

Tab 1	SB 216 by Burgess; (Compare to CS/H 00525) Public Records/Current and Former County and City Attorneys					
591460	D	S	RCS	GO, Burgess	Delete everything after	04/05 11:08 AM
Tab 2	CS/SB 620 by EE, DiCeglie (CO-INTRODUCERS) Yarborough; (Similar to CS/H 00199) Ethics Requirements for Officers and Employees of Special Tax Districts					
901898	D	S	RCS	GO, DiCeglie	Delete everything after	04/05 11:08 AM
Tab 3	CS/SB 696 by CA, Ingoglia; (Similar to H 00729) Local Officials					
Tab 4	CS/SB 718 by CA, Yarborough; (Similar to CS/H 00653) Municipal Boundaries					
Tab 5	SB 832 by Berman; (Identical to H 00863) Holocaust Remembrance Day					
Tab 6	CS/SB 998 by CJ, Burgess; (Similar to CS/H 00935) Chiefs of Police					
Tab 7	SB 1040 by Burgess; (Identical to H 00925) District School Board Direct-support Organizations					
701240	A	S	RCS	GO, Burgess	Delete L.25:	04/05 11:08 AM
Tab 8	SB 1046 by Rouson (CO-INTRODUCERS) Davis; (Identical to H 00629) Victims of Reform School Abuse					
Tab 9	SB 1048 by Rouson (CO-INTRODUCERS) Davis; (Identical to H 00631) Public Records/Victims of Reform School Abuse					
Tab 10	SB 1086 by Gruters; (Similar to H 00927) Rights of Law Enforcement Officers					
Tab 11	SB 1166 by Collins; (Similar to CS/H 01215) Public Records/Investigators of the Department of Agriculture and Consumer Services					
305340	A	S	RCS	GO, Collins	Delete L.290 - 370:	04/05 11:08 AM
Tab 12	CS/SB 1278 by CF, Simon (CO-INTRODUCERS) Rouson; (Similar to H 01621) Direct-support Organizations of the Department of Children and Families					
Tab 13	SB 1402 by Martin; (Similar to CS/H 01327) Public Records/Investigative Genetic Genealogy Materials					
108428	A	S	RCS	GO, Martin	Delete L.21 - 104:	04/05 11:08 AM
Tab 14	SB 1606 by Powell; (Similar to CS/H 01441) Florida Museum of Black History					
947180	D	S	RCS	GO, Powell	Delete everything after	04/05 11:08 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Avila, Chair
Senator Polsky, Vice Chair

MEETING DATE: Wednesday, April 5, 2023

TIME: 8:30—10:30 a.m.

PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Avila, Chair; Senator Polsky, Vice Chair; Senators Albritton, Davis, Hooper, Rodriguez, Rouson, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 216 Burgess (Compare CS/H 525)	Public Records/Current and Former County and City Attorneys; Providing an exemption from public records requirements for the personal identifying and location information of current and former county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy city attorneys, and assistant city attorneys, and the names and personal identifying and location information of the spouses and children of such attorneys; providing applicability; providing for future legislative review and repeal; providing a statement of public necessity, etc. CA 03/07/2023 Favorable GO 04/05/2023 Fav/CS RC	Fav/CS Yeas 8 Nays 0
2	CS/SB 620 Ethics and Elections / DiCeglie (Similar CS/H 199, Compare H 241)	Ethics Requirements for Officers and Employees of Special Tax Districts; Specifying that certain conduct by certain public officers and employees is deemed a conflict of interest; requiring certain ethics training for elected local officers of independent special districts beginning on a specified date, etc. EE 03/07/2023 Temporarily Postponed EE 03/14/2023 Fav/CS GO 04/05/2023 Fav/CS RC	Fav/CS Yeas 8 Nays 0
3	CS/SB 696 Community Affairs / Ingoglia (Similar H 729)	Local Officials; Prohibiting the governing body of a county from renewing or extending the employment contract of a county administrator during a specified timeframe; prohibiting the governing body of a municipality from renewing or extending the employment contract of a chief executive officer or municipal general counsel during a specified timeframe; prohibiting a district school board from renewing or extending the employment contract of a superintendent during a specified timeframe; prohibiting a district school board from renewing or extending the employment contract of a district school board general counsel during a specified timeframe, etc. CA 03/22/2023 Fav/CS GO 04/05/2023 Favorable RC	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
Wednesday, April 5, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 718 Community Affairs / Yarborough (Similar CS/H 653)	Municipal Boundaries; Specifying the measurement of land during annexation procedures; replacing the term “report” with “feasibility study”; revising contraction procedures when qualified voters desire to be excluded from municipal boundaries; prohibiting contraction under certain circumstances, etc. CA 03/15/2023 Not Considered CA 03/22/2023 Fav/CS GO 04/05/2023 Favorable RC	Favorable Yeas 8 Nays 0
5	SB 832 Berman (Identical H 863)	Holocaust Remembrance Day; Requiring the Governor to proclaim January 27 of each year as “Holocaust Remembrance Day”; requiring such day to be observed in public schools and by public exercises as the Governor may designate, etc. ED 03/27/2023 Favorable GO 04/05/2023 Favorable RC	Favorable Yeas 8 Nays 0
6	CS/SB 998 Criminal Justice / Burgess (Similar CS/H 935)	Chiefs of Police; Providing rights of chiefs of police; requiring an aggrieved chief of police to provide his or her employing agency with a certain written notice within a specified timeframe; requiring an employing agency to cure an alleged violation within a specified timeframe, etc. CJ 03/27/2023 Fav/CS GO 04/05/2023 Favorable RC	Favorable Yeas 8 Nays 0
7	SB 1040 Burgess (Identical H 925)	District School Board Direct-support Organizations; Authorizing district school boards to contract with direct-support organizations for personal services or operations; revising the amount of expenditures and expenses a direct-support organization must have to be required to provide for an annual financial audit; authorizing district school boards to contract with a vendor for such audits, etc. ED 03/14/2023 Favorable GO 04/05/2023 Fav/CS RC	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
Wednesday, April 5, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 1046 Rouson (Identical H 629, Compare H 631, Linked S 1048)	Victims of Reform School Abuse; Citing this act as the "Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act"; requiring a person seeking certification as a victim of Florida reform school abuse to apply to the Department of State by a specified date; authorizing the estate, personal representative, next of kin, or lineal descendants of a decedent who was a victim of Florida reform school abuse to submit an application on behalf of the decedent; prohibiting the department from denying an application for specified reasons and under certain circumstances, etc. GO 04/05/2023 Favorable ATD FP	Favorable Yeas 8 Nays 0
9	SB 1048 Rouson (Identical H 631, Compare H 629, Linked S 1046)	Public Records/Victims of Reform School Abuse; Providing an exemption from public records requirements for personal identifying information in applications submitted to the Department of State by persons seeking certification as victims of Florida reform school abuse; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. GO 04/05/2023 Favorable ATD FP	Favorable Yeas 8 Nays 0
10	SB 1086 Gruters (Similar H 927)	Rights of Law Enforcement Officers; Prohibiting a law enforcement agency from issuing any disciplinary action, suspension, demotion, or dismissal against a law enforcement officer or correctional officer unless certain conditions apply; authorizing the officer to challenge such disciplinary action, suspension, demotion, or dismissal administratively or in a court of competent jurisdiction; providing that an officer has the right to challenge a specified violation administratively or in a court of competent jurisdiction, if certain conditions exist, etc. CJ 03/13/2023 Favorable GO 04/05/2023 Temporarily Postponed RC	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
Wednesday, April 5, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	SB 1166 Collins (Similar CS/H 1215)	Public Records/Investigators of the Department of Agriculture and Consumer Services; Providing an exemption from public records requirements for the personal identifying and location information of current or former inspectors or investigators of the Department of Agriculture and Consumer Services and the spouses and children of the current or former inspectors or investigators; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. AG 03/13/2023 Favorable GO 04/05/2023 Fav/CS RC	Fav/CS Yeas 8 Nays 0
12	CS/SB 1278 Children, Families, and Elder Affairs / Simon (Similar H 1621)	Direct-support Organizations of the Department of Children and Families; Authorizing the Department of Children and Families to establish a direct-support organization for a specified purpose; requiring the Secretary of Children and Families to appoint a board of directors for the direct-support organization; authorizing the department to allow the direct-support organization to use, without charge, the department's fixed property, facilities, and personnel services, subject to certain requirements; authorizing the direct-support organization to collect, expend, and provide funds for specified purposes, etc. CF 03/20/2023 Fav/CS GO 04/05/2023 Favorable RC	Favorable Yeas 8 Nays 0
13	SB 1402 Martin (Similar CS/H 1327)	Public Records/Investigative Genetic Genealogy Materials; Providing an exemption from public records requirements for investigative genetic genealogy materials; authorizing the disclosure of investigative genetic genealogy materials under specified circumstances; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CJ 03/27/2023 Favorable GO 04/05/2023 Fav/CS RC	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability

Wednesday, April 5, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	SB 1606 Powell (Similar CS/H 1441)	Florida Museum of Black History; Creating a Florida Museum of Black History Task Force within the Division of Historical Resources of the Department of State; requiring the division to provide staff and authorizing the division to expend funds as necessary to assist the task force; requiring the task force to submit a report to the Governor and the Legislature before a certain date; requiring the division, at the direction of the Legislature, to oversee the construction, operation, and administration of a Florida Museum of Black History, etc. GO 04/05/2023 Fav/CS ATD FP	Fav/CS Yeas 8 Nays 0

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 216

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Burgess

SUBJECT: Public Records/Current and Former County and City Attorneys

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Limones-Borja</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 216 exempts from public records copying and inspection requirements certain identifying information of current county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy city attorneys, and assistant city attorneys. Identifying information relating to their spouses and children is likewise exempt. The specific information made exempt from public records disclosure requirements includes:

- Home addresses, telephone numbers, places of employment, and dates of birth;
- Names, home addresses, telephone numbers, places of employment, and dates of birth of the spouses and children; and
- Names and locations of schools and day care facilities attended by the children.

The exemption does not apply to a current county attorney, deputy county attorney, assistant county attorney, city attorney, deputy city attorney, or assistant city attorney who qualifies as a candidate for election to public office.

A statement of public necessity is included in the bill as required by the State Constitution.

This bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2024, consistent with the other agency personnel exemptions in s. 119.071(4)(d), F.S., unless reviewed and saved from the repeal through reenactment by the Legislature.

Because this bill creates a public records exemption, it will require a two-thirds vote of each house in order to pass.

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

The bill is effective July 1, 2023.

II. Present Situation:

Access to Public Records - Generally

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 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, chapter 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.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 connections with the transaction of official business by any agency.

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2020-2022) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2020-2022).

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

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “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.”

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

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any 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

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.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

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 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. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding 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); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹¹ *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹² *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

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).

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

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 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 governmental program, and 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
- 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 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

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., 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.

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.

²³ Section 119.15(6)(b)3., F.S.

²⁴ 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?

²⁵ See generally s. 119.15, F.S.

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.²⁶

Public Records Exemptions for Specified Personnel and their Families

Provisions in s. 119.071(4)(d), F.S., exempt from public disclosure certain personal identification and location information of specified state and local government agency personnel and their spouses and children. Personnel covered by these exemptions include:

- Active or former sworn or civilian law enforcement personnel employed by a law enforcement agency;²⁷
- Certain current or former nonsworn investigative personnel of the Department of Financial Services;²⁸
- Certain current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations;²⁹
- Current or former certified firefighters;³⁰
- Current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges;³¹
- Current or former state attorneys, assistant state attorneys, statewide prosecutors, and assistant statewide prosecutors;³²
- Current or former code enforcement officers;³³
- Current or former guardians ad litem;³⁴
- Current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel;³⁵
- Current or former investigators or inspectors of the Department of Business and Professional Regulation;³⁶
- County tax collectors;³⁷
- Current or former certified emergency medical technicians and paramedics;³⁸
- Current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility;³⁹
- Current or former directors, managers, supervisors, and clinical employees of certain child advocacy centers;⁴⁰ and

²⁶ Section 119.15(7), F.S.

²⁷ Section 119.071(4)(d)2.a., F.S.

²⁸ Section 119.071(4)(d)2.b., F.S.

²⁹ Section 119.071(4)(d)2.c., F.S.

³⁰ Section 119.071(4)(d)2.d., F.S.

³¹ Section 119.071(4)(d)2.e., F.S.

³² Section 119.071(4)(d)2.f., F.S.

³³ Section 119.071(4)(d)2.i., F.S.

³⁴ Section 119.071(4)(d)2.j., F.S.

³⁵ Section 119.071(4)(d)2.l., F.S.

³⁶ Section 119.071(4)(d)2.m., F.S.

³⁷ Section 119.071(4)(d)2.n., F.S.

³⁸ Section 119.071(4)(d)2.q., F.S.

³⁹ Section 119.071(4)(d)2.s., F.S.

⁴⁰ Section 119.071(4)(d)2.t., F.S.

- Current or former staff of domestic violence centers, including domestic violence advocates.⁴¹

The specified exempt information for each profession provided in s. 119.071(4)(d), F.S., varies among the professions. Generally, the home addresses,⁴² telephone numbers,⁴³ dates of birth of the specified personnel are exempt, as are the identifying information of their spouse and children, including place of employment, school and/or daycare facility. For many of the professions, photographs of the employee are exempt,⁴⁴ and in some instances, the photographs of the employee's spouse and children are exempt as well.⁴⁵

The employing agency or the employee must assert the right to the exemption by submitting a written and notarized request to each non-employer agency that holds the employee's information.⁴⁶ Further, all of these exemptions have retroactive application, applying to information held by an agency before, on, or after the effective date of the exemption.⁴⁷

The exemptions for specified agency personnel in s. 119.071(4)(d), F.S., are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2024, unless reviewed and saved from repeal by the Legislature.

Position of County Attorney and City Attorney

The term "county attorney" is not defined by statute, but is referenced in eight statutes as a local government employee expected to assist in the enforcement of various laws.⁴⁸ Similarly, the term "city attorney" is not defined by statute, but is referenced in four statutes, again as a local government employee expected to assist in the enforcement of various laws.⁴⁹

The duties of a county attorney or city attorney vary and are set by the governing board of the local government. The duties of an assistant county attorney or assistant city attorney are set by their respective county attorney or city attorney. As an example, one county defines the duties of its county attorney as follows:

- Employing and managing all personnel of the County Attorney's Office, establishing the organizational framework of the office, and supervising the conduct of all employees of the Office of the County Attorney.

⁴¹ Section 119.071(4)(d)2.u., F.S.

⁴² Section 119.071(4)(d)1.a., F.S., defines "home addresses" to mean "the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address."

⁴³ Section 119.071(4)(d)1.b., F.S., defines "telephone numbers" to include "home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices."

⁴⁴ See, e.g., s. 119.071(4)(d)2.1, F.S.

⁴⁵ See, e.g., s. 119.071(4)(d)2.a., F.S.

⁴⁶ Section 119.071(4)(d)3. and 4., F.S.

⁴⁷ Section 119.071(4)(d)6., F.S.

⁴⁸ Sections 60.05, 373.609, 381.0012, 409.2554, 499.002, 499.81, 509.285, and 705.106, F.S.

⁴⁹ Sections 60.05, 409.2554, 705.106, and 849.44, F.S.

- Providing legal advice and counsel to, and legal representation of the board of county commissioners and county departments, agencies, officers and employees on matters pertaining to the business of the county or in connection with the duties of the board, department, agency, officer or employee.
- Representing the county in all litigation, administrative hearings, mediation, appeals and judicial proceedings in which the county, the board, or a county department or agency under the jurisdiction of the board is a party.
- Providing legal advice and counsel to, and legal representation of, constitutional officers of the county and its employees on matters pertaining to the respective business and duties of the constitutional officers and employees at the request of constitutional officers.
- Representing any constitutional officer or employee of the officer in any litigation, administrative hearing, mediation, appeal or judicial proceeding upon request of said constitutional officer.
- Advising and providing recommendations to the board regarding the need for the selection of any special counsel to be retained by the county to provide legal representation in specified matters.
- Supervising, monitoring and coordinating, as appropriate, the representation, services and work of any special counsel.
- At the request of the board, the county attorney is hereby authorized to represent the board or a board member when the board or a member is acting as a separate agency or board or in an ex-officio capacity or is otherwise officially representing the county at the direction of the Board.
- Providing legal advice and counsel to and representation of any other State or local governmental office, unit, or entity as may be required by law or interlocal agreement entered into by the board.⁵⁰

III. Effect of Proposed Changes:

Section 1 amends s. 119.071(4)(d)2.v., F.S. to exempt specified personal information of current county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy city attorneys, and assistant city attorneys. Personal information relating to their spouses and children is likewise exempt. The specific personal information made exempt from public records disclosure requirements includes:

- Home addresses, telephone numbers, places of employment, and dates of birth;
- Names, home addresses, telephone numbers, places of employment, and dates of birth of the spouses and children; and
- Names and locations of schools and day care facilities attended by the children.

The exemption does not apply to a current county attorney, deputy county attorney, assistant county attorney, city attorney, deputy city attorney, or assistant city attorney who qualifies as a candidate for election to public office.

Section 2 provides a public necessity statement as required by Article I, s. 24(c) of the State Constitution. The public necessity statement provides that due to the responsibilities of county attorneys, deputy county attorney, assistant county attorney, city attorney, deputy city attorney,

⁵⁰ Sarasota County ordinance 2-63.

and assistant city attorney and their involvement with legal enforcement proceedings, such attorneys have faced threats and retribution by defendants and other persons on numerous occasions. The public necessity statement further provides that there have also been incidents of stalking of such attorneys and their spouses and children.

Section 3 provides that the bill takes effect on July 1, 2023.

The bill is subject to the Open Government Sunset Review Act and is repealed on October 2, 2024, consistent with the other agency personnel exemptions in s. 119.071(4)(d), F.S., unless reviewed and saved from repeal through reenactment by the Legislature.

Please see section “VII. Related Issues” for a discussion of the shortened review and repeal date of this bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shared with counties and 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 enacts a new exemption for the personal identifying and location information of current county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys, thus, the bill requires 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 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, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The stated purpose of the law is to protect the attorneys and their families from the danger of becoming a victim of stalking, emotional abuse, and physical violence. This bill exempts only certain personal identifying information from the public records

requirements, consistent with 21 similar exemptions. 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:

Any individual or business that currently obtains location information that is covered by the definition of “home addresses” in the bill will not be able to obtain that information from the records custodian without a signed waiver if the employee or the employee’s agency requests that the home address information be exempted.

C. Government Sector Impact:

This bill may have a minimal negative fiscal impact on agencies holding records that contain personal identifying information of such attorneys because staff responsible for complying with public record requests may require training related to the new public record exemption. Additionally, agencies may experience additional workload associated with redacting the exempt information prior to releasing a record. However, the workload should be absorbed as part of the day-to-day agency responsibilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to s. 119.15(3), F.S., the Open Government Sunset Review Act, a newly enacted or substantially amended exemption is scheduled for review and repeal by the Legislature in the 5th year after creation, unless the Legislature acts to reenact the exemption. The bill inserts the newly created exemption into an existing paragraph with other exemptions that are scheduled for review and repeal in 2024, which is the first year after enactment instead of the 5th year.

However, the deviation from the schedule set forth in the Open Government Sunset Review Act is supported by the reasoning that a previous legislature cannot bind a future legislature.⁵¹

VIII. Statutes Affected:

This bill substantially amends section 119.071 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 April 5, 2023:

The committee substitute clarifies that the exemption only applies to current county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys.

- B. **Amendments:**

None.

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

⁵¹ *Fla. Carry, Inc. v. Univ. of Fla.*, 180 So.3d 137, 146 (Fla. 1st DCA, 2015), citing *New v. Miami Herald Publ'g Co.*, 462 So.2d 821, 824 (Fla. 1985) and *Scott v. Williams*, 107 So.3d 379, 389 (Fla. 2013).



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/05/2023	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (d) of subsection (4) of section
119.071, Florida Statutes, is amended to read

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

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:



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11 a. "Home addresses" means the dwelling location at which an
12 individual resides and includes the physical address, mailing
13 address, street address, parcel identification number, plot
14 identification number, legal property description, neighborhood
15 name and lot number, GPS coordinates, and any other descriptive
16 property information that may reveal the home address.

17 b. "Telephone numbers" includes home telephone numbers,
18 personal cellular telephone numbers, personal pager telephone
19 numbers, and telephone numbers associated with personal
20 communications devices.

21 2.a. The home addresses, telephone numbers, dates of birth,
22 and photographs of active or former sworn law enforcement
23 personnel or of active or former civilian personnel employed by
24 a law enforcement agency, including correctional and
25 correctional probation officers, personnel of the Department of
26 Children and Families whose duties include the investigation of
27 abuse, neglect, exploitation, fraud, theft, or other criminal
28 activities, personnel of the Department of Health whose duties
29 are to support the investigation of child abuse or neglect, and
30 personnel of the Department of Revenue or local governments
31 whose responsibilities include revenue collection and
32 enforcement or child support enforcement; the names, home
33 addresses, telephone numbers, photographs, dates of birth, and
34 places of employment of the spouses and children of such
35 personnel; and the names and locations of schools and day care
36 facilities attended by the children of such personnel are exempt
37 from s. 119.07(1) and s. 24(a), Art. I of the State
38 Constitution.

39 b. The home addresses, telephone numbers, dates of birth,



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and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and



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s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and



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children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State



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Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel,



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and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth,



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and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such



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emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention,



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intervention, or clinical treatment, including any licensed service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s. 90.5036(1)(b), of domestic violence centers certified by the Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

v.°The home addresses, telephone numbers, and dates of



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birth of current county attorneys, deputy county attorneys,
assistant county attorneys, city attorneys, deputy city
attorneys, and assistant city attorneys; the names, home
addresses, telephone numbers, dates of birth, and places of
employment of the spouses and children of current county
attorneys, deputy county attorneys, assistant county attorneys,
city attorneys, deputy city attorneys, and assistant city
attorneys; and the names and locations of schools and day care
facilities attended by the children of current county attorneys,
deputy county attorneys, assistant county attorneys, city
attorneys, deputy city attorneys, and assistant city attorneys
are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
Constitution. This exemption does not apply to a current county
attorney, deputy county attorney, assistant county attorney,
city attorney, deputy city attorney, and assistant city attorney
who qualifies as a candidate for election to public office.

3. An agency that is the custodian of the information
specified in subparagraph 2. and that is not the employer of the
officer, employee, justice, judge, or other person specified in
subparagraph 2. must maintain the exempt status of that
information only if the officer, employee, justice, judge, other
person, or employing agency of the designated employee submits a
written and notarized request for maintenance of the exemption
to the custodial agency. The request must state under oath the
statutory basis for the individual's exemption request and
confirm the individual's status as a party eligible for exempt
status.

4.a. A county property appraiser, as defined in s.
192.001(3), or a county tax collector, as defined in s.



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192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section are not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the



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exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to



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release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that the home addresses, telephone numbers, and dates of birth of current county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy city attorneys, and assistant city attorneys 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 it is a public necessity that the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy city attorneys, and assistant city attorneys and the names and locations of schools and day care facilities attended by the children of such attorneys, be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The responsibilities of county attorneys, deputy county attorneys, assistant county attorneys, city attorneys,



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deputy city attorneys, and assistant city attorneys regularly
involve legal enforcement proceeding in areas of neglect and
abuse related to violations of codes and ordinances. Legal
enforcement proceedings have led to retribution and threats by
defendants and other persons on numerous occasions. Such
attorneys have received death threats and e-mails from
disgruntled persons advocating the murder of other attorneys.
Other incidents have included the stalking of such attorneys and
their spouses and children. The Legislature finds that the
release of such personal identifying and location information
could place such persons in danger of being physically or
emotionally harmed or staked by a defendant or another person.
The Legislature finds that the harm that may result from the
release of such personal identifying and location information
outweighs any public benefit that may be derived from the
disclosure of the information.

Section 3. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public records; amending s. 119.071, F.S.;
providing an exemption from public records requirements for the
personal identifying and location information of current county
attorneys, deputy county attorneys, assistant county attorneys,
city attorneys, deputy city attorneys, assistant city attorneys,
and the names and personal and identifying and location



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417 information of the spouses and children of such attorneys;
418 providing applicability; providing for retroactive application;
419 providing for future legislative review and repeal; providing a
420 statement of public necessity; providing an effective date.

By Senator Burgess

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A bill to be entitled

An act relating to public records; amending s. 119.071, F.S.; providing an exemption from public records requirements for the personal identifying and location information of current and former county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy city attorneys, and assistant city attorneys, and the names and personal identifying and location information of the spouses and children of such attorneys; providing applicability; providing for retroactive application; providing for future legislative review and repeal; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

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

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

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b. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and

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places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses

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and children of current or former justices and judges; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims,

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administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the

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names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations

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175 of schools and day care facilities attended by the children of
 176 current or former public defenders, assistant public defenders,
 177 criminal conflict and civil regional counsel, and assistant
 178 criminal conflict and civil regional counsel are exempt from s.
 179 119.07(1) and s. 24(a), Art. I of the State Constitution.

180 m. The home addresses, telephone numbers, dates of birth,
 181 and photographs of current or former investigators or inspectors
 182 of the Department of Business and Professional Regulation; the
 183 names, home addresses, telephone numbers, dates of birth, and
 184 places of employment of the spouses and children of such current
 185 or former investigators and inspectors; and the names and
 186 locations of schools and day care facilities attended by the
 187 children of such current or former investigators and inspectors
 188 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 189 Constitution.

190 n. The home addresses, telephone numbers, and dates of
 191 birth of county tax collectors; the names, home addresses,
 192 telephone numbers, dates of birth, and places of employment of
 193 the spouses and children of such tax collectors; and the names
 194 and locations of schools and day care facilities attended by the
 195 children of such tax collectors are exempt from s. 119.07(1) and
 196 s. 24(a), Art. I of the State Constitution.

197 o. The home addresses, telephone numbers, dates of birth,
 198 and photographs of current or former personnel of the Department
 199 of Health whose duties include, or result in, the determination
 200 or adjudication of eligibility for social security disability
 201 benefits, the investigation or prosecution of complaints filed
 202 against health care practitioners, or the inspection of health
 203 care practitioners or health care facilities licensed by the

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

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204 Department of Health; the names, home addresses, telephone
 205 numbers, dates of birth, and places of employment of the spouses
 206 and children of such personnel; and the names and locations of
 207 schools and day care facilities attended by the children of such
 208 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 209 the State Constitution.

210 p. The home addresses, telephone numbers, dates of birth,
 211 and photographs of current or former impaired practitioner
 212 consultants who are retained by an agency or current or former
 213 employees of an impaired practitioner consultant whose duties
 214 result in a determination of a person's skill and safety to
 215 practice a licensed profession; the names, home addresses,
 216 telephone numbers, dates of birth, and places of employment of
 217 the spouses and children of such consultants or their employees;
 218 and the names and locations of schools and day care facilities
 219 attended by the children of such consultants or employees are
 220 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 221 Constitution.

222 q. The home addresses, telephone numbers, dates of birth,
 223 and photographs of current or former emergency medical
 224 technicians or paramedics certified under chapter 401; the
 225 names, home addresses, telephone numbers, dates of birth, and
 226 places of employment of the spouses and children of such
 227 emergency medical technicians or paramedics; and the names and
 228 locations of schools and day care facilities attended by the
 229 children of such emergency medical technicians or paramedics are
 230 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 231 Constitution.

232 r. The home addresses, telephone numbers, dates of birth,

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 233 and photographs of current or former personnel employed in an
 234 agency's office of inspector general or internal audit
 235 department whose duties include auditing or investigating waste,
 236 fraud, abuse, theft, exploitation, or other activities that
 237 could lead to criminal prosecution or administrative discipline;
 238 the names, home addresses, telephone numbers, dates of birth,
 239 and places of employment of spouses and children of such
 240 personnel; and the names and locations of schools and day care
 241 facilities attended by the children of such personnel are exempt
 242 from s. 119.07(1) and s. 24(a), Art. I of the State
 243 Constitution.

244 s. The home addresses, telephone numbers, dates of birth,
 245 and photographs of current or former directors, managers,
 246 supervisors, nurses, and clinical employees of an addiction
 247 treatment facility; the home addresses, telephone numbers,
 248 photographs, dates of birth, and places of employment of the
 249 spouses and children of such personnel; and the names and
 250 locations of schools and day care facilities attended by the
 251 children of such personnel are exempt from s. 119.07(1) and s.
 252 24(a), Art. I of the State Constitution. For purposes of this
 253 sub-subparagraph, the term "addiction treatment facility" means
 254 a county government, or agency thereof, that is licensed
 255 pursuant to s. 397.401 and provides substance abuse prevention,
 256 intervention, or clinical treatment, including any licensed
 257 service component described in s. 397.311(26).

258 t. The home addresses, telephone numbers, dates of birth,
 259 and photographs of current or former directors, managers,
 260 supervisors, and clinical employees of a child advocacy center
 261 that meets the standards of s. 39.3035(2) and fulfills the

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 262 screening requirement of s. 39.3035(3), and the members of a
 263 Child Protection Team as described in s. 39.303 whose duties
 264 include supporting the investigation of child abuse or sexual
 265 abuse, child abandonment, child neglect, and child exploitation
 266 or to provide services as part of a multidisciplinary case
 267 review team; the names, home addresses, telephone numbers,
 268 photographs, dates of birth, and places of employment of the
 269 spouses and children of such personnel and members; and the
 270 names and locations of schools and day care facilities attended
 271 by the children of such personnel and members are exempt from s.
 272 119.07(1) and s. 24(a), Art. I of the State Constitution.

273 u. The home addresses, telephone numbers, places of
 274 employment, dates of birth, and photographs of current or former
 275 staff and domestic violence advocates, as defined in s.
 276 90.5036(1)(b), of domestic violence centers certified by the
 277 Department of Children and Families under chapter 39; the names,
 278 home addresses, telephone numbers, places of employment, dates
 279 of birth, and photographs of the spouses and children of such
 280 personnel; and the names and locations of schools and day care
 281 facilities attended by the children of such personnel are exempt
 282 from s. 119.07(1) and s. 24(a), Art. I of the State
 283 Constitution.

284 v. The home addresses, telephone numbers, and dates of
 285 birth of current or former county attorneys, deputy county
 286 attorneys, assistant county attorneys, city attorneys, deputy
 287 city attorneys, and assistant city attorneys; the names, home
 288 addresses, telephone numbers, dates of birth, and places of
 289 employment of the spouses and children of current or former
 290 county attorneys, deputy county attorneys, assistant county

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 291 attorneys, city attorneys, deputy city attorneys, and assistant
 292 city attorneys; and the names and locations of schools and day
 293 care facilities attended by the children of current or former
 294 county attorneys, deputy county attorneys, assistant county
 295 attorneys, city attorneys, deputy city attorneys, and assistant
 296 city attorneys are exempt from s. 119.07(1) and s. 24(a), Art. I
 297 of the State Constitution. This exemption does not apply to a
 298 current or former county attorney, deputy county attorney,
 299 assistant county attorney, city attorney, deputy city attorney,
 300 or assistant city attorney who qualifies as a candidate for
 301 election to public office.

302 3. An agency that is the custodian of the information
 303 specified in subparagraph 2. and that is not the employer of the
 304 officer, employee, justice, judge, or other person specified in
 305 subparagraph 2. must maintain the exempt status of that
 306 information only if the officer, employee, justice, judge, other
 307 person, or employing agency of the designated employee submits a
 308 written and notarized request for maintenance of the exemption
 309 to the custodial agency. The request must state under oath the
 310 statutory basis for the individual's exemption request and
 311 confirm the individual's status as a party eligible for exempt
 312 status.

313 4.a. A county property appraiser, as defined in s.
 314 192.001(3), or a county tax collector, as defined in s.
 315 192.001(4), who receives a written and notarized request for
 316 maintenance of the exemption pursuant to subparagraph 3. must
 317 comply by removing the name of the individual with exempt status
 318 and the instrument number or Official Records book and page
 319 number identifying the property with the exempt status from all

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 320 publicly available records maintained by the property appraiser
 321 or tax collector. For written requests received on or before
 322 July 1, 2021, a county property appraiser or county tax
 323 collector must comply with this sub-subparagraph by October 1,
 324 2021. A county property appraiser or county tax collector may
 325 not remove the street address, legal description, or other
 326 information identifying real property within the agency's
 327 records so long as a name or personal information otherwise
 328 exempt from inspection and copying pursuant to this section are
 329 not associated with the property or otherwise displayed in the
 330 public records of the agency.

