in this paragraph, the term:

a. "Conviction integrity unit" means a unit within a state attorney's office established for the purpose of reviewing plausible claims of actual innocence.

b. "Conviction integrity unit reinvestigation information" means information or materials generated during a new investigation by a conviction integrity unit following the unit's formal written acceptance of an applicant's case. The term does not include:

(I) Information, materials, or records generated by a state attorney's office during an investigation done for the purpose of responding to motions made pursuant to Rule 3.800, Rule 3.850, or Rule 3.853, Florida Rules of Criminal Procedure, or any other collateral proceeding.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-01151-26

20267004

(II) Petitions by applicants to the conviction integrity unit.

(III) Criminal investigative information generated before the commencement of a conviction integrity unit investigation which is not otherwise exempt from this section.

2. Conviction integrity unit reinvestigation information is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for a reasonable period of time during an active, ongoing, and good faith investigation of a claim of actual innocence in a case that previously resulted in the conviction of the accused person and until the claim is no longer capable of further investigation. ~~This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect upon becoming a law.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 7006

INTRODUCER: Regulated Industries Committee

SUBJECT: OGSR/Florida Public Service Commission

DATE: January 9, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Schrader	Imhof		RI Submitted as Comm. Bill/Fav
1.	McVaney	McVaney	GO	Favorable
2.			RC	

I. Summary:

SB 7006 saves from repeal the current public meeting and records exemptions codified in s. 350.01(9), F.S., for portions of a hearing conducted by the Florida Public Service Commission (PSC) wherein proprietary confidential business information that is confidential or exempt from s. 119.07(1), F.S., pursuant to ss. 364.183, 366.093, 367.156, or 368.108, F.S., is discussed. Section 350.01(9), F.S., provides that such exempt portions of a meeting may not be off the record, and the exempt portions of such meetings must be recorded and transcribed. However, such recordings and transcripts are confidential and exempt from s. 119.07(1), F.S., and article I, s. 24(a) of the State Constitution.

The exemptions are required to allow the PSC to close portions of its meetings where confidential business information is discussed. These exemptions allow the PSC to continue its specialized role of fact-finding and making decisions in the public interest in utility regulatory matters where the primary aspects of a matter are so inextricably intertwined with confidential information, and the volume of that information was so substantial, that it would otherwise have to refer such matters to the Florida Division of Administrative Hearings in order to conduct a full and fair hearing. Such a circumstance would contrast with the PSC's practice of generally conducting all utility regulatory proceedings within its jurisdiction itself.

The Open Government Sunset Review Act requires the Legislature to review each public record and public meeting exemption five years after enactment. These exemptions are scheduled to repeal on October 2, 2026. The bill removes the scheduled repeals to continue the exempt status of the records and portions of the meetings.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions that relate to public records are found in various statutes and rules, depending on the branch of government involved.³ For instance, Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature. Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., the Public Records Act, provides requirements for public records held by executive agencies and constitutes the main body of public records laws.

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person. Each agency has a duty to provide access to public records.⁵

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*; see also, *Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

³ Chapter 119, F.S., does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S.

⁶ *Shevin v. Byron, Harless, Schaffer, Reid & Assoc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

General exemptions from the public records requirements are typically contained in the Public Records Act.¹⁶ Specific exemptions are often placed in the substantive statutes which relate to a particular agency or program.¹⁷

Open Meetings Laws

The State Constitution provides that the public has a right to access governmental meetings.¹⁸ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁹ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.²⁰

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST. art. I, s. 24(c)

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ *See, e.g.*, s. 119.071(1)(a), F.S., exempting from public disclosure examination questions and answer sheets of exams administered by a governmental agency for the purpose of licensure.

¹⁷ *See, e.g.*, s. 213.053(2), F.S., exempting from public disclosure information received by the Department of Revenue, including investigative reports and information.

¹⁸ FLA. CONST., art. I, s. 24(b).

¹⁹ *Id.*

²⁰ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law”²¹ or the “Sunshine Law,”²² requires all meetings of any board or commission of any state or local agency or authority at which official acts are taken be open to the public.²³ The board or commission must provide the public reasonable notice of such meetings.²⁴ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.²⁵ Minutes of a public meeting must be promptly recorded and open to public inspection.²⁶ Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.²⁷ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁸

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.²⁹ The exemption must explicitly lay out the public necessity justifying the exemption and be no broader than necessary to accomplish the stated purpose of the exemption.³⁰ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.³¹

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.³² The role of the PSC is to ensure Florida’s consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe and reliable manner and at fair prices.³³ In order to do so, the PSC exercises authority over utilities in one or more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.³⁴

²¹ *Times Pub. Co. v. Williams*, 222 So.2d 470, 472 (Fla. 2d DCA 1969).

²² *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 695 (Fla. 1969).

²³ Section 286.011(1)-(2), F.S.

²⁴ *Id.*

²⁵ Section 286.011(6), F.S.

²⁶ Section 286.011(2), F.S.

²⁷ Section 286.011(1), F.S.

²⁸ Section 286.011(3), F.S.

²⁹ FLA. CONST., art. I, s. 24(c).

³⁰ *Id.*

³¹ *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

³² Section 350.001, F.S.

³³ Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Nov. 14, 2025).

³⁴ Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited Nov. 14, 2025).

Electric and Gas Utilities

The PSC monitors the safety and reliability of the electric power grid³⁵ and may order the addition or repair of infrastructure as necessary.³⁶ The PSC has broad jurisdiction over the rates and service of investor-owned electric and gas utilities³⁷ (defined as “public utilities” under ch. 366, F.S.).³⁸ However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC does have jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, and bulk power supply operations and planning.³⁹ Municipally-owned utility rates and revenues are regulated by their respective local governments or local utility boards. Rates and revenues for a cooperative utility are regulated by its governing body elected by the cooperative’s membership.

Municipal Electric and Gas Utilities, and Special Gas Districts, in Florida

A municipal electric or gas utility is an electric or gas utility owned and operated by a municipality. Chapter 366, F.S., provides the majority of electric and gas utility regulations for Florida. While ch. 366, F.S., does not provide a definition, per se, for a “municipal utility,” variations of this terminology and the concept of these types of utilities appear throughout the chapter. Currently, Florida has 33 municipal electric utilities that serve over 14 percent of the state’s electric utility customers.⁴⁰ Florida also has 27 municipally-owned gas utilities and four special gas districts.⁴¹

Rural Electric Cooperatives in Florida

At present, Florida has 18 rural electric cooperatives, with 16 of these cooperatives being distribution cooperatives and two being generation and transmission cooperatives.⁴² These cooperatives operate in 57 of Florida’s 67 counties and have more than 2.7 million customers.⁴³ Florida rural electric cooperatives serve a large percentage of area but have a low customer density. Specifically, Florida cooperatives serve approximately 10 percent of Florida’s total electric utility customers, but their service territory covers 60 percent of Florida’s total land mass. Each cooperative is governed by a board of cooperative members elected by the cooperative’s membership.⁴⁴

³⁵ Section 366.04(5) and (6), F.S.

³⁶ Section 366.05(1) and (8), F.S.

³⁷ Section 366.05, F.S.

³⁸ Section 366.02(8), F.S.

³⁹ Florida Public Service Commission, *About the PSC*, *supra* note 34.

⁴⁰ Florida Municipal Electric Association, *About Us*, <https://www.flpublicpower.com/about-us> (last visited Nov. 14, 2025).

⁴¹ Florida Public Service Commission, *2025 Facts and Figures of the Florida Utility Industry*, pg. 14 (Apr. 2025), available at <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202025.pdf> (last visited Dec. 16, 2025). A “special gas district” is a dependent or independent special district, setup pursuant to ch. 189, F.S., to provide natural gas service. Section 189.012(6), F.S., defines a “special district” as “a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.”

⁴² Florida Electric Cooperative Association, *Members*, <https://feca.com/members/> (last visited Nov. 14, 2025).

⁴³ Florida Electric Cooperative Association, *Our History*, <https://feca.com/our-history/> (last visited Nov. 14, 2025).

⁴⁴ *Id.*

Public Electric and Gas Utilities in Florida

There are four investor-owned electric utility companies (electric IOUs) in Florida: Florida Power & Light Company (FPL), Duke Energy Florida (Duke), Tampa Electric Company (TECO), and Florida Public Utilities Corporation (FPUC).⁴⁵ In addition, there are five investor-owned natural gas utility companies (gas IOUs) in Florida: Florida City Gas, FPUC, Peoples Gas System, Sebring Gas System, and St. Joe Natural Gas Company. Of these five gas IOUs, four engage in the merchant function servicing residential, commercial, and industrial customers: Florida City Gas, FPUC, Peoples Gas System, and St. Joe Natural Gas Company. Sebring Gas System is only engaged in firm transportation service.⁴⁶

Electric IOU and gas IOU rates and revenues are regulated by the PSC and the utilities must file periodic earnings reports, which allow the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.⁴⁷ If a utility believes it is earning below a reasonable level, it can petition the PSC for a change in rates.⁴⁸

Section 366.041(2), F.S., requires public utilities to provide adequate service to customers. As compensation for fulfilling that obligation, s. 366.06, F.S., requires the PSC to allow the IOUs to recover honestly and prudently invested costs of providing service, including investments in infrastructure and operating expenses used to provide electric service.⁴⁹

Water and Wastewater Utilities

Florida's Water and Wastewater System Regulatory Law, ch. 367, F.S., regulates water and wastewater systems in the state. Section 367.011, F.S., grants the PSC exclusive jurisdiction over each utility with respect to its authority, service, and rates. For the chapter, a "utility" is defined as "a water or wastewater utility and, except as provided in s. 367.022, [F.S.] includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation." In 2024, the PSC had jurisdiction over 153 investor-owned water and/or wastewater utilities in 40 of Florida's 67 counties.⁵⁰

Section 367.022, F.S., exempts certain types of water and wastewater operations from PSC jurisdiction and the provisions of ch. 367, F.S. (except as expressly provided in the chapter). Such exempt operations include: municipal water and wastewater systems, public lodging systems that only provide service to their guests, systems with a 100-person or less capacity, landlords that include service to their tenants without specific compensation for such service, and mobile home parks operating both as a mobile home park and a mobile home subdivision that provide "service within the park and subdivision to a combination of both tenants and lot owners, provided that the service to tenants is without specific compensation," and others.⁵¹ The PSC

⁴⁵ Florida Public Service Commission, *2025 Facts and Figures of the Florida Utility Industry*, *supra* note 41, at 4.

⁴⁶ *Id.* at 15. Firm transportation service is offered to customers under schedules or contracts which anticipate no interruption under almost all operating conditions. See Firm transportation service, 18 CFR s. 284.7.

⁴⁷ PSC, *2024 Annual Report*, p. 6, available at <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/AnnualReports/2024.pdf> (last visited Nov. 11, 2025).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Florida Public Service Commission, *2025 Facts and Figures of the Florida Utility Industry*, *supra* note 41, at 4.

⁵¹ Section 367.022, F.S.

also does not regulate utilities in counties that have exempted themselves from PSC regulation pursuant to s. 367.171, F.S. However, under s. 367.171(7), F.S., the PSC retains exclusive jurisdiction over all utility systems whose service crosses county boundaries, except for utility systems that are subject to interlocal utility agreements.

Municipal Water and Sewer Utilities in Florida

A municipality⁵² may establish a utility by resolution or ordinance under s. 180.03, F.S. A municipality may establish a service area within its municipal boundary or within five miles of its corporate limits of the municipality.⁵³

Under s. 180.19, F.S., a municipality may permit another municipality and the owners or association of owners of lands outside of its corporate limits or within another municipality's corporate limits to connect to its utilities upon such terms and conditions as may be agreed upon between the municipalities.

The PSC does not have jurisdiction over municipal water and sewer utilities, and as such, has no authority over the rates for such utilities. Municipally-owned water and sewer utility rates and revenues are regulated by their respective local governments, sometimes through a utility board or commission.

PSC Public Records Exemptions

Section 350.121, F.S., protects from public records inspection and copying requirements records, documents, papers, maps, books, tapes, photographs, files, sound recordings, and other business material, regardless of form or characteristics obtained by the PSC through an inquiry. Much of this material is confidential and exempt from public disclosure pursuant to s. 119.07(1), F.S.

In addition, ss. 364.183, 366.093, 367.156, and 368.108, F.S., provide processes for communications services, public utilities, water and wastewater utilities, and gas transmission and distribution companies, respectively, to protect from public disclosure proprietary confidential business information provided pursuant to discovery in a PSC docket or proceeding. Such proprietary confidential business information is confidential and exempt from public disclosure pursuant to s. 119.07(1), F.S.

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,⁵⁴ with specified exceptions.⁵⁵ The act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment. To save an

⁵² Defined by s. 180.01, F.S., "as any city, town, or village duly incorporated under the laws of the state."

⁵³ Section 180.02, F.S., *see also* s. 180.06, F.S.

⁵⁴ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered substantially amended if it is expanded to include more records or information or to include meetings.

⁵⁵ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.⁵⁶ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.⁵⁷ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;⁵⁸
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;⁵⁹ or
- It protects trade or business secrets.⁶⁰

The act also requires specified questions to be considered during the review process.⁶¹ In examining an exemption, the act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.⁶² If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.⁶³

Closure of PSC Meetings

In addition to the above, in 2021, the Legislature created a public meeting exemption in s. 350.01(9), F.S., to protect those portions of a PSC meeting wherein proprietary confidential business information that is confidential or exempt from s. 119.07(1), pursuant to ss. 364.183, 366.093, 367.156, or 368.108, F.S., is discussed. The subsection provides that such exempt portions of a meeting may not be off the record, and the exempt portions of such meeting must

⁵⁶ Section 119.15(3), F.S.

⁵⁷ Section 119.15(6)(b), F.S.

⁵⁸ Section 119.15(6)(b)1., F.S.

⁵⁹ Section 119.15(6)(b)2., F.S.

⁶⁰ Section 119.15(6)(b)3., F.S.

⁶¹ Section 119.15(6)(a), F.S. The specified questions are:

What specific records or meetings are affected by the exemption?

Whom does the exemption uniquely affect, as opposed to the general public?

What is the identifiable public purpose or goal of the exemption?

Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?

Is the record or meeting protected by another exemption?

Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

⁶² FLA. CONST. art. I, s. 24(c).

⁶³ Section 119.15(7), F.S.

be recorded and transcribed. However, such recording and transcripts are confidential and exempt from s. 119.07(1), F.S., and article I, s. 24(a) of the State Constitution, unless a court of competent jurisdiction, after an in-camera review, determines that the hearing was not specifically restricted to the discussion of proprietary confidential business information made confidential and exempt pursuant to ss. 364.183, 366.093, 367.156, or 368.108, F.S. In which case, the previously protected portions of the meeting which revealed non-exempt information may be disclosed by the PSC.