331 b. Any information restricted from public display,
 332 inspection, or copying under sub-subparagraph a. must be
 333 provided to the individual whose information was removed.

334 5. An officer, an employee, a justice, a judge, or other
 335 person specified in subparagraph 2. may submit a written request
 336 for the release of his or her exempt information to the
 337 custodial agency. The written request must be notarized and must
 338 specify the information to be released and the party authorized
 339 to receive the information. Upon receipt of the written request,
 340 the custodial agency must release the specified information to
 341 the party authorized to receive such information.

342 6. The exemptions in this paragraph apply to information
 343 held by an agency before, on, or after the effective date of the
 344 exemption.

345 7. Information made exempt under this paragraph may be
 346 disclosed pursuant to s. 28.2221 to a title insurer authorized
 347 pursuant to s. 624.401 and its affiliates as defined in s.
 348 624.10; a title insurance agent or title insurance agency as

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defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument

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number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that the home addresses, telephone numbers, and dates of birth of current or former county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy city attorneys, and assistant city attorneys 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 it is a public necessity that the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy city attorneys, and assistant city attorneys, and the names and locations of schools and day care facilities attended by the children of such attorneys, be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The responsibilities of county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy city attorneys, and assistant city attorneys regularly involve legal enforcement proceedings in areas of neglect and abuse related to violations of codes and ordinances. Legal enforcement proceedings have led to retribution and threats by defendants and other persons on numerous occasions.

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407 Such attorneys have received death threats and e-mails from
408 disgruntled persons advocating the murder of other attorneys.
409 Other incidents have included the stalking of such attorneys and
410 their spouses and children. The Legislature finds that the
411 release of such personal identifying and location information
412 could place such persons in danger of being physically or
413 emotionally harmed or stalked by a defendant or another person.
414 The Legislature finds that the harm that may result from the
415 release of such personal identifying and location information
416 outweighs any public benefit that may be derived from the
417 disclosure of the information.

418 Section 3. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Bryan Avila, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 9, 2023

I respectfully request that **Senate Bill #216**, relating to Public Records/Current and Former County and City Attorneys, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in blue ink, appearing to read "Danny", is written over a horizontal line.

Senator Danny Burgess
Florida Senate, District 23

4/5/23

Meeting Date

Governmental Oversight and Accountability

Committee

Name **Martha Edenfield**

Phone **850-999-4100**

Address **106 E. College Ave #1200**
Street

Email **medenfield@deanmead.com**

Tallahassee
City

FL
State

32301
Zip

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

216

Bill Number or Topic

Amendment Barcode (if applicable)

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Charlotte County

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

4-5-23

Meeting Date

216

Bill Number or Topic

Gov. Oversight & Accountability
Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Tara Taggart

Phone 850-701-3603

Address PO Box 1757
Street

Email ttaggart@flcities.com

Tallahassee
City

FL
State

32301
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida League of Cities

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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/CS/SB 620

INTRODUCER: Governmental Oversight and Accountability Committee; Ethics and Elections Committee; and Senator DiCeglie and others

SUBJECT: Ethics Requirements for Officers and Employees of Special Tax Districts

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cleary	Roberts	EE	Fav/CS
2.	McVaney	McVaney	GO	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 620 maintains a limited exception for public officers and employees of qualifying special tax districts from the general prohibition in the Code of Ethics that prohibits public officials from holding any employment or contract with any business entity or agency regulated by or doing business with his or her public agency. The bill clarifies that these public officers and public employees of special tax districts are still regulated by and must still comply with conduct provisions of the Code of Ethics and specifies certain conduct that will constitute an impermissible conflict of interest and be deemed a violation of the Code of Ethics.

The bill also:

- Requires that beginning January 1, 2024, local elected officers of independent special districts and each person who is appointed to fill a vacancy for an unexpired term of such office must complete 4 hours of ethics training covering specified materials.
- Provides that an elected local officer of an independent special district assuming a new office or term of office after March 31 is not required to complete the ethics training for the calendar year in which their term of office began.

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

This bill takes effect July 1, 2023.

II. Present Situation:

Code of Ethics: Conflicting Employment or Contractual Relationship

Section 112.313, F.S., specifies standards of conduct for public officers,¹ employees of agencies,² and local government attorneys. Pursuant to s. 112.313(7), F.S., a public officer or employee is prohibited from holding any employment or contract with any business entity or agency regulated by or doing business with his or her public agency. A public officer or employee also is prohibited from holding any employment or having a contractual relationship which will create a frequently recurring conflict between the official's private interests and public duties or which will impede the full and faithful discharge of the official's public duties.³ A violation of this subsection is deemed a violation of the Code of Ethics (Code)⁴ and subjects the violator to enforcement and penalty provisions of the Code.⁵

There is an exception to the above prohibitions in s. 112.313(7)(a)1, F.S., which provides that when the agency referred to is that kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to chapter 298 (drainage and water control districts), then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency shall not be prohibited by the subsection or be deemed a conflict per se.⁶ However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, s. 112.313, F.S., shall be deemed a conflict of interest in violation of the standards of conduct set forth by s. 112.313, F.S. Therefore, a public officer and/or employee is still subject to the other provisions of the Code, and conduct that violates the other provisions of the Code subjects these officers and/or employees to the enforcement provisions and penalties of the Code.⁷

Currently, there are several other exceptions to these prohibitions relating to legislative bodies where regulatory power resides in another agency or is strictly through enactment of laws or

¹ Pursuant to s. 112.313(1), F.S., the term "public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

² Pursuant to s. 112.312(2), F.S., "agency" means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; or any public school, community college, or state university.

³ Section 112.313(7), F.S.; *see also* Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and employees*, p. 6, located at <https://ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf?cp=2023221> (last visited March 14, 2023)

⁴ *See* pt. III, ch. 112, F.S.

⁵ *See* s. 112.317, F.S.

⁶ *See* ch. 75-208, Laws of Florida (Legislature amended s. 112.313, F.S. in 1975, creating the limited exemption for these special tax districts, which became law October 1, 1975).

⁷ *Id.*; *see* pt. III, ch. 112, F.S.

ordinances,⁸ and lawful or required practice in a particular profession or occupation.⁹ The Code also contains several exemptions to these prohibitions related to:

- Appointed advisory board members;¹⁰
- When business transactions in a county or municipality are conducted under a rotation system;¹¹
- When business is awarded under a system of sealed, competitive bidding and certain criteria are met;¹²
- Purchases or sales for legal advertising, utilities service, or passage on a common carrier;¹³
- Emergency purchases that must be made to protect public health, safety, or welfare;¹⁴
- When the business entity involved is the only source of supply with the political subdivision and there is a full disclosure by the officer or employee;¹⁵
- When the aggregate of such transactions do not exceed \$500 in a calendar year;¹⁶
- When business transacted is the deposit of agency funds in a bank of which a county, city, or district official is an officer, director, or stockholder, so long as agency records show that the governing body has determined that the member did not favor his or her bank over qualified banks;¹⁷
- When the transaction is made pursuant to s. 1004.22 or s. 1004.23 and is specifically approved by the president and the chair of the university board of trustees;¹⁸

⁸ Section 112.313(7)(a)2, F.S. (“When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of legislative body shall not be prohibited by this subsection or be deemed a conflict.”)

⁹ Section 112.313(7)(b), F.S. (“This subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.”)

¹⁰ Section 112.313(12), F.S. (“The requirements of subsections (3) and (7) as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person.”)

¹¹ Section 112.313(12)(a), F.S. (“Within a city or county the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the city or county.”)

¹² Section 112.313(12)(b), F.S. (“The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and: (1) the official or the official’s spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder; (2) the official or the official’s spouse or child has in no way used or attempted to use the official’s influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and (3) the official, prior to or at the time of the submission of the bid, has filed a statement with the Commission on Ethics, if the official is a state officer or employee, or with the supervisor of elections of the county in which the agency has its principal office, if the official is an officer or employee of a political subdivision, disclosing the official’s interest, or the interest of the official’s spouse or child, and the nature of the intended business.”)

¹³ Section 112.313(12)(c), F.S.

¹⁴ Section 112.313(12)(d), F.S.

¹⁵ Section 112.313(12)(e), F.S.

¹⁶ Section 112.313(12)(f), F.S.

¹⁷ Section 112.313(12)(g), F.S.

¹⁸ Section 112.313(12)(h), F.S.

- When the public officer or employee purchases in a private capacity goods or services from an entity regulated by, or doing business, with his or her agency, at a price and under terms available to similarly situated members of the general public;¹⁹ and
- When the elected public officer is employed by a tax exempt organization contracting with his or her agency and the officer's employment is not directly or indirectly compensated as a result of such contract or business relationship and the officer has in no way participated in the agency's decision to contract or to enter into the business relationship with his or her employer. In addition, the officer must abstain from voting on any matter that may come before the agency involving the officer's employer, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining, and file the required written memorandum.²⁰

Special Districts

"Special tax district" is not defined in ch. 112, F.S., or in ch. 189, F.S., which provides the general provisions for special districts. 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." The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers.

According to the Special District Information Program at the Florida Department of Economic Opportunity (DEO), as of March 14, 2023, there are currently 1,926 special districts.²¹ Not all of these are special tax districts, but the DEO data does not break out districts with taxation authority as a subset of all the special districts.²² The table below summarizes the top five specialized functions out of the 78 specialized functions of the 1,926 special districts²³:

Special District Function	Number
Community Development	904
Community Redevelopment	222
Housing Authority	91
Drainage and/or Water Control	82
Fire Control and Rescue	63

¹⁹ Section 112.313(12)(i),(j), F.S.

²⁰ Section 112.313(15), F.S.

²¹ See Florida Department of Economic Opportunity, *Official List of Districts: Special Purpose Totals (10)(c)*, <https://www.floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program/official-list-of-special-districts>. (last visited March 14, 2023)

²² *Id.* (The Florida Department of Economic Opportunity's Official List of Special Districts located on its website allows visitors to generate customized lists of special districts but provides the following disclaimer, "Special Purpose Totals: Be aware that many special districts have similar purposes but are grouped separately because they were established under different statutes . . . Additionally, many special districts have more than one special purpose; therefore, adding the number of special districts in this category will not provide accurate state totals.")

²³ *Id.*

Ethics Training

All constitutional officers, all elected municipal officers, and each commissioner of a community redevelopment agency (CRA) created under part III. 163, F.S., must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the Florida Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings law of Florida.²⁴ This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation, if the required subject is covered by the class.²⁵

A constitutional officer or elected municipal officer assuming a new office or a new term of office after March 31 is not required to complete ethics training for the calendar year in which his or her term of office began.²⁶

III. Effect of Proposed Changes:

The bill clarifies the limited exception for public officers and employees of qualifying special tax districts under s. 112.313(7)(a)1, F.S., from the general prohibition under (7)(a) that prohibits public officials from holding any employment or contract with any business entity or agency regulated by or doing business with his or her public agency.

Specifically, the bill states that the conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of s. 112.313, F.S., includes conduct that violates s. 112.313(6), F.S. (regarding misuse of public position)²⁷ and conduct that violates s. 112.313(8), F.S. (regarding disclosure or use of certain information).²⁸

In addition, the bill:

- Requires that beginning January 1, 2024, local elected officers of independent special districts and each person who is appointed to fill a vacancy for an unexpired term of such office must complete 4 hours of ethics training covering specified materials.
- Provides that an elected local officer of an independent special district assuming a new office or term of office after March 31 is not required to complete the ethics training for the calendar year in which their term of office began.

²⁴ Section 112.3142(2)(a)-(c), F.S.

²⁵ *Id.*

²⁶ Section 112.3142(2)(e), F.S.

²⁷ (6) Misuse of Public Position.- “No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31.”

²⁸ (8) Disclosure or Use of Certain Information.- “A current or former public officer, employee of an agency, or local government attorney may not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.”

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

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:

None.

C. Government Sector Impact:

This bill is not expected to impact state and local government revenues and expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 112.313 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.)

CS/CS by Governmental Oversight and Accountability on April 5, 2023:

The committee substitute makes technical drafting changes that do not change the substance of the policy addressed in the bill.

CS by Ethics and Elections on March 14, 2023:

- The CS maintains the exemption under s. 112.313(7)(a)1., F.S., for public officers and employees of qualifying special tax districts from the general prohibition under (7)(a), that prohibits public officials from conducting business with or being employed by a business or agency that is being regulated by or doing business with his or her public agency.
- The CS maintains that these public officers and public employees of special tax districts are still regulated by and must still comply with conduct provisions of the Code of Ethics and specifies certain conduct that will constitute an impermissible conflict of interest and be deemed a violation of the Code of Ethics.
- The CS requires that beginning January 1, 2024, local elected officers of independent special districts and each person who is appointed to fill a vacancy for an unexpired term of such office must complete 4 hours of ethics training covering specified materials. Further, an elected local officer of an independent special district assuming a new office or term of office after March 31 is not required to complete the ethics training for the calendar year in which their term of office began.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/05/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (7) of section 112.313, Florida
Statutes, is amended to read:

112.313 Standards of conduct for public officers, employees
of agencies, and local government attorneys.—

(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

(a) No public officer or employee of an agency shall have



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11 or hold any employment or contractual relationship with any
12 business entity or any agency which is subject to the regulation
13 of, or is doing business with, an agency of which he or she is
14 an officer or employee, excluding those organizations and their
15 officers who, when acting in their official capacity, enter into
16 or negotiate a collective bargaining contract with the state or
17 any municipality, county, or other political subdivision of the
18 state; nor shall an officer or employee of an agency have or
19 hold any employment or contractual relationship that will create
20 a continuing or frequently recurring conflict between his or her
21 private interests and the performance of his or her public
22 duties or that would impede the full and faithful discharge of
23 his or her public duties.

24 1. When the agency referred to is that certain kind of
25 special tax district created by general or special law and is
26 limited specifically to constructing, maintaining, managing, and
27 financing improvements in the land area over which the agency
28 has jurisdiction, or when the agency has been organized pursuant
29 to chapter 298, then employment with, or entering into a
30 contractual relationship with, such business entity by a public
31 officer or employee of such agency is ~~shall~~ not be prohibited by
32 this subsection or ~~be~~ deemed a conflict per se. However, conduct
33 by such officer or employee that is prohibited by, or otherwise
34 frustrates the intent of, this section, including conduct that
35 violates subsections (6) and (8), is ~~shall be~~ deemed a conflict
36 of interest in violation of the standards of conduct set forth
37 by this section.

38 2. When the agency referred to is a legislative body and
39 the regulatory power over the business entity resides in another



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agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.

(b) This subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.

Section 2. Paragraphs (d) and (e) of subsection (2) of section 112.3142, Florida Statutes, are redesignated as paragraphs (e) and (f), respectively, present paragraph (e) of that subsection is amended, and a new paragraph (d) is added to that subsection, to read:

112.3142 Ethics training for specified constitutional officers, elected municipal officers, ~~and~~ commissioners of community redevelopment agencies, and elected local officers of independent special districts.—

(2)

(d) Beginning January 1, 2024, each elected local officer of an independent special district, as defined in s. 189.012, and each person who is appointed to fill a vacancy for an unexpired term of such elective office must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be



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satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation, if the required subject matter is covered by such class, seminar, or presentation.

(f)(e) The Legislature intends that a constitutional officer, ~~or~~ elected municipal officer, or elected local officer of an independent special district who is required to complete ethics training pursuant to this section receive the required training as close as possible to the date that he or she assumes office. A constitutional officer, ~~or~~ elected municipal officer, or elected local officer of an independent special district assuming a new office or new term of office on or before March 31 must complete the annual training on or before December 31 of the year in which the term of office began. A constitutional officer, ~~or~~ elected municipal officer, or elected local officer of an independent special district assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which the term of office began.

Section 3. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to ethics requirements for officers
and employees of special tax districts; amending s.
112.313, F.S.; specifying that certain conduct by



901898

98 certain public officers and employees is deemed a
99 conflict of interest; making technical changes;
100 amending s. 112.3142, F.S.; requiring certain ethics
101 training for elected local officers of independent
102 special districts, beginning on a specified date;
103 specifying requirements for such training; providing
104 an effective date.

By the Committee on Ethics and Elections; and Senators DiCeglie
and Yarborough

582-02585-23

2023620c1

A bill to be entitled

An act relating to ethics requirements for officers
and employees of special tax districts; amending s.
112.313, F.S.; specifying that certain conduct by
certain public officers and employees is deemed a
conflict of interest; amending s. 112.3142, F.S.;
requiring certain ethics training for elected local
officers of independent special districts beginning on
a specified date; specifying requirements for such
training; providing an effective date.

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

Section 1. Subsection (7) of section 112.313, Florida
Statutes, is amended to read:

112.313 Standards of conduct for public officers, employees
of agencies, and local government attorneys.—

(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

(a) No public officer or employee of an agency shall have
or hold any employment or contractual relationship with any
business entity or any agency which is subject to the regulation
of, or is doing business with, an agency of which he or she is
an officer or employee, excluding those organizations and their
officers who, when acting in their official capacity, enter into
or negotiate a collective bargaining contract with the state or
any municipality, county, or other political subdivision of the
state; nor shall an officer or employee of an agency have or
hold any employment or contractual relationship that will create
a continuing or frequently recurring conflict between his or her

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private interests and the performance of his or her public
duties or that would impede the full and faithful discharge of
his or her public duties.

1. When the agency referred to is that certain kind of
special tax district created by general or special law and is
limited specifically to constructing, maintaining, managing, and
financing improvements in the land area over which the agency
has jurisdiction, or when the agency has been organized pursuant
to chapter 298, then employment with, or entering into a
contractual relationship with, such business entity by a public
officer or employee of such agency is ~~shall~~ not be prohibited by
this subsection or be deemed a conflict per se. However, conduct
by such officer or employee that is prohibited by, or otherwise
frustrates the intent of, this section, including conduct that
violates subsection (6) or subsection (8), is ~~shall be~~ deemed a
conflict of interest in violation of the standards of conduct
set forth by this section.

2. When the agency referred to is a legislative body and
the regulatory power over the business entity resides in another
agency, or when the regulatory power which the legislative body
exercises over the business entity or agency is strictly through
the enactment of laws or ordinances, then employment or a
contractual relationship with such business entity by a public
officer or employee of a legislative body shall not be
prohibited by this subsection or be deemed a conflict.

(b) This subsection shall not prohibit a public officer or
employee from practicing in a particular profession or
occupation when such practice by persons holding such public
office or employment is required or permitted by law or

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ordinance.

Section 2. Section 112.3142, Florida Statutes, is amended to read:

112.3142 Ethics training for specified constitutional officers, elected municipal officers, ~~and~~ commissioners of community redevelopment agencies, and elected local officers of independent special districts.—

(1) As used in this section, the term “constitutional officers” includes the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools.

(2)(a) All constitutional officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

(b) All elected municipal officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or

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presentation if the required subjects are covered.

(c) Beginning January 1, 2020, each commissioner of a community redevelopment agency created under part III of chapter 163 must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation, if the required subject material is covered by the class.

(d) Beginning January 1, 2024, each elected local officer of an independent special district as defined in s. 189.012 and each person who is appointed to fill a vacancy for an unexpired term of such elective office must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meeting laws of this state. This requirement may be satisfied by completion of a continuing legal education class or another continuing professional education class, seminar, or presentation, if the required subject matter is covered by such class, seminar, or presentation.

(e) The commission shall adopt rules establishing minimum course content for the portion of an ethics training class which addresses s. 8, Art. II of the State Constitution and the Code of Ethics for Public Officers and Employees.

(f) ~~(e)~~ The Legislature intends that a constitutional officer, an ~~or~~ elected municipal officer, or an elected local

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117 officer of an independent special district who is required to
118 complete ethics training pursuant to this section receive the
119 required training as close as possible to the date that he or
120 she assumes office. A constitutional officer, an ~~or~~ elected
121 municipal officer, or an elected local officer of an independent
122 special district assuming a new office or new term of office on
123 or before March 31 must complete the annual training on or
124 before December 31 of the year in which the term of office
125 began. A constitutional officer, an ~~or~~ elected municipal
126 officer, or an elected local officer of an independent special
127 district assuming a new office or new term of office after March
128 31 is not required to complete ethics training for the calendar
129 year in which the term of office began.

130 (3) Each house of the Legislature shall provide for ethics
131 training pursuant to its rules.

132 Section 3. This act shall take effect on July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Bryan Avila, Chair
Committee on Government Oversight and Accountability

Subject: Committee Agenda Request

Date: March 20, 2023

I respectfully request that **Senate Bill #620**, relating to Ethics Requirements for Officers and Employees of Special Tax Districts be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in blue ink that reads "Nick DiCeglie".

Senator Nick DiCeglie
Florida Senate, District 18

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 696

INTRODUCER: Community Affairs Committee and Senator Ingoglia

SUBJECT: Local Officials

DATE: April 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Fav/CS
2.	Harmsen	McVane	GO	Favorable
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 696 provides that certain local government employee contracts shall not be renewed, extended, or renegotiated within 8 months of a general election for members of the applicable governing body. This applies to:

- County administrators;
- County general counsels;
- Municipal chief executive officers;
- Municipal general counsels;
- School superintendents; and
- School board general counsels.

The bill provides an exception when the employee produces a competing employment offer from another governmental entity.

The bill takes effect July 1, 2023.

II. Present Situation:

Local Government Employees

Local governments have broad authority to contract with or employ personnel for the wide variety of tasks they accomplish. This authority is limited only narrowly by statute, which

generally forbids the payment of extra compensation and sets limits on severance pay for all employees of a governmental unit.¹ Severance pay may not exceed 20 weeks' compensation, and must not be granted when the employee has been fired for misconduct.²

County Administrator

Counties are required to employ a county administrator, who acts as the administrative head of the county and is responsible for the administration of all departments of the county government.³ The county administrator is appointed by a majority of the board of county commissioners, and must reside within the county during their tenure. The board of county commissioners fixes the county administrator's compensation.

School Superintendents

A school superintendent, the administrative head of a district school board, may be either appointed by the district school board or elected for four-year terms.⁴ A district school board must enter into an employment contract with an appointed district school superintendent which provides a reasonable salary not exceeding \$225,000 in total remuneration.⁵ These contracts are subject to the provisions of law limiting bonuses and severance pay.⁶ An elected superintendent is not an employee, and receives a statutory salary similarly to other elected officials.⁷

Local Government Attorneys and Municipal Chief Executive Officers

While local governments are not required by law to employ an attorney, and municipalities are not required to employ a chief executive officer,⁸ the practice of hiring such personnel is common, such that these roles are referred to by various statutes.⁹ These roles may be full time employees, fulfilled through contract work as needed, or divided into several smaller roles, as needed by the local government.

The term "general counsel" is not defined in statute but is commonly understood to mean the chief legal advisor to the body.¹⁰ A general counsel of a county usually serves under the title "County Attorney,"¹¹ and may employ assistant county attorneys or staff attorneys. Similarly, a

¹ Section 215.425, F.S.

² Section 215.425(4), F.S.

³ Section 125.73, F.S.

⁴ FLA. CONST. Art. IX, s. 5. Districts may decide which system to use, changing from one to the other by referendum.

⁵ Section 1001.50(3) and (5), F.S.

⁶ Section 1001.50(2), F.S.

⁷ Section 1001.47, F.S.

⁸ Often referred to as a city or town manager.

⁹ See, e.g., ss 193.116, F.S. (referring to "the chief executive officer of each municipality"), 194.035, F.S. (referring to a school board attorney), and 409.2554, F.S. (referring to county and city attorneys).

¹⁰ Merriam-Webster, *Merriam-Webster.com Legal Dictionary*, <https://www.merriam-webster.com/legal/general%20counsel> (last visited Apr. 4, 2023).

¹¹ See, e.g., Alachua County, *County Attorney*, <https://alachuacounty.us/depts/attorney/Pages/CountyAttorney.aspx> (last visited Apr. 4, 2023); Miami-Dade County, *County Attorney*, <https://www.miamidade.gov/attorney/> (last visited Apr. 4, 2023); Lake County, *Lake County Attorney*, <https://www.lakecountyfl.gov/county-attorney> (last visited Apr. 4, 2023).

city or municipality tends to employ a “city attorney” who may have subordinate assistant city attorneys.¹² School districts tend to employ a “general counsel.”¹³

Local Government Elections

General elections are held each November, with a corresponding primary in the preceding August.¹⁴ County commissioners and school board members are elected at general elections in staggered terms,¹⁵ while the governing body of a municipality may be elected on a different schedule if altered by ordinance.¹⁶

III. Effect of Proposed Changes:

The bill amends and creates various statutes to provide that certain local government employee contracts shall not be renewed, extended, or renegotiated within 8 months of a general election for members of the applicable governing body. The bill applies this provision to:

- County administrators;
- County general counsels;
- Municipal chief executive officers;
- Municipal general counsels;
- School superintendents; and
- School board district general counsels.

The bill provides for an exception to this provision when the employee produces a bona fide, written, competing employment offer from another governmental entity.¹⁷

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to

¹² See, e.g., Ft. Lauderdale, *City Attorney’s Office*, <https://www.fortlauderdale.gov/government/departments-a-h/city-attorney-s-office> (last visited Apr. 4, 2023); Ft. Pierce, *City Attorney*, <https://www.cityoffortpierce.com/139/City-Attorney> (last visited Apr. 4, 2023); and City of Boca Raton, *City Attorney*, <https://www.myboca.us/648/City-Attorney> (last visited Apr. 4, 2023).

¹³ See, e.g., Palm Beach County School District, *General Counsel’s Office*, <https://www.palmbeachschools.org/domain/467> (last visited Apr. 4, 2023); Escambia County School District, *General Counsel Staff*, https://ecsd-fl.schoolloop.com/gen_counsel/staff (last visited Apr. 4, 2023); and The School District of Lee County, *Office of Legal Services*, https://www.leeschools.net/our_district/departments/legal_services (last visited Apr. 4, 2023).

¹⁴ Sections 100.031 and 100.061, F.S.

¹⁵ Section 100.041, F.S.

¹⁶ Section 100.3605, F.S.

¹⁷ “Government entity” as defined by 287.012(14), F.S., to mean a political subdivision or agency of this state or of any state of the United States, including, but not limited to, state government, county, municipality, school district, nonprofit public university or college, single-purpose or multipurpose special district, single-purpose or multipurpose public authority, metropolitan or consolidated government, separate legal entity or administrative entity, or any agency of the Federal Government.

raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Local government attorneys and municipal chief executive officers are not positions defined by law, and as such the provisions of the bill may apply unevenly among the wide variety of local governments depending on positions employed and duties those positions hold. Additionally, as not all employees have an employment contract, the provisions of the bill may not apply clearly in some situations.

VIII. Statutes Affected:

This bill substantially amends sections 125.73, 166.021, 1001.50, and 112.061 of the Florida Statutes.

This bill creates sections 125.75 and 1012.336 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 Community Affairs on March 22, 2023:

The CS, respectively for each provision of the bill, reduces the timeframe during which a local government cannot alter contracts with certain employees from 12 months prior to a primary election to 8 months prior to a general election, and introduces an exemption for situations when the employee produces a competing employment offer from another governmental entity.

- B. **Amendments:**

None.

By the Committee on Community Affairs; and Senator Ingoglia

578-02926-23

2023696c1

1 A bill to be entitled
 2 An act relating to local officials; amending s.
 3 125.73, F.S.; prohibiting the governing body of a
 4 county from renewing or extending the employment
 5 contract of a county administrator during a specified
 6 timeframe; providing an exception; defining the term
 7 "governmental entity"; creating s. 125.75, F.S.;
 8 prohibiting the governing body of a county from
 9 renewing or extending the employment contract of a
 10 county general counsel during a specified timeframe;
 11 providing an exception; defining the term
 12 "governmental entity"; amending s. 166.021, F.S.;
 13 prohibiting the governing body of a municipality from
 14 renewing or extending the employment contract of a
 15 chief executive officer or municipal general counsel
 16 during a specified timeframe; providing exceptions;
 17 defining the term "governmental entity"; amending s.
 18 1001.50, F.S.; prohibiting a district school board
 19 from renewing or extending the employment contract of
 20 a superintendent during a specified timeframe;
 21 providing an exception; defining the term
 22 "governmental entity"; creating s. 1012.336, F.S.;
 23 prohibiting a district school board from renewing or
 24 extending the employment contract of a district school
 25 board general counsel during a specified timeframe;
 26 providing an exception; defining the term
 27 "governmental entity"; amending s. 112.061, F.S.;
 28 conforming cross-references; providing an effective
 29 date.

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30 Be It Enacted by the Legislature of the State of Florida:
 31
 32 Section 1. Subsection (5) is added to section 125.73,
 33 Florida Statutes, to read:
 34 125.73 County administrator; appointment, qualifications,
 35 compensation.—
 36 (5) The governing body of a county may not renew or extend
 37 the employment contract of a county administrator within the 8
 38 months before a general election for county mayor, if
 39 applicable, or for members of the governing body of the county;
 40 however, the governing body of a county may do so if the county
 41 administrator presents the governing body with a bona fide
 42 written offer of employment from another governmental entity as
 43 defined in s. 287.012(14).
 44
 45 Section 2. Section 125.75, Florida Statutes, is created to
 46 read:
 47 125.75 County general counsel contract.—The governing body
 48 of a county may not renew or extend the contract of a county
 49 general counsel within the 8 months before a general election
 50 for county mayor, if applicable, or for members of the governing
 51 body of the county; however, the governing body of a county may
 52 do so if the county general counsel presents the governing body
 53 with a bona fide written offer of employment from another
 54 governmental entity as defined in s. 287.012(14).
 55
 56 Section 3. Present subsection (9) of section 166.021,
 57 Florida Statutes, is redesignated as subsection (10), and a new
 58 subsection (9) is added to that section, to read:
 166.021 Powers.—

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(9) (a) The governing body of a municipality may not renew or extend the employment contract of a chief executive officer of the municipality within the 8 months before a general election for the municipal mayor or for members of the governing body of the municipality; however, the governing body of a municipality may do so if the chief executive officer of the municipality presents the governing body with a bona fide written offer of employment from another governmental entity as defined in s. 287.012(14).

(b) The governing body of a municipality may not renew or extend the employment contract of a municipal general counsel within the 8 months before a general election for the municipal mayor or for members of the governing body of the municipality; however, the governing body of a municipality may do so if the municipal general counsel presents the governing body with a bona fide written offer of employment from another governmental entity as defined in s. 287.012(14).

Section 4. Subsection (2) of section 1001.50, Florida Statutes, is amended to read:

1001.50 Superintendents employed under Art. IX of the State Constitution.—

(2) Each district school board shall enter into an employment contract with the district school superintendent and shall adopt rules relating to his or her appointment; however, if the employment contract contains a provision for severance pay, it must include the provisions required by s. 215.425. The district school board may not renew or extend the employment contract of a superintendent within the 8 months before a general election for district school board members; however, the

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district school board may do so if the superintendent presents the district school board with a bona fide written offer of employment from another governmental entity as defined in s. 287.012(14).

Section 5. Section 1012.336, Florida Statutes, is created to read:

1012.336 Contracts with district school board general counsels.—A district school board may not renew or extend the employment contract of a district school board general counsel within the 8 months before a general election for district school board members; however, a district school board may do so if the district school board general counsel presents the district school board with a bona fide written offer of employment from another governmental entity as defined in s. 287.012(14).

Section 6. Paragraphs (a) and (c) of subsection (14) of section 112.061, Florida Statutes, are amended to read:

112.061 Per diem and travel expenses of public officers, employees, and authorized persons; statewide travel management system.—

(14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING ORGANIZATIONS.—

(a) The following entities may establish rates that vary from the per diem rate provided in paragraph (6)(a), the subsistence rates provided in paragraph (6)(b), or the mileage rate provided in paragraph (7)(d) if those rates are not less than the statutorily established rates that are in effect for the 2005-2006 fiscal year:

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1. The governing body of a county by the enactment of an ordinance or resolution;

2. A county constitutional officer, pursuant to s. 1(d), Art. VIII of the State Constitution, by the establishment of written policy;

3. The governing body of a district school board by the adoption of rules;

4. The governing body of a special district, as defined in s. 189.012, except those special districts that are subject to s. 166.021(10) ~~s. 166.021(9)~~, by the enactment of a resolution; or

5. Any metropolitan planning organization created pursuant to s. 339.175 or any other separate legal or administrative entity created pursuant to s. 339.175 of which a metropolitan planning organization is a member, by the enactment of a resolution.