Section 350.01(8), F.S., requires that, without exception, every meeting, workshop, hearing, or other proceeding which is attended by two or more PSC commissioners, and each such meeting, workshop, hearing, or other proceeding where a decision that concerns the rights or obligations of any person is made by the PSC, must be streamed live on the Internet. In addition, a recorded copy of the meeting, workshop, hearing, or proceeding must be available on the PSC's website.

This requirement, prior to the passage of the public meeting exemption under review here, presented difficulty for the PSC, and parties practicing before it, when confidential information must be discussed or argued during a PSC proceeding. According to the PSC, it "established practices and procedures that have allowed hearings to be conducted in a manner that complies with the Sunshine Law and protects confidential information from disclosure."⁶⁴ For most such hearings "the confidential material has been a relatively minor portion of any particular issue, and the parties have worked around public disclosure by stipulating to certain matters and keeping discussions of confidential matters... minimal and without mention of critical details."⁶⁵ However, prior to the enactment of s. 350.01(9), F.S., the PSC was faced with a proceeding "where fact-finding on one or more issues was so inextricably intertwined with confidential information, and the volume of that information was so substantial, that it could not afford the parties a full and fair hearing in the public and also protect the sensitive confidential information." In order to properly conduct the proceeding, the PSC had to refer the docket to Florida's Division of Administrative Hearings (DOAH) since Florida's Sunshine Law did not apply at DOAH and the proceeding could be closed to the public.⁶⁶ This was a departure from the PSC's usual process where it generally conducts its own proceedings using its "specialized knowledge and expertise" as a fact finder.⁶⁷

By referring the matter to DOAH, the PSC had to give up its typical role as a fact-finder, as the DOAH administrative law judge (ALJ) becomes the fact-finder with the "sole authority to weigh the evidence and credibility of witnesses,"⁶⁸ instead of the PSC. The PSC's role is reduced to considering a Recommended Order issued by the ALJ with limited ability to revise the factual findings of the ALJ.⁶⁹ This prevented the PSC from relying upon its typical role as an arm of the

⁶⁴ Public Service Commission Response to Open Government Sunset Review Questionnaire Regarding Section 350.01(9), F.S., Aug. 4, 2025 (on file with the Regulated Industries Committee).

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Citizens of State v. Fay*, 396 So. 3d 549, 554–55 (Fla. 2024).

⁶⁸ Public Service Commission Response to Open Government Sunset Review Questionnaire Regarding Section 350.01(9), F.S., *supra* note 64, and *see* ss. 120.569 and 120.57, F.S.

⁶⁹ Public Service Commission Response to Open Government Sunset Review Questionnaire Regarding Section 350.01(9), F.S., *supra* note 64, and s. 120.57(1)(l), F.S., which states, in part, that an agency may not reject or modify an ALJ's finding of fact in a recommended order unless it finds "that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law."

legislative branch⁷⁰ with a broad grant of legislative authority over regulated utilities and limited the PSC from fully utilizing its considerable and specialized expertise in utility regulation and to make decisions in the public interest.⁷¹

Open Government Sunset Review Findings and Recommendations

The staff of the Senate Committee on Regulated Industries and the House of Representatives Ethics, Elections & Open Government Subcommittee⁷² jointly developed a survey requesting that the Florida Public Service Commission provide feedback on the public meeting and records exception in s. 350.01(9), F.S.

In addition, the Senate Committee on Regulated Industries staff sent additional surveys to Florida's Office of Public Counsel and selected representatives from Florida's public electric and gas utility and water and wastewater utility industries.

Staff of the Senate Committee on Regulated Industries received a total of seven responses to this survey. All these responses indicated that the exemption should be reenacted "as is."

III. Effect of Proposed Changes:

Section 1 amends s. 350.01(9), F.S. to remove the scheduled repeal date—which is October 2, 2026—of the current public meeting and records exemptions for portions of a hearing conducted by the Florida Public Service Commission (PSC) wherein proprietary confidential business information that is confidential or exempt from s. 119.07(1), pursuant to ss. 364.183, 366.093, 367.156, or 368.108, F.S., as discussed. The subsection provides that such exempt portions of a meeting may not be off the record and the exempt portions of such meeting must be recorded and transcribed. However, such recordings and transcripts are confidential and exempt from s. 119.07(1), F.S., and article I, s. 24(a) of the Constitution. The amendment would thereby continue this public meeting and record exemption.

Section 2 provides that the bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

⁷⁰ Section 350.001, F.S.

⁷¹ See *Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 910 (Fla. 2023), *Citizens of State v. Pub. Serv. Com'n*, 425 So. 2d 534, 540 (Fla. 1982), *Gulf Coast Elec. Co-op., Inc. v. Johnson*, 727 So. 2d 259, 262 (Fla. 1999), and *Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 910 (Fla. 2023), for examples of such authority and citations to the PSC's expertise.

⁷² Renamed the Government Operations Subcommittee by House Rule 7.1(a)(8)a.

B. Public Records/Open Meetings Issues:**Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records or public meetings requirements. This bill continues a current public records and public meetings exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues the current public records and public meetings exemptions without expansion and thus does not require a statement of public necessity.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption from the public records inspection and copying requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect regulated utilities' confidential business information from disclosure at PSC hearings. This bill exempts only those portions of records and meetings that contain relevant information and therefore does not appear to be broader than necessary to accomplish the purposes of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends s. 350.01(9), F.S. of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By the Committee on Regulated Industries

580-01170-26

20267006

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 350.01, F.S.; deleting the scheduled repeal of an exemption from public meeting requirements for portions of a hearing before the Florida Public Service Commission wherein certain proprietary confidential business information is discussed; providing an effective date.

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

Section 1. Subsection (9) of section 350.01, Florida Statutes, is amended to read:

350.01 Florida Public Service Commission; terms of commissioners; vacancies; election and duties of chair; quorum; proceedings; public records and public meetings exemptions.—

(9) Notwithstanding the provisions of subsection (8), those portions of a hearing conducted by the commission wherein proprietary confidential business information that is confidential or exempt from s. 119.07(1), pursuant to s. 364.183, s. 366.093, s. 367.156, or s. 368.108, is discussed are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. No exempt portion of a hearing may be off the record, and all exempt portions shall be recorded and transcribed. Such recordings and transcripts are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, unless a court of competent jurisdiction, after an in camera review, determines that the hearing was not restricted to the discussion of proprietary confidential business

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information made confidential and exempt pursuant to s. 364.183, s. 366.093, s. 367.156, or s. 368.108. In the event of such a judicial determination, only that portion of the recording and transcript which reveals nonexempt information may be disclosed to a third party. ~~This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect upon becoming a law.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 7008

INTRODUCER: Regulated Industries Committee

SUBJECT: OGSR/Florida Gaming Control Commission

DATE: January 9, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Baird</u>	<u>Imhof</u>		RI Submitted as Comm. Bill/Fav
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

I. Summary:

SB 7008 saves from repeal the current public meeting and public records exemptions codified in s. 16.716, F.S., for portions of a meeting conducted by the Florida Gaming Commission wherein exempt or confidential and exempt that has been obtained by the Commission is discussed. Section 16.716, F.S., provides that those exempt portions of a meeting may not be off the record, and the exempt portions of such meetings must be recorded. However, any such recording, any minutes, and any records generated during the closed portion of the meeting are confidential and exempt from public inspection and copying requirements.

The exemptions are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2026, unless reenacted by the Legislature. The bill saves the exemptions from repeal by deleting the scheduled repeal date, thereby maintaining the exempt status of the portions of Commission meetings closed as a result of discussion of exempt or confidential and exempt information, as well as the confidential and exempt status of the recording, minutes, and records generated during closed portions of such meetings.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business

¹ FLA. CONST. art. I, s. 24(a).

of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions that relate to public records are found in various statutes and rules, depending on the branch of government involved.³ For instance, Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature. Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., the Public Records Act, provides requirements for public records held by executive agencies and constitutes the main body of public records laws.

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person. Each agency has a duty to provide access to public records.⁵

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated

² *Id.*; see, *Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

³ Chapter 119, F.S., does not apply to legislative or judicial records. See, *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S.

⁶ *Shevin v. Byron, Harless, Schaffer, Reid & Assoc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

General exemptions from the public records requirements are typically contained in the Public Records Act.¹⁶ Specific exemptions are often placed in the substantive statutes which relate to a particular agency or program.¹⁷

Open Meetings Laws

The State Constitution provides that the public has a right to access governmental meetings.¹⁸ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁹ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.²⁰

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law”²¹ or the “Sunshine Law,”²² requires all meetings of any board or commission of any state or local agency or authority at which official acts are taken be open to the public.²³ The board or commission must provide the public reasonable notice of such meetings.²⁴ Public meetings may not be held at

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST. art. I, s. 24(c).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ *See, e.g.*, s. 119.071(1)(a), F.S., exempting from public disclosure examination questions and answer sheets of exams administered by a governmental agency for the purpose of licensure.

¹⁷ *See, e.g.*, s. 213.053(2), F.S., exempting from public disclosure information received by the Department of Revenue, including investigative reports and information.

¹⁸ FLA. CONST., art. I, s. 24(b).

¹⁹ *Id.*

²⁰ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

²¹ *Times Pub. Co. v. Williams*, 222 So.2d 470, 472 (Fla. 2d DCA 1969).

²² *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 695 (Fla. 1969).

²³ Section 286.011(1)-(2), F.S.

²⁴ *Id.*

any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in a manner that unreasonably restricts the public's access to the facility.²⁵ Minutes of a public meeting must be promptly recorded and open to public inspection.²⁶ Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.²⁷ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁸

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.²⁹ The exemption must explicitly lay out the public necessity justifying the exemption and be no broader than necessary to accomplish the stated purpose of the exemption.³⁰ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.³¹

Florida Gaming Control Commission

In 2021, the Florida Legislature created the Florida Gaming Control Commission (FGCC) to regulate gaming activities throughout the state.³² The FGCC is a five-member independent regulatory body.³³

The FGCC is authorized to exercise all of the regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts executed by the state pursuant to the federal Indian Gaming Regulatory Act, 24 U.S.C. s. 2701 et seq. and any other forms of gambling authorized by the State Constitution or law, excluding the Lottery games authorized by section 15 of Article X of the State Constitution and ch. 24, F.S.

The FGCC is housed within the Department of Legal Affairs but is a separate budget entity and serves as the agency head. It is not subject to the control, supervision, or direction of the Department of Legal Affairs or the Attorney General.³⁴

The FGCC is also authorized to:

²⁵ Section 286.011(6), F.S.

²⁶ Section 286.011(2), F.S.

²⁷ Section 286.011(1), F.S.

²⁸ Section 286.011(3), F.S.

²⁹ FLA. CONST., art. I, s. 24(c).

³⁰ *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption.

³¹ *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption to save it.

³² Section 16.712, F.S.

³³ FGCC members are appointed by the Governor and subject to confirmation by the Senate for a 4 year term: One member must have at least 10 years of experience in law enforcement and criminal investigations, one must be a certified public accountant with at least 10 years of experience in accounting and auditing, and one must be an attorney admitted to the Florida Bar for at least the preceding 10 years. *See* s. 16.71(2), F.S.

³⁴ Section 16.71, F.S.

- Establish procedures consistent with ch. 120, F.S., the Administrative Procedure Act, to ensure adequate due process in the exercise of the FGCC's regulatory and executive functions.
- Ensure that the laws of this state are not interpreted in any manner that expands the activities authorized in ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S. (Slot Machines), or ch. 849, F.S. (Gambling).
- Review the rules and regulations promulgated by the Seminole Tribal Gaming Commission for the operation of sports betting and propose to the Seminole Tribe Gaming Commission any additional consumer protection measures it deems appropriate. The proposed consumer protection measures may include, but are not limited to, the types of advertising and marketing conducted for sports betting, the types of procedures implemented to prohibit underage people from engaging in sports betting, and the types of information, materials, and procedures needed to assist patrons with compulsive or addictive gambling problems.
- Evaluate, as the state compliance agency, information that is reported by sports governing bodies or other parties to the FGCC relating to:
 - Any abnormal betting activity or patterns that may indicate a concern about the integrity of a sports event or events;
 - Any other conduct with the potential to corrupt a betting outcome of a sports event for purposes of financial gain, including, but not limited to, match fixing, suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification; and
 - The use of data deemed unacceptable by the commission or the Seminole Tribal Gaming Commission.
- Provide reasonable notice to state and local law enforcement, the Seminole Tribal Gaming Commission, and any appropriate sports governing body of non-proprietary information that may warrant further investigation of nonproprietary information by such entities to ensure integrity of wagering activities in the state.
- Review any matter within the scope of the jurisdiction of the FGCC.
- Review the regulation of licensees, permitholders, or persons regulated by the FGCC and the procedures used by the FGCC to implement and enforce the law.
- Review the procedures of the FGCC which are used to qualify applicants applying for a license, permit, or registration.
- Receive and review violations reported by a state or local law enforcement agency, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of the Lottery, the Seminole Tribe of Florida, or any person licensed under ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S. (Slot Machines), or ch. 849, F.S. (Gambling), and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.
- Refer criminal violations of ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S. (Slot Machines), or ch. 849, F.S. (Gambling), to the appropriate state attorney or to the Office of Statewide Prosecution, as applicable.

- Exercise all other powers and perform any other duties prescribed by the legislature, and
- Adopt rules to implement these provisions.

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,³⁵ with specified exceptions.³⁶ The act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.³⁷ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.³⁸ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;³⁹
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;⁴⁰ or
- It protects trade or business secrets.⁴¹

The act also requires specified questions to be considered during the review process.⁴² In examining an exemption, the act directs the Legislature to question the purpose and necessity of reenacting the exemption.

³⁵ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is substantially amended if it is expanded to include more records or information or to include meetings.

³⁶ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

³⁷ Section 119.15(3), F.S.

³⁸ Section 119.15(6)(b), F.S.

³⁹ Section 119.15(6)(b)1., F.S.

⁴⁰ Section 119.15(6)(b)2., F.S.

⁴¹ Section 119.15(6)(b)3., F.S.

⁴² Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.⁴³ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.⁴⁴

Public Record and Meeting Exemption Under Review

In 2021, the Legislature passed s. 16.716, F.S., which allows the FGCC to retain the exempt or confidential and exempt⁴⁵ status of information it obtains.⁴⁶ Such information may be released by the FGCC, upon written request, to another agency or governmental entity in the performance of the FGCC's official duties and responsibilities. Any agency or governmental entity receiving such information must maintain its exempt or confidential and exempt status to keep information shielded from regular public records laws.⁴⁷

Section 16.716(b)1., F.S., also created a public meeting exemption to protect those portions of a FGCC meeting wherein exempt or confidential and exempt information obtained by the FGCC is discussed. The FGCC typically holds monthly public meetings where notice is posted on their website at <https://flgaming.gov/meetings/>. If there is a portion of a meeting that would reveal the exempt or confidential and exempt information, then the FGCC chair must publicly announce the necessity for closing the meeting before closure.⁴⁸ The chair's declaration of necessity for closure and the specific reasons for such necessity shall be stated in writing in a record that shall be a public record and shall be filed with the official records of the FGCC.⁴⁹ The portion of the meeting that is closed must be preserved as a public record and include all discussion and proceedings, and the names of all persons present.⁵⁰ The recording of the closed portion of a meeting, as well as any minutes or records generated during that portion, are confidential and exempt until such time as the information is no longer exempt or confidential and exempt.⁵¹

The 2021 public necessity statement provided that:⁵²

⁴³ FLA. CONST. art. I, s. 24(c).

⁴⁴ Section 119.15(7), F.S.

⁴⁵ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Op. Att'y Gen. Fla. 04-09 (2004).

⁴⁶ Section 16.716, F.S.

⁴⁷ Section 16.716(1)(a), F.S.

⁴⁸ Section 16.716(1)(b)1.a., F.S.

⁴⁹ Section 16.716(1)(b)1.b., F.S.

⁵⁰ Section 16.716(1)(b)1.c., F.S.

⁵¹ Section 16.716(1)(b)3., F.S.

⁵² FLA. CONST. art. I, s. 24(c), requires each public record and meeting exemption to "state with specificity the public necessity justifying the exemption."

In the absence of this public records [and meetings] exemption, sensitive confidential or exempt information, including criminal intelligence information and criminal investigative information, would be disclosed, thus eliminating the protected status of the information obtained by the commission. If the commission is unable to maintain the exempt or confidential and exempt status of the information received, the commission would be unable to effectively and efficiently perform its duties and responsibilities.⁵³

Pursuant to the OGSRA Act, the exemptions will repeal on October 2, 2026, unless reenacted by the Legislature.

Open Government Sunset Review of the Public Records and Open Meeting Exemptions for the Florida Gaming Control Commission

During the 2025 interim, the staff of the Senate Regulated Industries Committee and the House Government Operations Subcommittee met jointly with the staff of the FGCC regarding the exemptions under review. The FGCC staff also completed the Senate committee questionnaire concerning the exemptions under review.⁵⁴

Public Record Exemption Findings

The FGCC indicated that the public record exemption affected non-sworn commission investigators, law enforcement, including Division of Gaming Enforcement personnel, criminal organizations, permitholders and licensees, news media, and the public. The types of records that were protected include: criminal intelligence information and criminal investigative information obtained by non-sworn commission investigators (*see, e.g. s. 550.0251(9), F. S., information designated as a trade secret*).⁵⁵

The FGCC also indicated that the protected record information under s. 16.716, F.S., could not be protected any other way and recommended that the exemption should be reenacted in its current form.⁵⁶

Public Meeting Exemption Findings

The FGCC indicated that when the commission exercises its executive and regulatory powers delegated under s. 16.712, F.S., the commissioners may be required to review and discuss information that is exempt from public disclosure under ch. 119, F.S., including criminal and administrative investigative information and information designated as a trade secret.⁵⁷

⁵³ Ch. 2021-270, Laws of Fla. (creating s. 16.716, F.S., effective May 25, 2021).

⁵⁴ *Open Government Sunset Review Questionnaire*, completed and submitted to the Senate Committee on Regulated Industries staff on August 4, 2025, by Mr. Ross Marshman, Acting Executive Director, on behalf of the Florida Gaming Control Commission (on file with Senate Committee on Regulated Industries).

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

The FGCC also noted that except for s. 16.716, F.S., there are no other provisions to shield criminal intelligence information, criminal investigative information, investigative information collected by non-sworn investigators, and information designated as a trade secret from been disclosed during the public meetings of the commission. The FGCC further explained that s. 286.011, F.S., standing alone, does not allow the commission to close portions of public meetings solely because exempt information is to be discussed. Section 286.011, F.S., only references certain forms of litigation as a sufficient basis to close a public meeting.⁵⁸

The FGCC staff recommended that the exemption be reenacted in its current form.⁵⁹

Representatives from the gaming and pari-mutuel industries were also sent the questionnaire, yielding a single response recommending to reenact the public meeting exemption.⁶⁰

III. Effect of Proposed Changes:

Section 1 amends s. 16.716, F.S., to remove the scheduled repeal date of the current public meetings and records exemption for portions of a FGCC meeting wherein exempt or confidential and exempt information obtained by the FGCC is discussed. This section further provides that such exempt portions of a meeting may not be off the record, and that the exempt portions of such meeting must be recorded. However, such recordings, any minutes and records generated during that portion of the meeting are confidential and exempt from s. 119.07(1), F.S., and article I, s. 24(a) of the Constitution until such time as the information is no longer exempt or confidential and exempt.

Section 2 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption from the

⁵⁸ *Id.* See also s. 286.011(8), F.S., regarding pending litigation.

⁵⁹ *Id.*

⁶⁰ See *Open Government Sunset Review Questionnaire*, completed and submitted to the Senate Committee on Regulated Industries staff on September 29, 2025, by Mr. Gary Rutledge, Attorney, on behalf of clients : 831 Federal Highway Acquisition d/b/a/ The Big Easy Casino, St. Petersburg Kennel Club (Derby Lane), Sarasota Kennel Club, Fronton Holdings (Ft. Pierce), Tampa Bay Downs, Tampa Greyhound and Washington County Kennel Club (Ebro), (on file with Senate Committee on Regulated Industries).

public records inspection and copying requirements. This bill does not expand an exemption; thus, the bill does not require a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption from the public records inspection and copying requirements to state with specificity the public necessity justifying the exemption. This bill does not expand an exemption; thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption from the public records inspection and copying requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemptions in the bill do not appear to be broader than necessary to accomplish the purposes of the laws.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 16.716 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Regulated Industries

580-01171-26

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A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 16.716, F.S., which provides an exemption from public records and public meeting requirements for exempt or confidential and exempt information obtained by the Florida Gaming Control Commission; deleting the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 16.716, Florida Statutes, is amended to read:

16.716 Florida Gaming Control Commission public records and public meetings exemptions.—

(1)~~(a)~~ Any information obtained by the Florida Gaming Control Commission which is exempt or confidential and exempt from s. 119.07(1) or s. 24(a), Art. I of the State Constitution shall retain its exempt or confidential and exempt status. The information may be released by the commission, upon written request, to an agency, as defined in s. 119.011, or a governmental entity in the performance of the commission's official duties and responsibilities. An agency or a governmental entity receiving such information from the commission shall maintain the exempt or confidential and exempt status of the information.

(2)~~(b)~~¹ Any portion of a meeting of the commission during which information that is exempt or confidential and exempt is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the

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State Constitution.

(a)~~a~~ The chair of the commission shall advise the commission at a public meeting that, in connection with the performance of a commission duty, it is necessary that the commission hear or discuss information that is exempt or confidential and exempt.

(b)~~b~~ The chair's declaration of necessity for closure and the specific reasons for such necessity shall be stated in writing in a record that shall be a public record and shall be filed with the official records of the commission.

(c)~~c~~ The entire closed session shall be recorded. The recording shall include the times of commencement and termination of the closed session, all discussion and proceedings, and the names of all persons present. No portion of the session may be off the record. Such recording shall be maintained by the commission.

(d)~~2~~ Only members of the commission, Department of Legal Affairs staff, or commission staff supporting the commission's function and other persons whose presence is necessary for the presentation of exempt or confidential and exempt information shall be allowed to attend the exempted portions of the commission meetings. The commission shall ensure that any closure of its meetings as authorized by this subsection ~~paragraph~~ is limited so that the general policy of this state in favor of public meetings is maintained.

(e)~~3~~ A recording of, and any minutes and records generated during, that portion of a commission meeting which is closed to the public pursuant to this subsection ~~paragraph~~ are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I

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of the State Constitution until such time as the information is
no longer exempt or confidential and exempt.

~~(2) This section is subject to the Open Government Sunset
Review Act in accordance with s. 119.15 and is repealed on
October 2, 2026, unless reviewed and saved from repeal through
reenactment by the Legislature.~~

Section 2. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 7012

INTRODUCER: Governmental Oversight and Accountability Committee and Transportation Committee

SUBJECT: OGSR/Department of Highway Safety and Motor Vehicles

DATE: January 13, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Shutes</u>	<u>Vickers</u>		TR Submitted as Comm. Bill/Fav
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
2.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7012 saves from repeal the current public record exemptions that make confidential and exempt from public inspection and copying requirements information held by the Department of Highway Safety and Motor Vehicles (DHSMV) as a result of an investigation or examination of:

- Suspected violations of ch. 319, F.S., relating to motor vehicle titles;
- Suspected violations of ch. 320, F.S., relating to motor vehicle registrations and motor vehicle dealer and manufacturer licensing;
- Suspected violations of ch. 322, F.S., relating to driver licenses and identification cards; and
- Suspected violations of s. 319.1414, F.S., by private rebuilt inspection providers.

These exemptions are subject to the Open Government Sunset Review Act and stand to be repealed on October 2, 2026, unless reenacted by the Legislature. The bill saves these exemptions from repeal by deleting the scheduled repeal date.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*; see also *Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid & Assoc.*, 379 So. 2d 633, 640 (Fla. 1980).

under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST. art. I, s. 24(c).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²²

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are again required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

DHSMV Investigations and Examinations

The Department of Highway Safety and Motor Vehicles (DHSMV) has jurisdiction to administer multiple chapters of the Florida Statutes with various degrees of investigative authority. In 2021, the Legislature created four public record exemptions for information received by DHSMV as a result of certain investigations and examinations.²⁶

The exemptions cover records of active administrative investigations or examinations conducted by the DHSMV relating to private rebuilt vehicle inspection providers (PRVIPs),²⁷ motor vehicle certificates of title,²⁸ motor vehicle registrations, motor vehicle dealers and manufacturers,²⁹ driver licenses, and identification cards.³⁰

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

²³ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ Ch. 2021-237, L.O.F.

²⁷ Section 319.1414(5), F.S.

²⁸ Section 319.25(7), F.S.

²⁹ Section 320.861(5), F.S.

³⁰ Section 322.71(5), F.S.

The DHSMV may release information that is made confidential and exempt in furtherance of its official duties and responsibilities or, if released to another governmental agency, in the furtherance of that agency's official duties and responsibilities. The exemptions apply only during the pendency of administrative investigations. Once an investigation ceases to be active, administrative action by the DHSMV has concluded, or the records are made part of a hearing or court proceeding, the respective exemption no longer applies, and the records may be released to the public.

The covered records include any consumer complaints submitted to the DHSMV, regulatory investigations performed by the DHSMV employees, and the resulting investigative files. Details of an active administrative investigation are known only to the DHSMV's investigators and other authorized DHSMV employees.³¹

DHSMV Response to Public Records Questionnaire

To determine how the DHSMV is utilizing the public record exemptions, legislative staff requested the DHSMV to complete a questionnaire and provide supporting documentation relating to the operation of the relevant programs.

The table below summarizes the number of administrative investigations by program type by fiscal year:³²

Program Type	FY20-21	FY21-22	FY22-23	FY23-24	FY24-25	FY25-26	Total
Driver License Fraud Unit	3,350	4,277	3,734	3,320	3,300	1,572*	19,553
Motor Vehicle Fraud Unit	1,231	1,154	1,103	1,512	1,324	252*	6,576
Rebuilt (Department)	15,798	15,185	17,333	8,157	3,357	561*	60,391
Rebuilt (PRVIP)	69,261	88,278	101,146	105,145	114,779	16,711*	495,320
Combined Total							581,840

The DHSMV response stated that, similar to the parallel exemption for active criminal investigative information, the purpose of the exemptions is to protect the integrity of active administrative investigations by preventing the subject or other unauthorized persons from learning the investigative details at a time when such knowledge could assist the subject evade detection of violations.³³

³¹ Email from Jonas Marquez, Director of Legislative Affairs, Department of Highway Safety and Motor Vehicles, RE: OGSR Questionnaires, regarding public records exemptions for investigations and examinations (September 19, 2025)

³² Email from Jonas Marquez, Director of Legislative Affairs, Department of Highway Safety and Motor Vehicles, RE: Meeting Follow-Up, regarding public records exemptions for investigations and examinations (October 8, 2025)

³³ *Id.*

The DHSMV noted that prior to the enactment of these exemptions, it received public record requests from subjects of administrative investigations or the subjects' attorneys, seeking the DHSMV's complete investigative files in those matters.³⁴

The DHSMV requested that the Legislature reenact the public record exemptions as currently codified.³⁵

III. Effect of Proposed Changes:

The bill removes the scheduled repeal of the four public record exemptions for certain investigatory and examination information received or created by DHSMV.

Section 1 amends s. 319.1414, F.S., to remove the scheduled repeal date for the public record exemption relating to investigations or examinations of suspected violations by private rebuilt inspection providers.

Section 2 amends s. 319.25, F.S., to remove the scheduled repeal date for the public record exemption relating to investigations or examinations of suspected violations of ch. 319, F.S., relating to motor vehicle titles.

Section 3 amends s. 320.861, F.S., to remove the scheduled repeal date for the public record exemption relating to investigations or examinations of suspected violations of ch. 320, F.S., relating to motor vehicle registrations and motor vehicle dealer and manufacturer licensing.

Section 4 amends s. 322.71, F.S., to remove the scheduled repeal date for the public record exemption relating to investigations or examinations of suspected violations of ch. 322, F.S., relating to driver licenses and identification cards.

The bill maintains the confidential and exempt status of the items above by deleting the scheduled October 2, 2026, repeal date.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

³⁴ *Id.*

³⁵ DHSMV, *supra* note 31 at 5.

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records disclosure requirements. This bill does not create or expand an exemption, and thus, the bill does not require a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records disclosure requirements to state with specificity the public necessity justifying the exemption. This bill does not create or expand an exemption and thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records disclosure requirements to be no broader than necessary to accomplish the stated purpose of the law. The release of the protected information could harm the integrity of an investigation. The exemptions in the bill, therefore, do not appear to be broader than necessary to accomplish the purposes of the laws.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None identified.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 319.1414, 319.25, 320.861, and 322.71.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on January 12, 2026:

Changes the effective date of the bill from October 1, 2026, to “upon becoming a law.”

B. Amendments:

None.