(c) Except as otherwise provided in this subsection, counties, county constitutional officers and entities governed by those officers, district school boards, special districts, and metropolitan planning organizations, other than those subject to s. 166.021(10) ~~s. 166.021(9)~~, remain subject to the requirements of this section.

Section 7. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR BLAISE INGOGLIA

11th District

COMMITTEES:

Finance and Tax, *Chair*
Appropriations
Appropriations Committee on Criminal
and Civil Justice
Banking and Insurance
Children, Families, and Elder Affairs
Criminal Justice
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Administrative Procedures Committee, *Alternating
Chair*

March 22, 2023

The Honorable Bryan Avila, Chair
Government Oversight Committee
326 Senate Office Building
402 South Monroe Street
Tallahassee, FL 32399

Re: SB 696 Local Officials

Chair Avila,

SB 696 has been referred to the Government Oversight Committee as its second committee of reference. I respectfully request that it be placed on the agenda at your earliest convenience.

If I may answer questions or be of assistance, please do not hesitate to contact me. Thank you for your leadership and consideration.

Regards,

A handwritten signature in blue ink, consisting of a stylized, cursive 'B' followed by a horizontal line.

Blaise Ingoglia
State Senator, District 11

Cc: Joe McVaney, Staff Director
Jessie Harmsen, Deputy Staff Director
Tamra Redig, Staff Assistant

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 718

INTRODUCER: Community Affairs Committee and Senator Yarborough

SUBJECT: Municipal Boundaries

DATE: April 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 718 changes the requirements for annexation and contraction, wherein property is either added to, or removed from, the boundaries of a municipality. The bill identifies the “report” a municipality must prepare prior to any annexation or contraction action as a “feasibility study,” and provides that such study must analyze the economic, market, technical, financial, and management feasibility of a proposed annexation or contraction.

As it pertains to contraction, the bill removes the requirement that a municipality provide specific findings when rejecting a petition from the voters in an area desiring to be excluded from the municipal boundaries.

The bill also revises the contraction procedures in situations where more than 70 percent of the acres proposed to be contracted are owned by private entities that are not registered electors. The bill requires in these instances that the owners of a majority of the acreage consent to such contraction. This provision mirrors requirements in current law for municipal annexation.

The bill takes effect on July 1, 2023.

II. Present Situation:

Municipal Annexation

A municipality may propose to annex any area of contiguous, compact, unincorporated territory by ordinance or may be petitioned for annexation by owner(s) of “contiguous... and reasonably compact” real property.¹ An area is considered “contiguous” if a substantial part of its boundary is coterminous with a part of the boundary of the municipality.² An area is compact if it is concentrated in a single area and does not create enclaves, pockets, or finger areas.³ All lands to be annexed must be in the same county as the annexing municipality.⁴

The governing body of a municipality may only propose annexation of an area that is contiguous, reasonably compact, and is either:⁵

- Developed for “urban purposes,” which is defined as having a resident population or at least two persons per acre, having a resident population of at least one person per acre if the area is subdivided into lots where at least 60 percent of the total number of lots are 1 acre or less in size, or at least 60 percent of the total number of lots meet one of the preceding definitions and at least 60 percent of the total acreage not used for non-residential “urban purposes” is subdivided into lots of 5 acres or less;
- Lies between the municipal boundary and an area developed for “urban purposes”; or
- Adjacent, on at least 60 percent of its external boundary, to any combination of the municipal boundary and areas developed for “urban purposes.”

A municipality may begin the annexation process by adopting a non-emergency ordinance.⁶ The municipality is required to hold two advertised public meetings before the adoption of the ordinance, one held on a weekday at least 7 days after the publication of the first advertisement and one held on a weekday at least 5 days after the publication of the second advertisement. At least 10 days prior to the first public meeting, the governing body of the municipality must provide written notice to all residents and property owners in the area proposed for annexation.⁷ The notice must contain the annexation proposal, the time and location of the public meeting, and locations where the proposed ordinance may be inspected by the public.

Before adopting an annexation ordinance, a municipality is required to prepare a report that contains:⁸

- Plans to provide urban services to the area to be annexed;
- A map or maps of the municipality and adjacent territory showing the present and proposed municipal boundaries, the present major trunk water mains and sewer interceptors and outfalls, the proposed extensions of such mains and outfalls, and the general land use pattern in the area to be annexed;
- A statement certifying the area meets the annexation criteria specified in s. 171.043, F.S.; and

¹ Sections. 171.0413(1) and 171.044(1), F.S.

² Section 171.031(11), F.S.

³ Section 171.031(12), F.S.

⁴ Section 171.045, F.S.

⁵ Section 171.043, F.S.

⁶ Section 171.0413(1), F.S. A non-emergency ordinance is adopted using standing procedures specified by s. 166.041, F.S.

⁷ Section 171.042(3), F.S.

⁸ Section 171.042(1), F.S.

- A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation.

The governing body of the municipality must file a copy of the report with the governing body of the county within 15 days of the commencement of annexation procedures.⁹ Failure to submit the report to the county in a timely manner may invalidate the annexation.

The municipality must submit the adopted annexation ordinance to a referendum in the area to be annexed.¹⁰ The municipality may also choose to submit the ordinance to the voters of the municipality for approval. If more than 70 percent of the area to be annexed is not owned by registered voters, the municipality must obtain the consent of landowners owning at least 50 percent of area to be annexed before conducting the referendum.¹¹

The referendum may be conducted during the next regularly scheduled election or at a special election.¹² The referendum must not be held until at least 30 days after the adoption of the ordinance and must be advertised in a newspaper of general circulation in the area to be annexed.¹³ If the referendum is approved by the voters, the annexation occurs on the effective date provided by the ordinance.¹⁴ If the voters reject annexation, the municipality may not propose annexation of the same area in the 2 years following the referendum.

If the area to be annexed has no registered electors, the area may be annexed without a referendum if the municipality obtains the consent of landowners representing both 50 percent of acreage and 50 percent of the parcels in the area to be annexed.¹⁵

Alternatively, the owner(s) of real property in a contiguous, reasonably compact, and unincorporated area of the county may petition a municipality for annexation.¹⁶ The municipality must determine that all land owners in the area to be annexed have signed the petition and publish notice of the annexation before passing an ordinance annexing the area. A copy of the ordinance, including a map and a metes-and-bounds legal description of the area, must be filed with the clerk of the circuit court, the chief administrative officer of the county, and the Department of State within 7 days after adopting the annexation ordinance. An area may not be annexed using this process if the annexation would result in the creation of an enclave.¹⁷

Municipal Contraction

A municipality may initiate the contraction of its boundaries by ordinance¹⁸ or by a petition signed by of fifteen percent of the qualified voters in the area to be excluded.¹⁹ The petition must be filed with the clerk of the municipal governing body. Upon receipt of a petition, the

⁹ Section 171.042(2), F.S.

¹⁰ Section 171.0413(2), F.S.

¹¹ Section 171.0413(5), F.S.

¹² Section 171.0413(2)(a), F.S.

¹³ Section 171.0413(2)(a)-(b), F.S.

¹⁴ Section 171.0413(2)(e), F.S.

¹⁵ Section 171.0413(6), F.S.

¹⁶ Section 171.044, F.S.

¹⁷ Section 171.044(5), F.S.

¹⁸ Section 171.051(1), F.S.

¹⁹ Section 171.051(2), F.S.

municipality must undertake a study of the feasibility of the proposal and either initiate the proceedings or reject the petition, stating the facts upon which the rejection is based, within 6 months.²⁰

Once the contraction proposal is initiated, the governing body must publish notice of the proposed contraction ordinance at least once a week for 2 consecutive weeks in a newspaper of general circulation in the municipality.²¹ This notice must:

- Include a description of the area to be excluded;
- Show the area fails to meet the general criteria for annexation;
- Set the time and place for the municipal governing body meeting at which the proposed ordinance will be considered; and
- Advise that all affected persons may be heard.

Voter approval of the contraction is required if the municipal governing body calls for a referendum election on the question in the area proposed for exclusion or residents of that area submit a petition at the public meeting signed by at least 15 percent of the area's qualified voters. The date for the referendum is determined by the method used to call for the referendum.²² The municipal governing body is required to publish notice of the referendum election at least once a week for 2 consecutive weeks in a newspaper of general circulation in the municipality or in the area proposed to be excluded.²³ If a majority of electors voting in the referendum opposes contraction, the municipality is prohibited from proposing the exclusion of the area in a contraction ordinance for a period of least 2 years.²⁴

An area removed from a municipality must fail to meet the criteria for annexation.²⁵ Under these criteria, an area to be annexed must be contiguous to the annexing municipality, must be reasonably compact, and must not be located within the boundaries of another municipality.²⁶ For annexation, an area must also meet one of the following criteria:

- The area is developed for urban purposes;²⁷
- The area links the municipality with areas developed for urban purposes;²⁸ or
- At least 60 percent of the boundary of the area is adjacent to the municipal boundary and lands developed for urban purposes.²⁹

The results of the contraction must not separate any portion of the municipality from the rest of the municipality.³⁰ The contracting ordinance must provide for apportionment of any prior

²⁰ *Id.*

²¹ Section 171.051(3), F.S.

²² Section 171.051(6), F.S. If a referendum is required due to the filing of a petition signed by at least 15 percent of the area's qualified voters, the referendum must occur at the next regularly scheduled election. If the referendum is called at the discretion of the municipal governing body, a special election is called no sooner than 30 days after the verification of the petition or the passage of the resolution or ordinance calling for a referendum.

²³ Section 171.051(7), F.S.

²⁴ Section 171.051(10), F.S.

²⁵ Section 171.052(1), F.S.

²⁶ Section 171.043(1), F.S.

²⁷ Section 171.043(2), F.S.

²⁸ Section 171.043(3)(a), F.S.

²⁹ Section 171.043(3)(b), F.S.

³⁰ Section 171.052(1), F.S.

existing debt and property.³¹ The county and the municipal governing body must reach an agreement determining which debt or property will be transferred to the county, the fair value of the debt or property, and the manner of transfer and financing.³² An area that has been contracted is no longer subject to municipal laws, ordinances, or regulations and becomes subject to any laws, ordinances, or regulations of the county as of the effective date of the contraction.³³

III. Effect of Proposed Changes:

The bill amends the Municipal Annexation or Contraction Act in ch. 171, F.S.

The bill identifies the report a municipality must prepare prior to any annexation or contraction action as a “feasibility study,” and defines the study as an analysis conducted by qualified staff or consultants of the economic, market, technical, financial, and management feasibility of the proposed annexation or contraction.

As it pertains to contraction, the bill removes the requirement that a municipality provide specific findings when rejecting a petition from the voters in an area desiring to be excluded from the municipal boundaries, and specifies that such rejection is a legislative decision.

The bill also revises the contraction procedures in situations where more than 70 percent of the acres proposed to be contracted are owned by private entities that are not registered electors. The bill requires in these instances that the owners of *more than 50 percent* of the acreage consent to such contraction. This provision mirrors requirements in current law for municipal annexation.

The bill takes effect on July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

³¹ Section 171.052(2), F.S.

³² Section 171.061(2), F.S.

³³ Section 171.062(3), F.S.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 171.031, 171.0413, 171.042, 171.051, and 171.204.

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 Community Affairs on March 22, 2023:

The CS removes the paragraph in section 2 of the bill that made substantive changes to current law regarding annexation in areas with no registered electors.

B. Amendments:

None.

By the Committee on Community Affairs; and Senator Yarborough

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A bill to be entitled

An act relating to municipal boundaries; reordering and amending s. 171.031, F.S.; defining the term "feasibility study"; amending s. 171.0413, F.S.; specifying the measurement of land during annexation procedures; amending s. 171.042, F.S.; replacing the term "report" with "feasibility study"; amending s. 171.051, F.S.; revising contraction procedures when qualified voters desire to be excluded from municipal boundaries; prohibiting contraction under certain circumstances; amending s. 171.204, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Section 171.031, Florida Statutes, is reordered and amended to read:

171.031 Definitions.—As used in this chapter, the following words and terms have the following meanings unless some other meaning is plainly indicated:

(1) "Annexation" means the adding of real property to the boundaries of an incorporated municipality, such addition making such real property in every way a part of the municipality.

(4)~~(2)~~ "Contraction" means the reversion of real property within municipal boundaries to an unincorporated status.

(7)~~(3)~~ "Municipality" means a municipality created pursuant to general or special law authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution.

(8)~~(4)~~ "Newspaper of general circulation" means a newspaper

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printed in the language most commonly spoken in the area within which it circulates, which is readily available for purchase by all inhabitants in its area of circulation, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

(9)~~(5)~~ "Parties affected" means any persons or firms owning property in, or residing in, either a municipality proposing annexation or contraction or owning property that is proposed for annexation to a municipality or any governmental unit with jurisdiction over such area.

(6) "Feasibility study" means an analysis conducted by qualified staff or consultants of the economic, market, technical, financial, and management feasibility of the proposed annexation or contraction, as applicable.

(10) "Qualified voter" means any person registered to vote in accordance with law.

(11)~~(7)~~ "Sufficiency of petition" means the verification of the signatures and addresses of all signers of a petition with the voting list maintained by the county supervisor of elections and certification that the number of valid signatures represents the required percentage of the total number of qualified voters in the area affected by a proposed annexation.

(12)~~(8)~~ "Urban in character" means an area used intensively for residential, urban recreational or conservation parklands, commercial, industrial, institutional, or governmental purposes or an area undergoing development for any of these purposes.

(14)~~(9)~~ "Urban services" means any services offered by a

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59 municipality, either directly or by contract, to any of its
60 present residents.

61 ~~(13)-(10)~~ "Urban purposes" means that land is used
62 intensively for residential, commercial, industrial,
63 institutional, and governmental purposes, including any parcels
64 of land retained in their natural state or kept free of
65 development as dedicated greenbelt areas.

66 ~~(3)-(11)~~ "Contiguous" means that a substantial part of a
67 boundary of the territory sought to be annexed by a municipality
68 is coterminous with a part of the boundary of the municipality.
69 The separation of the territory sought to be annexed from the
70 annexing municipality by a publicly owned county park; a right-
71 of-way for a highway, road, railroad, canal, or utility; or a
72 body of water, watercourse, or other minor geographical division
73 of a similar nature, running parallel with and between the
74 territory sought to be annexed and the annexing municipality,
75 may ~~shall~~ not prevent annexation under this act, provided the
76 presence of such a division does not, as a practical matter,
77 prevent the territory sought to be annexed and the annexing
78 municipality from becoming a unified whole with respect to
79 municipal services or prevent their inhabitants from fully
80 associating and trading with each other, socially and
81 economically. However, nothing in this subsection may herein
82 ~~shall~~ be construed to allow local rights-of-way, utility
83 easements, railroad rights-of-way, or like entities to be
84 annexed in a corridor fashion to gain contiguity; and when any
85 provision ~~or provisions~~ of any special law prohibits or laws
86 ~~prohibit~~ the annexation of territory that is separated from the
87 annexing municipality by a body of water or watercourse, then

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88 that law shall prevent annexation under this act.

89 ~~(2)-(12)~~ "Compactness" means concentration of a piece of
90 property in a single area and precludes any action which would
91 create enclaves, pockets, or finger areas in serpentine
92 patterns. Any annexation proceeding in any county in this ~~the~~
93 state must ~~shall~~ be designed in such a manner as to ensure that
94 the area will be reasonably compact.

95 ~~(5)-(13)~~ "Enclave" means:

96 (a) Any unincorporated improved or developed area that is
97 enclosed within and bounded on all sides by a single
98 municipality; or

99 (b) Any unincorporated improved or developed area that is
100 enclosed within and bounded by a single municipality and a
101 natural or manmade obstacle that allows the passage of vehicular
102 traffic to that unincorporated area only through the
103 municipality.

104 Section 2. Subsection (5) of section 171.0413, Florida
105 Statutes, is amended to read:

106 171.0413 Annexation procedures.—Any municipality may annex
107 contiguous, compact, unincorporated territory in the following
108 manner:

109 (5) If more than 70 percent of the acres of land in an area
110 proposed to be annexed is owned by individuals, corporations, or
111 legal entities which are not registered electors of such area,
112 such area may ~~shall~~ not be annexed unless the owners of more
113 than 50 percent of the acres of land in such area consent to
114 such annexation. Such consent must ~~shall~~ be obtained by the
115 parties proposing the annexation before ~~prior to~~ the referendum
116 to be held on the annexation.

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Section 3. Subsections (1) and (2) of section 171.042, Florida Statutes, are amended to read:

171.042 Prerequisites to annexation.—

(1) ~~Before~~ ~~Prior to~~ commencing the annexation procedures under s. 171.0413, the governing body of the municipality shall prepare a feasibility study ~~report~~ setting forth the plans to provide urban services to any area to be annexed, and the feasibility study must ~~report shall~~ include the following:

(a) A map or maps of the municipality and adjacent territory showing the present and proposed municipal boundaries, the present major trunk water mains and sewer interceptors and outfalls, the proposed extensions of such mains and outfalls, as required in paragraph (c), and the general land use pattern in the area to be annexed.

(b) A statement certifying that the area to be annexed meets the criteria in s. 171.043.

(c) A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Specifically, such plans must ~~shall~~:

1. Provide for extending urban services except as otherwise provided in this subsection ~~herein~~ to the area to be annexed on the date of annexation on substantially the same basis and in the same manner as such services are provided within the rest of the municipality ~~before~~ ~~prior to~~ annexation.

2. Provide for the extension of existing municipal water and sewer services into the area to be annexed so that, when such services are provided, property owners in the area to be annexed will be able to secure public water and sewer service

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according to the policies in effect in such municipality for extending water and sewer lines to individual lots or subdivisions.

3. If extension of major trunk water mains and sewer mains into the area to be annexed is necessary, set forth a proposed timetable for construction of such mains as soon as possible following the effective date of annexation.

4. Set forth the method under which the municipality plans to finance extension of services into the area to be annexed.

(2) Not fewer than 15 days ~~before~~ ~~prior to~~ commencing the annexation procedures under s. 171.0413, the governing body of the municipality shall file a copy of the feasibility study ~~report~~ required by this section with the board of county commissioners of the county in which ~~wherein~~ the municipality is located. Failure to timely file the feasibility study ~~report~~ as required in this subsection may be the basis for a cause of action to invalidate ~~invalidating~~ the annexation.

Section 4. Subsections (2) and (4) of section 171.051, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

171.051 Contraction procedures.—Any municipality may initiate the contraction of municipal boundaries in the following manner:

(2) A petition of 15 percent of the qualified voters in an area desiring to be excluded from the municipal boundaries, filed with the clerk of the municipal governing body, may propose such an ordinance. The municipality to which such petition is directed shall immediately undertake a feasibility study ~~of the feasibility~~ of such proposal and the governing body

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shall, within 6 months, evaluate the feasibility study of such proposal and either initiate proceedings under subsection (1) by introducing a contraction ordinance or reject the petition as a legislative decision, specifically stating the facts upon which the rejection is based.

(4) If, at the meeting held for the such purpose of considering the contraction ordinance introduced by the governing body, a petition is filed and signed by at least 15 percent of the qualified voters resident in the area proposed for contraction requesting a referendum on the question, the governing body shall, upon verification, paid for by the municipality, of the sufficiency of the petition, and before passing such ordinance, submit the question of contraction to a vote of the qualified voters of the area proposed for contraction, or the governing body may vote not to contract the municipal boundaries.

(11) If more than 70 percent of the acres of land in an area proposed to be contracted is owned by individuals, corporations, or legal entities that are not registered electors of such area, such area may not be contracted unless the owners of more than 50 percent of the acres of land in such area consent to such contraction.

Section 5. Section 171.204, Florida Statutes, is amended to read:

171.204 Prerequisites to annexation under this part.—The interlocal service boundary agreement may describe the character of land that may be annexed under this part and may provide that the restrictions on the character of land that may be annexed pursuant to part I are not restrictions on land that may be

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annexed pursuant to this part. As determined in the interlocal service boundary agreement, any character of land may be annexed, including, but not limited to, an annexation of land not contiguous to the boundaries of the annexing municipality, an annexation that creates an enclave, or an annexation where the annexed area is not reasonably compact; however, such area must be "urban in character" as defined in s. 171.031 ~~or 171.031(8)~~. The interlocal service boundary agreement may not allow for annexation of land within a municipality that is not a party to the agreement or of land that is within another county. Before annexation of land that is not contiguous to the boundaries of the annexing municipality, an annexation that creates an enclave, or an annexation of land that is not currently served by water or sewer utilities, one of the following options must be followed:

(1) The municipality shall transmit a comprehensive plan amendment that proposes specific amendments relating to the property anticipated for annexation to the Department of Economic Opportunity for review under chapter 163. After considering the department's review, the municipality may approve the annexation and comprehensive plan amendment concurrently. The local government must adopt the annexation and the comprehensive plan amendment as separate and distinct actions but may take such actions at a single public hearing; or

(2) A municipality and county shall enter into a joint planning agreement under s. 163.3171, which is adopted into the municipal comprehensive plan. The joint planning agreement must identify the geographic areas anticipated for annexation, the future land uses that the municipality would seek to establish,

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233 necessary public facilities and services, including
234 transportation and school facilities and how they will be
235 provided, and natural resources, including surface water and
236 groundwater resources, and how they will be protected. An
237 amendment to the future land use map of a comprehensive plan
238 which is consistent with the joint planning agreement must be
239 considered a small scale amendment.

240 Section 6. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Bryan Avila, Chair
Committee on Governmental Oversight and Accountability

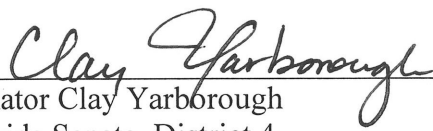
Subject: Committee Agenda Request

Date: March 23, 2023

I respectfully request that **Senate Bill #718**, relating to Municipal Boundaries, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.



Senator Clay Yarborough
Florida Senate, District 4

APPEARANCE RECORD

4/5/2023

Meeting Date

Govt Oversight

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

718

Bill Number or Topic

Amendment Barcode (if applicable)

Name Ashton Mears

Phone 352-843-0248

Address 2600 Centennial Place

Street

Email amears@fhba.com

Tallahassee

City

FL

State

32308

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:I am appearing without
compensation or sponsorship.I am a registered lobbyist,
representing:Florida Home
Builders Assoc.I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/5/23

Meeting Date

718

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

David Cruz

Phone

701-3676

Address

P.O. Box 1757

Email

DCRUZ@flcities.com

Street

Tallahassee

State

32302

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida League of Cities

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

APPEARANCE RECORD

4/5/23

Meeting Date

718

Bill Number or Topic

Gov Oversight & Accountability

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Lance Pierce

Phone

Address

310 W College Ave

Street

Email

Lance@afcd.com

Tallahassee

City

State

FL

32312

Zip

Speaking: ☐ For ☐ Against ☐ Information**OR**Waive Speaking: ☒ In Support ☐ Against**PLEASE CHECK ONE OF THE FOLLOWING:**☐ I am appearing without
compensation or sponsorship.☒ I am a registered lobbyist,
representing:Association of Florida
Community Developers☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 832

INTRODUCER: Senator Berman

SUBJECT: Holocaust Remembrance Day

DATE: April 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	ED	Favorable
2.	Harmsen	McVaney	GO	Favorable
3.			RC	

I. Summary:

SB 832 requires the Governor to proclaim January 27 of each year as “Holocaust Remembrance Day,” to be suitably observed in public schools and by public exercise in the State Capitol and elsewhere as the Governor may designate.

The bill specifies that if January 27 falls on a day that is not a school day, Holocaust Remembrance Day must be observed in the schools on the preceding school day or on such school day as may be designated by local school authorities.

The bill requires instruction about the Holocaust, anti-Semitism, and their harmful impacts on humanity to be provided as part of public educational instruction on Holocaust Remembrance day.

The bill has no impact on state revenues and expenditures.

This bill is effective July 1, 2023.

II. Present Situation:

Legal Holidays and Observances

Chapter 683, F.S., provides designations for legal holidays and special observances. Recognition of a legal holiday or special observance may apply statewide or may be limited to a particular region. For example, “Gasparilla Day”¹ is a legal holiday observed only in Hillsborough County, while “Bill of Rights Day,”² if issued by the Governor, is observed throughout the state.

¹ Section 683.08, F.S.

² Section 683.25, F.S.

Depending on the holiday or special observance, certain actions may be required to be performed for the commemoration or observance of the date, day, or month. For example, Florida law recognizes the month of September as “American Founders’ Month,”³ urging all civic, fraternal, and religious organizations and public and private educational institutions to recognize this occasion through appropriate programs and celebrations, and the last full week of classes in September as “Celebrate Freedom Week,”⁴ in which public schools are required to include at least three hours of grade-appropriate instruction related to the meaning and importance of the Declaration of Independence in social studies classes.⁵ The Governor is directed to proclaim November 7 of each year as “Victims of Communism Day,” which must be observed in public schools. In the 2023-2024 school year, high school students enrolled in a United States Government class must receive at least 45 minutes of instruction on victims who suffered under specified communist regimes.⁶

There are 21 legal holidays⁷ established in law and 36 special observances.⁸ The state recognizes nine paid holidays that are observed by all state branches and agencies.⁹

The Holocaust

The Holocaust (1933-1945) was the systematic, state-sponsored persecution and murder of 6 million European Jews and others by the Nazi German regime and its allies and collaborators. At the beginning of Nazi rule, Dictator Adolf Hitler used the government to target and exclude Jews from German society. Among other anti-Semitic measures, the Nazi German regime enacted discriminatory laws and organized violence targeting Germany’s Jews.¹⁰

The Nazi persecution of Jews became radicalized with the culminated plan known as the “Final Solution to the Jewish Question”. The “Final Solution” came to fruition during World War II, with mass shootings and gas poisoning killing centers in concentration camps. About 6 million Jews and some 5 million others, targeted for racial, political, ideological, and behavioral reasons, died in the Holocaust, more than 1 million of those who perished were children.¹¹

Commemoration of the Holocaust

The United Nations (UN) General Assembly designated January 27, the anniversary of the liberation of Auschwitz-Birkenau, as International Holocaust Remembrance Day. On this annual day of commemoration, the UN urges every member state to honor the 6 million Jewish victims

³ Section 683.1455, F.S.

⁴ Section 1003.421, F.S.

⁵ See Florida Department of Education, *American Founders’ Month*, <http://www.fldoe.org/academics/standards/subject-areas/social-studies/American-Founders-Month.shtml> (last visited Apr. 4, 2023).

⁶ Section 683.334, F.S.

⁷ Section 683.01, F.S.

⁸ Sections 683.04 - 683.3341, F.S.

⁹ Section 110.117(1), F.S. Paid state holidays include: New Year’s Day, the Birthday of Martin Luther King, Jr., Memorial Day, Independence Day, Labor Day, Veterans’ Day, Thanksgiving Day, the Friday after Thanksgiving, and Christmas Day.

¹⁰ United States Holocaust Memorial Museum, *Introduction to the Holocaust*, <https://encyclopedia.ushmm.org/content/en/article/introduction-to-the-holocaust> (last visited Apr. 4, 2023).

¹¹ *Id.*

of the Holocaust and millions of other victims of Nazism and to develop education programs to help prevent future genocides.¹²

Holocaust Education in Florida

In 2020, the Legislature directed the DOE to develop standards for Holocaust Education.¹³ The DOE worked closely with the Commissioner of Education's Task Force on Holocaust Education and Florida teachers to develop content-rich and developmentally appropriate Holocaust Education standards. In the process, DOE received and considered comments from state and nationally recognized Holocaust educational organizations, Florida educators, school administrators, representatives of the Florida College System and state universities, business and industry leaders, and the public.¹⁴

In July 2021, the SBE adopted the updated State Standards for Social Studies, incorporating revised civics and government standards¹⁵ and new standards for grades 5-12 for Holocaust education.¹⁶

Required instruction on the Holocaust (1933-1945) must include the history of the systematic, planned annihilation of European Jews and other groups by Nazi Germany, a watershed event in the history of humanity, and be taught in a manner that leads to an investigation of human behavior, an understanding of the ramifications of prejudice, racism, and stereotyping, and an examination of what it means to be a responsible and respectful person, for the purposes of encouraging tolerance of diversity in a pluralistic society and for nurturing and protecting democratic values and institutions, including the policy, definition, and historical and current examples of anti-Semitism.¹⁷

Each school district must annually certify and provide evidence to the DOE that they have to meet the instructional requirements on Holocaust education. In addition, the DOE may contract with any state or nationally-recognized Holocaust educational organizations to develop training for instructional personnel and grade-appropriate classroom resources to support the developed curriculum.¹⁸

Florida recognized the second week in November as Holocaust Education Week, which coincided with the anniversary of Kristallnacht, November 9-10, 1938. Kristallnacht is widely recognized as a precipitating event that led to the Holocaust.¹⁹ The DOE has created a portal dedicated to Holocaust Education Week, which offers commemoration resources, educational

¹² United Nations General Assembly Resolution 60/7. *See also*, United Nations, *Outreach Programme on the Holocaust*, <https://www.un.org/en/holocaustremembrance/observance/> (last visited Apr. 4, 2023).

¹³ Ch. 2020-88, s. 5, Laws of Fla.

¹⁴ Florida Department of Education, *Next Generation Sunshine Standards – Social Studies, 2021*, <https://www.fldoe.org/core/fileparse.php/18736/urlt/SR-SocialStudies.pdf> (last visited Apr. 4, 2023).

¹⁵ Ch. 2019-150, s.1, Laws of Fla.

¹⁶ Florida Department of Education, *Next Generation Sunshine Standards – Social Studies, 2021*, <https://www.fldoe.org/core/fileparse.php/18736/urlt/SR-SocialStudies.pdf> (last visited Apr. 4, 2023).

¹⁷ Section 1003.42(2)(g)1., F.S.

¹⁸ *Id.*

¹⁹ Section 1003.42(2)(g)2., F.S.

programs, and materials concerning the Holocaust, for school districts, teachers, parents, and the general public.²⁰

III. Effect of Proposed Changes:

SB 832 creates s. 683.045, F.S., to require the Governor to proclaim January 27 of each year to be “Holocaust Remembrance Day”. This day must be suitably observed in public schools and by public exercise in the State Capitol and elsewhere as the Governor may designate.

The bill specifies that if January 27 falls on a day that is not a school day, Holocaust Remembrance Day must be observed in the schools on the preceding school day or on such school day as may be designated by local school authorities.

The bill requires instruction about the Holocaust, anti-Semitism, and their harmful impacts on humanity to be provided as part of public educational instruction on Holocaust Remembrance day.

This bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

²⁰ Florida Department of Education, *Holocaust Education Week*, <https://www.fldoe.org/holocausteducation/holo-ed-week.shtml> (last visited Apr. 4, 2023).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill is not expected to have an impact on state and local government revenues and expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 683.045 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 Senator Berman

26-01881-23

2023832__

A bill to be entitled

An act relating to Holocaust Remembrance Day; creating s. 683.045, F.S.; requiring the Governor to proclaim January 27 of each year as "Holocaust Remembrance Day"; requiring such day to be observed in public schools and by public exercises as the Governor may designate; requiring educational instruction to be provided; providing an effective date.

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

Section 1. Section 683.045, Florida Statutes, is created to read:

683.045 Holocaust Remembrance Day.—

(1) The Governor shall proclaim January 27 of each year to be "Holocaust Remembrance Day," which day shall be suitably observed in the public schools of the state, and which day shall otherwise be suitably observed by such public exercises in the State Capitol and elsewhere as the Governor may designate.

(2) If January 27 falls on a day that is not a school day, Holocaust Remembrance Day shall be observed in the schools on the preceding school day or on such school day as may be designated by local school authorities.

(3) Instruction about the Holocaust, anti-Semitism, and their harmful impacts on humanity shall be provided as part of public educational instruction on Holocaust Remembrance Day.

Section 2. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Bryan Avila, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 27, 2023

I respectfully request that **Senate Bill #832**, relating to Holocaust Remembrance Day, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in blue ink, appearing to read "Lori Berman", is written over a horizontal line.