913622

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2026	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Massullo) recommended the following:

Senate Amendment

Delete line 98
and insert:
Section 5. This act shall take effect upon becoming a law.

By the Committee on Transportation

596-01729-26

20267012

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 319.1414, F.S., which provides an exemption from public records requirements for information received by the Department of Highway Safety and Motor Vehicles as a result of an investigation or examination of a department-authorized private rebuilt inspection provider; removing the scheduled repeal of the exemption; amending ss. 319.25, 320.861, and 322.71, F.S., which provide exemptions from public records requirements for information received by the department as a result of an investigation or examination of a person suspected of having violated certain laws, rules, or orders; removing the scheduled repeal of such exemptions; providing an effective date.

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

Section 1. Subsection (5) of section 319.1414, Florida Statutes, is amended to read:

319.1414 Department-authorized private rebuilt inspection providers; investigations; examinations; proceedings; subpoenas and other process; witnesses; oaths; rules.—

(5) Information received by the department as a result of an investigation or examination conducted pursuant to this section is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation or examination ceases to be active or administrative action

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

596-01729-26

20267012

taken by the department has concluded or been made part of a hearing or court proceeding. The department may release information that is made confidential and exempt under this subsection in furtherance of its official duties and responsibilities or, if released to another governmental agency, in the furtherance of that agency's official duties and responsibilities. ~~This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. Subsection (7) of section 319.25, Florida Statutes, is amended to read:

319.25 Cancellation of certificates; investigations; examinations; proceedings; subpoenas and other process; witnesses; oaths; rules.—

(7) Information received by the department as a result of an investigation or examination conducted pursuant to this section is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation or examination ceases to be active or administrative action taken by the department has concluded or been made part of a hearing or court proceeding. The department may release information that is made confidential and exempt under this subsection in furtherance of its official duties and responsibilities or, if released to another governmental agency, in the furtherance of that agency's official duties and responsibilities. ~~This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and~~

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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~~saved from repeal through reenactment by the Legislature.~~

Section 3. Subsection (5) of section 320.861, Florida Statutes, is amended to read:

320.861 Investigations; subpoenas and other process; oaths; rules.—

(5) Information received by the department as a result of an investigation or examination conducted pursuant to this section is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation or examination ceases to be active or administrative action taken by the department has concluded or been made part of a hearing or court proceeding. The department may release information that is made confidential and exempt under this subsection in furtherance of its official duties and responsibilities or, if released to another governmental agency, in the furtherance of that agency's official duties and responsibilities. ~~This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 4. Subsection (5) of section 322.71, Florida Statutes, is amended to read:

322.71 Investigations; examinations; proceedings; subpoenas and other process; witnesses; oaths; rules.—

(5) Information received by the department as a result of an investigation or examination conducted pursuant to this section is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation or examination ceases to be active or administrative action

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20267012

taken by the department has concluded or been made part of a hearing or court proceeding. The department may release information that is made confidential and exempt under this subsection in furtherance of its official duties and responsibilities or, if released to another governmental agency, in the furtherance of that agency's official duties and responsibilities. ~~This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 5. This act shall take effect October 1, 2026.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: PCS/SB 7014 (barcode 384138)

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: OGSR/Department of Legal Affairs

DATE: January 9, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>McMillan</u>	<u>McKay</u>		CM Submitted as Comm. Bill/Fav
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Pre-meeting
2.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7014 delays the repeal dates from October 2, 2026, to October 2, 2031, for two public record exemptions related to investigations into social media platforms. The public record exemptions make confidential and exempt from public inspection and copying requirements information received by the Department of Legal Affairs or a law enforcement agency into whether a social media platform has committed an antitrust violation or failed to meet certain transparency and notification requirements.

These exemptions are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2026, unless reenacted by the Legislature. The PCS saves the exemptions from repeal by delaying the scheduled repeal dates, thereby maintaining the confidential and exempt status of the information until October 2, 2031.

The PCS is not expected to affect state and local government revenues and expenditures.

The PCS takes effect upon becoming a law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*; *Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid & Assoc.*, 379 So. 2d 633, 640 (Fla. 1980).

under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST. art. I, s. 24(c)

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are again required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

Antitrust Violations

Antitrust laws “prohibit anticompetitive conduct and mergers that deprive American consumers, taxpayers, and workers of the benefits of competition.”²⁶ Federal antitrust law includes the Sherman Antitrust Act,²⁷ the Clayton Act,²⁸ and the Federal Trade Commission Act.²⁹ These laws are principally enforced by the U.S. Department of Justice (DOJ) and the Federal Trade Commission (FTC), but can also be enforced by state attorneys general and private plaintiffs.

In 1980, the Legislature passed the Florida Antitrust Act,³⁰ which, in large part, mirrors the federal Sherman Antitrust Act.³¹ The Florida Antitrust Act prohibits contracts, combinations, or conspiracies in restraint of trade or commerce³² as well as monopolization or attempted

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

²³ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ U.S. Department of Justice, [The Antitrust Laws](#) (last visited Dec. 3, 2025).

²⁷ 5 U.S.C. ss. 1-7.

²⁸ 15 U.S.C. ss. 12-27; 29 U.S.C. ss. 52 and 53.

²⁹ 15 U.S.C. ss. 41-58.

³⁰ Sections 542.15 – 542.36, F.S.

³¹ See s. 542.16, F.S.

³² Section 542.18.F.S.

monopolization of any part of trade or commerce.³³ A violation of the Florida Antitrust Act is punishable by up to three years imprisonment and fines up to \$1 million for a corporation and \$100,000 for any other person.³⁴ The act also contains a private right of action for any person injured by certain antitrust violations.³⁵

Antitrust Violator Vendor List

If an entity that operates a social media platform³⁶ has been convicted of or held civilly liable for antitrust violations, the Department of Management Services must place the entity, or an affiliate of the entity, on the Antitrust Violator Vendor List (list).³⁷ The entity or affiliate placed on the list may not:

- Submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity;
- Submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work;
- Submit a bid, proposal, or reply on new leases of real property to a public entity;
- Be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; or
- Transact new business with a public entity.³⁸

Public entities are prohibited from accepting a bid, proposal, or reply from, awarding a new contract to, or transacting new business with any entity or affiliate on the list.³⁹

The Attorney General, through the Department of Legal Affairs (DLA), may temporarily place any entity charged or accused of violating a state or federal antitrust law in a civil or criminal proceeding brought by the Attorney General, a state attorney, the FTC, or the DOJ on the list until the proceeding has concluded.⁴⁰ However, before the entity may be temporarily placed on the list, the Attorney General must make a finding of probable cause that the entity has likely violated the underlying antitrust laws.⁴¹

If probable cause exists, the Attorney General must notify the entity in writing of its intent to temporarily place the entity's name on the list, and of the entity's right to a hearing, the procedure that must be followed, and the applicable time requirements.⁴² If the entity does not request a hearing, the Attorney General must enter a final order temporarily placing the entity's name on the list. If the entity does request a hearing, the burden is on the Attorney General to prove that it is in the public interest to place the entity on the list.⁴³

³³ Section 542.19, F.S.

³⁴ Section 542.21, F.S.

³⁵ Sections 542.21 and 542.23, F.S.

³⁶ Sections 287.137(1)(f) and 501.2041(1)(g), F.S.

³⁷ Section 287.137(2), F.S.

³⁸ *Id.*

³⁹ Section 287.137(2)(b), F.S.

⁴⁰ Section 287.137(3)(d), F.S.

⁴¹ *Id.*

⁴² Section 287.137(3)(d)2., F.S. A person may not be placed on the list without receiving a notice of intent from the Attorney General.

⁴³ Section 501.137(3)(d)3.-5., F.S.

Unlawful Acts and Practices by Social Media Platforms

In 2021, the Legislature created s. 501.2041, F.S., to require a social media platform⁴⁴ to take the following actions:

- Publish the standards it uses or has used for determining how to censor, deplatform, and shadow ban;
- Apply censorship, deplatforming, and shadow banning standards in a consistent manner;
- Inform each user about any changes to its user rules, terms, and agreements before implementing the changes;
- Notify users before censoring or shadow banning their content;⁴⁵
- Provide a mechanism that allows a user to request the number of other individual platform participants who were provided or shown the user's content;
- Provide, upon request, a user with the number of other individual platform participants who were provided or shown the user's content;
- Categorize algorithms used for post-prioritization and shadow banning;
- Allow a user to opt out of post-prioritization and shadow banning algorithm categories to allow sequential or chronological posts and content;
- Provide users with an annual notice on the use of algorithms for post-prioritization and shadow banning; and
- Allow a user who has been deplatformed to access or retrieve all of the user's information, content, material, and data for at least 60 days after the user receives notice.

A social media platform is prohibited from applying post-prioritization or shadow-banning algorithms for content and material posted by or about a political candidate during their candidacy. Additionally, a social media platform is prohibited from taking action to censor, deplatform, or shadow ban a journalistic enterprise based on the content of its publication or broadcast.⁴⁶

A social media platform that fails to comply with s. 501.2041, F.S., commits an unfair or deceptive act or practice. If the DLA, by its own inquiry or as a result of a complaint, suspects that a violation is imminent, occurring, or has occurred, the DLA may investigate the suspected violation in accordance with the Florida Deceptive and Unfair Trade Practices Act (FDUTPA). In an investigation by the DLA into alleged violations, the DLA's investigative powers include,

⁴⁴ Section 501.2041, F.S., defines "social media platform" as any information service, system, Internet search engine, or access software provider that: (1) provides or enables computer access by multiple users to a computer server, including an Internet platform or a social media site; (2) operates as a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity; (3) does business in Florida; and (4) satisfies at least one of the following thresholds: has annual gross revenues in excess of \$100 million, as adjusted in January of each odd-numbered year to reflect any increase in the Consumer Price Index, or has at least 100 million monthly individual platform participants globally.

⁴⁵ Section 501.2041, F.S., provides that a notification must be in writing, be delivered via electronic mail or direct electronic notification to the user within 7 days after the censoring action, include a thorough rationale explaining the reason that the social media platform censored the user, and include a precise and thorough explanation of how the social media platform became aware of the censored content or material.

⁴⁶ Section 501.2041, F.S., provides that the prohibition does not apply if the content or material is obscene as defined in s. 847.001, F.S. Section 847.001, F.S., defines "obscene" as the status of material which: (1) the average person, applying contemporary community standards, would find, taken as a whole, appeals to prurient interests; (2) depicts or describes, in a patently offensive way, sexual conduct; and (3) taken as a whole, lacks serious literary, artistic, political, or scientific value.

but are not limited to, the ability to subpoena any algorithm used by a social media platform related to any alleged violation.

A user may only bring a private cause of action against a social media platform for failing to notify such user of an act of censoring or deplatforming, or for failing to apply censorship, deplatforming, and shadow banning standards in a consistent manner. The court may award the following damages to a user:

- Up to \$100,000 in statutory damages per proven claim;
- Actual damages;
- If aggravating factors are present, punitive damages;
- Other forms of equitable relief, including injunctive relief; and
- If the user was deplatformed, costs and reasonable attorney fees.

Ongoing Litigation

In 2021, NetChoice and the Computer & Communications Industry Association (NetChoice)⁴⁷ challenged the constitutionality of SB 7072 (now s. 501.2041, F.S.), in the United States District Court for the Northern District of Florida.⁴⁸ NetChoice claimed that the law violates their free speech rights, and argued that social media platforms are exercising editorial judgement when they moderate content on their platforms.⁴⁹ Additionally, NetChoice argued that the law is preempted by federal law.⁵⁰ The district court granted NetChoice's motion for a preliminary injunction.⁵¹

The state appealed, and the United States Court of Appeals for the Eleventh Circuit concluded that the provisions of SB 7072 (now s. 501.2041, F.S.) that restrict a social media platform's ability to engage in content moderation violate the First Amendment.⁵² Furthermore, the Eleventh Circuit found that the provision requiring a social media platform to provide "thorough rationale" for every content moderation decision it makes violates the First Amendment.⁵³ Thus, the Eleventh Circuit substantially affirmed the preliminary injunction against enforcement of the law.⁵⁴

In 2024, the Supreme Court vacated the Eleventh Circuit's decision and remanded the case back to the Eleventh Circuit for further proceedings.⁵⁵

Currently in Florida, the case remains in the discovery phase, and a trial date is set for July 13, 2026.

⁴⁷ These are trade associations that represent internet and social media companies like Facebook, Twitter (X), and Google.

⁴⁸ See *NetChoice, LLC v. Moody*, 546 F.Supp.3d 1082 (N.D. Florida 2021).

⁴⁹ *Id.* In the case, NetChoice argued that social media companies are exercising editorial judgement similar to the editorial judgment of a newspaper editor.

⁵⁰ *Id.* NetChoice argued that the law is preempted by 27 U.S.C. §230(c)(2).

⁵¹ *Id.* The district court concluded that the provisions of the law that make social media platforms liable for deprioritizing content or removing content are likely preempted by federal law, as well as found that the law's provisions violate the social media platforms' First Amendment rights by restricting their editorial judgement.

⁵² See *NetChoice, LLC v. Moody*, 34 F.4th 1196 (11th Cir. 2022).

⁵³ *Id.*

⁵⁴ *Id.* The Eleventh Circuit affirmed in part, vacated in part, and remanded.

⁵⁵ See *Moody v. NetChoice, LLC*, 603 U.S. 707 (2024).

Florida Deceptive and Unfair Trade Practices Act (FDUTPA)

The DLA and the State Attorney, as enforcing authorities, may seek the following remedies:

- Declaratory judgments;
- Injunctive relief;
- Actual damages on behalf of consumers and businesses;
- Cease and desist orders; and
- Civil penalties of up to \$10,000 per willful violation.⁵⁶

Remedies for private parties are limited to the following:

- A declaratory judgment and an injunction where a person is aggrieved by a FDUTPA violation; and
- Actual damages, attorney fees, and court costs, where a person has suffered a loss due to a FDUTPA violation.⁵⁷

Public Record Exemptions under Review

In 2021, the Legislature created a public record exemption for all information received by the DLA or a law enforcement agency in an investigation into whether a social media platform committed an antitrust violation (based on a case brought by a governmental entity) or⁵⁸ failed to meet certain transparency and notification requirements.⁵⁹

All information received by DLA pursuant to an investigation by DLA or a law enforcement agency is confidential and exempt from public record requirements,⁶⁰ until such time as the investigation is completed or ceases to be active. During an active investigation, confidential information may be disclosed by the DLA in the performance of its official duties and responsibilities or to another governmental entity in performance of its duties and responsibilities.⁶¹

Once an investigation is complete or once an investigation ceases to be active, the following information received by DLA remains confidential and exempt from public record requirements:

- All information to which another public records exemption applies.
- Personal identifying information.
- A computer forensic report.