Senator Lori Berman
Florida Senate, District 26

cc: Senator Tiny Polsky, Vice Chair
Joe McVaney, Staff Director

APPEARANCE RECORD

4.5.23

Meeting Date

832

Bill Number or Topic

Government Oversight

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Accountability

Amendment Barcode (if applicable)

Name

Damaris Allen

Phone

407.855.7604

Address

1747 Orlando Central Parkway

Email

legislative@floridapta.org

Street

Orlando, FL 32809

City

State

Zip



Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☐I am a registered lobbyist,
representing:☒I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 998

INTRODUCER: Criminal Justice Committee and Senator Burgess

SUBJECT: Chiefs of Police

DATE: April 4, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Stokes	CJ	Fav/CS
2. Harmsen	McVane	GO	Favorable
3. _____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 998 provides for notice, hearing, and other requirements relevant to terminating a police chief's employment. The bill:

- Provides findings in support of the procedural requirements and other requirements relevant to terminating a police chief's employment.
- Prohibits a person employed or appointed as police chief from being terminated without being provided written notice, including just cause for the termination, and the opportunity to defend himself or herself against termination at a public meeting or hearing. This provision does not supersede a written employment contract or agreement that provides employment, discipline, or termination standards or procedures.
- Authorizes the police chief to be represented by counsel, including at the public meeting or hearing, at his or her request.
- Prohibits a police chief from being discharged; disciplined; demoted; denied a promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, for exercising any rights provided by the bill.
- Requires a police chief who is aggrieved by an alleged violation of his or her rights as provided in the new section to provide written notice to his or her employing agency, and requires the employing agency to cure the alleged violation.
- Defines "chief of police," and "employing agency."

If the provisions of the bill have any fiscal impact on municipal governments, the impact is indeterminate. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

A police chief is appointed or hired by a city official or officials (mayor, city manager, city commission, etc.) and “charged with the responsibility to provide leadership and management of police department resources to protect and serve citizens of and visitors to those municipalities.”¹

According to the Florida Police Chiefs Association, Florida police chiefs are at-will employees.² Police chiefs are not covered under s. 112.532, F.S., commonly referred to as the Officers’ Bill of Rights, which provides procedural protections to a law enforcement officer or correctional officer under investigation or subject to interrogation by the officer’s employing agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal. There does not appear to be any statutory right to notice and hearing for a police chief prior to his or her termination.³

III. Effect of Proposed Changes:

The bill creates s. 112.5321, F.S., which provides for notice, hearing, and other requirements relevant to terminating a police chief’s employment. The bill:

- Provides findings in support of the procedural requirements and other requirements relevant to terminating a police chief’s employment.
- Prohibits a person employed or appointed as police chief from being terminated without providing written notice, including just cause for the termination, and the opportunity to defend himself or herself against termination at a public meeting or hearing.⁴
- Authorizes the police chief to be represented by counsel, including at the public meeting or hearing, at his or her request.
- Prohibits a police chief from being discharged; disciplined; demoted; denied a promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, for exercising any rights provided in the new section.
- Requires a police chief who is aggrieved by an alleged violation of his or her rights as provided in the new section to provide written notice to his or her employing agency within 3 days after the alleged violation which must contain specific information relating to the alleged violation.

¹ James T. Murdaugh, *Succession and the Police Chief: An Examination of the Nature of Turnover Among Police Chiefs* (2005), (Florida State University dissertation), p. 52, available at <https://diginole.lib.fsu.edu/islandora/object/fsu:180415/datastream/PDF/view> (last visited on Apr. 4, 2023).

² E-mail from Jennifer Pritt, Executive Director, Florida Police Chiefs Association, dated March 22, 2023 (on file with Committee on Criminal Justice).

³ According to a 2005 study of Florida police chiefs, being fired ranked fifth on the reasons cited by surveyed police chiefs for their predecessor leaving office. *Supra*, at n. 1, p. 72. There do not appear to be any more recent findings on the reasons for police chiefs leaving office.

⁴ However, these requirements do not supersede any written employment contract or agreement that provides employment, discipline, or termination standards or procedures.

- Requires the employing agency to cure the alleged violation within 5 days after receipt of the written notification unless a longer time period is agreed to in writing by both parties or is necessary to satisfy notice requirements for notice of a public meeting or hearing pursuant to s. 286.011, F.S.

The bill amends s. 112.531, F.S., to provide that “chief of police” means a person, other than an elected official, who is appointed or employed full time by the state or any political subdivision thereof to be the chief law enforcement officer of a law enforcement agency and who is not covered by the protections under s. 112.532, F.S. The term does not include state law enforcement agency executives whose appointment or employment is governed by other provisions of law.

Additionally, the bill provides that “employing agency” has the same meaning as in s. 943.10(4), F.S., which defines the term as 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 also includes any private entity which has contracted with the state or county for the operation and maintenance of a nonjuvenile detention facility. Most of this definition will not actually apply to a police chief’s employing agency.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

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:

None.

C. Government Sector Impact:

The bill contains procedural requirements, including notice and hearing, which may have some fiscal impact on municipal governments, but that cost, if any, is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 112.531 of the Florida Statutes.

This bill creates section 112.5321 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 Criminal Justice on March 27, 2023:

The committee substitute:

- Clarifies the intent to prohibit arbitrary termination of a police chief without the chief being provided written notice and opportunity to present a defense to the termination at a public meeting or hearing;
- Removes a provision in the bill that authorized a civil suit for damages; and
- Provides two means for extending the time for an employing agency to cure a violation of procedural requirements: by written agreement of both parties; or if necessary to satisfy notice requirements for notice of a public meeting or hearing.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Burgess

591-03136-23

2023998c1

A bill to be entitled

An act relating to chiefs of police; amending s. 112.531, F.S.; defining terms; creating s. 112.5321, F.S.; providing legislative findings and intent; providing rights of chiefs of police; requiring an aggrieved chief of police to provide his or her employing agency with a certain written notice within a specified timeframe; requiring an employing agency to cure an alleged violation within a specified timeframe; providing exceptions; providing an effective date.

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

Section 1. Present subsections (1) and (2) of section 112.531, Florida Statutes, are redesignated as subsections (2) and (4), respectively, and new subsections (1) and (3) are added to that section, to read:

112.531 Definitions.—As used in this part, the term:

(1) “Chief of police” means a person, other than an elected official, who is appointed or employed full time by the state or any political subdivision thereof to be the chief law enforcement officer of a law enforcement agency and who is not covered by the protections under s. 112.532. The term does not include state law enforcement agency executives whose appointment or employment is governed by other provisions of law.

(3) “Employing agency” has the same meaning as in s. 943.10(4).

591-03136-23

2023998c1

Section 2. Section 112.5321, Florida Statutes, is created to read:

112.5321 Rights of chiefs of police.—

(1) The Legislature recognizes that a chief of police is accountable for the direction and actions of the law enforcement agency he or she leads. The Legislature also recognizes the critical importance of allowing the chief of police to communicate directly with the public, including the press, and allowing the chief of police to manage his or her law enforcement agency without political influence or interference in order to increase and maintain the public trust and exercise the authority of the chief of police. The Legislature finds that communities deserve the opportunity to participate in any hearing in which the termination of the community’s chief of police is being discussed, and the reasons for which a chief of police is being terminated should be a matter of public record. The Legislature also finds that law enforcement agencies that terminate the chief of police without public transparency often have problems with agency morale, recruitment and retention of law enforcement officers, and the stability of the relationship between law enforcement officers and the community. Additionally, the Legislature recognizes the importance of protecting public safety, community stability, government transparency, and accountability and confidence within law enforcement agencies. Therefore, the Legislature intends to prohibit the arbitrary termination of a chief of police without the chief being provided written notice and an opportunity to defend himself or herself against termination at a public meeting or hearing.

591-03136-23

2023998c1

59 (2) A person employed or appointed as a chief of police:

60 (a) May not be terminated by his or her employing agency
61 without being provided written notice, including just cause for
62 the termination, and the opportunity to defend himself or
63 herself against the termination at a public meeting or hearing.
64 This paragraph does not supersede any written employment
65 contract or agreement that provides employment, discipline, or
66 termination standards or procedures.

67 (b) May be represented by counsel, including at the public
68 meeting or hearing under paragraph (a), at his or her request.

69 (c) May not be discharged; disciplined; demoted; denied a
70 promotion, transfer, or reassignment; or otherwise discriminated
71 against in regard to his or her employment or appointment, or be
72 threatened with any such treatment, for exercising any of the
73 rights provided in this subsection.

74 (3) A chief of police who is aggrieved by an alleged
75 violation of subsection (2) shall provide written notice to his
76 or her employing agency within 3 days after the alleged
77 violation which must contain specific information relating to
78 the alleged violation. The employing agency shall cure the
79 alleged violation within 5 days after receipt of the written
80 notification unless a longer time period is agreed to in writing
81 by both parties or is necessary to satisfy notice requirements
82 for notice of a public meeting or hearing pursuant to s.
83 286.011.

84 Section 3. This act shall take effect July 1, 2023.

4/5/2023

Meeting Date

Government Oversight & Accountability

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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998

Bill Number or Topic

Amendment Barcode (if applicable)

Name Matt Dunagan

Phone 850-877-2165

Address 2617 Mahan Drive

Email mdunagan@flsheriffs.org

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Sheriffs Association

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

April 5, 2023

Meeting Date

Govt Oversight & Acco

Committee

The Florida Senate

APPEARANCE RECORD

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998

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jennifer Cook Pritt**

Phone **850-219-3631**

Address **2636 Mitcham Drive**

Email **jpritt@fpca.com**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

FL Police Chiefs Associati

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

April 5, 2023

Meeting Date

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Committee

The Florida Senate

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Bill Number or Topic

Amendment Barcode (if applicable)

Name Charlie Vazquez, FPCA 2nd Vice President Phone 8505107249

Address 2636 Mitcham Drive Email jpritt@fpca.com
Street

Tallahassee FL 32308
City State Zip

Reset Form

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

FPCA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 1040

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Burgess

SUBJECT: District School Board Direct-support Organizations

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	ED	Favorable
2.	McVaney	McVaney	GO	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1040 authorizes district school boards to contract with a direct-support organization (DSO) for personal services or operations. If the DSO employs a retiree of the Florida Retirement System to provide services under the contract with the school district, the retiree must first satisfy the requirements of termination prior to providing such services and is subject to the reemployment restrictions relating to the Florida Retirement System.

The bill revises the threshold of expenditures and expenses that requires a DSO to provide for a financial audit. Additionally, the bill authorizes district school boards to contract with a vendor for an annual financial audit of a DSO.

The bill has no impact on state revenues or expenditures.

The bill is effective July 1, 2023.

II. Present Situation:

Citizen Support Organizations and Direct-Support Organizations

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily created private entities that are generally required to be not-for-profit corporations, and are authorized to carry out specific tasks in support of public entities or public causes. The functions

and purpose of a CSO or DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

CSO and DSO Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for CSOs and DSOs that are created or authorized pursuant to law or executive order and created, approved, or administered by a state agency.¹ Specifically, the law requires each CSO and DSO to annually submit, by August 1, the following information related to its organization, mission, and finances to the agency it supports:²

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service (IRS) Return of Organization Exempt from Income Tax form (Form 990).³

Each agency receiving the above information must make the information available to the public through the agency's website. If the CSO or DSO maintains a website, the agency's website must provide a link to the website of the CSO or DSO.⁴ Additionally, any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting the information.⁵ If a CSO or DSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the CSO or DSO.⁶ The contract must also include a provision for ending operations and returning state-issued funds to the state if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁷

By August 15 of each year, the agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability (OPPAGA) the information provided by the CSO or DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each CSO or DSO.⁸

Finally, a law creating or authorizing the creation of a CSO or DSO must state that the creation or authorization for the CSO or DSO is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature. CSOs and DSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019.⁹

¹ Section 3, ch. 2014-96, Laws of Fla.

² Section 20.058(1), F.S.

³ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ Section 20.058(3), F.S.

⁹ Section 20.058(5), F.S.

CSO and DSO Audit Requirements

Section 215.981, F.S., requires each CSO and DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.¹⁰ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the CSO or DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports.

Additionally, the Auditor General may conduct audits or other engagements of the accounts and records of the CSO or DSO, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee.¹¹ The Auditor General is authorized to require and receive any records from the CSO or DSO, or its independent auditor.¹²

District School Board Direct-Support Organization

A district school board DSO is an organization that:¹³

- Is approved by the district school board.
- Is a Florida not-for-profit corporation.
- Is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of public kindergarten through grade 12 education and adult career and community education programs in this state.

The board of directors of the DSO must be approved by the district school board.¹⁴

Use of Property by the District School Board DSO

Section 1001.453, F.S., sets forth limitations on the use of district property by the DSO. DSOs are authorized to use the property, facilities, and personal services¹⁵ of the district. The district school board must adopt rules in coordination with the Florida Department of Education (DOE) that govern the DSO's use of the district property, facilities, or personal services, and provide for budget and audit review and oversight by the district school board and the DOE.

However, the DSO is not permitted to use the property, facilities, or personal services if the DSO does not provide equal employment opportunities to all persons, regardless of race, color, religion, sex, age, or national origin.

¹⁰ The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

¹¹ Section 11.45(3)(d), F.S.

¹² *Id.*

¹³ Section 1001.453, F.S.

¹⁴ Section 1001.453(3), F.S.

¹⁵ Section 1001.453(1)(b), F.S. Personal services includes full-time or part-time personnel, as well as payroll processing.

District School Board DSO Audit Requirements

Each district school board DSO with more than \$100,000 in expenditures or expenses is required to provide for an annual financial audit of its accounts and records.¹⁶ The audit must be conducted by an independent certified public accountant in accordance with the rules adopted by the Auditor General¹⁷ and the Commissioner of Education.¹⁸ The annual audit report must be submitted within nine months after the fiscal year's end to the district school board and the Auditor General. The Commissioner of Education, the Auditor General, and the Office of Program Policy Analysis and Government Accountability have the authority to require and receive from the organization or the district auditor any records relative to the operation of the organization.¹⁹

Florida Retirement System

Current law relating to the Florida Retirement System (FRS) requires an employee to terminate his or her employment in order to commence a retirement benefit. The determination of whether a bona fide termination from employment has occurred is critical for both the tax qualification of the FRS and Florida statutory compliance purposes.

To address the requirement of bona fide termination, the FRS states "termination" occurs "when a member ceases all employment relationships with participating employers." If an FRS retiree has a relationship with an employer participating in the FRS within 12 months of the retiree's retirement date, the retiree may be deemed to be a reemployed retiree. If services are provided within the first 6 months of retirement, the retiree's termination may be deemed not to have occurred,²⁰ and the retiree and the employer will be jointly liable for the repayment of any retirement benefits, including accumulations in the retiree's Deferred Retirement Option Program account.²¹ If such services are provided between months 7 and 12 of retirement, the retiree's monthly retirement benefit may be suspended until month 13 of retirement.²² The only statutory exception to the suspension of benefits applies to a retired law enforcement officer reemployed as a school resource officer.²³

III. Effect of Proposed Changes:

The bill amends s. 1001.453, F.S., to authorize district school boards to contract with a direct-support organization for personal services or operations. If the DSO employs an FRS retiree to provide services under the contract with the school district, the retiree must first satisfy the requirements of termination prior to providing such services and is subject to the reemployment restrictions relating to the FRS.

The bill increases from \$100,000 to \$250,000 the threshold of expenditures and expenses to require a direct-support organization (DSO) provide for a financial audit. Additionally, the bill

¹⁶ Section 1001.453(4), F.S.

¹⁷ Section 11.45(8), F.S.

¹⁸ Section 1001.453(4), F.S.

¹⁹ Section 1001.453(4), F.S.

²⁰ Section 121.021(39)(a)2., F.S.

²¹ Section 121.091(9)(c)3., F.S.

²² Section 121.091(9)(c), F.S.

²³ Section 121.091(9)(f), F.S.

authorizes district school boards to contract with a vendor for an annual financial audit of a direct-support organization.

Audit fees can be significant for large nonprofits located in major urban areas and are often daunting even for small nonprofits.²⁴ Audits can be time-consuming and expensive, typically ranging from \$10,000 to \$20,000 depending on a nonprofit's size, according to the National Council of Nonprofits.²⁵ Increasing the threshold for requiring a DSO to provide an annual financial audit and allowing district school boards to contract with a vendor could reduce the burden of this annual cost for smaller DSOs.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

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.

²⁴ National Council of Nonprofits, *What is an independent audit?* <https://www.councilofnonprofits.org/running-nonprofit/nonprofit-audit-guide/what-independent-audit> (last visited March 9, 2023).

²⁵ 501(c) Services, *Does your nonprofit really need an annual audit? Here are the alternatives*, <https://www.501c.com/does-your-nonprofit-really-need-an-annual-audit-here-are-the-alternatives/#:~:text=Audits%20are%20time%20consuming%20and,the%20National%20Council%20of%20Nonprofits> (last visited March 9, 2023).

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill is not expected to impact state revenues and expenditures. The bill may impact the expenditures of a school district if the district chooses to contract with a vendor to complete the annual financial audit of a DSO.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1001.453 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 April 5, 2023:

The committee substitute clarifies that if the DSO employs an FRS retiree to provide services under the contract with the school district, the retiree must first satisfy the requirements of termination prior to providing such services.

B. Amendments:

None.



701240

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/05/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 25
and insert:
services or operations. However, a retiree of the Florida Retirement System must first satisfy the requirements for termination from employment provided in s. 121.021(39) before providing such services or operations for a Florida Retirement System employer, and is subject to the reemployment limitations provided in s. 121.091(9).



701240

11
12 ===== T I T L E A M E N D M E N T =====
13 And the title is amended as follows:
14 Delete line 6
15 and insert:
16 operations subject to certain limitations; revising
17 the amount of expenditures and

By Senator Burgess

23-00559A-23

20231040__

A bill to be entitled

An act relating to district school board direct-support organizations; amending s. 1001.453, F.S.; authorizing district school boards to contract with direct-support organizations for personal services or operations; revising the amount of expenditures and expenses a direct-support organization must have to be required to provide for an annual financial audit; authorizing district school boards to contract with a vendor for such audits; providing an effective date.

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

Section 1. Paragraphs (a) and (c) of subsection (2) and subsection (4) of section 1001.453, Florida Statutes, are amended to read:

1001.453 Direct-support organization; use of property; board of directors; audit.—

(2) USE OF PROPERTY.—A district school board:

(a) Is authorized to:

1. Permit the use of property, facilities, and personal services of the district by a direct-support organization, subject to the provisions of this section; or

2. Contract with a direct-support organization for personal services or operations.

(c) May ~~Shall~~ not permit the use of property, facilities, or personal services ~~by~~ of a direct-support organization if such organization does not provide equal employment opportunities to all persons, regardless of race, color, religion, sex, age, or

Page 1 of 2

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

23-00559A-23

20231040__

national origin.

(4) ANNUAL FINANCIAL AUDIT.—Each direct-support organization with more than \$250,000 ~~\$100,000~~ in expenditures or expenses shall provide for an annual financial audit of its accounts and records, to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General pursuant to s. 11.45(8) and the Commissioner of Education. A district school board may contract with a vendor for an annual financial audit of a direct-support organization. The annual financial audit report shall be submitted within 9 months after the fiscal year's end to the district school board and the Auditor General. The Commissioner of Education, the Auditor General, and the Office of Program Policy Analysis and Government Accountability have the authority to require and receive from the organization or the district auditor any records relative to the operation of the organization. The identity of donors and all information identifying donors and prospective donors are confidential and exempt from ~~the provisions of~~ s. 119.07(1), and that anonymity shall be maintained in the auditor's report. All other records and information shall be considered public records for the purposes of chapter 119.

Section 2. This act shall take effect July 1, 2023.

Page 2 of 2

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

To: Senator Bryan Avila, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 21, 2023

I respectfully request that **Senate Bill #1040**, relating to District School Board Direct-Support Organizations, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.



Senator Danny Burgess
Florida Senate, District 23

APPEARANCE RECORD

Meeting Date

April 5, 2023

Bill Number or Topic

1040

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Gov Ops

Amendment Barcode (if applicable)

Name

Stuart Brown

Phone

850-510-5644

Address

317 East Park Ave.

Email

Street

Tallahassee

FL

32301

City

State

Zip



Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
representing:☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Consortium of Florida Education Foundations

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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 1046

INTRODUCER: Senators Rouson and Davis

SUBJECT: Victims of Reform School Abuse

DATE: April 4, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Limones-Borja</u>	<u>McVaney</u>	<u>GO</u>	<u>Favorable</u>
2. _____	_____	<u>ATD</u>	_____
3. _____	_____	<u>FP</u>	_____

I. Summary:

SB 1046 creates the “Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act,” to provide a process for former students of these schools who were abused to be certified as victims. The bill defines the term “victim of Florida reform school abuse.”

The bill requires a person seeking to be certified as a victim of Florida reform school abuse to submit an application to the Department of State (DOS) by September 1, 2023. The DOS must notify the applicant of its determination within 5 business days after processing and reviewing the application. If the DOS determines that an application meets the requirements of the act, the DOS must certify the applicant as a victim of Florida reform school abuse. The DOS must also submit a list of all certified victims to the President of the Senate and the Speaker of the House of Representatives by December 31, 2023.

The bill also provides that a victim of Florida reform school abuse or an intervenor connected therewith may file a claim under ch. 960, F.S., which governs victim assistance, including victim compensation. The bill defines “crime,” for purposes of filing a claim and requires that a claim must be brought within 1 year of the effective date of the bill.

This bill may have an indeterminate fiscal impact on the DOS. Additionally, this bill may have an indeterminate fiscal impact on the Office of the Attorney General (OAG) for claims filed under ch. 960, F.S.

This act is effective upon becoming law.

II. Present Situation:

Victims of Florida Reform School Abuse

This bill defines a “victim of Florida reform school abuse” to mean a living person who was confined at the Arthur G. Dozier School for Boys or the Okeechobee School at any time between 1940 and 1975 and who was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the period of confinement.

The Arthur G. Dozier School for Boys

From 1900 to 2011, the state operated the Florida State Reform School in Marianna. In 1967, the name was changed to the Arthur G. Dozier School for Boys (Dozier School).¹ Children were committed to the Dozier school for criminal offenses such as theft and murder, but later on the law was amended to allow for children with minor offenses such as truancy to be committed too. Additionally, many children who had not been charged with a crime were committed to the school as wards of the state and orphans.²

Beginning as early as 1901, there were reports of children being chained to walls in irons, brutal whippings, and peonage.³ In the first 13 years of operation, six state-led investigations took place. Those investigations found that children as young as five years old were being hired out for labor, unjustly beaten, and were without education or proper food and clothing.⁴ In 2005, former students of the Dozier School began to publish accounts of the abuse they experienced at the school.⁵ These stories prompted Governor Charlie Crist to direct the Florida Department of Law Enforcement (FDLE) to investigate the Dozier School and the deaths that were alleged and occurred at the school. In 2008, Governor Charlie Crist directed the FDLE to investigate 32 unmarked graves located on the property surrounding the school in response to complaints lodged by former students at the Dozier School.⁶ The former students of Dozier alleged that students who died as a result of abuse were buried at the school cemetery.⁷

The Okeechobee School

Due to overcrowding at the Dozier School, the state opened a new reform school in Okeechobee. The first 50 boys were transferred to the Okeechobee campus from the Marianna campus along with 20 staff members.⁸ Interviews with former students in the school found that the former superintendent and deputy superintendent of the Florida School for Boys in Okeechobee

¹ David Built, *Arthur G. Dozier School for Boys*, Abandoned Florida, Sep. 29, 2015, available at <https://www.abandonedfl.com/arthur-g-dozier-school-for-boys/> (last visited Apr. 4, 2023).

² Erin H. Kimmerle, Ph.D. et al., *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida*, The University of South Florida, pg. 22, January 18, 2016, available at <http://mediad.publicbroadcasting.net/p/wusf/files/201601/usf-final-dozier-summary-2016.pdf> (last visited Apr. 4, 2023).

³ See *supra* note 2, at 12.

⁴ See *supra* note 2, at 27.

⁵ Office of Executive Investigations, Florida Department of Law Enforcement, *FDLE Investigative Report* (May 14, 2009), available at <http://thewhitehouseboys.com/fdlereport.html> (last visited Apr. 4, 2023)

⁶ *Id.*

⁷ *Id.*

⁸ Richard Marion, *OYDC closure brings an end to troubled history*, South Central Florida Life (Jul. 15, 2020), available at <https://www.southcentralfloridalife.com/stories/oydc-closure-brings-an-end-to-troubled-history,9159> (last visited Apr. 4, 2023).

(Okeechobee School), would administer corporal punishment himself.⁹ Several students at the Okeechobee School died in the 1960s, some of those under questionable circumstances. Two of them being a 13-year-old boy found floating face down in the school's sewage tank, and a teen shot dead during an alleged escape attempt.¹⁰

The Florida Crimes Compensation Act

The Florida Crimes Compensation Act¹¹ authorizes the Florida Attorney General's Division of Victim Services to administer a compensation program to ensure financial assistance for victims of crime. Injured victims of crime may file for compensation for financial assistance such as treatment costs, economic loss, disability, or loss of support.¹²

Section 960.065, F.S., provides that the following persons are eligible for compensation under ch. 960, F.S.:

- A victim.
- An intervenor, defined as any person who goes to the aid of another and suffers bodily injury or death as a result of acting, not recklessly, to prevent the commission of a crime, to apprehend a person suspected of having committed a crime, or to the aid of a crime victim.¹³
- A surviving spouse, parent or guardian, sibling, or child of a deceased victim or intervenor.
- Any other person who is dependent for his or her principal support upon a deceased victim or intervenor.¹⁴

The Department of Legal Affairs cannot award compensation pursuant ch. 960, F.S., unless it finds that a crime was committed and that it resulted in personal injury, psychiatric or psychological injury, or death to the victim or intervenor. Any award granted, must be granted on an "actual need" basis and may be based on myriad other factors—including, but not limited to, the claimant's risk of serious financial hardship as a result of the injury, and other claimants' rights to compensation based on the same claim.¹⁵ An award is provided only after all benefits provided by primary insurance carriers, including, but not limited to, health and accident insurers, workers' compensation, and automobile accident coverage.¹⁶ Payments under ch. 960, F.S., are considered payments "of last resort," that follow all other payments.¹⁷

⁹ *Id.*

¹⁰ WPBF News, *Investigation uncovers deaths of boys at Okeechobee Florida School for Boys* (April 10, 2015), available at <https://www.wpbf.com/article/investigation-uncovers-deaths-of-boys-at-okeechobee-florida-school-for-boys/1325188#> (Last visited Mar. 30, 2023).

¹¹ Sections 960.01-960.28, F.S.

¹² Attorney General, *Victim Compensation Brochure*, available at: [http://myfloridalegal.com/webfiles.nsf/WF/MRAY8CVP5T/\\$file/BVCVictimCompensationBrochure.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MRAY8CVP5T/$file/BVCVictimCompensationBrochure.pdf) (last visited Mar. 30, 2023).

¹³ Section 963.03(9), F.S.

¹⁴ Section 960.065(1), F.S.

¹⁵ Section 960.13, F.S.

¹⁶ Section 960.13(2), F.S.

¹⁷ Section 960.13(3), F.S.

Claims will generally be denied if filed for, or on behalf of, a person who:

- Committed or aided in the commission of the crime upon which the claim for compensation was based;
- Was engaged in an unlawful activity at the time of the crime upon which the claim for compensation is based, unless the victim was engaged in prostitution as a result of being a victim of human trafficking;
- Was in custody or confined, regardless of conviction, in a county or municipal detention facility, a state or federal correctional facility, or a juvenile detention or commitment facility at the time of the crime upon which the compensation is based;
- Has been adjudicated as a habitual felony offender, habitual violent offender, or violent career criminal; or
- Has been adjudicated guilty of a forcible felony offense.¹⁸

Claims filed by or on behalf of a person who was in custody or confined, who are adjudicated as a habitual felony offender or found guilty of a forcible felony may be eligible upon a finding by the Crime Victim's Service Office of mitigating or special circumstances that would render a disqualification unjust.¹⁹

III. Effect of Proposed Changes:

The bill provides that this Act may be cited as the "Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act." The bill provides numerous whereas clauses detailing the schools' histories of abuse, the investigations that followed, and the Legislature's formal apology in 2017.

Section 1 defines the term "victim of Florida reform school abuse" to mean a living person who was confined at the Arthur G. Dozier School for Boys or the Okeechobee School at any time between 1940 and 1975 and who was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the period of confinement.

Section 1 requires a person seeking to be certified as a victim of Florida reform school abuse to submit an application to the Department of State (DOS) by September 1, 2023. The estate, personal representative, next of kin, or lineal descendants may submit an application on behalf of the victim. The application must include:

- An affidavit stating:
 - That the applicant was confined at the Dozier School or the Okeechobee School;
 - The beginning and ending days of the confinement; and
 - That the applicant was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the confinement.
- Documentation from the State Archives of Florida, the Dozier School, or the Okeechobee School, demonstrating that the applicant was confined at the school for any length of time between 1940 and 1975; and
- Proof of identification, including a current form of photo ID.

¹⁸ Section 960.065(2), F.S.

¹⁹ Section 960.065(3), F.S.

The bill requires the DOS to examine an application within 30 days of receipt and to notify the applicant of any errors or omissions or request any additional information relevant to the review of the application. If the DOS notifies the applicant of any errors or omissions, or requests additional information, the applicant has 15 days after such notification to complete or modify the application.

The bill prohibits the DOS from denying an application due to the applicant's failure to correct an error or submit additional information requested by the DOS if the DOS failed to timely notify the applicant of the error.

The bill requires the DOS to notify the applicant of its determination within 5 business days after completing its processing and review. If the DOS determines that the applicant meets the requirement, the DOS must certify the applicant as a victim of Florida reform school abuse.

The bill requires the DOS to review and process all the applications submitted before September 1, 2023, by December 31, 2023. The bill also requires the DOS to submit a list of all certified victims to the President of the Senate and the Speaker of the House of Representatives.

Section 2 authorizes a victim of Florida reform school abuse or an intervenor²⁰ to file a claim for compensation under ch. 960, F.S. The claim must be based on a felony or misdemeanor offense committed by an adult or juvenile which results in a mental or physical injury or death. The mental injury must be verified by a psychologist, a physician who has completed a residency in psychiatry, or by a physician who has obtained certification as an expert witness.

The bill makes a victim of Florida reform school abuse eligible to receive an award despite the victim having been confined in a juvenile detention facility at the time of victimization.

The bill requires a victim of Florida reform school abuse or an intervenor to file a claim under ch. 960, F.S., within 1 year after the effective date of the bill, notwithstanding timeframes otherwise provided in s. 960.07.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

²⁰ "Intervenor" means any person who goes to the aid of another and suffers bodily injury or death as a direct result of acting, not recklessly, to prevent the commission of a crime, to lawfully apprehend a person reasonably suspected of having committed a crime, or to aid the victim of a crime. Section 960.03(9), F.S.

B. Public Records/Open Meetings Issues:

None.

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:

None.

C. Government Sector Impact:

There will be indeterminate negative fiscal impact to both the DOS and the OAG. The bill provides that the DOS is responsible for processing applications for persons seeking to be certified as a victim of Florida reform school abuse. While it is unknown how many persons will seek this certification, the bill indicates that there are over 500 people who have come forward as victims. As such, there may be a negative fiscal impact on the DOS due to the processing of applications.

Additionally, this bill will have a negative fiscal impact on the OAG for the additional claims filed under ch. 960, F.S. The benefits for claims are payable from the Crimes Compensation Trust Fund. While it is unknown how many applicants will file a claim, lines the bill indicates on line 78 that there are over 500 people who have come forward as victims.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered section 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 Senator Rouson

16-00804A-23

20231046__

A bill to be entitled

An act relating to victims of reform school abuse; providing a short title; defining the term "victim of Florida reform school abuse"; requiring a person seeking certification as a victim of Florida reform school abuse to apply to the Department of State by a specified date; authorizing the estate, personal representative, next of kin, or lineal descendants of a decedent who was a victim of Florida reform school abuse to submit an application on behalf of the decedent; requiring that the application include certain information and documentation; requiring the department to review the application, notify the applicant of any errors or omissions, and request any additional information within a certain timeframe; providing that the applicant has 15 calendar days after such notification to complete the application; requiring the department to review and process a completed application within a certain timeframe; prohibiting the department from denying an application for specified reasons and under certain circumstances; requiring the department to notify the applicant of its determination within a certain timeframe; requiring the department to certify an applicant as a victim of Florida reform school abuse if the department determines the application meets the requirements of this act; requiring the department to submit a list of all certified victims of Florida reform school abuse to the Legislature by a specified

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

16-00804A-23

20231046__

date; providing exceptions from specified requirements for crime victim compensation eligibility for applications by victims of Florida reform school abuse; providing an effective date.