⁵⁶ Sections 501.207(1), 501.208, and 501.2075, F.S. Civil Penalties are deposited into general revenue. Section 501.2075, F.S. Enforcing authorities may also request attorney fees and costs of investigation or litigation. Section 501.2105, F.S.

⁵⁷ Section 501.211(1) and (2), F.S.

⁵⁸ Section 287.137(8), F.S.

⁵⁹ Section 501.204(10), F.S.

⁶⁰ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. See Op. Att'y Gen. Fla. (1985).

⁶¹ Sections 287.137(8)(b) and 501.2041(10)(b), F.S.

- Information that would otherwise reveal weaknesses in a business's data security.
- Proprietary business information.⁶²

The 2021 public necessity statement⁶³ provided several reasons for the public record exemptions under review. Among those reasons, the Legislature stated that the premature release of the protected information “could frustrate or thwart the investigation and impair the ability of the Attorney General and the Department of Legal Affairs to effectively and efficiently administer” the relevant provisions of law.⁶⁴ Further, the exemptions exist to “continue to protect from public disclosure all information to which another public record exemption applies once an investigation is completed or ceases to be active.”⁶⁵

Pursuant to the OGSRA Act, the public record exemptions will repeal on October 2, 2026, unless reviewed and saved from repeal by the Legislature.⁶⁶

Open Government Sunset Reviews regarding investigations of social media platforms

The staff of the Senate Commerce and Tourism Committee, the Senate Governmental Oversight and Accountability Committee, and the House Government Operations Subcommittee jointly met with the DLA to ascertain whether the public records exemptions codified in ss. 287.137 and 501.2041(10), F.S., remain necessary.

Public Record Exemption Findings

The DLA indicated that the public records exemption in s. 501.2041, F.S., has not been utilized due to ongoing litigation regarding the constitutionality of the provisions in s. 501.2041, F.S. The DLA additionally indicated that, as to the exemption in s. 287.137, F.S., the office has not yet attempted to temporarily place any person on the antitrust violators vendors list and, therefore, has not used the exemption. Thus, the bill delays for five years the sunset review date for, and the repeal of, the public records exemptions to allow the legislative staff to gather data on the public records exemption when in use.

III. Effect of Proposed Changes:

Without action by the Legislature to extend or remove the repeal date, the exemptions in ss. 287.137 and 501.2041(10), F.S., will repeal on October 2, 2026.

Sections 1 and 2 amend ss. 287.137 and 501.2041, F.S., respectively, to delay the repeal dates, created pursuant to the Open Government Sunset Review Act, for two public record exemptions related to investigations into social media platforms. The bill extends the repeal dates from October 2, 2026, to October 2, 2031. The public record exemptions make confidential and exempt from public inspection and copying requirements all information received by the Department of Legal Affairs or a law enforcement agency in an investigation into whether a

⁶² Sections 287.137(8)(c) and 501.2041(10)(c), F.S.

⁶³ [Article I, s. 24\(c\), FLA. CONST.](#), requires each public record exemption to “state with specificity the public necessity justifying exemption.”

⁶⁴ Ch. 2021-33, L.O.F.

⁶⁵ *Id.*

⁶⁶ Sections 287.137(8)(e) and 501.2041(10)(e), F.S.

social media platform committed an antitrust violation based on a case brought by a governmental entity or committed an unlawful act or practice by failing to meet certain transparency and notice requirements.

Section 3 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records disclosure requirements. The bill delays for five additional years two current public record exemptions. The bill does not create or expand an exemption. Thus, the bill does not require a two-thirds vote for enactment.

Public Necessity Statement

Article I, section 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records disclosure requirements to state with specificity the public necessity justifying the exemption. The bill does not create or expand an exemption. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, section 24(c) of the State Constitution requires an exemption from the public records disclosure requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemption in the bill is limited to information that, if released, could frustrate an investigation or result in economic harm or cybersecurity threats against private social media platforms and, therefore, does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None identified.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends sections 287.137 and 501.2041(10) of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

PCS (barcode 384138) by Governmental Oversight and Accountability:

Adds a provision delaying the repeal of a public records exemption codified in s. 287.137, F.S., relating to information received by DLA or a law enforcement agency regarding antitrust investigations of social media platforms. The repeal of the exemption will be delayed until October 2, 2031.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Governmental Oversight and Accountability

A bill to be entitled

An act relating to review under the Open Government Sunset Review Act; amending s. 287.137, F.S., which provides an exemption from public records requirements for certain information received in investigations by the Attorney General or a law enforcement agency into social media platform activities; extending the scheduled repeal date of the exemption; amending s. 501.2041, F.S., which provides an exemption from public records requirements for certain information received in investigations by the Department of Legal Affairs or a law enforcement agency into violations by certain social media platforms; extending the scheduled repeal date of the exemption; providing an effective date.

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

Section 1. Subsection (8) of section 287.137, Florida Statutes, is amended to read:

287.137 Antitrust violations; denial or revocation of the right to transact business with public entities; denial of economic benefits.—

(8)(a) All information received by the Attorney General under paragraph (3)(d) pursuant to an investigation by the Attorney General or a law enforcement agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State



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Constitution until such time as the investigation is completed or ceases to be active. This exemption shall be construed in conformity with s. 119.071(2)(c).

(b) During an active investigation, information made confidential and exempt pursuant to paragraph (a) may be disclosed by the Attorney General:

1. In the performance of his or her official duties and responsibilities; or

2. To another governmental entity in performance of its official duties and responsibilities.

(c) Once an investigation is completed or ceases to be active, the following information received by the Attorney General shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. All information to which another public records exemption applies.

2. Personal identifying information.

3. A computer forensic report.

4. Information that would otherwise reveal weaknesses in a business's data security.

5. Proprietary business information.

(d) For purposes of this subsection, the term "proprietary business information" means information that:

1. Is owned or controlled by the business;

2. Is intended to be private and is treated by the business as private because disclosure would harm the business or its business operations;

3. Has not been disclosed except as required by law or a private agreement that provides that the information will not be



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released to the public;

4. Is not publicly available or otherwise readily ascertainable through proper means from another source in the same configuration as received by the Attorney General; and

5. Includes:

a. Trade secrets as defined in s. 688.002.

b. Competitive interests, the disclosure of which would impair the competitive advantage of the business that is the subject of the information.

(e) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2031 ~~2026~~, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Subsection (10) of section 501.2041, Florida Statutes, is amended to read:

501.2041 Unlawful acts and practices by social media platforms.—

(10)(a) All information received by the department pursuant to an investigation by the department or a law enforcement agency of a violation of this section is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the investigation is completed or ceases to be active. This exemption shall be construed in conformity with s. 119.071(2)(c).

(b) During an active investigation, information made confidential and exempt pursuant to paragraph (a) may be disclosed by the department:

1. In the performance of its official duties and



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responsibilities; or

2. To another governmental entity in performance of its official duties and responsibilities.

(c) Once an investigation is completed or ceases to be active, the following information received by the department shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. All information to which another public records exemption applies.

2. Personal identifying information.

3. A computer forensic report.

4. Information that would otherwise reveal weaknesses in a business's data security.

5. Proprietary business information.

(d) For purposes of this subsection, the term "proprietary business information" means information that:

1. Is owned or controlled by the business;

2. Is intended to be private and is treated by the business as private because disclosure would harm the business or its business operations;

3. Has not been disclosed except as required by law or a private agreement that provides that the information will not be released to the public;

4. Is not publicly available or otherwise readily ascertainable through proper means from another source in the same configuration as received by the department; and

5. Includes:

a. Trade secrets as defined in s. 688.002.

b. Competitive interests, the disclosure of which would



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115 impair the competitive advantage of the business that is the
116 subject of the information.

117 (e) This subsection is subject to the Open Government
118 Sunset Review Act in accordance with s. 119.15 and shall stand
119 repealed on October 2, 2031 ~~2026~~, unless reviewed and saved from
120 repeal through reenactment by the Legislature.

121 Section 3. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 7014

INTRODUCER: Governmental Oversight and Accountability Committee and Commerce and Tourism Committee

SUBJECT: OGSR/Department of Legal Affairs

DATE: January 13, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>McMillan</u>	<u>McKay</u>		CM Submitted as Comm. Bill/Fav
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
2.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7014 delays the repeal dates from October 2, 2026, to October 2, 2031, for two public record exemptions related to investigations into social media platforms. The public record exemptions make confidential and exempt from public inspection and copying requirements information received by the Department of Legal Affairs or a law enforcement agency into whether a social media platform has committed an antitrust violation or failed to meet certain transparency and notification requirements.

These exemptions are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2026, unless reenacted by the Legislature. The bill saves the exemptions from repeal by delaying the scheduled repeal dates, thereby maintaining the confidential and exempt status of the information until October 2, 2031.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*; *Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid & Assoc.*, 379 So. 2d 633, 640 (Fla. 1980).

under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST. art. I, s. 24(c)

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are again required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

Antitrust Violations

Antitrust laws “prohibit anticompetitive conduct and mergers that deprive American consumers, taxpayers, and workers of the benefits of competition.”²⁶ Federal antitrust law includes the Sherman Antitrust Act,²⁷ the Clayton Act,²⁸ and the Federal Trade Commission Act.²⁹ These laws are principally enforced by the U.S. Department of Justice (DOJ) and the Federal Trade Commission (FTC), but can also be enforced by state attorneys general and private plaintiffs.

In 1980, the Legislature passed the Florida Antitrust Act,³⁰ which, in large part, mirrors the federal Sherman Antitrust Act.³¹ The Florida Antitrust Act prohibits contracts, combinations, or conspiracies in restraint of trade or commerce³² as well as monopolization or attempted

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

²³ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ U.S. Department of Justice, [The Antitrust Laws](#) (last visited Dec. 3, 2025).

²⁷ 5 U.S.C. ss. 1-7.

²⁸ 15 U.S.C. ss. 12-27; 29 U.S.C. ss. 52 and 53.

²⁹ 15 U.S.C. ss. 41-58.

³⁰ Sections 542.15 – 542.36, F.S.

³¹ See s. 542.16, F.S.

³² Section 542.18.F.S.

monopolization of any part of trade or commerce.³³ A violation of the Florida Antitrust Act is punishable by up to three years imprisonment and fines up to \$1 million for a corporation and \$100,000 for any other person.³⁴ The act also contains a private right of action for any person injured by certain antitrust violations.³⁵

Antitrust Violator Vendor List

If an entity that operates a social media platform³⁶ has been convicted of or held civilly liable for antitrust violations, the Department of Management Services must place the entity, or an affiliate of the entity, on the Antitrust Violator Vendor List (list).³⁷ The entity or affiliate placed on the list may not:

- Submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity;
- Submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work;
- Submit a bid, proposal, or reply on new leases of real property to a public entity;
- Be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; or
- Transact new business with a public entity.³⁸

Public entities are prohibited from accepting a bid, proposal, or reply from, awarding a new contract to, or transacting new business with any entity or affiliate on the list.³⁹

The Attorney General, through the Department of Legal Affairs (DLA), may temporarily place any entity charged or accused of violating a state or federal antitrust law in a civil or criminal proceeding brought by the Attorney General, a state attorney, the FTC, or the DOJ on the list until the proceeding has concluded.⁴⁰ However, before the entity may be temporarily placed on the list, the Attorney General must make a finding of probable cause that the entity has likely violated the underlying antitrust laws.⁴¹

If probable cause exists, the Attorney General must notify the entity in writing of its intent to temporarily place the entity's name on the list, and of the entity's right to a hearing, the procedure that must be followed, and the applicable time requirements.⁴² If the entity does not request a hearing, the Attorney General must enter a final order temporarily placing the entity's name on the list. If the entity does request a hearing, the burden is on the Attorney General to prove that it is in the public interest to place the entity on the list.⁴³

³³ Section 542.19, F.S.

³⁴ Section 542.21, F.S.

³⁵ Sections 542.21 and 542.23, F.S.

³⁶ Sections 287.137(1)(f) and 501.2041(1)(g), F.S.

³⁷ Section 287.137(2), F.S.

³⁸ *Id.*

³⁹ Section 287.137(2)(b), F.S.

⁴⁰ Section 287.137(3)(d), F.S.

⁴¹ *Id.*

⁴² Section 287.137(3)(d)2., F.S. A person may not be placed on the list without receiving a notice of intent from the Attorney General.

⁴³ Section 501.137(3)(d)3.-5., F.S.

Unlawful Acts and Practices by Social Media Platforms

In 2021, the Legislature created s. 501.2041, F.S., to require a social media platform⁴⁴ to take the following actions:

- Publish the standards it uses or has used for determining how to censor, deplatform, and shadow ban;
- Apply censorship, deplatforming, and shadow banning standards in a consistent manner;
- Inform each user about any changes to its user rules, terms, and agreements before implementing the changes;
- Notify users before censoring or shadow banning their content;⁴⁵
- Provide a mechanism that allows a user to request the number of other individual platform participants who were provided or shown the user's content;
- Provide, upon request, a user with the number of other individual platform participants who were provided or shown the user's content;
- Categorize algorithms used for post-prioritization and shadow banning;
- Allow a user to opt out of post-prioritization and shadow banning algorithm categories to allow sequential or chronological posts and content;
- Provide users with an annual notice on the use of algorithms for post-prioritization and shadow banning; and
- Allow a user who has been deplatformed to access or retrieve all of the user's information, content, material, and data for at least 60 days after the user receives notice.

A social media platform is prohibited from applying post-prioritization or shadow-banning algorithms for content and material posted by or about a political candidate during their candidacy. Additionally, a social media platform is prohibited from taking action to censor, deplatform, or shadow ban a journalistic enterprise based on the content of its publication or broadcast.⁴⁶

A social media platform that fails to comply with s. 501.2041, F.S., commits an unfair or deceptive act or practice. If the DLA, by its own inquiry or as a result of a complaint, suspects that a violation is imminent, occurring, or has occurred, the DLA may investigate the suspected violation in accordance with the Florida Deceptive and Unfair Trade Practices Act (FDUTPA). In an investigation by the DLA into alleged violations, the DLA's investigative powers include,

⁴⁴ Section 501.2041, F.S., defines "social media platform" as any information service, system, Internet search engine, or access software provider that: (1) provides or enables computer access by multiple users to a computer server, including an Internet platform or a social media site; (2) operates as a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity; (3) does business in Florida; and (4) satisfies at least one of the following thresholds: has annual gross revenues in excess of \$100 million, as adjusted in January of each odd-numbered year to reflect any increase in the Consumer Price Index, or has at least 100 million monthly individual platform participants globally.

⁴⁵ Section 501.2041, F.S., provides that a notification must be in writing, be delivered via electronic mail or direct electronic notification to the user within 7 days after the censoring action, include a thorough rationale explaining the reason that the social media platform censored the user, and include a precise and thorough explanation of how the social media platform became aware of the censored content or material.

⁴⁶ Section 501.2041, F.S., provides that the prohibition does not apply if the content or material is obscene as defined in s. 847.001, F.S. Section 847.001, F.S., defines "obscene" as the status of material which: (1) the average person, applying contemporary community standards, would find, taken as a whole, appeals to prurient interests; (2) depicts or describes, in a patently offensive way, sexual conduct; and (3) taken as a whole, lacks serious literary, artistic, political, or scientific value.

but are not limited to, the ability to subpoena any algorithm used by a social media platform related to any alleged violation.

A user may only bring a private cause of action against a social media platform for failing to notify such user of an act of censoring or deplatforming, or for failing to apply censorship, deplatforming, and shadow banning standards in a consistent manner. The court may award the following damages to a user:

- Up to \$100,000 in statutory damages per proven claim;
- Actual damages;
- If aggravating factors are present, punitive damages;
- Other forms of equitable relief, including injunctive relief; and
- If the user was deplatformed, costs and reasonable attorney fees.

Ongoing Litigation

In 2021, NetChoice and the Computer & Communications Industry Association (NetChoice)⁴⁷ challenged the constitutionality of SB 7072 (now s. 501.2041, F.S.), in the United States District Court for the Northern District of Florida.⁴⁸ NetChoice claimed that the law violates their free speech rights, and argued that social media platforms are exercising editorial judgement when they moderate content on their platforms.⁴⁹ Additionally, NetChoice argued that the law is preempted by federal law.⁵⁰ The district court granted NetChoice's motion for a preliminary injunction.⁵¹

The state appealed, and the United States Court of Appeals for the Eleventh Circuit concluded that the provisions of SB 7072 (now s. 501.2041, F.S.) that restrict a social media platform's ability to engage in content moderation violate the First Amendment.⁵² Furthermore, the Eleventh Circuit found that the provision requiring a social media platform to provide "thorough rationale" for every content moderation decision it makes violates the First Amendment.⁵³ Thus, the Eleventh Circuit substantially affirmed the preliminary injunction against enforcement of the law.⁵⁴

In 2024, the Supreme Court vacated the Eleventh Circuit's decision and remanded the case back to the Eleventh Circuit for further proceedings.⁵⁵

Currently in Florida, the case remains in the discovery phase, and a trial date is set for July 13, 2026.

⁴⁷ These are trade associations that represent internet and social media companies like Facebook, Twitter (X), and Google.

⁴⁸ See *NetChoice, LLC v. Moody*, 546 F.Supp.3d 1082 (N.D. Florida 2021).

⁴⁹ *Id.* In the case, NetChoice argued that social media companies are exercising editorial judgement similar to the editorial judgment of a newspaper editor.

⁵⁰ *Id.* NetChoice argued that the law is preempted by 27 U.S.C. §230(c)(2).

⁵¹ *Id.* The district court concluded that the provisions of the law that make social media platforms liable for deprioritizing content or removing content are likely preempted by federal law, as well as found that the law's provisions violate the social media platforms' First Amendment rights by restricting their editorial judgement.

⁵² See *NetChoice, LLC v. Moody*, 34 F.4th 1196 (11th Cir. 2022).

⁵³ *Id.*

⁵⁴ *Id.* The Eleventh Circuit affirmed in part, vacated in part, and remanded.

⁵⁵ See *Moody v. NetChoice, LLC*, 603 U.S. 707 (2024).

Florida Deceptive and Unfair Trade Practices Act (FDUTPA)

The DLA and the State Attorney, as enforcing authorities, may seek the following remedies:

- Declaratory judgments;
- Injunctive relief;
- Actual damages on behalf of consumers and businesses;
- Cease and desist orders; and
- Civil penalties of up to \$10,000 per willful violation.⁵⁶

Remedies for private parties are limited to the following:

- A declaratory judgment and an injunction where a person is aggrieved by a FDUTPA violation; and
- Actual damages, attorney fees, and court costs, where a person has suffered a loss due to a FDUTPA violation.⁵⁷

Public Record Exemptions under Review

In 2021, the Legislature created a public record exemption for all information received by the DLA or a law enforcement agency in an investigation into whether a social media platform committed an antitrust violation (based on a case brought by a governmental entity) or⁵⁸ failed to meet certain transparency and notification requirements.⁵⁹

All information received by DLA pursuant to an investigation by DLA or a law enforcement agency is confidential and exempt from public record requirements,⁶⁰ until such time as the investigation is completed or ceases to be active. During an active investigation, confidential information may be disclosed by the DLA in the performance of its official duties and responsibilities or to another governmental entity in performance of its duties and responsibilities.⁶¹

Once an investigation is complete or once an investigation ceases to be active, the following information received by DLA remains confidential and exempt from public record requirements:

- All information to which another public records exemption applies.
- Personal identifying information.
- A computer forensic report.

⁵⁶ Sections 501.207(1), 501.208, and 501.2075, F.S. Civil Penalties are deposited into general revenue. Section 501.2075, F.S. Enforcing authorities may also request attorney fees and costs of investigation or litigation. Section 501.2105, F.S.

⁵⁷ Section 501.211(1) and (2), F.S.

⁵⁸ Section 287.137(8), F.S.

⁵⁹ Section 501.204(10), F.S.

⁶⁰ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla. 2004); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. See Op. Att’y Gen. Fla. (1985).

⁶¹ Sections 287.137(8)(b) and 501.2041(10)(b), F.S.

- Information that would otherwise reveal weaknesses in a business's data security.
- Proprietary business information.⁶²

The 2021 public necessity statement⁶³ provided several reasons for the public record exemptions under review. Among those reasons, the Legislature stated that the premature release of the protected information “could frustrate or thwart the investigation and impair the ability of the Attorney General and the Department of Legal Affairs to effectively and efficiently administer” the relevant provisions of law.⁶⁴ Further, the exemptions exist to “continue to protect from public disclosure all information to which another public record exemption applies once an investigation is completed or ceases to be active.”⁶⁵

Pursuant to the OGSR Act, the public record exemptions will repeal on October 2, 2026, unless reviewed and saved from repeal by the Legislature.⁶⁶

Open Government Sunset Reviews regarding investigations of social media platforms

The staff of the Senate Commerce and Tourism Committee, the Senate Governmental Oversight and Accountability Committee, and the House Government Operations Subcommittee jointly met with the DLA to ascertain whether the public records exemptions codified in ss. 287.137 and 501.2041(10), F.S., remain necessary.

Public Record Exemption Findings

The DLA indicated that the public records exemption in s. 501.2041, F.S., has not been utilized due to ongoing litigation regarding the constitutionality of the provisions in s. 501.2041, F.S. The DLA additionally indicated that, as to the exemption in s. 287.137, F.S., the office has not yet attempted to temporarily place any person on the antitrust violators vendors list and, therefore, has not used the exemption. Thus, the bill delays for five years the sunset review date for, and the repeal of, the public records exemptions to allow the legislative staff to gather data on the public records exemption when in use.

III. Effect of Proposed Changes:

Without action by the Legislature to extend or remove the repeal date, the exemptions in ss. 287.137 and 501.2041(10), F.S., will repeal on October 2, 2026.

Sections 1 and 2 amend ss. 287.137 and 501.2041, F.S., respectively, to delay the repeal dates for two public record exemptions related to investigations into social media platforms. The bill extends the repeal dates from October 2, 2026, to October 2, 2031. The public record exemptions make confidential and exempt from public inspection and copying requirements all information received by the Department of Legal Affairs or a law enforcement agency in an investigation into whether a social media platform committed an antitrust violation based on a case brought by

⁶² Sections 287.137(8)(c) and 501.2041(10)(c), F.S.

⁶³ [Article I, s. 24\(c\), FLA. CONST.](#), requires each public record exemption to “state with specificity the public necessity justifying exemption.”

⁶⁴ Ch. 2021-33, L.O.F.

⁶⁵ *Id.*

⁶⁶ Sections 287.137(8)(e) and 501.2041(10)(e), F.S.

a governmental entity or committed an unlawful act or practice by failing to meet certain transparency and notice requirements.

Section 3 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records disclosure requirements. The bill delays for five additional years two current public record exemptions. The bill does not create or expand an exemption. Thus, the bill does not require a two-thirds vote for enactment.

Public Necessity Statement

Article I, section 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records disclosure requirements to state with specificity the public necessity justifying the exemption. The bill does not create or expand an exemption. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, section 24(c) of the State Constitution requires an exemption from the public records disclosure requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemption in the bill is limited to information that, if released, could frustrate an investigation or result in economic harm or cybersecurity threats against private social media platforms and, therefore, does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None identified.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends sections 287.137 and 501.2041(10) of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on January 12, 2026:

Adds a provision delaying the repeal of a public records exemption codified in s. 287.137, F.S., relating to information received by DLA or a law enforcement agency regarding antitrust investigations of social media platforms. The repeal of the exemption will be delayed until October 2, 2031.

B. Amendments:

None.

By the Committee on Commerce and Tourism

577-01763-26

20267014__

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 501.2041, F.S., which
 4 provides an exemption from public records requirements
 5 for information received by the Department of Legal
 6 Affairs pursuant to an investigation by the department
 7 or a law enforcement agency of violations by certain
 8 social media platforms; extending the date for future
 9 legislative review and repeal of the exemption;
 10 providing an effective date.

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

14 Section 1. Paragraph (e) of subsection (10) of section
 15 501.2041, Florida Statutes, is amended, and paragraph (a) of
 16 that subsection is republished, to read:

17 501.2041 Unlawful acts and practices by social media
 18 platforms.—

19 (10)(a) All information received by the department pursuant
 20 to an investigation by the department or a law enforcement
 21 agency of a violation of this section is confidential and exempt
 22 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
 23 until such time as the investigation is completed or ceases to
 24 be active. This exemption shall be construed in conformity with
 25 s. 119.071(2)(c).

26 (e) This subsection is subject to the Open Government
 27 Sunset Review Act in accordance with s. 119.15 and shall stand
 28 repealed on October 2, 2031 ~~2026~~, unless reviewed and saved from
 29 repeal through reenactment by the Legislature.

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

577-01763-26

20267014__

30 Section 2. This act shall take effect October 1, 2026.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Appropriations Committee on Higher Education
Appropriations Committee on Transportation,
Tourism, and Economic Development
Community Affairs
Fiscal Policy
Health Policy
Judiciary

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR TOM LEEK

7th District

January 8, 2026

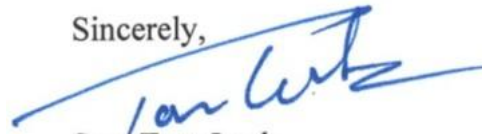
The Honorable Debbie Mayfield
Governmental Oversight and Accountability Committee
330 Knott Building
404 South Monroe St.
Tallahassee, FL 32399-1100

Chair Mayfield:

Due to my absence on Monday, January 12th, I designate Senator Arrington to present SB7014 and SB7016 at the Committee on Governmental Oversight and Accountability.

Please do not hesitate to reach out should you have any questions.

Sincerely,



Sen. Tom Leek
Florida Senator, District 7

CC: Joe McVane, Staff Director

REPLY TO:

- ☐ 4475 US 1 South, Suite 404, St. Augustine, Florida 32086 (386) 446-7610
- ☐ 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5007

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 7016

INTRODUCER: Commerce and Tourism Committee

SUBJECT: OGSR/Administration of Small Business Loan Programs Held by an Economic Development Agency

DATE: January 9, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Renner	McKay		CM Submitted as Comm. Bill/Fav
1.	McVaney	McVaney	GO	Favorable
2.			RC	

I. Summary:

SB 7016 saves from repeal the current public records exemption that exempts from public inspection and copying requirements certain financial information held by an economic development agency pursuant to the administration of a state or federally funded small business loan program. The exemption protects tax returns, financial information, and credit information.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reenacted by the Legislature. The bill saves the exemption from repeal by deleting the scheduled repeal date, thereby maintaining the exempt status of the information.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect upon becoming law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*; see *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid & Assoc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

¹² FLA. CONST. art. I, s. 24(c)

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are again required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

Small Business Loan Programs

The Department of Commerce (Florida Commerce) administers several state and federally funded small business loan programs, including:

- Small Business Emergency Bridge Loan Program²⁶
 - Provides short-term, zero-interest working capital loans to “bridge the gap” between the time a disaster impacts a business and when a business has secured longer-term funding.
- Rebuild Florida Business Loan Fund²⁷
 - Utilizes a revolving loan fund designed to address gaps in available, affordable capital for businesses.
- Rural Community Development Revolving Loan Program²⁸
 - Facilitates the use of existing federal, state, and local financial resources by providing local governments with access to financial assistance.
- State Small Business Credit Initiative²⁹
 - Provides resources and capital to facilitate business growth and economic development to targeted business populations.
- Black Business Loan Program³⁰
 - Provides loans, loan guarantees, or investments to black business enterprises.

²³ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ Florida Department of Commerce, *Small Business Emergency Bridge Loan Program*, available at <https://floridacommerce.my.site.com/RebuildFloridaBusinessLoanFund/s/loan-programs?program=emergency-bridge-loan> (last visited Dec. 9, 2025).

²⁷ Florida Department of Commerce, *Rebuild Florida Business Loan Fund*, available at <https://floridacommerce.my.site.com/RebuildFloridaBusinessLoanFund/s/loan-programs?program=florida-resiliency-loan> (last visited Dec. 9, 2025).

²⁸ Section 288.065, F.S.

²⁹ Florida Department of Commerce, *State Small Business Credit Initiative*, available at <https://floridajobs.org/FloridaSSBCI> (last visited Dec. 9, 2025).

³⁰ Sections 288.7102-, 288.714, F.S.

Public Record Exemption under Review

In 2021, the Legislature created a public record exemption for certain information held by an economic development agency pursuant to the administration of a state or federally funded small business loan program. Specifically, the law exempts tax returns, financial information, credit history information, credit reports, and credit scores from public record inspection and copying requirements.³¹ An economic development agency may disclose this information in an aggregated and anonymized format to a small business loan program.