WHEREAS, the Florida State Reform School, also known as the Florida Industrial School for Boys, the Florida School for Boys, the Arthur G. Dozier School for Boys, and most commonly called the Dozier School, was opened by the state in 1900 in Marianna to house children who had committed minor criminal offenses, such as incorrigibility, truancy, and smoking, as well as more serious offenses, such as theft and murder, and

WHEREAS, reports of abuse, suspicious deaths, and threats of closure plagued the school throughout its history, and

WHEREAS, many former students of the Dozier School have sworn under oath that they were beaten at a facility located on school grounds known as the White House, and

WHEREAS, a psychologist employed at the Dozier School testified under oath at a 1958 United States Senate Judiciary Committee hearing that boys at the school were beaten by an administrator, that the blows were severe and dealt with great force with a full arm swing over the head and down, that a leather strap approximately 10 inches long was used, and that the beatings constituted "brutality," and

WHEREAS, a former Dozier School employee stated in interviews with law enforcement that in 1962, several employees of the school were removed from the facility based upon allegations that they made sexual advances toward boys at the facility, and

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WHEREAS, a forensic investigation funded by the Legislature and conducted from 2013 to 2016 by the University of South Florida found incomplete records regarding deaths and 45 burials that occurred at the Dozier School between 1900 and 1960 and found that families were often notified of the death after the child was buried or were denied access to their child's remains at the time of burial, and

WHEREAS, the excavations conducted as part of the forensic investigation revealed more burials than reported in official records, and

WHEREAS, in 1955, the state opened a new reform school in Okeechobee called the Florida School for Boys at Okeechobee, referred to in this act as the Okeechobee School, to address overcrowding at the Dozier School, and staff members of the Dozier School were transferred to the Okeechobee School, where similar disciplinary practices were implemented, and

WHEREAS, many former students of the Okeechobee School have sworn under oath that they were beaten at a facility on school grounds known as the Adjustment Unit, and

WHEREAS, more than 500 former students of the Dozier School and the Okeechobee School have come forward with reports of physical, mental, and sexual abuse by school staff during the 1940s, 1950s, 1960s, and 1970s, resulting in trauma that has endured throughout their lives, and

WHEREAS, this is a unique and shameful chapter in the history of this state, during which children placed into custody of state employees were subjected to physical, mental, and sexual abuse rather than the guidance and compassion that children in state custody should receive, and

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WHEREAS, during the 2017 legislative session, the Legislature unanimously issued a formal apology to the victims of Florida reform school abuse with the passage of CS/SR 1440 and CS/HR 1335, expressing regret for the treatment of boys who were sent to the Dozier School and the Okeechobee School; acknowledging that the treatment was cruel, unjust, and a violation of human decency; and expressing its commitment to ensure that children who have been placed in the state's care will be protected from abuse and violations of human decency, NOW, THEREFORE,

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

Section 1. (1) This act may be known and cited as the "Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act."

(2) As used in this act, the term "victim of Florida reform school abuse" means a living person who was confined at the Arthur G. Dozier School for Boys or the Okeechobee School at any time between 1940 and 1975 and who was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the period of confinement.

(3) (a) A person seeking to be certified as a victim of Florida reform school abuse must submit an application to the Department of State no later than September 1, 2023. The estate, personal representative, next of kin, or lineal descendants of the decedent who was a victim of Florida reform school abuse may submit an application on behalf of the decedent.

(b) The application must include:

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1. An affidavit stating that the applicant was confined at the Arthur G. Dozier School for Boys or the Okeechobee School, including the beginning and ending dates of the confinement, and that the applicant was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the period of confinement;

2. Documentation from the Florida State Archives, the Arthur G. Dozier School for Boys, the Okeechobee School, or any other source which shows that the applicant was confined at the school or schools for any length of time between 1940 and 1975; and

3. Positive proof of identification, including a current form of photographic identification. This subparagraph does not apply if the application is submitted by the estate, personal representative, next of kin, or lineal descendant of the decedent.

(c) Within 30 calendar days after receipt of an application, the Department of State shall review the application and notify the applicant of any errors or omissions or request any additional information relevant to the review of the application. The applicant has 15 calendar days after receiving such notification to complete the application by correcting any errors or omissions or submitting any additional information requested by the department. The department shall review and process each completed application within 90 calendar days after receipt of the application.

(d) The Department of State may not deny an application due to the applicant's failure to correct an error or omission or to submit any additional information requested by the department if

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the department failed to timely notify the applicant of such error or omission or timely request additional information as provided in paragraph (c).

(e) The Department of State shall notify the applicant of its determination within 5 business days after reviewing and processing the application. If the department determines that an application meets the requirements of this section, the department must certify the applicant as a victim of Florida reform school abuse.

(f) No later than December 31, 2023, the Department of State must review and process all applications that were submitted by September 1, 2023, and must submit a list of all certified victims of Florida reform school abuse to the President of the Senate and the Speaker of the House of Representatives.

Section 2. (1) Notwithstanding s. 960.03(3), Florida Statutes, for purposes of a claim under chapter 960, Florida Statutes, by a victim of Florida reform school abuse, as defined in section 1 of this act, or an intervenor, as defined in s. 960.03(9), Florida Statutes, the term "crime" means a felony or misdemeanor offense committed by an adult or a juvenile which results in a mental or physical injury or death to another person. A mental injury must be verified by a psychologist licensed under chapter 490, Florida Statutes; by a physician licensed under chapter 458, Florida Statutes, or chapter 459, Florida Statutes, who has completed an accredited residency in psychiatry; or by a physician licensed under chapter 458, Florida Statutes, or chapter 459, Florida Statutes, who has obtained certification as an expert witness pursuant to s.

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175 458.3175, Florida Statutes, or s. 459.0066, Florida Statutes.
176 (2) Notwithstanding s. 960.065(2)(c) and (3), Florida
177 Statutes, a victim of Florida reform school abuse or an
178 intervenor may file a claim under chapter 960, Florida Statutes.
179 (3) Notwithstanding s. 960.07, Florida Statutes, a victim
180 of Florida reform school abuse or an intervenor may file a claim
181 under chapter 960, Florida Statutes, within 1 year after the
182 effective date of this act.
183 Section 3. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations, *Vice Chair*
Ethics and Elections, *Vice Chair*
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Appropriations Committee on Criminal
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Human Services
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Governmental Oversight and Accountability
Rules

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR DARRYL ERVIN ROUSON

16th District

February 28, 2023

Senator Bryan Avila

Chairman, Committee on Governmental Oversight and Accountability

330 Knott Building

404 South Monroe Street

Tallahassee, FL 32399

Dear Chairman Avila,

I write today respectfully requesting that SB 1046, Victims of Reform School Abuse, be added to the agenda of a forthcoming meeting of the Committee on Governmental Oversight and Accountability for consideration. I look forward to the opportunity to present SB 1046 to the committee. I am available for any questions you may have about this legislation. Thank you in advance for the committee's time and consideration.

Sincerely –

A handwritten signature in green ink that reads "Darryl E. Rouson".

Senator Darryl E. Rouson

Florida Senate District 16

REPLY TO:

☐ 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828

☐ 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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I am appearing without
compensation or sponsorship.

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representing:

☐

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something of value for my appearance
(travel, meals, lodging, etc.),
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CRIMINAL SURVIVORS FOR SAFETY & JUSTICE

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 1048

INTRODUCER: Senators Rouson and Davis

SUBJECT: Public Records/Victims of Reform School Abuse

DATE: April 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Limones-Borja	McVane	GO	Favorable
2.			ATD	
3.			FP	

I. Summary:

SB 1048 exempts from public records copying and inspection requirements personal identifying information in an application of individuals applying to seek certification as a victim of Florida reform school abuse.

The bill provides a statement of public necessity as required by the State Constitution.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

This bill is subject to the Open Government Sunset Review Act and stands repealed on December 31, 2024, unless reviewed and saved from the repeal through reenactment by the Legislature.

The bill takes effect the same day SB 1046 or any similar legislation does. As filed, SB 1046 takes effect upon becoming law.

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

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 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, chapter 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.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 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 that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any 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

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

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

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “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.”

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 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).

with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.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. 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:

¹⁰ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding 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); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹¹ *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹² *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

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.

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁹
- The release of sensitive personal information 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;²⁰ or
- It protects trade or business secrets.²¹

The Act also requires specified questions to be considered during the review process.²² 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 required.²³ 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 expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁴

Victims of Florida Reform School Abuse

SB 1046 defines a “victim of Florida reform school abuse” to mean a living person who was confined at the Arthur G. Dozier School for Boys or the Okeechobee School at any time between 1940 and 1975 and who was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the period of confinement.

The Arthur G. Dozier School for Boys

From 1900, to 2011, the state operated the Florida State Reform School in Marianna. In 1967, the name was changed to the Arthur G. Dozier School for Boys (Dozier School).²⁵ Children were committed to the Dozier school for criminal offenses such as theft and murder, but later on the law was amended to allow for children with minor offenses such as truancy to be committed too.

¹⁹ Section 119.15(6)(b)1., F.S.

²⁰ Section 119.15(6)(b)2., F.S.

²¹ Section 119.15(6)(b)3., F.S.

²² 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?

²³ See generally s. 119.15, F.S.

²⁴ Section 119.15(7), F.S.

²⁵ David Built, *Arthur G. Dozier School for Boys*, Abandoned Florida, Sep. 29, 2015, available at <https://www.abandonedfl.com/arthur-g-dozier-school-for-boys/> (Mar. 3, 2023).

Additionally, many children who had not been charged with a crime were committed to the school as wards of the state and orphans.²⁶

Beginning as early as 1901, there were reports of children being chained to walls in irons, brutal whippings, and peonage.²⁷ In the first 13 years of operation, six state-led investigations took place. Those investigations found that children as young as five years old were being hired out for labor, unjustly beaten, and were without education or proper food and clothing.²⁸ In 2005, former students of the Dozier School began to publish accounts of the abuse they experienced at the school.²⁹ These stories prompted Governor Charlie Crist to direct the Florida Department of Law Enforcement (FDLE) to investigate the Dozier School and the deaths that were alleged and occurred at the school. In 2008, Governor Charlie Crist directed the FDLE to investigate 32 unmarked graves located on the property surrounding the school in response to complaints lodged by former students at the Dozier School.³⁰ The former students of Dozier alleged that students who died as a result of abuse were buried at the school cemetery.³¹

The Okeechobee School

Due to overcrowding at the Dozier School, the state opened a new reform school in Okeechobee. The first 50 boys were transferred to the Okeechobee campus from the Marianna campus along with 20 staff members.³² Interviews with former students in the school found that the former superintendent and deputy superintendent of the Florida School for Boys in Okeechobee (Okeechobee School), would administer corporal punishment himself.³³ Several students at the Okeechobee School died in the 1960s, some of those under questionable circumstances. Two of them being a 13-year-old boy found floating face down in the school's sewage tank, and a teen shot dead during an alleged escape attempt.³⁴

III. Effect of Proposed Changes:

Section 1 creates a public records exemption for any personal identifying information in an application submitted to the Department of State by, or on behalf of, a person seeking certification as a victim of Florida reform school abuse.

²⁶ Erin H. Kimmerle, Ph.D. et al., *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida*, The University of South Florida, pg. 22, January 18, 2016, available at <http://mediad.publicbroadcasting.net/p/wusf/files/201601/usf-final-dozier-summary-2016.pdf> (Mar. 3, 2023).

²⁷ See *supra* note 26, at 12.

²⁸ See *supra* note 26, at 27.

²⁹ Office of Executive Investigations, Florida Department of Law Enforcement, *FDLE Investigative Report* (May 14, 2009), available at <http://thewhitehouseboys.com/fdlereport.html> (last visited Mar. 30, 2023)

³⁰ *Id.*

³¹ *Id.*

³² Richard Marion, *OYDC closure brings an end to troubled history*, South Central Florida Life (Jul. 15, 2020), available at <https://www.southcentralfloralife.com/stories/oydc-closure-brings-an-end-to-troubled-history.9159> (Last visited Mar. 13, 2023).

³³ *Id.*

³⁴ WPBF News, *Investigation uncovers deaths of boys at Okeechobee Florida School for Boys* (April 10, 2015), available at <https://www.wpbfl.com/article/investigation-uncovers-deaths-of-boys-at-okeechobee-florida-school-for-boys/1325188#> (Last visited Mar. 30, 2023).

Section 2 provides a public necessity statement as required by Article I, s. 24(c) of the State Constitution. The public necessity statement provides that the release of personal identifying information from the application could subject the victims to further trauma. The public necessity statement also provides that victims would be more likely to come forward if their personal identifying information is protected from public disclosure.

Section 3 provides that the bill takes effect the same day SB 1046 or any similar legislation does, if it is adopted in the same legislative session or an extension thereof. As filed, SB 1046 takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and 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 enacts a new exemption for records pertaining to personal identifying information in an application; therefore, the bill requires a two-thirds vote of each chamber 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. Section 2 of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, s. 24(c), of the State Constitution requires an exemption to 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 the victims of reform school abuse. This bill exempts only personal identifying information in an application to the DOS. 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 be subject to the cost, to the extent imposed, associated with making the redactions in response to a public record request.

C. Government Sector Impact:

The bill may have a minimal fiscal impact on the DOS for workload related to the redaction of personal identifying information in responding to public records requests.

VI. Technical Deficiencies:

The bill will require an amendment to fill in the blank spot on line 43 with a reference to SB 1046, the underlying substantive bill linked to this public records exemption.

VII. Related Issues:

According to s. 119.15(3), F.S., the Open Government Sunset Review Act, a newly enacted or substantially amended exemption is scheduled for review and repeal by the Legislature in the 5th year after creation, unless the Legislature acts to reenact the exemption. The bill inserts the newly created exemption into an existing paragraph with other exemptions that are scheduled for review and repeal in 2024, which is the first year after enactment instead of the 5th year. However, the deviation from the schedule set forth in the Open Government Sunset Review Act is supported by the reasoning that a previous legislature cannot bind a future legislature.

VIII. Statutes Affected:

This bill creates an unnumbered section 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 Senator Rouson

16-00839-23

20231048__

A bill to be entitled

An act relating to public records; providing an exemption from public records requirements for personal identifying information in applications submitted to the Department of State by persons seeking certification as victims of Florida reform school abuse; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Applications for certification as a victim of Florida reform school abuse; public records exemption.-Any personal identifying information in an application submitted to the Department of State by, or on behalf of, a person seeking certification as a victim of Florida reform school abuse, as defined in the Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act, is exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15, Florida Statutes, and shall stand repealed on December 31, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that personal identifying information in applications for certification as a victim of Florida reform school abuse

Page 1 of 2

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

16-00839-23

20231048__

which are submitted to the Department of State be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature finds that the release of personal identifying information contained in a certification application could subject victims of Florida reform school abuse to further trauma. The Legislature further finds that such victims would be more likely to come forward and seek redress if personal identifying information in the applications were protected from public disclosure. The Legislature finds that the harm that may result from the release of such information outweighs the public benefit that may be derived from the disclosure of the information.

Section 3. This act shall take effect on the same date that SB ____ or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations, *Vice Chair*
Ethics and Elections, *Vice Chair*
Agriculture
Appropriations Committee on Criminal
and Civil Justice
Appropriations Committee on Health and
Human Services
Children, Families, and Elder Affairs
Governmental Oversight and Accountability
Rules

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR DARRYL ERVIN ROUSON

16th District

February 28, 2023

Senator Bryan Avila
Chairman, Committee on Governmental Oversight and Accountability
330 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Avila,

I write today respectfully requesting that SB 1048, Public Records/Victims of Reform School Abuse, be added to the agenda of a forthcoming meeting of the Committee on Governmental Oversight and Accountability for consideration. I look forward to the opportunity to present SB 1048 to the committee. I am available for any questions you may have about this legislation. Thank you in advance for the committee's time and consideration.

Sincerely –

A handwritten signature in green ink that reads "Darryl E. Rouson".

Senator Darryl E. Rouson
Florida Senate District 16

REPLY TO:

- ☐ 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- ☐ 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
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 1086

INTRODUCER: Senator Gruters

SUBJECT: Rights of Law Enforcement Officers

DATE: April 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	Favorable
2.	Harmsen	McVane	GO	Pre-meeting
3.			RC	

I. Summary:

SB 1086 amends provisions contained in part VI of ch. 112, F.S., commonly referred to as the “Law Enforcement Officer’s Bill of Rights.” The bill provides an additional right and permits a law enforcement officer or a correctional officer who is under consideration for disciplinary action by his or her agency to seek redress, if the agency fails to follow the disciplinary process in the “Officer’s Bill of Rights” and related statutes.¹

The bill amends s. 112.532, F.S., to provide that if an agency undertakes disciplinary action, suspension, demotion, or dismissal against a law enforcement officer or a correctional officer, the officer must receive notice of the investigation within 180 days after the agency receives notice of the alleged misconduct when none of the specified tolling exceptions² apply. If the agency does not comply with the notice provision, and an officer is disciplined, suspended, demoted, or dismissed, the bill provides that the officer may appeal the issuance of the disciplinary action administratively or in a court of competent jurisdiction.

Additionally, the bill amends s. 112.534, F.S., to convey upon the officer a right to appeal administratively or in a court of competent jurisdiction if a violation of s. 112.534, F.S., is discovered after an interview or interrogation, or if the agency fails to abide by the Law Enforcement Officer’s Bill of Rights, and related provisions.³

Law enforcement agencies and the Department of Corrections may incur additional costs of litigation as a result of the bill’s provisions although the fiscal impact is unquantifiable.

The bill becomes effective July 1, 2023.

¹ Part VI of ch. 112, F.S.

² Section 112.532(6)(a), F.S.; See footnote 7 for a complete list of the exceptions.

³ Part VI of ch. 112, F.S.; See ss. 112.531-112.535, F.S.

II. Present Situation:

Law Enforcement Officers' Bill of Rights

Section 112.532, F.S., commonly known as the “Law Enforcement Officers’ Bill of Rights” provides specific rights when a law enforcement officer or a correctional officer is under investigation and subject to interrogation for a reason which could lead to a disciplinary action, demotion, or dismissal. These rights generally include:

- The right to be informed of the nature of the investigation and the evidence against the law enforcement officer or correctional officer, including the complaint, all witness statements, and all other existing evidence, before any interrogation;⁴
- The right to counsel during any interrogation;⁵
- The right to be notified of the reasons for any disciplinary action before it is imposed;⁶
- The right to materials that would allow a transcript of any interrogation to be prepared;⁷
- The right to a complete copy of the investigatory file;⁸ and
- The right to address the findings in the investigatory report with the agency before the disciplinary action is imposed.⁹

Additionally, these rights provide the conditions under which any interrogation of the officer must be conducted, including limitations on the time, place, manner, and length of the interrogation, and restriction on the interrogation techniques.¹⁰

Notice of Disciplinary Action

A dismissal, demotion, transfer, reassignment, or other personnel action that might result in loss of pay or benefits or that might otherwise be considered a punitive measure may not be taken against any law enforcement officer or correctional officer unless the law enforcement officer or correctional officer is notified of the action and the reason or reasons for the action before the effective date of the action.¹¹

No disciplinary action, demotion, or dismissal may be taken unless the investigation is completed within 180 days of receipt of a notice of a complaint against an officer, unless:¹²

- The subject officer agrees to toll the time period in a written waiver;
- A criminal investigation or prosecution in connection with the officer’s alleged act, omission, or other misconduct is ongoing;
- The subject officer is incapacitated or otherwise unavailable;
- The investigation is part of a multijurisdictional investigation, and an extension is reasonably necessary to facilitate coordination;

⁴ Section 112.532(1)(d), F.S.

⁵ Section 112.532(1)(i), F.S.

⁶ Section 112.532(4)(a), F.S.

⁷ Section 112.532(1)(g), F.S.

⁸ Section 112.532(4)(b), F.S.

⁹ *Id.*

¹⁰ Section 112.532(1)(a), (1)(b), (1)(c), (1)(e), (1)(f), and (4)(b), F.S.

¹¹ Section 112.532(4)(a), F.S.

¹² Section 112.532(6), F.S.

- An emergency or natural disaster occurs, and is the subject of a declared state of emergency; or
- The subject officer's compliance hearing is ongoing (a hearing is deemed to end with the compliance review panel's written determination or other remedy by the agency).

The Agency must provide notice to the officer within 180 days after the date that it received notice of the alleged misconduct, regardless of the origin of the allegation or complaint.¹³ If the agency determines that disciplinary action is appropriate, it shall complete its investigation and give notice in writing to the law enforcement officer or correctional officer of its intent to proceed with disciplinary action, along with a proposal of the specific action sought, including length of suspension, if applicable.

An investigation against a law enforcement officer or correctional officer may be reopened if significant new evidence has been discovered that is likely to affect the outcome of the investigation, and such evidence could not have reasonably been discovered in the normal course of the investigation or the evidence resulted from the predisciplinary response of the officer. Such an investigation must be completed within 90 days after the date it was reopened.¹⁴

Agency Non-Compliance

Section 112.534, F.S., provides a method of recourse for an officer who alleges that any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally failed to comply with the requirements of Part VI of ch. 112, F.S., related to an investigation of a complaint against that officer.¹⁵

The officer must advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.¹⁶

If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his or her designee be informed of the alleged intentional violation.¹⁷ Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.¹⁸

Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee that must contain sufficient information to identify the requirements of part VI of ch. 112, F.S., which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation

¹³ Section 112.532(6)(a), F.S.

¹⁴ Section 112.532(6)(b), F.S.

¹⁵ Part VI of ch. 112, F.S., pertains to law enforcement and correctional officers. *See* ss. 112.531-112.535, F.S.

¹⁶ Section 112.534(1)(a), F.S.

¹⁷ Section 112.534(1)(b), F.S.

¹⁸ *Id.*

must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.¹⁹

Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The compliance review panel shall review the circumstances and facts surrounding the alleged intentional violation.²⁰

Section 112.534(1)(d), F.S., sets forth the composition of compliance review panels, which hold compliance review hearings when requested by an officer with a complaint.²¹ It is the responsibility of the compliance review panel to determine whether the investigator or agency intentionally violated the requirements provided under part VI of ch. 112, F.S. The panel may hear evidence, review relevant documents, and hear argument before making a determination. All evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer.²² The officer bears the burden of proof in the hearing. The determination of the panel must be made at the conclusion of the hearing, in writing, and filed with the agency head and the officer.²³

If the alleged violation is sustained as intentional by the compliance review panel, the agency head shall immediately remove the investigator from any further involvement with the investigation of the officer. Additionally, the agency head shall direct an investigation be initiated against the investigator for purposes of agency disciplinary action. If that investigation is sustained, the sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position.²⁴

Although the aggrieved officer may seek redress through the compliance review panel process under the circumstances described above, it appears that other avenues of complaint are unavailable. For example, s. 112.534(2)(b), F.S., specifies that the provisions of ch. 120, F.S., “do not apply” to part VI of ch. 112, F.S. Chapter 120, F.S., the Administrative Procedure Act, allows certain claims to be adjudicated at the Department of Administrative Hearings or through

¹⁹ Section 112.534(1)(c), F.S.

²⁰ Section 112.534(1)(d), F.S.

²¹ The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works.

²² Section 112.534(1)(e), F.S.

²³ Section 112.534(1)(f), F.S.

²⁴ Section 112.534(1)(g), F.S. The Criminal Justice Standards and Training Commission is authorized to certify, and revoke the certification of officers, instructors, including agency in-service training instructors, and criminal justice training schools. Section 943.12(3), F.S. “Officer” means any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer, correctional officer, or correctional probation officer. Section 943.10(14), F.S.

other manners of hearings. This statutory prohibition against an officer seeking relief in the administrative law system became effective on July 1, 2009.²⁵

In the same 2009 law, the following language was stricken from s. 112.534(g), F.S.: “[A] law enforcement officer or correctional officer employed by or appointed to such agency who is personally injured by such failure to comply may apply directly to the circuit court of the county wherein such agency is headquartered and permanently resides for an injunction to restrain and enjoin such violation of the provisions of this part and to compel the performance of the duties imposed by this part.”²⁶

III. Effect of Proposed Changes:

The bill amends provisions contained in part VI of ch. 112, F.S., commonly referred to as the “Law Enforcement Officer’s Bill of Rights.” The bill provides for an additional right, and permits a law enforcement officer or a correctional officer who is under consideration for disciplinary action by his or her agency to seek redress, if the agency fails to follow the disciplinary process in the “Officer’s Bill of Rights” and related statutes.²⁷

Section 1 amends s. 112.532, F.S., to provide that if an agency undertakes disciplinary action, suspension, demotion, or dismissal against a law enforcement officer or a correctional officer, the officer must receive notice within 180 days after the agency receives notice of the alleged misconduct when none of the specified tolling exceptions,²⁸ apply. Since, generally, the agency must finalize its investigation within 180 days, this provision requires notice to the officer before the investigation is finalized, and before discipline is meted out.

If the agency does not comply with the notice provision, and an officer is disciplined, suspended, demoted, or dismissed, the bill provides that the officer may appeal the issuance of the disciplinary action administratively or in a court of competent jurisdiction.

Section 2 amends s. 112.534, F.S., to convey upon the officer a right to appeal administratively or in a court of competent jurisdiction if a violation of s. 112.534, F.S., is discovered after an interview or interrogation, or if the agency fails to abide by the Law Enforcement Officer’s Bill of Rights, and related provisions.²⁹

The bill, therefore, gives an officer options for redress if the officer believes he or she has been wronged in the disciplinary process. This availability of redress has not been available since the law was changed in 2009.

Law enforcement agencies and the Department of Corrections may incur additional costs of litigation as a result of the bill’s provisions although the fiscal impact is unquantifiable.

The bill becomes effective July 1, 2023.

²⁵ Chapter 2009-200, L.O.F.

²⁶ *Id.*

²⁷ Part VI of ch. 112, F.S.

²⁸ Section 112.532(6)(a), F.S.; *See* footnote 7 for a complete list of the exceptions.

²⁹ Part VI of ch. 112, F.S.; *See* ss. 112.531-112.535, F.S.

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:

None.

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:

None.

C. Government Sector Impact:

Law enforcement agencies and the Department of Corrections may incur additional costs of litigation although the fiscal impact is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 112.532 and 112.534 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 Senator Gruters

22-01636-23

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A bill to be entitled

An act relating to the rights of law enforcement officers; amending s. 112.532, F.S.; prohibiting a law enforcement agency from issuing any disciplinary action, suspension, demotion, or dismissal against a law enforcement officer or correctional officer unless certain conditions apply; authorizing the officer to challenge such disciplinary action, suspension, demotion, or dismissal administratively or in a court of competent jurisdiction; amending s. 112.534, F.S.; providing that an officer has the right to challenge a specified violation administratively or in a court of competent jurisdiction, if certain conditions exist; providing an effective date.

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

Section 1. Paragraph (a) of subsection (6) of section 112.532, Florida Statutes, is amended to read:

112.532 Law enforcement officers' and correctional officers' rights.—All law enforcement officers and correctional officers employed by or appointed to a law enforcement agency or a correctional agency shall have the following rights and privileges:

(6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.—

(a) 1. Except as provided in this subsection, disciplinary action, suspension, demotion, or dismissal may not be undertaken by an agency against a law enforcement officer or correctional officer for any act, omission, or other allegation or complaint

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of misconduct, regardless of the origin of the allegation or complaint, if the investigation of the allegation or complaint is not completed within 180 days after the date the agency receives notice of the allegation or complaint by a person authorized by the agency to initiate an investigation of the misconduct. If the agency determines that disciplinary action is appropriate, it shall complete its investigation and give notice in writing to the law enforcement officer or correctional officer of its intent to proceed with disciplinary action, along with a proposal of the specific action sought, including length of suspension, if applicable. Notice to the officer must be provided within 180 days after the date the agency received notice of the alleged misconduct, regardless of the origin of the allegation or complaint, except as follows:

a.1. The running of the limitations period may be tolled for a period specified in a written waiver of the limitation by the law enforcement officer or correctional officer.

b.2. The running of the limitations period is tolled during the time that any criminal investigation or prosecution is pending in connection with the act, omission, or other allegation of misconduct.

c.3. If the investigation involves an officer who is incapacitated or otherwise unavailable, the running of the limitations period is tolled during the period of incapacitation or unavailability.

d.4. In a multijurisdictional investigation, the limitations period may be extended for a period of time reasonably necessary to facilitate the coordination of the agencies involved.

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~~e.5-~~ The running of the limitations period may be tolled for emergencies or natural disasters during the time period wherein the Governor has declared a state of emergency within the jurisdictional boundaries of the concerned agency.

~~f.6-~~ The running of the limitations period is tolled during the time that the officer's compliance hearing proceeding is continuing beginning with the filing of the notice of violation and a request for a hearing and ending with the written determination of the compliance review panel or upon the violation being remedied by the agency.

2. Disciplinary action, suspension, demotion, or dismissal may not be undertaken by an agency against a law enforcement officer or correctional officer unless the officer receives notice of such disciplinary action, suspension, demotion, or dismissal within 180 days after the date the agency received notice of the alleged misconduct and none of the exceptions in subparagraph 1. apply. If an officer is disciplined, suspended, demoted, or dismissed without the proper notice, the officer may appeal the issuance of such disciplinary action, suspension, demotion, or dismissal administratively or in a court of competent jurisdiction.

Section 2. Subsection (1) of section 112.534, Florida Statutes, is amended to read:

112.534 Failure to comply; official misconduct.—

(1)(a) Notwithstanding s. 112.532(6), if any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the

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following procedures apply. For purposes of this section, the term "law enforcement officer" or "correctional officer" includes the officer's representative or legal counsel, except in application of subparagraph 4 ~~paragraph (d)~~.

~~1.(a)-~~ The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.

~~2.(b)-~~ If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his or her designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.

~~3.(e)-~~ Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.

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117 ~~4.(d)~~ Unless otherwise remedied by the agency before the
 118 hearing, a compliance review hearing must be conducted within 10
 119 working days after the request for a compliance review hearing
 120 is filed, unless, by mutual agreement of the officer and agency
 121 or for extraordinary reasons, an alternate date is chosen. The
 122 panel shall review the circumstances and facts surrounding the
 123 alleged intentional violation. The compliance review panel shall
 124 be made up of three members: one member selected by the agency
 125 head, one member selected by the officer filing the request, and
 126 a third member to be selected by the other two members. The
 127 review panel members shall be law enforcement officers or
 128 correctional officers who are active from the same law
 129 enforcement discipline as the officer requesting the hearing.
 130 Panel members may be selected from any state, county, or
 131 municipal agency within the county in which the officer works.
 132 The compliance review hearing shall be conducted in the county
 133 in which the officer works.

134 ~~5.(e)~~ It is the responsibility of the compliance review
 135 panel to determine whether or not the investigator or agency
 136 intentionally violated the requirements provided under this
 137 part. It may hear evidence, review relevant documents, and hear
 138 argument before making such a determination; however, all
 139 evidence received shall be strictly limited to the allegation
 140 under consideration and may not be related to the disciplinary
 141 charges pending against the officer. The investigative materials
 142 are considered confidential for purposes of the compliance
 143 review hearing and determination.

144 ~~6.(f)~~ The officer bears the burden of proof to establish
 145 that the violation of this part was intentional. The standard of

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146 proof for such a determination is by a preponderance of the
 147 evidence. The determination of the panel must be made at the
 148 conclusion of the hearing, in writing, and filed with the agency
 149 head and the officer.