An economic development agency is defined as:

- The Department of Commerce;
- Any industrial development authority created under part III of ch. 159, F.S., or by special law;
- Space Florida;
- A local government public economic agency or, in the absence of a public economic agency, the local government officers or employees designated to promote the general business or industrial interests of the local government;
- Any research and development authority created under part V of ch. 159, F.S.; or
- Any private agency, person, partnership, corporation, or business entity when authorized by the state or local government to promote the general business or industrial interests of the state or that local government.³²

The 2021 public necessity statement³³ provided that the release of the protected information “could be used by fraudulent contractors, predatory lenders, thieves, or individuals seeking to impose on the applicant or borrower.”³⁴ Therefore, the exemption exists to “ensure that applicants and borrowers are not harassed, intimidated, or potentially defrauded.”³⁵

Pursuant to the Act, the public record exemption will repeal on October 2, 2026, unless reviewed and saved from repeal by the Legislature.³⁶

During the 2025 interim, Senate and House staff met jointly with staff from Florida Commerce to discuss the public record exemption under review. Florida Commerce staff indicated that they have had no issue interpreting or applying the exemption and were unaware of any litigation concerning the exemption. Florida Commerce staff explained that, prior to the exemption, borrowers participating in state and federally funded small business loan programs were exposed to fraud. For that reason, Florida Commerce staff recommended reenacting the exemption as is. Senate and House committee staff also surveyed counties and cities concerning the public records exemption under review. All responding counties and cities stated that they did not participate in any state or federally funded small business loan programs.

³¹ Section 288.075(7)(a)1.-3., F.S.

³² Section 288.075(1)(a), F.S.

³³ Article I, s. 24(c), FLA. CONST., requires each public record exemption to “state with specificity the public necessity justifying exemption.”

³⁴ Chapter 2021-23, L.O.F.

³⁵ *Id.*

³⁶ Section 288.075(7), F.S.

III. Effect of Proposed Changes:

The bill removes the scheduled repeal date for the public records exemption for certain financial information, such as tax returns and credit reports, held by an economic development agency pursuant to the administration of a state or federally funded small business loan program. The public record exemption will repeal on October 2, 2026, if the bill does not become a law.

The effective date of the bill is upon becoming law.

The bill is not expected to affect state and local government revenues and expenditures.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption from the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect financial information held by an economic development agency pursuant to the administration of a state or federally funded small business loan program. The exemption applies only to certain types of financial information, such as tax returns and credit reports, from public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends section 288.075 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Commerce and Tourism

577-01762-26

20267016__

A bill to be entitled

An act relating to a review under the Open Government
Sunset Review Act; amending s. 288.075, F.S., which
provides an exemption from public records requirements
for certain information relating to the administration
of small business loan programs held by an economic
development agency; deleting the scheduled repeal of
the exemption; providing an effective date.

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

Section 1. Paragraph (c) of subsection (7) of section
288.075, Florida Statutes, is amended to read:

288.075 Confidentiality of records.—

(7) LOAN PROGRAMS.—

~~(c) This subsection is subject to the Open Government
Sunset Review Act in accordance with s. 119.15 and shall stand
repealed on October 2, 2026, unless reviewed and saved from
repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect upon becoming law.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Appropriations Committee on Higher Education
Appropriations Committee on Transportation,
Tourism, and Economic Development
Community Affairs
Fiscal Policy
Health Policy
Judiciary

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR TOM LEEK

7th District

January 8, 2026

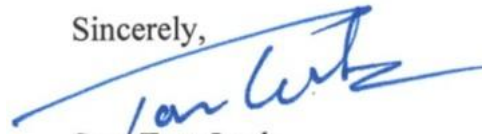
The Honorable Debbie Mayfield
Governmental Oversight and Accountability Committee
330 Knott Building
404 South Monroe St.
Tallahassee, FL 32399-1100

Chair Mayfield:

Due to my absence on Monday, January 12th, I designate Senator Arrington to present SB7014 and SB7016 at the Committee on Governmental Oversight and Accountability.

Please do not hesitate to reach out should you have any questions.

Sincerely,



Sen. Tom Leek
Florida Senator, District 7

CC: Joe McVane, Staff Director

REPLY TO:

- ☐ 4475 US 1 South, Suite 404, St. Augustine, Florida 32086 (386) 446-7610
- ☐ 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5007

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 350

INTRODUCER: Senator Grall

SUBJECT: Public Records/Crime Victims

DATE: January 9, 2026

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Wyant	Stokes	CJ	Favorable
2. Harmsen	McVaney	GO	Pre-meeting
3. _____	_____	RC	_____

I. Summary:

SB 350 amends s. 119.071, F.S., to revise the current public records exemption from inspection and copying requirements for documents that identify a person as a victim of a crime. The bill specifies any *public record* that reveals the identity of a victim of crime, *including his or her name or personal identification number*, home or employment address, or personal assets, *or any other information or record that could be used to locate, intimidate, harass, or abuse the victim or the victim's family*, which *public record is generated* or received by any agency that regularly *generates or receives* information from or concerning the victims of crime, is exempt from public records inspection and copying requirements.

The bill also requires the identity of an officer contained in a public record which reveals that the officer was involved in a use of force incident who becomes a victim be held confidential and exempt for a period of 72 hours immediately following such incident. The confidentiality may be extended if the employing agency head provides written findings to the public stating the necessity of extending the confidentiality of the officer's identity. However, such extension may not exceed 60 days. An officer must be acting in the scope of his or her employment or official duties for such information to become confidential and exempt.

The bill provides definitions for "employing agency head," "officer," "use of force incident," and "victim."

The exemption applies to information held by an agency on or after July 1, 2026, and is repealed on October 2, 2031, unless reenacted by the Legislature.

The bill provides a statement of necessity as required by the State Constitution, and because it expands the public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill may have an indeterminate fiscal impact. See *Section V. Fiscal Impact Statement*.

The bill takes effect July 1, 2026.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive branch and local government agencies.

Violation of Public Record Law

Any person who willfully and knowingly violates any public record law commits a first-degree misdemeanor.^{5,6}

Pursuant to s. 119.105, F.S., any person who comes into possession of exempt or confidential information contained in police reports is prohibited from using that information for any commercial solicitation of the victims or the relatives of the victims of the reported crimes or accidents, and is further prohibited from knowingly disclosing such information to any third party for the purpose of such solicitation during the period of time that the information remains exempt or confidential. Any person who violates such prohibitions commits a third-degree felony.^{7,8}

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2024-2026) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 1, (2024-2026).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.10(2)(a), F.S.

⁶ A first-degree misdemeanor is punishable by a term of imprisonment not exceeding 1 year and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁷ Section 119.10(2)(b), F.S.

⁸ A third-degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act⁹ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁰ public records or open meetings exemptions, with specified exceptions.¹¹ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹² In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹³ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁴
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹⁵ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.¹⁶

The Act also requires specified questions to be considered during the review process.¹⁷ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.¹⁸ If the exemption is continued without substantive changes

⁹ Section 119.15, F.S.

¹⁰ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹¹ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹² Section 119.15(3), F.S.

¹³ Section 119.15(6)(b), F.S.

¹⁴ Section 119.15(6)(b)1., F.S.

¹⁵ Section 119.15(6)(b)2., F.S.

¹⁶ Section 119.15(6)(b)3., F.S.

¹⁷ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

¹⁸ See generally s. 119.15, F.S.

or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.¹⁹

Marsy's Law

On November 6, 2018, a constitutional revision to article I of the State Constitution was approved by voters; such revision is colloquially known as “Marsy’s Law.”²⁰ Marsy’s Law provides crime victims specific rights, including the right:

- To be free from intimidation, harassment, and abuse.
- To be reasonably protected from the accused and any person acting on behalf of the accused within the judicial process.
- To prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family, or which could disclose confidential or privileged information of the victim.²¹

Under Marsy’s Law, a “victim” means a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. The term includes the victim’s lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim, except upon a showing that the interest of such individual would be in actual or potential conflict with the interests of the victim. The term does not include the accused.²²

Pursuant to article I, section 16(c) of the Florida Constitution, the victim can assert and seek enforcement of such rights in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority must act promptly on such a request, affording a remedy by due course of law for the violation of any right.²³

In 2023, the Florida Supreme Court held that Marsy’s Law “does not guarantee to a victim the categorical right to withhold his or her name from disclosure.”²⁴ The Court held that “Marsy’s Law speaks only to the right of victims to ‘prevent the disclosure of information or records that could be used to locate or harass’ them or their families” and that “one’s name, standing alone, is not that kind of information or record; it communicates nothing about where the individual can be found and bothered.”²⁵ The Court noted that by reading Marsy’s Law to only shield information that can be used to locate or harass, rather than identify, it can give effect to Marsy’s Law while also protecting a defendant’s right to confront adverse witnesses at trial.

Additionally, the question of whether police officers acting in an official capacity can be Marsy’s Law “victims” was presented to the Court. However, the Court decided to answer the question of

¹⁹ Section 119.15(7), F.S.

²⁰ Art. I, s. 16(b)-(e), Fla. Const.

²¹ Art. I, s. 16(b), Fla. Const.

²² Art. I, s. 16(e), Fla. Const.

²³ Art. I, s. 16(c), Fla. Const.

²⁴ *City of Tallahassee v. Fla. Police Benv. Assn., Inc.*, 375 So. 3d 178, 183 (2023).

²⁵ *Id.* at 184 (internal citations omitted).

anonymity stating, “we decide only what Marsy’s Law says and does not say; we do not pass upon the validity of any statutory right of certain persons, in certain situations, to withhold their identities from disclosure.”²⁶

Public Record Exemption for the Victim of a Crime

Section 119.071(2)(j), F.S., provides a public record exemption for any document that reveals the identity, home or employment telephone number, home or employment address, or personal assets of the victim of a crime and also identifies that person as the victim of a crime, which document is received by any agency that regularly receives information from or concerning the victims of crime.²⁷ This provision has been interpreted to exempt only those documents received, not generated by, an agency; police reports are not included in this exemption.²⁸

Additionally, any information not otherwise held confidential or exempt from public record requirements which reveals the home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from public record requirements upon written request by the victim, which request must include official verification that an applicable crime has occurred. Such an exemption will cease five years after the receipt of the written request.²⁹

III. Effect of Proposed Changes:

The bill amends s. 119.071, F.S., to revise the public record exemption for documents that identify a person as a victim of a crime. The bill specifies any *public record* that reveals the identity, *including name or personal identification number*, home or employment address, or personal assets of a victim, *or any other information or record that could be used to locate, intimidate, harass, or abuse the victim or the victim’s family*, which *public record* is generated or received by any agency that regularly *generates or* receives information from or concerning the victims of crime, is exempt.

This portion of the bill expands the application of the exemption to include any public record, whether a document, an audio recording, or video recording, rather than just a written or electronic document. The exemption is also expanded to include public records that are generated by the agency, rather than just those records that are received by the agency. Lastly, the exemption is expanded to include any public record that reveals the identity of a victim—not just those records which evince the person (and his or her identity) as a victim of a crime.

The bill additionally requires that a public record which reveals the identity of an officer who is involved in a use of force incident who also becomes a victim in the same incident, or one related to it, to be held confidential and exempt for a period of 72 hours immediately following such incident. The confidentiality may be extended if the employing agency head provides

²⁶ *Id.* at 188.

²⁷ Section 119.071(2)(j)1., F.S.

²⁸ Op. Att’y Gen. Fla. 90-80 (1990).

²⁹ *Id.* Notwithstanding this exemption, any state or federal agency that is authorized to have access to such documents by any provision of law must be granted access in the furtherance of such agency’s statutory duties.

written findings to the public before the 72-hour period ends stating the necessity of extending the confidentiality of the officer's identity. However, such extension may not exceed 60 days. An officer must be acting in the scope of his or her employment or official duties for such information to become confidential and exempt.

The bill provides the following definitions:

- "Employing agency head" means an elected or appointed head official of an employing agency as defined in s. 943.10(4), F.S.,³⁰ who is certified under s. 943.13, F.S.
- "Officer" means any full-time, part-time, or auxiliary law enforcement officer, correctional officer, or correctional probation officer certified under s. 943.13, F.S.
- "Use of force incident" means any incident that occurs within the scope of an officer's employment or official duties and involves the officer's use of deadly force as defined in s. 776.06, F.S.,³¹ or any other use of force that results in great bodily harm.
- "Victim" means a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. The term includes the victim's lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim, except upon showing that the interests of such person would be in actual or potential conflict with the best interests of the victim. The term does not include the accused.

The exemption applies to information held by an agency on or after July 1, 2026, and is repealed on October 2, 2031, unless reenacted by the Legislature.

The bill provides a statement of necessity as required by the State Constitution. The public necessity statement provides that exempting records or documents from s. 119.07(1), F.S., and article I, section 24(a) of the State Constitution which identify a crime victim, the victim's family, or any information that may be used to threaten or harass the victim or the victim's family is a necessity to prevent the possibility of further trauma and the release of such records may deter crime victims from cooperating with law enforcement and reporting criminal acts.

The bill takes effect July 1, 2026.

³⁰ "Employing agency" means any agency or unit of government or any municipality or the state or any political subdivision thereof, or any agent thereof, which has constitutional or statutory authority to employ or appoint persons as officers. The term includes any private entity that has contracted with the state or county for the operation and maintenance of a nonjuvenile detention facility. The term also includes Class I, Class II, or Class III railroad that employs special officer. Section 943.10(4), F.S.

³¹ As applied to a law enforcement officer or correctional officer acting in the performance of his or her official duties, the term "deadly force" means force that is likely to cause death or great bodily harm and includes, but is not limited to, the firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm, and the firing of a firearm at a vehicle in which the person to be arrested is riding. The term "deadly force" does not include the discharge of a firearm by a law enforcement officer or correctional officer during and within the scope of his or her official duties which is loaded with a less-lethal munition. Section 776.06, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require the cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by article VII, section 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption from the public records inspection and copying requirements. This bill expands an exemption for records pertaining to victims of crimes and officers involved in a use of force incident; therefore, the bill requires a two-thirds vote of each chamber for enactment.

Public Necessity Statement

Article I, section 24(c) of the State Constitution requires a bill creating or expanding an exemption from the public records inspection and copying requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, section 24(c) of the State Constitution requires an exemption from the public records inspection and copying requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect victims of crime and such victim's family members, and the bill exempts only records pertaining to those persons from the public records inspection and copying requirements.

The bill requires any public record that reveals the identity, location information, or personal assets for a crime victim to be made exempt. The bill additionally makes a public record which reveals the identity of law enforcement officers involved in use of force incidents who also become the victim of a crime in the course of said incident, or one related thereto, confidential and exempt for 72 hours, and for an additional 60 days if an extension is necessary.

The exemption as applied to *any public record*, may be overly broad as it expands the law to any public record that is generated or received by an agency. As written, the bill may exempt an entire record rather than allowing for the redaction of information from such record.

Additionally, the bill may be overly broad by removing a requirement that such record identifies a person as the victim of a crime. By removing this requirement, documents

containing a victim's information in unrelated cases may become exempt. For instance, a reference to a witness, who happens to be a victim in an unrelated case, may make the entire document exempt from public records inspection and copying requirements.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

None identified.