150 ~~7.(g)~~ If the alleged violation is sustained as intentional
 151 by the compliance review panel, the agency head shall
 152 immediately remove the investigator from any further involvement
 153 with the investigation of the officer. Additionally, the agency
 154 head shall direct an investigation be initiated against the
 155 investigator determined to have intentionally violated the
 156 requirements provided under this part for purposes of agency
 157 disciplinary action. If that investigation is sustained, the
 158 sustained allegations against the investigator shall be
 159 forwarded to the Criminal Justice Standards and Training
 160 Commission for review as an act of official misconduct or misuse
 161 of position.

162 (b) If a violation of this part is discovered after the
 163 conclusion of an interview or interrogation, or if the agency
 164 fails to abide by this part, the officer has the right to appeal
 165 the alleged violation administratively or in a court of
 166 competent jurisdiction.

167 Section 3. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JOE GRUTERS

22nd District

COMMITTEES:

Regulated Industries, *Chair*
Appropriations
Appropriations Committee on Agriculture,
Environment, and General Government
Appropriations Committee on Health
and Human Services
Commerce and Tourism
Community Affairs
Transportation

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight,
Alternating Chair

March 14, 2023

The Honorable Brian Avila, Chair
Committee on Governmental Oversight and Accountability
330 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Avila:

I am writing to request that Senate Bill 1086, Rights of Law Enforcement Officers to be placed on the agenda of the next Governmental Oversight and Accountability committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

Cc: Joe McVaney, Staff Director
Jessie Harmsen, Deputy Staff Director
Tamra Redig, Committee Administrative Assistant

REPLY TO:

- ☐ 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- ☐ 316 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
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: CS/SB 1166

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Collins

SUBJECT: Public Records/Investigators of the Department of Agriculture and Consumer Services

DATE: April 5, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Burse</u>	<u>Becker</u>	<u>AG</u>	Favorable
2. <u>Limonas-Borja</u>	<u>McVane</u>	<u>GO</u>	Fav/CS
3. _____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1166 exempts from public records copying and inspection requirements certain personal identifying information of current or former inspectors or investigators of the Florida Department of Agriculture and Consumer Services. Personal Identifying information relating to their spouses and children is likewise exempt. The specific information made exempt from public records disclosure requirements includes:

- Home addresses, telephone numbers, dates of birth, and photographs of current and former inspectors and investigators;
- Names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children; and
- Names and locations of schools and day care facilities attended by the children.

The bill provides a statement of public necessity as required by the State Constitution.

The exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2028, unless reviewed and reenacted by the Legislature.

Because this bill creates a public records exemption, it will require two-thirds vote of each house in order to pass.

This act shall take effect July 1, 2023.

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 the statutory provisions are 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., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.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 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 that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, (2022-2024).

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

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “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.”

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

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person's right to inspect and copy any 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

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." Custodians of records designated as "exempt" are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹³ Custodians of records designated as "confidential and exempt" may not disclose the record except under circumstances specifically defined by the Legislature.¹⁴

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁵ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁶ public records or open meetings exemptions, with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁸

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. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding 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); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹¹ *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹² *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹³ *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁴ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁵ Section 119.15, F.S.

¹⁶ 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.

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.

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 subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²⁰
- 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;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. In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

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 the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁴ 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.²⁵

Public Records Exemptions for Specified Personnel and their Families

Provisions in s. 119.071(4)(d), F.S., exempt from public disclosure certain personal identification and location information of specified state and local government agency personnel and their spouses and children. Personnel covered by these exemptions include:

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.

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 See generally s. 119.15, F.S.

²⁵ Section 119.15(7), F.S.

- Active or former sworn or civilian law enforcement personnel employed by a law enforcement agency;²⁶
- Certain current or former nonsworn investigative personnel of the Department of Financial Services;²⁷
- Certain current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations;²⁸
- Current or former certified firefighters;²⁹
- Current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges;³⁰
- Current or former state attorneys, assistant state attorneys, statewide prosecutors, and assistant statewide prosecutors;³¹
- Current or former code enforcement officers;³²
- Current or former guardians ad litem;³³
- Current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel;³⁴
- Current or former investigators or inspectors of the Department of Business and Professional Regulation;³⁵
- County tax collectors;³⁶
- Current or former certified emergency medical technicians and paramedics;³⁷
- Current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility;³⁸
- Current or former directors, managers, supervisors, and clinical employees of certain child advocacy centers;³⁹ and
- Current or former staff of domestic violence centers, including domestic violence advocates.⁴⁰

²⁶ Section 119.071(4)(d)2.a., F.S.

²⁷ Section 119.071(4)(d)2.b., F.S.

²⁸ Section 119.071(4)(d)2.c., F.S.

²⁹ Section 119.071(4)(d)2.d., F.S.

³⁰ Section 119.071(4)(d)2.e., F.S.

³¹ Section 119.071(4)(d)2.f., F.S.

³² Section 119.071(4)(d)2.i., F.S.

³³ Section 119.071(4)(d)2.j., F.S.

³⁴ Section 119.071(4)(d)2.l., F.S.

³⁵ Section 119.071(4)(d)2.m., F.S.

³⁶ Section 119.071(4)(d)2.n., F.S.

³⁷ Section 119.071(4)(d)2.q., F.S.

³⁸ Section 119.071(4)(d)2.s., F.S.

³⁹ Section 119.071(4)(d)2.t., F.S.

⁴⁰ Section 119.071(4)(d)2.u., F.S.

The specified exempt information for each profession provided in s. 119.071(4)(d), F.S., varies among the professions. Generally, the home addresses,⁴¹ telephone numbers,⁴² dates of birth of the specified personnel are exempt, as are the identifying information of their spouse and children, including place of employment, school and/or daycare facility. For many of the professions, photographs of the employee are exempt,⁴³ and in some instances, the photographs of the employee's spouse and children are exempt as well.⁴⁴

The employing agency or the employee must assert the right to the exemption by submitting a written and notarized request to each non-employer agency that holds the employee's information.⁴⁵ Further, all of these exemptions have retroactive application, applying to information held by an agency before, on, or after the effective date of the exemption.⁴⁶

The exemptions for specified agency personnel in s. 119.071(4)(d), F.S., are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2024, unless reviewed and saved from repeal by the Legislature.

Office of Agricultural Law Enforcement

The Office of Agricultural Law Enforcement (OALE) enforces laws governing businesses regulated by the Florida Department of Agriculture and Consumer Services (Department). The OALE protects consumers from unfair and deceptive trade practices, protects Florida's agriculture industry from theft and other crimes, and safeguards the wholesomeness of food and other consumer products.⁴⁷

The OALE operates 23 agricultural inspection stations on 19 highways going into and out of the State. Officers conduct vehicle inspections 24 hours a day, 365 days a year to ensure the safety of State's food supply. Officers are on the lookout for unsafe or unwholesome food that could make people sick, and plant and animal pests and diseases that could harm the state's \$100 billion agriculture industry.⁴⁸

The OALE investigates crimes involving agriculture and those occurring on property owned or operated by the department. They help maintain domestic security, participating in all seven regional Domestic Security Task Forces statewide. The OALE partners with federal, state and

⁴¹ Section 119.071(4)(d)1.a., F.S., defines "home addresses" to mean "the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address."

⁴² Section 119.071(4)(d)1.b., F.S., defines "telephone numbers" to include "home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices."

⁴³ See, e.g., s. 119.071(4)(d)2.1., F.S.

⁴⁴ See, e.g., s. 119.071(4)(d)2.a., F.S.

⁴⁵ Section 119.071(4)(d)3. and 4., F.S.

⁴⁶ Section 119.071(4)(d)6., F.S.

⁴⁷ Florida Department of Agriculture and Consumer Services, *Office of Agricultural Law Enforcement* <https://www.fdacs.gov/Divisions-Offices/Agricultural-Law-Enforcement>, (last visited April 2, 2023).

⁴⁸ *Id.*

local law enforcement agencies and help coordinate the Domestic Marijuana Eradication Task Force.⁴⁹

According to the Department, these are the other positions that conduct inspections and investigations other than certified law enforcement officers:

Division	Class Code	Class Title
Division of Agricultural Environmental Services	4823	Environmental Manager - SES
Division of Agricultural Environmental Services	4809	Environmental Specialist II
Division of Agricultural Environmental Services	4812	Environmental Specialist III
Division of Animal Industry	7530	Agriculture & Consumer Protect Inspector
Division of Animal Industry	7539	Agriculture & Consumer Protect Supervisor - SES
Division of Animal Industry	7533	Agriculture & Consumer Protect Specialist
Division of Aquaculture	4809	Environmental Specialist II
Division of Consumer Services	7539	Environmental Specialist III
Division of Consumer Services	7533	Agriculture & Consumer Protect Specialist
Division of Consumer Services	8833	Inspection Specialist
Division of Consumer Services	8830	Liquefied Petroleum Gas Inspector
Division of Food Safety	7533	Agriculture & Consumer Protect Specialist
Division of Food Safety	4809	Environmental Specialist II
Division of Food Safety	4812	Environmental Specialist III
Division of Food Safety	8888	Sanitation and Safety Specialist
Division of Food Safety	8895	Sanitation and Safety Supervisor – SES
Division of Food Safety	8889	Senior Sanitation and Safety Specialist
Division of Fruit and Vegetables	7533	Agriculture & Consumer Protect Specialist
Division of Fruit and Vegetables	7507	Fruit & Vegetable Terminal MKT INSP SUPV - SES
Division of Fruit and Vegetables	7509	Fruit & Vegetable District SUPV - SES
Division of Fruit and Vegetables	7503	Fruit & Vegetable Inspector
Division of Fruit and Vegetables	7506	Fruit & Vegetable Terminal Market INSP
Division of Plant Industry	7530	Agriculture & Consumer Protect Inspector
Division of Plant Industry	7539	Agriculture & Consumer Protect Supervisor - SES
Division of Plant Industry	7533	Agriculture & Consumer Protect Specialist
Division of Plant Industry	7533	Agriculture & Consumer Protect Specialist-SE
Division of Plant Industry	4806	Environmental Specialist I
Division of Plant Industry	4806	Environmental Specialist I - SES
Division of Plant Industry	4809	Environmental Specialist II

⁴⁹ *Id.*

Division	Class Code	Class Title
Division of Plant Industry	4812	Environmental Specialist III - SES
Division of Plant Industry	4813	Environmental Specialist I - SES
Division of Plant Industry	4818	Environmental Specialist II - SES

III. Effect of Proposed Changes:

Section 1 amends s. 119.071, F.S. to create a public records exemption for personal identifying information of current or former inspectors or investigators of the Florida Department of Agriculture and Consumer Services. The specific information made exempt from public records disclosure requirements includes:

- Home addresses, telephone numbers, dates of birth, and photographs of current and former inspectors and investigators;
- Names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children; and
- Names and locations of schools and day care facilities attended by the children.

Section 1 provides for the repeal of the exemption on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 provides a public necessity statement as required by Article I, s. 24(c) of the State Constitution. The public necessity statement provides that it is necessary to shield employees and their families from any potential harm that may come from the scrutiny of businesses or professional practices from the department. The bill also provides that the potential harm from identifying employees outweighs any public benefit from public disclosure.

Section 3 provides that this act shall take effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and 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 creates a new exemption, thus, the bill requires 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 requirements to state with specificity the public necessity justifying the exemption. This bill creates a new exemption for records pertaining to inspectors and investigators of the Department thus, the bill requires a two-thirds vote to be enacted.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to 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 inspectors and investigators of the department along with their family. The bill exempts only records pertaining to inspectors and investigators and their families from the public records requirements. The exemption in the bill 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:

Any individual or business that currently obtains location information that is covered by the definition of “home addresses” in the bill will not be able to obtain that information from the records custodian without a signed waiver if the employee or the employee’s agency requests that the home address information be exempted.

C. Government Sector Impact:

This bill may have a minimal negative fiscal impact on agencies holding records that contain personal identifying information of such attorneys because staff responsible for complying with public record requests may require training related to the new public record exemption. Additionally, agencies may experience additional workload associated

with redacting the exempt information prior to releasing a record. However, the additional workload should be absorbed as part of the day-to-day agency responsibilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 119.071 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 April 5, 2023:

The committee substitute provides that the exemption will stand repealed on October 2, 2028 instead of October 2, 2024.

- B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/05/2023	.	
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The Committee on Governmental Oversight and Accountability
(Collins) recommended the following:

Senate Amendment

Delete lines 290 - 370
and insert:
119.07(1) and s. 24(a), Art. I of the State Constitution. 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, 2028, unless reviewed and saved from repeal through
reenactment by the Legislature.

3. An agency that is the custodian of the information



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specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s. 192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section are not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display,



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inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a



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protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. Except as otherwise expressly provided in this paragraph, this paragraph is subject to the Open Government Sunset

By Senator Collins

14-01291-23

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A bill to be entitled

An act relating to public records; amending s.

119.071, F.S.; providing an exemption from public records requirements for the personal identifying and location information of current or former inspectors or investigators of the Department of Agriculture and Consumer Services and the spouses and children of the current or former inspectors or investigators; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

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

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone

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numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care

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facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges; and the names and locations of schools and day care facilities attended

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by the children of current or former justices and judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are

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exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and

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s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders,

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175 criminal conflict and civil regional counsel, and assistant
 176 criminal conflict and civil regional counsel are exempt from s.
 177 119.07(1) and s. 24(a), Art. I of the State Constitution.
 178 m. The home addresses, telephone numbers, dates of birth,
 179 and photographs of current or former investigators or inspectors
 180 of the Department of Business and Professional Regulation; the
 181 names, home addresses, telephone numbers, dates of birth, and
 182 places of employment of the spouses and children of such current
 183 or former investigators and inspectors; and the names and
 184 locations of schools and day care facilities attended by the
 185 children of such current or former investigators and inspectors
 186 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 187 Constitution.
 188 n. The home addresses, telephone numbers, and dates of
 189 birth of county tax collectors; the names, home addresses,
 190 telephone numbers, dates of birth, and places of employment of
 191 the spouses and children of such tax collectors; and the names
 192 and locations of schools and day care facilities attended by the
 193 children of such tax collectors are exempt from s. 119.07(1) and
 194 s. 24(a), Art. I of the State Constitution.
 195 o. The home addresses, telephone numbers, dates of birth,
 196 and photographs of current or former personnel of the Department
 197 of Health whose duties include, or result in, the determination
 198 or adjudication of eligibility for social security disability
 199 benefits, the investigation or prosecution of complaints filed
 200 against health care practitioners, or the inspection of health
 201 care practitioners or health care facilities licensed by the
 202 Department of Health; the names, home addresses, telephone
 203 numbers, dates of birth, and places of employment of the spouses

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204 and children of such personnel; and the names and locations of
 205 schools and day care facilities attended by the children of such
 206 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 207 the State Constitution.
 208 p. The home addresses, telephone numbers, dates of birth,
 209 and photographs of current or former impaired practitioner
 210 consultants who are retained by an agency or current or former
 211 employees of an impaired practitioner consultant whose duties
 212 result in a determination of a person's skill and safety to
 213 practice a licensed profession; the names, home addresses,
 214 telephone numbers, dates of birth, and places of employment of
 215 the spouses and children of such consultants or their employees;
 216 and the names and locations of schools and day care facilities
 217 attended by the children of such consultants or employees are
 218 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 219 Constitution.
 220 q. The home addresses, telephone numbers, dates of birth,
 221 and photographs of current or former emergency medical
 222 technicians or paramedics certified under chapter 401; the
 223 names, home addresses, telephone numbers, dates of birth, and
 224 places of employment of the spouses and children of such
 225 emergency medical technicians or paramedics; and the names and
 226 locations of schools and day care facilities attended by the
 227 children of such emergency medical technicians or paramedics are
 228 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 229 Constitution.
 230 r. The home addresses, telephone numbers, dates of birth,
 231 and photographs of current or former personnel employed in an
 232 agency's office of inspector general or internal audit

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 233 department whose duties include auditing or investigating waste,
 234 fraud, abuse, theft, exploitation, or other activities that
 235 could lead to criminal prosecution or administrative discipline;
 236 the names, home addresses, telephone numbers, dates of birth,
 237 and places of employment of spouses and children of such
 238 personnel; and the names and locations of schools and day care
 239 facilities attended by the children of such personnel are exempt
 240 from s. 119.07(1) and s. 24(a), Art. I of the State
 241 Constitution.

s. The home addresses, telephone numbers, dates of birth,
 243 and photographs of current or former directors, managers,
 244 supervisors, nurses, and clinical employees of an addiction
 245 treatment facility; the home addresses, telephone numbers,
 246 photographs, dates of birth, and places of employment of the
 247 spouses and children of such personnel; and the names and
 248 locations of schools and day care facilities attended by the
 249 children of such personnel are exempt from s. 119.07(1) and s.
 250 24(a), Art. I of the State Constitution. For purposes of this
 251 sub-subparagraph, the term "addiction treatment facility" means
 252 a county government, or agency thereof, that is licensed
 253 pursuant to s. 397.401 and provides substance abuse prevention,
 254 intervention, or clinical treatment, including any licensed
 255 service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth,
 257 and photographs of current or former directors, managers,
 258 supervisors, and clinical employees of a child advocacy center
 259 that meets the standards of s. 39.3035(2) and fulfills the
 260 screening requirement of s. 39.3035(3), and the members of a
 261 Child Protection Team as described in s. 39.303 whose duties

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 262 include supporting the investigation of child abuse or sexual
 263 abuse, child abandonment, child neglect, and child exploitation
 264 or to provide services as part of a multidisciplinary case
 265 review team; the names, home addresses, telephone numbers,
 266 photographs, dates of birth, and places of employment of the
 267 spouses and children of such personnel and members; and the
 268 names and locations of schools and day care facilities attended
 269 by the children of such personnel and members are exempt from s.
 270 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of
 272 employment, dates of birth, and photographs of current or former
 273 staff and domestic violence advocates, as defined in s.
 274 90.5036(1)(b), of domestic violence centers certified by the
 275 Department of Children and Families under chapter 39; the names,
 276 home addresses, telephone numbers, places of employment, dates
 277 of birth, and photographs of the spouses and children of such
 278 personnel; and the names and locations of schools and day care
 279 facilities attended by the children of such personnel are exempt
 280 from s. 119.07(1) and s. 24(a), Art. I of the State
 281 Constitution.

v. The home addresses, telephone numbers, dates of birth,
 283 and photographs of current or former inspectors or investigators
 284 of the Department of Agriculture and Consumer Services; the
 285 names, home addresses, telephone numbers, dates of birth, and
 286 places of employment of the spouses and children of current or
 287 former inspectors or investigators; and the names and locations
 288 of schools and day care facilities attended by the children of
 289 current or former inspectors or investigators are exempt from s.
 290 119.07(1) and s. 24(a), Art. I of the State Constitution.

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291 3. An agency that is the custodian of the information
 292 specified in subparagraph 2. and that is not the employer of the
 293 officer, employee, justice, judge, or other person specified in
 294 subparagraph 2. must maintain the exempt status of that
 295 information only if the officer, employee, justice, judge, other
 296 person, or employing agency of the designated employee submits a
 297 written and notarized request for maintenance of the exemption
 298 to the custodial agency. The request must state under oath the
 299 statutory basis for the individual's exemption request and
 300 confirm the individual's status as a party eligible for exempt
 301 status.

302 4.a. A county property appraiser, as defined in s.
 303 192.001(3), or a county tax collector, as defined in s.
 304 192.001(4), who receives a written and notarized request for
 305 maintenance of the exemption pursuant to subparagraph 3. must
 306 comply by removing the name of the individual with exempt status
 307 and the instrument number or Official Records book and page
 308 number identifying the property with the exempt status from all
 309 publicly available records maintained by the property appraiser
 310 or tax collector. For written requests received on or before
 311 July 1, 2021, a county property appraiser or county tax
 312 collector must comply with this sub-subparagraph by October 1,
 313 2021. A county property appraiser or county tax collector may
 314 not remove the street address, legal description, or other
 315 information identifying real property within the agency's
 316 records so long as a name or personal information otherwise
 317 exempt from inspection and copying pursuant to this section are
 318 not associated with the property or otherwise displayed in the
 319 public records of the agency.

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320 b. Any information restricted from public display,
 321 inspection, or copying under sub-subparagraph a. must be
 322 provided to the individual whose information was removed.

323 5. An officer, an employee, a justice, a judge, or other
 324 person specified in subparagraph 2. may submit a written request
 325 for the release of his or her exempt information to the
 326 custodial agency. The written request must be notarized and must
 327 specify the information to be released and the party authorized
 328 to receive the information. Upon receipt of the written request,
 329 the custodial agency must release the specified information to
 330 the party authorized to receive such information.

331 6. The exemptions in this paragraph apply to information
 332 held by an agency before, on, or after the effective date of the
 333 exemption.

334 7. Information made exempt under this paragraph may be
 335 disclosed pursuant to s. 28.2221 to a title insurer authorized
 336 pursuant to s. 624.401 and its affiliates as defined in s.
 337 624.10; a title insurance agent or title insurance agency as
 338 defined in s. 626.841(1) or (2), respectively; or an attorney
 339 duly admitted to practice law in this state and in good standing
 340 with The Florida Bar.

341 8. The exempt status of a home address contained in the
 342 Official Records is maintained only during the period when a
 343 protected party resides at the dwelling location. Upon
 344 conveyance of real property after October 1, 2021, and when such
 345 real property no longer constitutes a protected party's home
 346 address as defined in sub-subparagraph 1.a., the protected party
 347 must submit a written request to release the removed information
 348 to the county recorder. The written request to release the

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 removed information must be notarized, must confirm that a
 protected party's request for release is pursuant to a
 conveyance of his or her dwelling location, and must specify the
 Official Records book and page, instrument number, or clerk's
 file number for each document containing the information to be
 released.

9. Upon the death of a protected party as verified by a
 certified copy of a death certificate or court order, any party
 can request the county recorder to release a protected
 decedent's removed information unless there is a related request
 on file with the county recorder for continued removal of the
 decedent's information or unless such removal is otherwise
 prohibited by statute or by court order. The written request to
 release the removed information upon the death of a protected
 party must attach the certified copy of a death certificate or
 court order and must be notarized, must confirm the request for
 release is due to the death of a protected party, and must
 specify the Official Records book and page number, instrument
 number, or clerk's file number for each document containing the
 information to be released. A fee may not be charged for the
 release of any document pursuant to such request.

10. This paragraph is subject to the Open Government Sunset
 Review Act in accordance with s. 119.15 and shall stand repealed
 on October 2, 2024, unless reviewed and saved from repeal
 through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public
 necessity that the home addresses, telephone numbers, dates of
 birth, and photographs of current or former inspectors or
 investigators of the Department of Agriculture and Consumer

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 Services; the names, home addresses, telephone numbers, dates of
 birth, and places of employment of the spouses and children of
 current or former inspectors or investigators; and the names and
 locations of schools and day care facilities attended by the
 children of current or former inspectors or investigators be
 made exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
 Article I of the State Constitution. The Legislature finds that
 the release of such personal identifying and location
 information might place the department's current or former
 inspectors or investigators and their family members in danger
 of physical and emotional harm from disgruntled individuals
 whose businesses or professional practices have come under the
 scrutiny of the department. In addition, such personnel may be
 subject to threats or acts of revenge because of the duties they
 perform. The Legislature further finds that the harm that may
 result from the release of such personal identifying and
 location information outweighs any public benefit that may be
 derived from the disclosure of the information.

Section 3. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations Committee on Education
Appropriations Committee on Transportation, Tourism,
and Economic Development
Education Postsecondary
Education Pre-K -12
Fiscal Policy
Military and Veterans Affairs, Space, and
Domestic Security

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

SENATOR JAY COLLINS

14th District

March 13, 2023

Senator Bryan Avila
326 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chairman Avila,

I respectfully request that SB 1166 – FDACS Public Records Exemption, be placed on the next available agenda for the Government Oversight and Accountability Committee. This bill is crucial for ensuring that certain FDACS agents that are performing crucial roles have their sensitive information protected.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in black ink, appearing to read "Jay Collins", with a horizontal line underneath.

Senator Jay Collins
Senate District 14

Cc: Joe McVaney, Staff Director
Jessie Harmsen, Deputy Staff Director
Tamra Redig, Committee Administrative Assistant

REPLY TO:

- ☐ 405 North Reo Street, Suite 170, Tampa, Florida 33609 (813) 281-2538
- ☐ 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 387-4014

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

4/5/2023

Meeting Date

Gov't Oversight & Account.

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1166

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Isabelle Garbarino**

Phone **(850) 617-7700**

Address **400 S. Monroe St. PL 10**

Email **isabelle.garbarino@fdacs.gov**

Street

Tallahassee

FL

32399

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

**FL Department of Agriculture
(DACS)**

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 1278

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Simon and others

SUBJECT: Direct-support Organizations of the Department of Children and Families

DATE: April 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	Cox	CF	Fav/CS
2.	McVaney	McVaney	GO	Favorable
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1278 amends s. 402.57, F.S., to authorize the Department of Children and Families (DCF) to create a Direct Support Organization (DSO) for the purpose of supporting the DCF in carrying out its purposes and responsibilities. The bill details the requirements of and certain purposes for which to operate the DSO under written contract with the DCF and requires the Secretary of the DCF to appoint the board of directors according to the DSO's bylaws.

The bill allows the use of the DCF's fixed property, facilities, and "personnel services," without charge, by the DSO. The bill bars the DCF from allowing the use of any fixed property or facilities by the DSO if the DSO does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

The bill requires the DCF to adopt rules prescribing the procedures by which the DSO is governed and any conditions with which it must comply to use property, facilities, or personnel services of the DCF.

The bill allows the DSO to collect, expend, and provide funds for certain purposes that support the DCF. The DSO may not use funds for the purpose of lobbying. The DSO may hold any moneys in a separate depository account in the name of the DSO, subject to the provisions of the contract with the DCF. The DSO must provide an annual financial audit in accordance with s. 215.981, F.S. The bill also provides for the repeal of the subsection on October 1, 2028, unless reviewed and saved from repeal by the Legislature.

The bill does not appear to have a fiscal impact on the government or private sector.

The bill takes effect upon becoming law.

II. Present Situation:

Citizen Support Organizations and Direct-Support Organizations

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily created private entities that are generally required to be non-profit corporations, and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

CSO and DSO Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for CSOs and DSOs that are created or authorized pursuant to law or executive order and created, approved, or administered by a state agency.¹ Specifically, the law requires each CSO and DSO to submit annually, by August 1, the following information related to its organization, mission, and finances to the agency it supports:²

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service (IRS) Return of Organization Exempt from Income Tax form (Form 990).³

Each agency receiving the above information must make the information available to the public through the agency's website. If the CSO or DSO maintains a website, the agency's website must provide a link to the website of the CSO or DSO.⁴ Additionally, any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting the information.⁵ If a CSO or DSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the CSO or DSO.⁶ The contract must also include a provision for ending operations and returning state-issued funds to the state if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁷

¹ Chapter 2014-96, L.O.F.

² Section 20.058(1), F.S.

³ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ *Id.*

By August 15 of each year, the agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability (OPPAGA) the information provided by the CSO or DSO.⁸ The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each CSO or DSO.⁹

Lastly, a law creating or authorizing the creation of a CSO or DSO must state that the creation or authorization for the CSO or DSO is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature.¹⁰

CSO and DSO Audit Requirements

Section 215.981, F.S., requires each CSO and DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.¹¹ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the CSO or DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports.

Additionally, the Auditor General may conduct audits or other engagements of the accounts and records of the CSO or DSO, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee.¹² The Auditor General is authorized to require and receive any records from the CSO or DSO, or its independent auditor.¹³

CSO and DSO Ethics Code Requirement

Section 112.3251, F.S., requires a CSO or DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S. A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.¹⁴

The Department of Children and Families

The Department of Children and Families (DCF) is created and its organizational structure established in s. 20.19, F.S. The DCF has a statutorily created mission to work in partnership with local communities to protect the vulnerable, promote strong and economically self-

⁸ Section 20.058(3), F.S.

⁹ *Id.*

¹⁰ Section 20.058(5), F.S.

¹¹ The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

¹² Section 11.45(3)(d), F.S.

¹³ *Id.*

¹⁴ Section 112.3251, F.S.

sufficient families, and advance personal and family recovery and resiliency.¹⁵ The DCF must provide services relating to:

- Adult Protection.
- Child care regulation.
- Child welfare.
- Domestic violence.
- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.¹⁶

The DCF states its vision is to empower people with complex and varied needs to achieve the best outcomes for themselves and their families and deliver world class and continuously improving service focused on providing the people it serves with the level and quality that the DCF would demand and expect for its own families.¹⁷

Direct Support Organization for the Children and Youth Cabinet

In 2007, the Legislature created the Children and Youth Cabinet (Cabinet).¹⁸ The Cabinet is charged with promoting and implementing collaboration, creativity, increased efficiency, information sharing and improved service delivery between and within state agencies and organizations. As directed by statute, in 2007 the Cabinet developed a shared vision and a Strategic Plan to guide the Cabinet in designing and implementing measurable outcomes and actions that promote collaboration and information sharing.¹⁹ The stated mission of the Cabinet is to ensure that the public policy of Florida relating to children and youth promotes interdepartmental collaboration and program implementation in order for services designed for children and youth to be planned, managed and delivered in a holistic and integrated manner to improve the self-sufficiency, safety, economic stability, health, and quality of life of all children and youth in Florida.²⁰

Section 402.57, F.S., requires the DCF to establish a DSO to assist the Cabinet in carrying out its purpose and responsibilities. The sole purpose of the DSO is to support the Cabinet, and must be:

- A Florida not-for-profit corporation.
- Organized to make expenditures to or for the Cabinet.
- Approved by the DCF to be operating for the benefit of and in a manner consistent with the goals of the Cabinet and in the best interest of the state.

¹⁵ Section 20.19(1), F.S.

¹⁶ Section 20.19(4), F.S.

¹⁷ The Department of Children and Families, *Mission, Vision and Values*, available at <https://www.myflfamilies.com/about/additional-services-offices/office-secretary/mission-vision-and-values> (last visited March 13, 2023).

¹⁸ Chapter 2007-151, s. 1, L.O.F., codified as s. 402.56, F.S.

¹⁹ Governor Ron DeSantis – 46th Governor of Florida, *Florida Children and Youth Cabinet*, available at <https://www.flgov.com/childrens-cabinet/> (last visited March 13, 2023).

²⁰ *Id.*

The DCF does not have DSO or CSO enacting language other than the language specific to the Cabinet.

III. Effect of Proposed Changes:

The bill amends s. 402.57, F.S., to authorize DCF to create a DSO with the sole purpose to support the DCF in carrying out its purposes and responsibilities. The DSO must be:

- A Florida not-for-profit corporation.
- Organized and operated to:
 - Conduct programs and activities;
 - Raise funds;
 - Request and receive grants, gifts, and bequests of moneys;
 - Acquire, receive, hold, invest, and administer securities, funds, objects of value or other real or personal property; and
 - Make expenditures to or for the direct or indirect benefit of the DCF and the individuals it serves.
- Determined by the DCF to be operating in a manner consistent with the goals and purposes of the DCF, the best interest of Florida, and the needs of children and adults served by the DCF.

The bill requires the DSO to operate under a written contract with the DCF that provides for all of the following:

- Approval of articles of incorporation and bylaws by the DCF.
- Submission of an annual budget for approval by the DCF.
- Annual certification by the DCF that the DSO is in compliance with the contract and operating in a manner consistent with the goals and purposes of the DCF and in the best interest of the state. This certification must be reported in the official minutes of a meeting of the DSO.
- Reversion of moneys and property held in trust by the DSO to the state if the DCF ceases to exist or to the DCF if the DSO is no longer approved to operate or ceases to exist.
- That the fiscal year for the DSO runs from July 1 of each year through June 30 of the following year.
- Disclosure of material provisions of the contract and the distinction between the DCF and the DSO to donors, including on all promotional and fundraising publications.

The bill requires the Secretary of the DCF to appoint the board of directors of the DSO according to the DSO's bylaws.

The bill provides that the DCF, without charge, may allow appropriate use of fixed property or facilities of the DCF by the DSO. The bill allows the DCF to prescribe conditions the DSO must meet to use fixed property or facilities and bars the DCF from allowing the use of any fixed property or facilities by the DSO if the DSO does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

The bill also provides that the DCF, without charge, may allow appropriate use of “personnel services”²¹ of the DCF by the DSO.

The bill requires the DCF to adopt rules prescribing the procedures by which the DSO is governed and any conditions with which it must comply to use property, facilities, or personnel services of the DCF.

The bill allows the DSO to collect, expend, and provide funds to address gaps in services for the children and adults served by the DCF; develop, implement, and operate targeted prevention efforts; and provide services and activities that support the goals of the DCF. The DSO may not use funds for the purpose of lobbying. The DSO may hold any moneys in a separate depository account in the name of the DSO, subject to the provisions of the contract with the DCF. The DSO must provide an annual financial audit in accordance with s. 215.981, F.S.

The bill also provides for the repeal of the enacting subsection on October 1, 2028, unless reviewed and saved from repeal by the Legislature.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

²¹ The bill provides that “personnel services” includes full-time or part-time personnel, as well as payroll processing services.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 402.57 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.)

CS by Children, Families, and Elder Affairs on March 20, 2023:

The Committee Substitute made a clarifying non-substantive technical change to the provision related to the specified use of certain facilities and services of the DCF and the rulemaking authority granted to DCF.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs; and
Senators Simon and Rouson

586-02771-23

20231278c1

A bill to be entitled

An act relating to direct-support organizations of the Department of Children and Families; amending s. 402.57, F.S.; authorizing the Department of Children and Families to establish a direct-support organization for a specified purpose; specifying criteria for the direct-support organization; requiring the direct-support organization to operate under written contract with the department; providing requirements for the contract; requiring the Secretary of Children and Families to appoint a board of directors for the direct-support organization; providing for appointment of board members; authorizing the department to allow the direct-support organization to use, without charge, the department's fixed property, facilities, and personnel services, subject to certain requirements; defining the term "personnel services"; authorizing the direct-support organization to collect, expend, and provide funds for specified purposes; prohibiting the use of such funds for lobbying purposes; authorizing moneys to be held in a separate depository account in the name of the direct-support organization, subject to certain requirements; requiring the direct-support organization to provide for annual audits; providing for future repeal; providing an effective date.

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

Page 1 of 6

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586-02771-23

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Section 1. Section 402.57, Florida Statutes, is amended to read:

402.57 Direct-support organizations ~~organization~~.

(1) DEPARTMENT OF CHILDREN AND FAMILIES.—The Department of Children and Families is authorized to create a direct-support organization, the sole purpose of which is to support the department in carrying out its purposes and responsibilities.

(a) The direct-support organization must be:

1. A not-for-profit corporation incorporated under chapter 617 and approved by the Department of State as a not-for-profit corporation;

2. Organized and operated to conduct programs and activities; to raise funds; to request and receive grants, gifts, and bequests of moneys; to acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and to make expenditures to or for the direct or indirect benefit of the department and the individuals it serves; and

3. Determined by the department to be operating in a manner consistent with the goals and purposes of the department, the best interest of the state, and the needs of children and adults served by the department.

(b) The direct-support organization shall operate under a written contract with the department. The contract must provide for all of the following:

1. Department approval of the articles of incorporation and bylaws of the direct-support organization.

2. Submission of an annual budget for department approval.

3. Certification by the department that the direct-support

Page 2 of 6

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organization is complying with the terms of the contract and operating in a manner consistent with the goals and purposes of the department and in the best interest of the state. Such certification must be made annually and reported in the official minutes of a meeting of the direct-support organization.

4. The reversion to the state of moneys and property held in trust by the direct-support organization for the benefit of those served by the department if the department ceases to exist or the reversion to the department if the direct-support organization is no longer approved to operate for the department, a county commission, or a circuit board or ceases to exist.

5. The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year.

6. The disclosure of material provisions of the contract, and the distinction between the department and the direct-support organization, to donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications.

(c) The Secretary of Children and Families shall appoint the board of directors of the direct-support organization. The board members shall be appointed according to the organization's bylaws.

(d) The department may allow, without charge, appropriate use of fixed property, facilities, and personnel services of the department by the direct-support organization, subject to the requirements of this section. As used in this subsection, the term "personnel services" includes full-time or part-time

586-02771-23

20231278c1

personnel, as well as payroll processing services.

1. The department may not allow a direct-support organization to use any fixed property, facilities, or personnel services of the department if the direct-support organization does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

2. The department may prescribe any conditions with which a direct-support organization must comply to use fixed property, facilities, or personnel services of the department and shall adopt rules prescribing those conditions and the procedures by which the direct-support organization is governed.

(e) The direct-support organization may collect, expend, and provide funds for:

1. Addressing gaps in services for the children and adults served by the department.

2. Development, implementation, and operation of targeted prevention efforts.

3. Services and activities that support the goals of the department.

4. Functions of the direct-support organization's board of directors, as necessary and approved by the department.

The funds of the direct-support organization may not be used for the purpose of lobbying as defined in s. 11.045.

(f) Any moneys may be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the contract with the department.

(g) The direct-support organization shall provide for an

586-02771-23

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annual financial audit in accordance with s. 215.981.

(h) This subsection is repealed October 1, 2028, unless reviewed and saved from repeal by the Legislature.

(2) CHILDREN AND YOUTH CABINET.—The Department of Children and Families shall establish a direct-support organization to assist the Children and Youth Cabinet established in s. 402.56 in carrying out its purposes and responsibilities, primarily regarding fostering public awareness of children and youth issues and developing new partners in the effort to serve children and youth by raising money; submitting requests for and receiving grants from the Federal Government, the state or its political subdivisions, private foundations, and individuals; and making expenditures to or for the benefit of the cabinet. The sole purpose for the direct-support organization is to support the cabinet.

(a) The direct-support organization must be:

1. (a) Incorporated under chapter 617 and approved by the Department of State as a Florida corporation not for profit.

2. (b) Organized and operated to make expenditures to or for the benefit of the cabinet.

3. (c) Approved by the department to be operating for the benefit of and in a manner consistent with the goals of the cabinet and in the best interest of the state.

(b) (2) The board of directors of the direct-support organization shall consist of seven members appointed by the Governor. Each member of the board of directors shall be appointed to a 4-year term. However, for the purpose of providing staggered terms, the initial appointments shall be for either 2 years or 4 years, as determined by the Governor.

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(c) (3) The direct-support organization shall operate under a written contract with the department.

(d) (4) All moneys received by the direct-support organization must be deposited into an account of the direct-support organization and shall be used in a manner consistent with the goals of the cabinet.

(e) (5) This subsection ~~section~~ is repealed October 1, 2024, unless reviewed and saved from repeal by the Legislature.

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



The Florida Senate

Committee Agenda Request

To: Senator Bryan Avila, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 20, 2023

I respectfully request that **Senate Bill # 1278**, relating to Direct-support Organizations of the Department of Children and Families, be placed on the:

- ☐ Committee agenda at your earliest possible convenience.
- ☒ Next committee agenda.

Corey Simon

Senator Corey Simon
Florida Senate, District 3

4/4/2023

Meeting Date

Governmental Oversight and Accountability

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1278

Bill Number or Topic

Amendment Barcode (if applicable)

Name **John Paul Fiore**

Phone **850-488-9410**

Address **2415 N. Monroe Street**

Email **john.fiore@myflfamilies.com**

Street

Tallahassee

FL

32303

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

**Department of Children and
Families**

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 1402

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Martin

SUBJECT: Public Records/Investigative Genetic Genealogy Materials

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
2.	<u>Limonas-Borja</u>	<u>McVane</u>	<u>GO</u>	Fav/CS
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1402 makes confidential and exempt from public record inspection and copying requirements investigative genetic genealogy information and materials.

The exemption must be given retroactive application and must apply to all investigative genetic genealogy materials, including a single nucleotide polymorphism or whole genome sequencing profile, or a portion thereof, held in the possession of an agency before, on, or after July 1, 2023.

“Investigative genetic genealogy information and materials” and other technical terms are defined in the bill.

The exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides a statement of public necessity as required by the State Constitution.

The bill creates a new public records exemption and, therefore, requires a two-thirds vote of the members present and voting for final passage.

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

The bill becomes effective July 1, 2023.

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 agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵ Section 119.011(12), F.S., defines “public records” to include: 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 that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020).

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

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “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.”

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

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

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.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 Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

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. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding 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); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹¹ *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹² *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

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., 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.

¹⁹ Section 119.15(3), F.S.

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 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 governmental program, and 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
- 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 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 expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁶

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 definition of "agency" is 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 chapter 119, F.S., 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

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.

²³ Section 119.15(6)(b)3., F.S.

²⁴ 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?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

business entity acting on behalf of any public agency.²⁷ Active criminal intelligence information and active criminal investigative information are exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.²⁸

“Criminal intelligence information” means information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.²⁹ “Criminal investigative information” means information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.³⁰

In this context, the word “active” means:

- Criminal intelligence information shall be considered “active” as long as it is related to intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities.
- Criminal investigative information shall be considered “active” as long as it is related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

In addition, criminal intelligence and criminal investigative information shall be considered “active” while such information is directly related to pending prosecutions or appeals. The word “active” shall not apply to information in cases which are barred from prosecution under the provisions of statutes of limitation.³¹

Genetics

Genetics is the scientific study of genes and heredity, of how certain qualities or traits are passed from parents to offspring as a result of changes in DNA sequence. A gene is a segment of DNA that contains instructions for building one or more molecules that help the body work. DNA is shaped like a corkscrew-twisted ladder, called a double helix. The two ladder rails are called backbones, and the rungs are pairs of four building blocks (adenine, thymine, guanine, and cytosine) called bases. The sequences of these bases provide the instructions for building molecules, most of which are proteins. Researchers estimate that humans have about 20,000 genes. All of an organism’s genetic material, including its genes and other elements that control the activity of those genes, is its genome. An organism’s entire genome is found in nearly all of its cells.³²

²⁷ Section 119.011(2), F.S.

²⁸ Section 119.071(2)(c)1, F.S.

²⁹ Section 119.011(3)(a), F.S.

³⁰ Section 119.011(3)(b), F.S.

³¹ Sections 119.011(3)(d) and 775.15, F.S.

³² National Institute of Health, General Medicine Sciences, Genetics, *What is Genetics?*, available at <https://nigms.nih.gov/education/factsheets/Pages/genetics.aspx#:~:text=Genetics%20is%20the%20scientific%20study,that%20help%20the%20body%20work> (last visited Mar. 30, 2023).

Our DNA, including all of our genes, is stored in chromosomes, structures where proteins wind up DNA tightly so that it fits in the nucleus. Humans typically have 23 pairs of chromosomes in our cells. The two chromosomes in each pair contain the same genes, but they may have different versions of those genes because we inherit one chromosome in each pair from our mother and the other from our father.³³

Genealogy Research by the Public

Advances in DNA testing have allowed people to uncover information about their genetic ancestry and find out where some of their ancestors came from. Many companies are offering genetic testing services for individuals to find out about their ancestry using several different testing methods. These are the three types of DNA tests used in home testing kits:

- Autosomal, which uses autosomal chromosomes from both parents to determine a person's ethnic background. Can be taken by all genders, and does not determine haplogroups. This is the test most frequently used by genealogy researchers.
- mtDNA, which traces a person's maternal ancestry by testing mitochondria, which are passed down from mother to child. Can be taken by all genders. Also determines the test taker's maternal haplogroup, an ancient group of people from which they descend on their mother's side.
- Y-DNA, which traces a person's paternal ancestry by testing the Y-chromosome, can only be taken by those that have a Y-chromosome. Also determines the test taker's paternal haplogroup, an ancient group of people from which they descend on their father's side.³⁴

These tests require one to swipe the inside of his or her cheek for a saliva sample, which is sent to a lab. There, the DNA is extracted, amplified, and analyzed. It is then compared to and matched with DNA samples from a reference database of a set of closely linked genes or DNA polymorphisms that have been identified in specific populations. If a person's DNA sequences match certain sequences in the database, the information can be used to determine the populations with which that person shares maternal or paternal ancestry.³⁵

The number of people who have had their DNA analyzed with direct-to-consumer genetic genealogy tests more than doubled during 2017 and exceeds 12 million, according to industry estimates. Most of those tested are in the U.S., suggesting that around 1 in 25 American adults now have access to personal genetic data, a figure that could spur a range of new genetic analysis services.³⁶

³³ *Id.*

³⁴ Boston Public Library, *Genetic Genealogy*, available at <https://guides.bpl.org/genealogymain/dna> (last visited Mar. 30, 2023).

³⁵ MIT Technology Review, Biotechnology, Leslie Hanlon, "Tracing Your Ancestry," available at <https://www.technologyreview.com/2006/02/24/229598/tracing-your-ancestry/> (last visited March 30, 2023).

³⁶ MIT Technology Review, Biotechnology, Antonio Regalado, "2017 was the year consumer DNA testing blew up," February 12, 2018, available at <https://www.technologyreview.com/2018/02/12/145676/2017-was-the-year-consumer-dna-testing-blew-up/> (last visited Mar. 30, 2023).

Investigative Genetic Genealogy Materials

As explained by the International Society of Genetic Genealogy, investigative (or forensic) genetic genealogy is the science of using genetic and genealogical methods to generate leads for law enforcement entities investigating crimes and identifying human remains.

Genetic genealogists use DNA profiles from a crime scene or from unidentified human remains to identify close genetic DNA profiles or matches. By comparing the known genealogy of those close familial matches, this constrains the number of possible close relatives of the perpetrator or victim. Such efforts enable investigators or researchers to more closely focus their investigation in cold or stale criminal cases providing new leads.³⁷

The Florida Department of Law Enforcement Forensic/Investigative Genetic Genealogy Program

The Florida Department of Law Enforcement (FDLE) Genetic Genealogy team provides investigative leads to investigators based on DNA matches to relatives found in public genealogy databases.³⁸ The team includes experts in genetic genealogy, analytical research, forensics and investigations who work with local law enforcement agencies.³⁹ In its first year, the program helped identify four suspects, solving cases that were more than a decade old.⁴⁰

Catching the Golden State Killer Using Consumer DNA Testing Database

A Florida-based genealogy website called GEDmatch that allows users to voluntarily share their genetic profiles for free provided information that led investigators to the “Golden State Killer.”⁴¹ The website revealed a distant relative and that information helped lead authorities to the man suspected of conducting 12 homicides, 45 rapes and more than 100 residential burglaries between 1976 and 1986.⁴² The man subsequently pleaded guilty to 13 counts of first-degree murder and special circumstances (including murder committed during burglaries and rapes), as

³⁷ International Society of Genetic Genealogy, *Investigative genetic genealogy FAQs*, available at https://isogg.org/wiki/Investigative_genetic_genealogy_FAQs#cite_note-1 (last visited Mar. 30, 2023); see also The Florida Department of Law Enforcement, Forensics Disciplines, Genetic Genealogy, *Resource & Historical Information FDLE Forensic/Investigative Genetic Genealogy*, available at <https://www.fdle.state.fl.us/Forensics/Disciplines/Genetic-Genealogy/Resource-Historical-Information.aspx> (last visited Mar. 30, 2023).

³⁹ Florida Department of Law Enforcement, News, *FDLE Genetic Genealogy Investigations program solves cold cases in first year*, available at <https://www.fdle.state.fl.us/News/2019/October/FDLE-Genetic-Genealogy-Investigations-program-solv> (last visited Mar. 30, 2023).

³⁸ Florida Department of Law Enforcement, News, *FDLE Genetic Genealogy Investigations program solves cold cases in first year*, available at <https://www.fdle.state.fl.us/News/2019/October/FDLE-Genetic-Genealogy-Investigations-program-solv> (last visited Mar. 30, 2023).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ East Bay Times, “Here’s the ‘open-source’ genealogy DNA website that helped crack the Golden State Killer case,” Matthias Gafni, Lisa M. Krieger, September 21, 2018, available at <https://www.eastbaytimes.com/2018/04/26/ancestry-23andme-deny-assisting-law-enforcement-in-east-area-rape-case/> (last visited Mar. 30, 2023); see also Los Angeles Times, *The untold story of how the Golden State Killer was found: A covert operation and private DNA*, Paige St. John, December 8, 2020, available at <https://www.latimes.com/california/story/2020-12-08/man-in-the-window> (last visited Mar. 30, 2023).

⁴² *Id.*

well as 13 counts of kidnapping.⁴³ GEDmatch allows people to upload their DNA analysis to the site and opt-in for law enforcement matching. There are more than 140,000 people who have opted-in.⁴⁴

III. Effect of Proposed Changes:

Section 1 amends s. 119.071, F.S., to create a public records exemption for investigative genetic genealogy materials, including a single nucleotide polymorphism or a whole genome sequencing profile. This exemption does not extend to the name and identifying information of the donor of the biological sample that is attributable to a perpetrator of a crime, or of a witness to a crime who is identified through investigative genealogy. The exemption must be given retroactive application and must apply to all investigative genetic genealogy materials, including a single nucleotide polymorphism or whole genome sequencing profile, or a portion thereof, held in the possession of an agency before, on, or after July 1, 2023.

The bill defines the following terms:

- “DNA record” means all information associated with the collection and analysis of a person’s DNA sample, including the distinguishing characteristics collectively referred to as a DNA profile, and includes a single nucleotide polymorphism and a whole genome sequencing DNA profile.
- “Genetic genealogy” means the use of DNA testing in combination with traditional genealogical methods to infer relationships between persons and determine ancestry.
- “Investigative genetic genealogy” means the application of genetic genealogy and law enforcement investigative techniques to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains and living unidentified missing persons.
- “Investigative genetic genealogy information and materials” means the information, records, and DNA records created or collected by or on behalf of a law enforcement agency conducting investigative genetic genealogy research, and includes the names and personal identifying information of persons identified through the use of genealogy databases, traditional genealogical methods, or other investigative means. The term does not include the name or personal identifying information of:
 - The donor of a biological sample attributable to a perpetrator; or
 - A person identified through investigative genetic genealogy who is a witness to or has personal knowledge related to the crime under investigation.
- “Traditional genealogical methods” means the use of genealogical databases and historical records to trace the family lineage of a person.

⁴³ CNN News, “*Hearing details ghastly crimes of Golden State Killer as he pleads guilty to killings*,” Elliott C. McLaughlin, Stella Chan, June 29, 2020, available at <https://www.cnn.com/2020/06/29/us/golden-state-killer-plea-expected/index.html#:~:text=DeAngelo%20pleaded%20guilty%20to%2013,as%2013%20counts%20of%20kidnapping> (last visited Mar. 30, 2023).

⁴⁴ Florida Department of Law Enforcement, News, *FDLE Genetic Genealogy Investigations program solves cold cases in first year*, available at <https://www.fdle.state.fl.us/News/2019/October/FDLE-Genetic-Genealogy-Investigations-program-solve> (last visited Mar. 30, 2023).

With specific exceptions, investigative genetic genealogy information and materials are made confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution by the bill.

The bill creates an exception to the public records exemption, and provides that a law enforcement agency may disclose investigative genetic genealogy information and materials:

- In furtherance of its official duties and responsibilities; or
- To another governmental agency in the furtherance of its official duties and responsibilities.

Investigative genetic genealogy information and materials, including a single nucleotide polymorphism or whole genome sequencing profile, or a portion thereof must be disclosed pursuant to a court order in furtherance of a criminal prosecution. If a court orders that investigative genetic genealogy materials be disclosed, the recipient of the records or information must maintain the confidentiality of those records or information and may only disclose them publicly as needed for purposes of a criminal prosecution, as determined by the court.

Section 2 provides a statement of public necessity for the public records exemption created by the bill and for its retroactive application. The bill states that:

- Investigative genetic genealogy is an advanced investigative tool that uses law enforcement agency investigative resources and traditional genealogical research in collaboration with crime laboratories, private vendor laboratories, and companies or organizations that provide genealogy services and information to the public.
- Investigative genetic genealogy allows law enforcement agencies to generate an investigative lead on an unknown perpetrator. The investigative lead aids law enforcement agencies in determining potential donors of crime scene samples, which can be confirmed or refuted by a crime laboratory for use in legal proceedings.
- Convictions and exonerations have been aided by the use of investigative genetic genealogy.
- The same techniques are also used in missing persons and unidentified human remains cases.
- Investigative genetic genealogy is a valuable tool to solve violent crimes and to hold accountable perpetrators who may otherwise roam freely and undetected in society.
- Traditional forensic DNA testing attempts to identify the possible donor of a crime scene sample through matches in law enforcement agencies' DNA databases that consist of short tandem repeat DNA databases.
- The use of investigative genetic genealogy differs from traditional law enforcement agency investigative techniques because it uses advanced DNA testing to develop a single nucleotide polymorphism or a whole genome sequencing profile from the unknown crime scene DNA, which is then uploaded into a public genealogy database and used to locate personal identifying information for possible relatives and ancestors who participate in the databases.
- Individuals whose names, contact information, or other family associations are available in these databases may, and routinely, have no association with or knowledge of the perpetrator or the crime that a law enforcement agency is investigating.
- The first publicized use of investigative genetic genealogy involved the Golden State Killer cases in California. The publicity surrounding law enforcement agencies' use of genetic genealogy led individuals, genealogy service providers, genealogical testing companies, and privacy advocates and ethicists to express privacy concerns.

- Private companies have since strictly limited or precluded law enforcement agency access to genetic genealogy databases due to fear that individuals who are biologically related to a perpetrator but unassociated with the crime may be identified, harassed, and even victimized.
- Law enforcement agency use of investigative genetic genealogy materials has been restricted to violent crimes and unidentified human remains, and companies employ opt-in features for customers.
- Failure to properly protect and limit the disclosure of investigative genetic genealogy information and materials will hinder law enforcement agencies' ability to use this valuable method to solve violent crimes and provide closure to the family members of victims of these heinous acts.
- Often, unidentified human remains are homicide victims, so protection of investigative genetic genealogy tools and information is equally important in giving names to these decedents as well as to their perpetrators.

The public records exemption created by the bill is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3 provides that the bill takes effect on July 1, 2023.

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 enacts a new exemption for investigative genetic genealogy information and materials, thus, the bill requires 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 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, s. 24(c) of the State Constitution requires an exemption to 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 investigative genetic genealogy materials and information. This bill exempts only investigative genetic genealogy information and materials from the 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 bill may have a minimal fiscal impact on the department for experiencing additional workload related to the redaction of records in responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the section 119.071 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 April 5, 2023:

The committee substitute does the following:

- Removes the definitions for “Single nucleotide polymorphism” and “Whole genome sequencing.”
- Adds a definition for “DNA record” to mean all information associated with the collection and analysis of a person’s DNA sample, including the distinguishing characteristics collectively referred to as a DNA profile, and includes a single polymorphism and a whole genome sequencing.
- Makes conforming changes to use the term “DNA record” throughout the bill.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/05/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 21 - 104
and insert:

a. "DNA record" means all information associated with the collection and analysis of a person's DNA sample, including the distinguishing characteristics collectively referred to as a DNA profile, and includes a single nucleotide polymorphism and a whole genome sequencing DNA profile.

b. "Genetic genealogy" means the use of DNA testing in



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11 combination with traditional genealogical methods to infer
12 relationships between persons and determine ancestry.

13 c. "Investigative genetic genealogy" means the application
14 of genetic genealogy and law enforcement investigative
15 techniques to develop investigative leads in unsolved violent
16 crimes and provide investigative leads as to the identity of
17 unidentified human remains and living unidentified missing
18 persons.

19 d. "Investigative genetic genealogy information and
20 materials" means the information, records, and DNA records
21 created or collected by or on behalf of a law enforcement agency
22 conducting investigative genetic genealogy research, and
23 includes the names and personal identifying information of
24 persons identified through the use of genealogy databases,
25 traditional genealogical methods, or other investigative means.
26 The term does not include the name or personal identifying
27 information of:

28 (I) The donor of a biological sample attributable to a
29 perpetrator; or

30 (II) A person identified through investigative genetic
31 genealogy who is a witness to or has personal knowledge related
32 to the crime under investigation.

33 e. "Traditional genealogical methods" means the use of
34 genealogical databases and historical records to trace the
35 family lineage of a person.

36 2. Investigative genetic genealogy information and
37 materials are confidential and exempt from s. 119.07(1) and s.
38 24(a), Art. I of the State Constitution.

39 3. Notwithstanding subparagraph 2., a law enforcement



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agency:

a. May disclose investigative genetic genealogy information and materials in furtherance of its official duties and responsibilities or to another governmental agency in the furtherance of its official duties and responsibilities.

b. Shall disclose investigative genetic genealogy information and materials pursuant to a court order for the furtherance of a criminal prosecution. If a court orders the disclosure of such information and materials, the recipient of the information and materials must maintain the confidential and exempt status of the information and materials and may only publicly disclose the information and materials as necessary for purposes of a criminal prosecution as determined by the court.

4. The exemption in this paragraph applies to investigative genetic genealogy information and materials held by an agency before, on, or after July 1, 2023.

5. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that investigative genetic genealogy information and materials be made

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

And the title is amended as follows:

Delete lines 5 - 7

and insert:

genetic genealogy information and materials;



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69 authorizing and requiring the disclosure of such
70 information and materials under certain circumstances;
71 providing for

By Senator Martin

33-01108-23

20231402__

A bill to be entitled

An act relating to public records; amending s.

119.071, F.S.; defining terms; providing an exemption

from public records requirements for investigative

genetic genealogy materials; authorizing the

disclosure of investigative genetic genealogy

materials under specified circumstances; providing for

retroactive application; providing for future

legislative review and repeal of the exemption;

providing a statement of public necessity; providing

an effective date.

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

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

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

(2) AGENCY INVESTIGATIONS.—

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

a. "Genetic genealogy" is the application of genetics to genealogy wherein DNA testing is combined with traditional genealogical methods to infer relationships between individuals and determine ancestry.

b. "Investigative genetic genealogy" means the application of genetic genealogy and law enforcement investigative techniques to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains and living unidentified missing

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persons. A single nucleotide polymorphism or whole genome sequencing DNA profile is developed from an unknown DNA profile from a crime scene or unidentified human remains and then uploaded into a web-based genealogy database. Genealogy databases are used to detect possible genetic relationships with distant relatives.

c. "Investigative genetic genealogy materials" means the information, records, and genetic profiles created or collected by or on behalf of a law enforcement agency conducting investigative genetic genealogy research. This includes any names and personal identifying information or identifiers of individuals determined through the use of genealogy databases, traditional genealogical methods, or other investigative means. The term does not include:

(I) The identity or personal identifying information of the donor of a biological sample attributable to a perpetrator, with the exception of the single nucleotide polymorphism or whole genome sequencing DNA profile developed from the crime scene evidence; or

(II) Any individual identified through investigative genetic genealogy who is a witness to or has personal knowledge related to the crime under investigation, with the exception of the individual's single nucleotide polymorphism or whole genome sequencing DNA profile.

d. "Single nucleotide polymorphism" is a variation in a single unit in a DNA sequence. Profiles consisting of single nucleotide polymorphism data from various locations in a genome are made up of letters representing the building blocks of DNA (A, T, G, and C). However, depending on the locations tested,

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single nucleotide polymorphism data may also reveal information on physical characteristics, disease predisposition, and susceptibility to environmental factors such as toxins or drugs.

e. "Traditional genealogical methods" means the use of genealogical databases and historical records to trace the family lineage of an individual.

f. "Whole genome sequencing" means the attempt to determine the genetic code using A, T, G, and C for an individual throughout the entire complement of DNA, including all genes. Whole genome sequencing data represents the entirety of an individual's DNA and the traits, health, and ancestry information it contains.

2. Investigative genetic genealogy materials, including a single nucleotide polymorphism or a whole genome sequencing profile, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. Notwithstanding subparagraph 2., investigative genetic genealogy materials, including a single nucleotide polymorphism or whole genome sequencing profile, or a portion thereof, may be disclosed by a law enforcement agency:

a. In furtherance of its official duties and responsibilities; or

b. To another governmental agency in the furtherance of its official duties and responsibilities.

4. Notwithstanding subparagraph 2., investigative genetic genealogy materials, including a single nucleotide polymorphism or whole genome sequencing profile, or a portion thereof, must be disclosed pursuant to a court order in furtherance of a criminal prosecution. If a court orders that investigative

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genetic genealogy materials be disclosed, the recipient of the records or information must maintain the confidentiality of those records or information and may only disclose them publicly as needed for purposes of a criminal prosecution, as determined by the court.

5. The exemption in subparagraph 2. must be given retroactive application and must apply to all investigative genetic genealogy materials, including a single nucleotide polymorphism or whole genome sequencing profile, or a portion thereof, held in the possession of an agency before, on, or after July 1, 2023.

6. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that investigative genetic genealogy materials be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Investigative genetic genealogy is an advanced investigative tool that uses law enforcement agency investigative resources and traditional genealogical research in collaboration with crime laboratories, private vendor laboratories, and companies or organizations that provide genealogy services and information to the public. Investigative genetic genealogy allows law enforcement agencies to generate an investigative lead on an unknown perpetrator. The investigative lead aids law enforcement agencies in determining potential donors of crime scene samples, which can be confirmed or refuted by a crime laboratory for use in legal proceedings.

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117 Convictions and exonerations have been aided by the use of
118 investigative genetic genealogy. The same techniques are also
119 used in missing persons and unidentified human remains cases.
120 Investigative genetic genealogy is a valuable tool to solve
121 violent crimes and to hold accountable perpetrators who may
122 otherwise roam freely and undetected in society. Traditional
123 forensic DNA testing attempts to identify the possible donor of
124 a crime scene sample through matches in law enforcement
125 agencies' DNA databases that consist of short tandem repeat DNA
126 databases. The use of investigative genetic genealogy differs
127 from traditional law enforcement agency investigative techniques
128 because it uses advanced DNA testing to develop a single
129 nucleotide polymorphism or a whole genome sequencing profile
130 from the unknown crime scene DNA, which is then uploaded into a
131 public genealogy database and used to locate personal
132 identifying information for possible relatives and ancestors who
133 participate in the databases. Individuals whose names, contact
134 information, or other family associations are available in these
135 databases may, and routinely, have no association with or
136 knowledge of the perpetrator or the crime that a law enforcement
137 agency is investigating. The first publicized use of
138 investigative genetic genealogy involved the Golden State Killer
139 cases in California. The publicity surrounding law enforcement
140 agencies' use of genetic genealogy led individuals, genealogy
141 service providers, genealogical testing companies, and privacy
142 advocates and ethicists to express privacy concerns. Private
143 companies have since strictly limited or precluded law
144 enforcement agency access to genetic genealogy databases due to
145 fear that individuals who are biologically related to a

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146 perpetrator but unassociated with the crime may be identified,
147 harassed, and even victimized. Law enforcement agency use of
148 investigative genetic genealogy materials has been restricted to
149 violent crimes and unidentified human remains, and companies
150 employ opt-in features for customers. Failure to properly
151 protect and limit the disclosure of investigative genetic
152 genealogy materials will hinder law enforcement agencies'
153 ability to use this valuable method to solve violent crimes and
154 provide closure to the family members of victims of these
155 heinous acts. Often, unidentified human remains are homicide
156 victims, so protection of investigative genetic genealogy tools
157 and information is equally important in giving names to these
158 decedents as well as to their perpetrators. For the foregoing
159 reasons, the Legislature finds that it is a public necessity
160 that investigative genetic genealogy materials be made
161 confidential and exempt from public records requirements and
162 that such exemption be applied retroactively.

163 Section 3. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Criminal Justice, *Chair*
Appropriations
Appropriations Committee on Criminal and Civil
Justice
Appropriations Committee on Health and
Human Services
Community Affairs
Environment and Natural Resources
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR JONATHAN MARTIN

33rd District

March 28, 2023

The Honorable Bryan Avila
Senate Governmental Oversight and Accountability Committee, Chair
330 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 1402 - An act relating to Public Records/Investigative Genetic Genealogy Materials

Dear Chair Avila:

Please allow this letter to serve as my respectful request to place SB 1402, relating to Public Records/Investigative Genetic Genealogy Materials, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Martin".

Jonathan Martin
Senate District 33

Cc: Joe McVane, Staff Director
Tamra Redig, Administrative Assistant

REPLY TO:

- ☐ 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- ☐ 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
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: CS/SB 1606

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Powell

SUBJECT: Florida Museum of Black History

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Limones-Borja	McVaney	GO	Fav/CS
2.			ATD	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1606 creates a Florida Museum of Black History Task Force within the Division of Historical Resources (Division). The purpose of the task force is to provide recommendations for the planning, construction, operation, and administration of a Florida Museum of Black History. The task force members shall be appointed by the Governor, President of the Senate, and the Speaker of the House of Representatives, and serve without compensation.