E. Other Constitutional Issues:

Marsy's Law

If a court determines that officers are not victims for the purpose of Marsy's Law, the language in the bill may provide new protections, in particular for officers, in addition to those for other victims under current constitutional requirements.

Delegation of Authority

The bill empowers the head of an officer's employing agency to extend the public record exemption established in this bill for up to 60 days based on his or her finding of necessity. This may constitute an unconstitutional delegation of the Legislature's authority.

The Legislature alone has constitutional authority over public records exemptions. The bill permits an agency head to decide whether to extend a public records exemption, thereby creating a protection where one would not otherwise exist. It may be an unconstitutional delegation of power to grant the executive branch, through an agency head, the discretion to extend this public record exemption.

The bill does not provide standards to guide the agency head in determining whether or not to extend the exemption. This may constitute a separation of powers issue because "discretionary authority granted to the executive branch of government must be limited and guided by an appropriately detailed legislative statement of the standards and policies to be followed."³² To grant such authority without clear limits may be an unconstitutional delegation of the power to make law.³³

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

³² *Fla. Home Builders Ass'n v. Div of Labor, Bureau of Apprenticeship*, 367 So. 2d 219, 220 (Fla. 1979).

³³ FLA. CONST. art. II, s. 3.

B. Private Sector Impact:

The private sector will be subject to the costs associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The bill may increase costs minimally for agencies that hold records containing personal identifying information of current and former private investigators and their spouses and children, because staff responsible for complying with public records requests may need training related to the new public record exemption. Additionally, agencies may incur costs associated with redacting the exempt information prior to releasing a record. However, the costs should be absorbed as part of the day-to-day responsibilities.

VI. Technical Deficiencies:

The bill defines "employing agency head" as an elected or appointed head official of an employing agency *and* who is certified under s. 943.13, F.S. A city manager may serve in the role of the head of an employing agency, however, a city manager is not required to be certified under s. 943.10, F.S. Therefore, a city manager may not meet the bill's definition of "employing agency head".

Line 44 defines "victim" to include a "parent or guardian of a minor". This appears to refer to any parent or guardian of any minor, and could be amended to square with the intent of the bill by referring instead to a parent or guardian of *a victim who is* a minor.

The bill includes in the defined term "victim" the next of kin of a homicide victim. For consistency, the Legislature may wish to use the term "family" instead.

The bill exempts information in a public record that could be used to locate, intimidate, harass, or abuse the victim or the victim's family. "Family" (used on line 53) is not defined, and could include any number of relatives, whether or not they have ties to the victim.

Lines 53-54 delete the requirement that a public record which reveals the identity of a victim also identify the person as a victim of a crime. Without notice from the victim of his or her status as a victim, the agency that holds the record would likely be unable to identify the record as subject to this exemption.

The bill expands the agencies subject to this exemption by applying the exemption to those agencies that either generate or receive a record with a victim's identifying information. An amendment to apply the exemption to an agency that holds a record which reveals the identity of a victim would provide consistency of terminology throughout ch. 119, F.S.

VII. Related Issues:

Section 119.0714, F.S., excludes information made part of a court file from the exemptions provided for in ch. 119, F.S., except those documents specifically closed by a court or specifically listed in law. Additionally, Florida courts have consistently held that the judiciary is

not an “agency” for purposes of ch. 119, F.S.³⁴ However, art. I, s. 34 of the State Constitution still provides a constitutional right of access to judicial records. In order to balance the separation of powers between the Legislative and Judicial branches, confidentiality of court records is governed by court rule and court decisions.³⁵ Florida Rule of General Practice and Judicial Administration 2.420, entitled “Public Access to and Protection of Judicial Branch Records”, provides that “the public shall have access to all records of the judicial branch of government except as provided [in the rule].”

Florida courts have also adopted a rule implementing Marsy's Law which sets out definitions of a crime, criminal, victim, and exempt information and the procedure for identifying exempt information in criminal and juvenile court records.³⁶

A statutory update to the exempt status of a victim's information that is not consistent with the court's rule implementation of Marsy's Law regarding confidentiality of a victim's information within court records may result in distinctions between protections provided by statute and court rule.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

³⁴ See, e.g., *Times Publishing Company v. Ake*, 660 So. 2d 255 (Fla. 1995); *State v. Wooten*, 260 So. 2d 1060, 1069 (Fla. 4th DCA 2018) (“Access to judicial branch records is governed by the rules and decisions of the Florida Supreme Court, not Chapter 119, Florida Statutes.”); and *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992)

³⁵ *State v. Wooten*, 260 So. 2d 1060, 1069 (Fla. 4th DCA 2018).

³⁶ Fla. R. Gen. Prac & Jud. Admin 2.423. Note, for purposes of the Florida Rule of General Practice and Judicial Administration, “confidential,” as applied to information contained within a record of the judicial branch, means that information is exempt from the public right of access under article I, section 24(a). of the Florida Constitution and may be released only to the persons or organizations designated by law, statute, or court order. Fla. R. Gen. Prac & Jud. Admin 2.420(b)(4).

By Senator Grall

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; defining terms; expanding a public
 4 records exemption for crime victims to include the
 5 name and personal identification number of a victim
 6 and any other information or record that could be used
 7 to locate, intimidate, harass, or abuse the victim or
 8 the victim's family; providing that such exemption
 9 includes records generated by any agency that
 10 regularly generates information from or concerning the
 11 victims of crime; providing that certain records
 12 identifying law enforcement officers who are involved
 13 in a use of force incident are confidential and exempt
 14 for a specified timeframe; specifying requirements for
 15 extending such timeframe; providing for future
 16 legislative review and repeal of the exemptions;
 17 providing a statement of public necessity; providing
 18 an effective date.
 19
 20 Be It Enacted by the Legislature of the State of Florida:
 21
 22 Section 1. Paragraph (j) of subsection (2) of section
 23 119.071, Florida Statutes, is amended to read:
 24 119.071 General exemptions from inspection or copying of
 25 public records.—
 26 (2) AGENCY INVESTIGATIONS.—
 27 (j)1.a. For purposes of this subparagraph, the term:
 28 (I) "Employing agency head" means an elected or appointed
 29 head official of an employing agency as defined in s. 943.10(4)

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30 who is certified under s. 943.13.
 31 (II) "Officer" means any full-time, part-time, or auxiliary
 32 law enforcement officer, correctional officer, or correctional
 33 probation officer certified under s. 943.13.
 34 (III) "Use of force incident" means any incident that
 35 occurs within the scope of an officer's employment or official
 36 duties and involves the officer's use of deadly force as defined
 37 in s. 776.06, or any other use of force that results in great
 38 bodily harm.
 39 (IV) "Victim" means a person who suffers direct or
 40 threatened physical, psychological, or financial harm as a
 41 result of the commission or attempted commission of a crime or
 42 delinquent act or against whom the crime or delinquent act is
 43 committed. The term includes the victim's lawful representative,
 44 the parent or guardian of a minor, or the next of kin of a
 45 homicide victim, except upon a showing that the interest of such
 46 person would be in actual or potential conflict with the
 47 interests of the victim. The term does not include the accused.
 48 b.(I) Any public record ~~document~~ that reveals the identity,
 49 including the name or personal identification number, home or
 50 employment telephone number, home or employment address, or
 51 personal assets of a the victim, or any other information or
 52 record that could be used to locate, intimidate, harass, or
 53 abuse the victim or the victim's family of a crime and
 54 identifies that person as the victim of a crime, which public
 55 record is generated or ~~document is~~ received by any agency that
 56 regularly generates or receives information from or concerning
 57 the victims of crime, is exempt from s. 119.07(1) and s. 24(a),
 58 Art. I of the State Constitution.

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(II) This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature. If, after review, this sub-subparagraph is not reenacted, the text of this sub-subparagraph shall revert to that in existence on June 30, 2026, except that any amendments to this sub-subparagraph enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the amendments to the sub-subparagraph made by this act.

c. Any information not otherwise held confidential or exempt from s. 119.07(1) which reveals the home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, upon written request by the victim, which must include official verification that an applicable crime has occurred. Such information shall cease to be exempt 5 years after the receipt of the written request.

d. Any state or federal agency that is authorized to have access to such documents by any provision of law shall be granted such access in the furtherance of such agency's statutory duties, notwithstanding this section.

e.(I) The identity of an officer involved in a use of force incident who becomes the victim of a crime in the course and scope of the officer's employment or official duties in the same

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or a related incident is confidential and exempt from the public records law as set forth in sub-sub-subparagraphs (II) and (III).

(II) During the 72 hours immediately following an incident in which an officer becomes the victim of a crime, the identity of the officer contained in a public record that reveals that the officer was involved in such a use of force incident is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. At the expiration of the 72-hour period, the officer's identity shall be subject to s. 119.07(1) unless the employing agency head provides written findings setting forth the necessity for an extension of the confidentiality of the officer's identity.

(III) The employing agency head may extend the confidentiality of the identity of an officer contained in a public record that reveals that the officer was involved in such a use of force incident only upon written findings. The written findings by the employing agency head must state the necessity of extending the confidentiality of the officer's identity beyond the 72-hour period and must be made public before the 72-hour period expires. Such an extension may not exceed 60 days.

(IV) This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

2.a. Any information in a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s.

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847.0133, or s. 847.0145, which reveals that minor's identity, including, but not limited to, the minor's face; the minor's home, school, church, or employment telephone number; the minor's home, school, church, or employment address; the name of the minor's school, church, or place of employment; or the personal assets of the minor; and which identifies that minor as the victim of a crime described in this subparagraph, held by a law enforcement agency, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any governmental agency that is authorized to have access to such statements by any provision of law shall be granted such access in the furtherance of the agency's statutory duties, notwithstanding the provisions of this section.

b. A public employee or officer who has access to a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145 may not willfully and knowingly disclose videotaped information that reveals the minor's identity to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order entered by the court having jurisdiction of the alleged offense. A person who violates this provision commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. The Legislature finds that s. 16(b), Article I of the State Constitution mandates that crime victims have a

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right to be free from intimidation, harassment, and abuse and that it is a public necessity that information or records that may be used to locate, intimidate, harass, or abuse crime victims be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature further finds that exempting records or documents from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution which identify a crime victim, the victim's family, or any information that may be used to threaten or harass the victim or the victim's family is a public necessity to prevent the possibility of further trauma. The Legislature also finds that the release of such records or documents may deter crime victims from cooperating with law enforcement and reporting criminal acts.

Section 3. This act shall take effect July 1, 2026.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: December 15, 2025

I respectfully request that **Senate Bill #350**, relating to Public Records/Crime Victims, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in blue ink that reads "Erin K. Grall".

Senator Erin Grall
Florida Senate, District 29

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Governmental Oversight and Accountability Committee

Judge:

Started: 1/12/2026 1:30:54 PM

Ends: 1/12/2026 2:03:25 PM

Length: 00:32:32

1:31:04 PM Chair Mayfield calls the meeting to order
1:31:11 PM Roll call
1:31:35 PM Chair Mayfield makes opening remarks
1:32:20 PM Pledge of Allegiance
1:32:30 PM Chair Mayfield announces that SB 350 by Senator Grall is Temporarily Postponed
1:32:48 PM Tab 1, SB 7000 by Senator Wright, OGSR/Persons Provided Public Emergency Shelter by Senator Wright
1:32:59 PM Senator Wright explains bill
1:33:30 PM Senator Wright explains amendment 329800
1:33:40 PM Senator Wright closes on the amendment
1:33:46 PM Back on bill as amended
1:33:54 PM Senator Wright waives close
1:33:57 PM Roll Call
1:34:31 PM Tab 2, SB 7002 by Senator Wright, OGSR/Department of Military Affairs/United States Department of Defense
1:34:37 PM Senator Wright explains the bill
1:35:14 PM Senator Wright explains amendment 344372
1:35:40 PM Senator Wright waives close on amendment
1:35:44 PM Back on bill as amended
1:35:55 PM Senator Wright waives close on bill as amended
1:35:59 PM Roll call
1:36:54 PM Tab 6, SB 7012 by Senator Massullo, OGSR/Department of Highway Safety and Motor Vehicles
1:37:03 PM Senator Massullo explains the bill
1:37:50 PM Senator Massullo explains amendment 913622
1:38:13 PM Senator Massullo waives close on the amendment
1:38:18 PM Back on bill as amended
1:38:27 PM Senator Massullo waives close on bill as amended
1:38:29 PM Roll call
1:39:10 PM Chair Mayfield calls for informal recess
1:39:21 PM Recording Paused
1:40:46 PM Recording Resumed
1:40:58 PM Chair Mayfield calls the meeting to order
1:41:31 PM Tab 4, SB 7006 by Senator Bradley, OGSR/Florida Public Service Commission
1:41:37 PM Senator Bradley explains the bill
1:42:06 PM Senator Bradley waives close
1:42:10 PM Roll call
1:42:38 PM Tab 5, SB 7008 by Senator Bradley, OGSR/Florida Gaming Control Commission
1:42:46 PM Senator Bradley explains the bill
1:43:18 PM Senator Bradley waives close
1:43:21 PM Roll call
1:44:15 PM Senator Polsky records missed vote
1:44:20 PM Chair Mayfield calls for informal recess
1:44:23 PM Recording Paused
1:49:54 PM Recording Resumed
1:50:05 PM Chair Mayfield calls meeting back to order
1:50:26 PM Tab 3, SB 7004 by Senator Martin, OGSR/Conviction Integrity Unit Reinvestigation Information
1:50:33 PM Senator Martin explains the bill
1:51:49 PM Senator Martin closes on the bill
1:52:03 PM Roll Call
1:52:41 PM Chair Mayfield calls for informal recess
1:52:44 PM Recording Paused
1:58:15 PM Recording Resumed

1:58:22 PM Chair Mayfield calls meeting back to order
1:58:49 PM Tab 7, SB 7014 by Senator Leek, OGSR/Department of Legal Affairs
1:58:59 PM Amendment 384138
1:59:40 PM Senator Arrington explains the proposed committee substitute
2:00:22 PM Senator Arrington waives close
2:00:29 PM Roll Call
2:01:04 PM Tab 8, SB 7016 by Senator Leek, OGSR/Administration of Small Business Loan Programs Held by an
Economic Development Agency
2:01:09 PM Senator Arrington explains the bill
2:02:00 PM Senator Arrington waives close
2:02:03 PM Roll Call
2:02:34 PM Chair Mayfield makes closing remarks
2:02:44 PM Senator Arrington moves to record missed votes
2:03:17 PM Senator DiCeglie moves to adjourn
2:03:20 PM Meeting adjourned