The bill requires the task force to submit a report detailing its plans and recommendations to the Governor, President of the Senate, Speaker of the House, the Senate Minority Leader, and the House Minority Leader by July 1, 2024, at which point the task force will expire.

The bill takes effect July 1, 2023.

II. Present Situation:

Task Force Requirements

Florida law defines “task force” to mean an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem. Its existence terminates upon the completion of its

assignment.¹ Members of a task force, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation and are authorized to receive only per diem and reimbursement for travel expenses.²

Department of State

The Department of State (DOS), created in s. 20.10, F.S., is composed of six divisions: Elections, Historical Resources, Corporations, Library and Information Services, Cultural Affairs and Administration. The head of the DOS is the Secretary of State (Secretary). The Secretary is appointed by and serves at the pleasure of the Governor, and is confirmed by the Senate. The Secretary performs functions conferred by the State Constitution upon the custodian of state records.³ The Secretary also serves as the state protocol officer and, in consultation with the Governor and other governmental officials, develops, maintains, publishes, and distributes the state protocol manual.⁴

Division of Historical Resources

The DOS's Division of Historical Resources (Division) is responsible for preserving and promoting Florida's historical, archaeological, and folk culture resources. The Division Director's Office oversees a Historic Preservation Grants program to help preserve and maintain Florida's historic buildings and archaeological sites and coordinates outreach programs. The Division Director also serves as the State Historic Preservation Officer, acting as the liaison with the national historic preservation program conducted by the National Park Service.

The Division is comprised of the following Bureaus:

- Bureau of Historic Preservation;
- Bureau of Historical Museums; and
- Bureau of Archeological Research.⁵

The division is also responsible for encouraging, promoting, maintaining, and operating Florida history museums.⁶ The division provides support to museums and works to promote the use of resources for educational and cultural purposes. The division directly oversees the following museums:

- Museum of Florida History, which is the state's official history museum and showcases Florida's diverse history from prehistoric times to the present day;⁷
- Mission San Luis, a living history museum that showcases the life of the Apalachee Indians and Spanish settlers, and also hosts workshops such as pottery and blacksmithing;⁸

¹ Section 20.03(8), F.S.

² S. 20.052(3)(d), F.S.

³ Section 20.10(1), F.S.

⁴ Section 15.01(1), F.S.

⁵ Florida Department of State, Florida Division of Historical Resources, *About*, available at <https://dos.myflorida.com/historical/about/> (Last visited Mar. 31, 2023).

⁶ S. 267.071(2), F.S.

⁷ See Florida Department of State, *Museum of Florida History*, <https://museumoffloridahistory.com/explore/exhibits/> (last visited Mar. 31, 2023).

⁸ See Florida Department of State, *Mission San Luis*, <https://missionsanluis.org/learn/> (last visited Mar. 31, 2023).

- Knott House Museum, which showcases the history of Tallahassee and its role in the civil war including the Emancipation Proclamation being read on the steps of the house in 1865;⁹ and
- The Grove Museum, which showcases the life of the Call and Collins families, who owned the property and played a significant role in Florida's history including contributions in agriculture, civil rights, and politics.¹⁰

Other museums recognized by the state include:

- Certain state railroad museums;¹¹
- The Florida Museum of Transportation and History;¹²
- The John and Mable Ringling Museum of Art;¹³
- The Ringling Museum of the Circus;¹⁴
- The Florida Historic Capitol Museum;¹⁵
- The Florida Agricultural Museum; and¹⁶
- The Florida Museum of Natural History.¹⁷

African American History

Florida has an extensive history of African American culture and contributions to the state and the nation. African Americans have played a significant role in shaping Florida's history, culture, and society.

Fort Mose

The first legally sanctioned, free African American settlement in the nation was Fort Mose, a community of free African Americans established in St. Augustine in 1738. Many of the residents of Fort Mose were former slaves who had escaped from the British colonies to Florida, which was then under Spanish control. The residents of Fort Mose helped defend the Spanish colony of Florida against British attacks and played an important role in shaping Florida's early history.¹⁸

⁹ See Florida Department of State, *About the Knott House*, <https://museumoffloridahistory.com/visit/knott-house-museum/about-the-knott-house/> (last visited March 31, 2023).

¹⁰ See Florida Department of State, *The Grove Museum*, <https://thegrovmuseum.com/> (last visited March 22, 2023). The Grove Advisory Council advises the division on the operation, maintenance, and preservation of the museum. S. 267.075, F.S.

¹¹ See s. 15.045, F.S.

¹² S. 15.046, F.S.

¹³ See ss. 265.27, F.S., and 1004.45, F.S.

¹⁴ Section 1004.45, F.S.

¹⁵ Section 272.129, F.S. The Florida Historic Capitol Museum Council provides guidance and support to the museum director and support staff. S. 272.131, F.S.

¹⁶ See s. 570.69, F.S.

¹⁷ Section 1004.56, F.S.

¹⁸ Fort Mose Historical Society, *Community of Freedom*, available at <https://fortmose.org/about-fort-mose/> (last visited Mar. 31, 2023).

Tuskegee Airmen

The Tuskegee Airmen were a group of African American pilots and support personnel who served in the U.S. Army Air Force during World War II. They were named after the Tuskegee Army Airfield in Alabama, where they trained. The Tuskegee Airmen were significant because they were the first African American military aviators in the U.S. armed forces. They flew more than 15,000 combat missions and their success helped break down racial barriers in the military.¹⁹

Slavery

Slavery was a significant part of Florida's history, as the state was a major center for the transatlantic slave trade. The Spanish and British both brought slaves to Florida, and after the U.S. acquired the territory in 1821, slavery continued to be legal until the end of the Civil War. Many African Americans were forced to work on plantations in Florida, and conditions were often brutal.²⁰

Segregation

Segregation was also a major part of Florida's history, as it was in many other parts of the nation. African Americans were subjected to discriminatory laws and practices, including those known as Jim Crow laws,²¹ which enforced racial segregation and denied African Americans basic civil rights. As the Twentieth Century progressed, African Americans in Florida were involved in protests and sit-ins to challenge segregation, and the state was a significant site for the Civil Rights Movement, which ultimately dismantled many of these laws and practices.²²

The Groveland Four

The Groveland Four were the four young black men accused of raping a 17-year-old in Lake County, Florida. The four men were Ernest Thomas, Charles Greenlee, Walter Irvin, and Samuel Shepherd. Ernest Thomas never made it to court because he was shot 100 times after being followed by a group of individuals into the woods. Charles Greenlee confessed to participating in the rape after being beaten by deputies, and was later sentenced to life in prison. Walter Irvin was sentenced to death two separate times, but eventually a judge granted a stay of his execution. Samuel Sheppard was also beat in jail, and following that confessed to partaking in the rape. His first verdict was overturned, although on the way to his new trial he was shot and killed by Sheriff McCall.²³

¹⁹ Public Broadcasting Service, *Who Are the Tuskegee Airmen?*, available at <https://www.pbs.org/articles/who-are-the-tuskegee-airmen/> (last visited Mar. 31, 2023). See also *332d Fighter Group*, available at https://www.armyaircorpsmuseum.org/332d_Fighter_Group.cfm (last visited Mar. 31, 2023).

²⁰ See Florida Humanities, *Florida's Culture of Slavery*, available at <https://floridahumanities.org/floridas-culture-of-slavery/> (last visited Mar. 31, 2023).

²¹ See Americans All, *Jim Crow Laws: Florida and Georgia*, available at <https://americansall.org/legacy-story-group/jim-crow-laws-florida-and-georgia> (last visited Mar. 31, 2023).

²² See Florida Memory, *The Civil Rights Movement in Florida*, available at <https://www.floridamemory.com/learn/classroom/learning-units/civil-rights/> (last visited Mar. 31, 2023).

²³ Stephan Hudak, *Groveland Four: Who were they?*, Orlando Sentinel (Jan 11, 2019), available at <https://www.orlandosentinel.com/news/os-ne-groveland-four-capsules-20190109-story.html> (last visited Mar. 31, 2023).

Ax Handle Saturday

On August 27, 1960, over 200 white rioters armed with baseball bats and ax handles chased, beat, and threatened Black residents in Jacksonville, Florida. This day became known as the Ax Handle Saturday. The attack was in response to peaceful lunch counter demonstrations organized by the Jacksonville Youth Council of the National Association for the Advancement of Colored People.²⁴

The Tallahassee Bus Boycott

On May 27, 1956, Wilhelmina Jakes and Carrie Patterson, two African-American students from Florida Agricultural and Mechanical University boarded a local city bus. The two women took the only two vacant seats, which were in the whites-only section. Upon being told that they needed to move to the back to stand or leave without getting their fare returned, the two women refused. Since they refused to leave their seats, the police were called by the bus driver. Once three police cars had arrived, Jakes and Patterson were arrested on the charge of inciting a riot and were released on bond later that same day. The Boycott began on May 28 and lasted until December 22, when the U.S. Supreme Court ruled that segregation on city buses was unconstitutional.²⁵

Notable African Americans in this State

Many notable African Americans are from Florida, including Zora Neale Hurston, a writer and anthropologist,²⁶ Ray Charles, one of the greatest American musical artists,²⁷ and Harry T. Moore and his wife, Harriette Moore, prominent civil rights leaders who were killed in a bombing by the Ku Klux Klan in their home in 1951.²⁸

Dr. Mary McLeod Bethune

Dr. Mary McLeod Bethune was a prominent African American educator and civil rights leader who founded Daytona Literary and Industrial Training Institute for Negro Girls in 1904, which grew and eventually merged with Cookman Institute of Jacksonville to become Bethune-Cookman College, later Bethune-Cookman University, in Daytona Beach, Florida. She also founded the Mary McLeod Hospital and Training School for Nurses. A strong advocate for education, Dr. Bethune worked to promote racial equality throughout her life. Appointed by President Roosevelt to the National Youth Administration, she became one of his influential

²⁴ Zinn Education Project, Aug. 27, 1960: Ax Handle Saturday, available at <https://www.zinnedproject.org/news/t dih/ax-handle-saturday-jacksonville/> (last visited Mar. 31, 2023).

²⁵ Florida State University, Department of History, Black History Month: The Story of the Tallahassee Bus Boycott, available at <https://history.fsu.edu/article/black-history-month-story-tallahassee-bus-boycott> (last visited Mar. 31, 2023).

²⁶ The Official Website of Zora Neale Hurston, *About Zora Neale Hurston*, available at <https://www.zoranealehurston.com/about/> (last visited Mar. 31, 2023). Among her notable works are *Their Eyes Were Watching God* (1937) and *Moses, Man of the Mountain* (1939).

²⁷ Florida Department of State, *Ray Charles*, available at <https://dos.myflorida.com/cultural/programs/florida-artists-hall-of-fame/ray-charles/#:~:text=In%201948%2C%20Charles%20left%20Florida,pursue%20better%20opportunities%20in%20music>. (last visited Mar. 31, 2023). Notable recordings include “What I’d Say,” “Hit the Road Jack,” and “Georgia On My Mind.”

²⁸ National Association for the Advancement of Colored People, *Harry T. and Harriette Moore*, available at <https://naacp.org/find-resources/history-explained/civil-rights-leaders/harry-t-and-harriette-moore> (last visited Mar. 31, 2023).

advisors. Dr. Bethune is the first African American chosen to represent a state with a statue in Statuary Hall in the United States Capitol.²⁹

Historically Black Colleges and Universities

Florida has several historically black colleges and universities, including Bethune-Cookman University, Florida A&M University, and Edward Waters College. These institutions were established to provide educational opportunities for African Americans who were excluded from other universities due to segregation.

Inherent Worth and Dignity of Human Life

The struggle for civil rights in Florida and throughout the country has been rooted in the belief that all people are inherently equal, valuable, and deserving of respect and dignity. The Florida Constitution restates and reaffirms these principles from the Declaration of Independence:

All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

This belief is at the heart of efforts to prevent genocide and other forms of mass violence, which can occur when one group of people is seen as fundamentally inferior or expendable.

Public School Instruction on African American History

Florida K-12 public schools are required to teach about African American history.³⁰ The instruction must include the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to American society. Students should develop an understanding of the ramifications of prejudice, racism, and stereotyping on individual freedoms, and examine what it means to be a responsible and respectful person. Instructional materials must include the vital contributions of African Americans to build and strengthen American society and celebrate the inspirational stories of African Americans who prospered, even in the most difficult circumstances. Classroom instruction and curriculum may not be used to indoctrinate or persuade students to a particular point of view inconsistent with the principles of equality or the state academic standards. In establishing the curriculum, the Department of Education may seek input from the Commissioner's African American History Task Force, a task force created to support the instruction on African American history in Florida.³¹

²⁹ See Bethune-Cookman University, *Dr. Mary McLeod Bethune*, <https://www.cookman.edu/history/our-founder.html> (last visited Mar. 31, 2023); see also Architect of the Capitol, *Dr. Mary McLeod Bethune*, <https://www.aoc.gov/explore-capitol-campus/art/mary-mcleod-bethune-statue> (last visited Mar. 31, 2023).

³⁰ Section 1003.42(2)(h), F.S.

³¹ See Commissioner of Education's African American History Task Force, *History*, <https://afroamfl.org/history/> (last visited March 31, 2023).

III. Effect of Proposed Changes:

Section 1 creates the Black History Task Force within the Division of Historical Resources (Division) for the purpose of providing recommendations to the division for the planning, construction, operation, and administration of a Florida Museum of Black History (museum). The bill requires the museum to be a multipurpose facility that is capable of generating self-sustaining revenues. The museum must also have archival research and storage facilities, meeting rooms, full service banquet facilities, a kitchen capable of serving at least 250 people at a single event, and a performing arts theater that will be available for private events.

The bill provides that the task force be comprised of 9 members who shall serve without compensation. The Governor, President of the Senate, and Speaker of the House will all appoint three members. At least three of the members must have five or more years of experience in one of the following areas:

- Tenured faculty in history at a Florida public or private university;
- Historical research and publication;
- Archival design or preservation;
- Multipurpose public building design or construction;
- The hospitality and service industry;
- Business;
- Finance;
- Marketing;
- Law; or
- Education.

The bill requires that all members be appointed by July 31, 2023.

The bill requires the division to provide the task force with staff and funds to assist the task force in the performance of its duties. The task force is charged with developing the following:

- Plans for the location, design, and construction of the museum and all necessary facilities;
- Recommendations for the operation and administration of the museum upon completion of construction;
- A marketing plan that may be executed by the Florida Tourism Industry Marketing Corporation to promote the museum;
- A transition plan under which the museum will become financially self-sufficient; and
- Recommendations for archival and artifact acquisition, preservation, and research, exhibits, installations, and educational materials that complement and support required African American instruction provided in public schools. The recommendations must include materials relating to:
 - The role of African American participation in defending and preserving Florida and the nation, including, by way of example and without limitation, the contributions of the residents of Fort Mose, the Tuskegee Airmen, and all African American veterans;
 - The history of slavery in the state;
 - The history segregation in the state;
 - Notable African Americans in the state;
 - Dr. Mary McLeod Bethune, including the founding of Bethune Cookman University;
 - The history of historically black colleges and universities in this state; and

- The inherent worth and dignity of human life, with a focus on the prevention of genocide.

The bill requires the task force to submit a report detailing its plans and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives by July 1, 2024. The task force will expire upon submission of its report.

The bill provides that after receiving the report of the task force, the Legislature may consider legislation pertaining to the commissioning, construction, operation, and administration of the museum.

Section 2 provides the bill takes effect July 1, 2023.

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:

None.

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:

None.

C. Government Sector Impact:

Lines 54-56 require the division to provide the task force with staff and funds as necessary to assist the task force in the performance of its duties. The dollar amount of expenditures required by the bill is indeterminate at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 267.0722 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 April 5, 2023:

The committee substitute does the following:

- Clarifies that the task force shall be composed of nine members;
- Specifies requirements for at least three members;
- Provides that the Governor, President of the Senate, and Speaker of the House all appoint three members; and
- Removes the requirement that the legislature appropriate \$500,000 for the initial planning, construction, operation, and administration of the museum, and provide \$1,000,000 annually thereafter.

B. Amendments:

None.



947180

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/05/2023	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 267.0722, Florida Statutes, is created
to read:

267.0722 Florida Museum of Black History.-

(1) There is created within the division the Florida Museum
of Black History Task Force for the purpose of providing
recommendations to the division for the planning, construction,



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operation, and administration of a Florida Museum of Black History. The museum shall be a multipurpose facility capable of generating self-sustaining revenues, with archival research and storage facilities, meeting rooms, full-service banquet facilities that include a kitchen capable of serving at least 250 people at a single event, and a performing arts theater that shall be made available for private events.

(2) The task force shall be composed of nine members. Three members shall be appointed by the Governor, three members shall be appointed by the President of the Senate, and three members shall be appointed by the Speaker of the House of Representatives. At least three of the appointed members must have 5 or more years of experience in one of the following areas: history, as tenured faculty at a Florida public or private university; historical research and publication; archival design or preservation; multipurpose public building design or construction; the hospitality and service industry; business; finance; marketing; law; or education. All appointments shall be made no later than July 31, 2023.

(3) Members of the task force shall serve without compensation or honorarium but shall be entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061.

(4) The division shall provide the task force with staff and expend funds as necessary to assist the task force in the performance of its duties.

(5) The task force shall develop the following:

(a) Plans for the location, design, and construction of the museum and all necessary facilities.



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(b) Recommendations for the operation and administration of the museum upon completion of construction.

(c) A marketing plan that may be executed by the Florida Tourism Industry Marketing Corporation to promote the museum.

(d) A transition plan under which the museum will become financially self-sufficient.

(e) Recommendations for archival and artifact acquisition, preservation, and research; exhibits; installations; and educational materials that complement and support required instruction provided in public schools in accordance with s. 1003.42(2)(h). The recommendations must include materials relating to:

1. The role of African-American participation in defending and preserving Florida and the United States, including, by way of example and without limitation, the contributions of the residents of Fort Mose, the Tuskegee Airmen, and all African-American veterans.

2. The history of slavery in this state.

3. The history of segregation in this state.

4. Notable African Americans in this state.

5. Dr. Mary McLeod Bethune, including the founding of Bethune Cookman University.

6. The history of historically black colleges and universities in this state.

7. The inherent worth and dignity of human life, with a focus on the prevention of genocide.

(6) Before July 1, 2024, the task force shall submit a report detailing its plans and recommendations to the Governor, the President of the Senate, the Speaker of the House of



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Representatives, the Minority Leader of the Senate, and the
Minority Leader of the House of Representatives. Upon submission
of the report, the task force shall expire.

(7) After receiving the report of the task force, the
Legislature may consider legislation pertaining to the
commissioning, construction, operation, and administration of
the museum.

Section 2. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the Florida Museum of Black
History; creating s. 267.0722, F.S.; creating the
Florida Museum of Black History Task Force within the
Division of Historical Resources of the Department of
State; providing for the appointment of task force
members by the Governor and the Legislature; providing
requirements for members of the task force;
prohibiting compensation for members of the task
force; providing that task force members are entitled
to receive reimbursement for per diem and travel
expenses; requiring the division to provide staff and
expend funds as necessary to assist the task force;
requiring the task force to develop certain plans and
recommendations; requiring the task force to submit a
report to the Governor and the Legislature before a



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98 certain date; providing for the expiration of the task
99 force; authorizing the Legislature to consider the
100 commissioning, construction, operation, and
101 administration of a Florida Museum of Black History;
102 providing an effective date.

By Senator Powell

24-01604A-23

20231606__

A bill to be entitled

An act relating to a Florida Museum of Black History; creating s. 267.0722, F.S.; creating a Florida Museum of Black History Task Force within the Division of Historical Resources of the Department of State; providing the purpose of the task force; providing for the appointment of task force members by the Legislature; prohibiting compensation for members of the task force; providing that task force members are entitled to receive reimbursement for per diem and travel expenses; requiring the division to provide staff and authorizing the division to expend funds as necessary to assist the task force; requiring the task force to develop certain plans and recommendations; requiring the task force to submit a report to the Governor and the Legislature before a certain date; providing for the expiration of the task force; requiring the division, at the direction of the Legislature, to oversee the construction, operation, and administration of a Florida Museum of Black History; requiring the Legislature to provide certain appropriations to the division; providing an effective date.

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

Section 1. Section 267.0722, Florida Statutes, is created to read:
267.0722 Florida Museum of Black History.-

Page 1 of 4

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

24-01604A-23

20231606__

(1) There is created within the division the Florida Museum of Black History Task Force for the purpose of providing recommendations to the division for the planning, construction, operation, and administration of a Florida Museum of Black History. The museum shall be a multipurpose facility capable of generating self-sustaining revenues, with meeting rooms, a 250 to 500 seat banquet hall, a banquet kitchen, and a performing arts theater that shall be made available for private events.

(2) The members of the task force shall be appointed by the President of the Senate and the Speaker of the House of Representatives.

(3) Members of the task force shall serve without compensation or honorarium but shall be entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061.

(4) The division shall provide the task force with staff and may expend funds as necessary to assist the task force in the performance of its duties.

(5) The task force shall develop the following:

(a) Plans for the location, design, and construction of the museum.

(b) Recommendations for the operation and administration of the museum upon completion of construction.

(c) A marketing plan that may be executed by the Florida Tourism Industry Marketing Corporation to promote the museum.

(d) A transition plan under which the museum will become financially self-sufficient.

(e) Recommendations for exhibits, installations, and educational materials that complement and support required

Page 2 of 4

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

24-01604A-23

20231606__

instruction provided in public schools in accordance with s.
1003.42(2)(h). The recommendations must include materials
relating to:

1. The Tuskegee Airmen, in Tuskegee, Alabama, and at Dale Mabry Army Air Field in Tallahassee, and a replica of a "Red Tail" World War II aircraft flown by the Tuskegee Airmen.
 2. General Daniel "Chappie" James, Jr., of Pensacola.
 3. The history of slavery in the state.
 4. The history of Jim Crow in the state.
 5. The Groveland Four.
 6. Ax Handle Saturday in Jacksonville.
 7. Zora Neale Hurston.
 8. Notable African Americans in this state.
 9. The Tallahassee bus boycott.
 10. Dr. Mary McLeod Bethune, including the founding of Bethune-Cookman University.
 11. The history of historically black colleges and universities in this state.
 12. The inherent worth and dignity of human life, with a focus on the prevention of genocide.
- (6) Before July 1, 2024, the task force shall submit a report detailing its plans and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives. Upon submission of the report, the task force shall expire.
- (7) After receiving the report of the task force, the Legislature shall direct the division to oversee the construction, operation, and administration of the museum.

24-01604A-23

20231606__

(8) The Legislature shall provide to the division a \$500,000 appropriation for the planning, construction, operation, and administration of the museum, and annually thereafter shall provide to the division a \$1 million appropriation for the operation and administration of the museum.

Section 2. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Bryan Avila, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 9, 2023

I respectfully request that **Senate Bill #1606**, relating to **Florida Museum of Black History**, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in blue ink, appearing to read "Bobby Powell", is written over a horizontal line.

Senator Bobby Powell
Florida Senate, District 24

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/5/2023

Meeting Date

SB 1606

Bill Number or Topic

Governmental Oversight

Committee

Amendment Barcode (if applicable)

Name

Jasmine Burney-Clark

Phone

407-466-6468

Address

421 E. Central Blvd Suite 650

Street

Email

jasmine@equal-ground.com

Orlando

City

FL

State

32801

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Senate Governmental Oversight and Accountability Committee

Judge:

Started: 4/5/2023 8:30:55 AM

Ends: 4/5/2023 9:30:11 AM **Length:** 00:59:17

8:30:55 AM Meeting called to order, roll call
8:31:15 AM Quorum is present
8:31:19 AM Chair Avila makes opening remarks
8:31:39 AM Tab 5, SB 832 - Holocaust Remembrance Day by Senator Berman
8:31:56 AM Chair Avila recognizes Senator Berman
8:32:02 AM Senator Berman explains the bill
8:32:40 AM Chair Avila reads appearance cards waiving
8:33:03 AM Senator Berman waives close
8:33:08 AM Roll call on SB 832
8:33:14 AM Chair Avila reports the bill
8:33:24 AM Tab 2, CS/SB 620- Ethics Requirements for Officers and Employees of Special Tax Districts by Senator DiCeglie
8:33:35 AM Chair Avila recognizes Senator DiCeglie
8:33:43 AM Senator DiCeglie explains the bill
8:34:34 AM Amendment 901898
8:34:41 AM Senator DiCeglie explains the amendment
8:34:59 AM Senator DiCeglie waives close
8:35:04 AM Chair Avila reports the amendment
8:35:23 AM Senator DiCeglie waives close
8:35:29 AM Roll call on CS/CS/SB 620
8:35:49 AM Chair Avila reports the bill
8:35:53 AM Tab 13, SB 1402- Public Records/Investigative Genetic Genealogy Materials by Senator Martin
8:36:17 AM Chair Avila recognizes Senator Martin
8:36:25 AM Senator Martin explains the bill
8:38:20 AM Amendment 108428
8:38:31 AM Senator Martin explains the amendment
8:38:57 AM Senator Martin waives close
8:39:03 AM Chair Avila reports the amendment
8:39:20 AM Senator Martin waives close
8:39:28 AM Roll call on CS/SB 1402
8:39:43 AM Chair Avila reports the bill
8:39:49 AM Tab 14, SB 1606- Florida Museum of Black History by Senator Powell
8:40:05 AM Chair Avila recognizes Senator Powell
8:40:11 AM Senator Powell explains the bill
8:40:36 AM Amendment 947180
8:40:43 AM Senator Powell explains the amendment
8:41:44 AM Senator Powell waives close
8:41:53 AM Chair Avila reports the amendment
8:42:09 AM Chair Avila reads appearance cards waiving
8:42:28 AM Debate:
8:42:30 AM Senator Rouson
8:42:59 AM Senator Powell closes on the bill
8:43:09 AM Roll call on CS/SB 1606
8:43:25 AM Chair Avila reports the bill
8:43:30 AM Tab 1, SB 216- Public Records/Current and Former County and City Attorneys by Senator Burgess
8:43:57 AM Chair Avila recognizes Senator Burgess
8:44:04 AM Senator Burgess explains the bill
8:44:41 AM Amendment 591460
8:45:04 AM Senator Burgess explains the amendment
8:45:23 AM Senator Burgess waives close
8:45:28 AM Chair Avila reports the amendment
8:45:45 AM Chair Avila reads appearance cards waiving

8:46:09 AM Debate:
 8:46:10 AM Senator Wright
 8:46:31 AM Senator Burgess waives close
 8:46:36 AM Roll call on CS/SB 216
 8:46:43 AM Chair Avila reports the bill
 8:46:46 AM Tab 6, CS/SB 998- Chiefs of Police by Senator Burgess
 8:47:00 AM Chair Avila recognizes Senator Burgess
 8:47:08 AM Senator Burgess explains the bill
 8:48:03 AM Questions:
 8:48:05 AM Senator Rouson
 8:48:16 AM Senator Burgess
 8:48:26 AM Senator Rouson
 8:48:43 AM Senator Burgess
 8:50:04 AM Senator Rouson
 8:50:36 AM Senator Burgess
 8:50:55 AM Senator Davis
 8:51:22 AM Senator Burgess
 8:52:24 AM Chair Avila recognizes public testimony:
 8:52:43 AM Charlie Vazquez, Florida Police Chiefs Association
 8:57:27 AM Debate:
 8:57:29 AM Senator Wright
 8:57:53 AM Senator Rouson
 8:59:02 AM Senator Burgess closes on the bill
 9:00:30 AM Roll call on CS/SB 998
 9:00:36 AM Chair Avila reports the bill
 9:00:40 AM Tab 7, SB 1040- District School Board Direct-support Organizations by Senator Burgess
 9:01:03 AM Chair Avila recognizes Senator Burgess
 9:01:12 AM Senator Burgess explains the bill
 9:02:00 AM Amendment 701240
 9:02:07 AM Senator Burgess explains the amendment
 9:02:35 AM Senator Burgess waives close
 9:02:42 AM Chair Avila reports the amendment
 9:02:55 AM Question:
 9:02:57 AM Senator Polsky
 9:03:12 AM Senator Burgess
 9:03:41 AM Chair Avila reads appearance cards waiving
 9:03:56 AM Senator Burgess waives close
 9:04:02 AM Roll call on CS/SB 1040
 9:04:18 AM Chair Avila reports the bill
 9:04:29 AM Tab 12, CS/SB 1278- Direct-support Organizations of the Department of Children and Families by
 Senator Simon
 9:04:37 AM Chair Avila recognizes Senator Simon
 9:04:43 AM Senator Simon explains the bill
 9:06:38 AM Questions:
 9:06:42 AM Senator Davis
 9:07:08 AM Senator Simon
 9:07:16 AM Senator Davis
 9:07:33 AM Senator Simon
 9:07:47 AM Chair Avila reads appearance cards waiving
 9:08:04 AM Senator Simon waives close
 9:08:10 AM Roll call on CS/SB 1278
 9:08:20 AM Chair Avila reports the bill
 9:08:27 AM Tab 4, CS/SB 718- Municipal Boundaries by Senator Yarborough
 9:08:44 AM Chair Avila recognizes Senator Yarborough
 9:08:52 AM Senator Yarborough explains the bill
 9:10:04 AM Chair Avila reads appearance cards waiving
 9:10:32 AM Senator Yarborough closes on the bill
 9:10:39 AM Roll call on CS/SB 718
 9:10:47 AM Chair Avila reports the bill
 9:10:54 AM Tab 11, SB 1166- Public Records/Investigators of the Department of Agriculture and Consumer Services
 by Senator Collins
 9:11:02 AM Chair Avila recognizes Senator Collins

9:11:10 AM Senator Collins explains the bill
9:11:46 AM Amendment 305340
9:11:50 AM Senator Collins explains the amendment
9:12:16 AM Senator Collins waives close
9:12:20 AM Chair Avila reports the amendment
9:12:34 AM Question:
9:12:35 AM Senator Hooper
9:12:48 AM Senator Collins
9:12:58 AM Chair Avila reads appearance cards waiving
9:13:22 AM Senator Collins waives close
9:13:31 AM Roll call on CS/SB 1166
9:13:44 AM Chair Avila reports the bill
9:14:13 AM Tab 8, SB 1046- Victims of Reform School Abuse by Senator Rouson
9:14:34 AM Chair Avila recognizes Senator Rouson
9:14:42 AM Senator Rouson explains the bill
9:17:11 AM Chair Avila reads appearance cards waiving
9:17:30 AM Debate:
9:17:33 AM Senator Davis
9:18:54 AM Senator Rouson closes on the bill
9:19:09 AM Roll call SB 1046
9:19:23 AM Chair Avila reports the bill
9:19:31 AM Tab 9, SB 1048- Public Records/Victims of Reform School Abuse by Senator Rouson
9:19:40 AM Chair Avila recognizes Senator Rouson
9:19:46 AM Senator Rouson explains the bill
9:20:25 AM Senator Rouson waives close
9:20:29 AM Roll call on SB 1048
9:20:44 AM Chair Avila reports the bill
9:20:48 AM Tab 3, CS/SB 696- Local Officials by Senator Ingoglia
9:21:01 AM Chair Avila recognizes Senator Ingoglia
9:21:09 AM Senator Ingoglia explains the bill
9:22:14 AM Questions:
9:22:18 AM Senator Polsky
9:22:27 AM Senator Ingoglia
9:22:48 AM Senator Polsky
9:23:06 AM Senator Ingoglia
9:23:44 AM Senator Polsky
9:23:54 AM Senator Ingoglia
9:24:01 AM Senator Hooper
9:24:34 AM Senator Ingoglia
9:25:07 AM Senator Hooper
9:25:32 AM Senator Ingoglia
9:25:47 AM Senator Davis
9:25:57 AM Senator Ingoglia
9:26:34 AM Senator Ingoglia waives close
9:26:40 AM Roll call on CS/SB 696
9:26:54 AM Chair Avila reports the bill
9:27:14 AM Senator Rodriguez moves to record missed votes
9:27:35 AM Senator Hooper moves to record a missed vote
9:27:46 AM Senator Davis moves to record a missed vote
9:28:06 AM Chair Avila recognizes Senator Wright for a recognition
9:28:41 AM Chair Avila makes closing remarks
9:29:55 AM Meeting adjourned