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| <b>Tab 1</b> | <b>SB 724 by Joyner;</b> (Identical to H 0857) Public Records |  |  |  |  |  |  |
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| <b>Tab 2</b> | <b>CS/SB 1436 by JU, Braynon;</b> (Compare to CS/H 0679) Public Records |  |  |  |  |  |  |
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| <b>Tab 3</b> | <b>CS/SB 702 by EE, Altman (CO-INTRODUCERS) Dean;</b> (Compare to H 0647) Public Records/Preregistered Voter Registration Applicants |  |  |  |  |  |  |
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| <b>Tab 4</b> | <b>CS/SB 1306 by HP, Grimsley;</b> (Similar to H 1063) Public Records and Meetings/Nurse Licensure Compact |  |  |  |  |  |  |
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**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**  
**GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY**  
**Senator Ring, Chair**  
**Senator Hays, Vice Chair**

**MEETING DATE:** Monday, February 22, 2016  
**TIME:** 4:00—5:30 p.m.  
**PLACE:** James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

**MEMBERS:** Senator Ring, Chair; Senator Hays, Vice Chair; Senators Bullard, Latvala, and Legg

| TAB | BILL NO. and INTRODUCER  | BILL DESCRIPTION and<br>SENATE COMMITTEE ACTIONS   | COMMITTEE ACTION           |
|-----|--|--|----------------------------|
| 1   | <b>SB 724</b><br>Joyner<br>(Identical H 857)                         | Public Records; Authorizing a court to hold a custodian of a public record personally liable for the reasonable costs of enforcement, including attorney fees, in a civil action to enforce ch, 119, F.S., if certain conditions exist, etc.<br><br>GO 01/19/2016 Temporarily Postponed<br>GO 02/01/2016 Not Considered<br>GO 02/09/2016 Not Considered<br>GO 02/16/2016 Not Considered<br>GO 02/22/2016 Not Considered<br>ACJ<br>AP   | Not Considered             |
| 2   | <b>CS/SB 1436</b><br>Judiciary / Braynon<br>(Compare CS/H 679)       | Public Records; Providing an exemption from public records requirements for certain official records relating to matters or cases governed by the Florida Family Law Rules of Procedure; providing an exemption from public records requirements for a petition for an injunction that is dismissed and the petition's contents; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.<br><br>JU 02/09/2016 Fav/CS<br>GO 02/22/2016 Temporarily Postponed<br>RC | Temporarily Postponed      |
| 3   | <b>CS/SB 702</b><br>Ethics and Elections / Altman<br>(Compare H 647) | Public Records/Preregistered Voter Registration Applicants; Providing an exemption from public records requirements for information concerning minor preregistered voter registration applicants; providing for future legislative review and repeal; providing a statement of public necessity, etc.<br><br>EE 01/20/2016 Temporarily Postponed<br>EE 01/26/2016 Temporarily Postponed<br>EE 02/02/2016 Temporarily Postponed<br>EE 02/16/2016 Fav/CS<br>GO 02/22/2016 Favorable<br>RC  | Favorable<br>Yeas 3 Nays 0 |

**COMMITTEE MEETING EXPANDED AGENDA**

Governmental Oversight and Accountability  
Monday, February 22, 2016, 4:00—5:30 p.m.

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| TAB | BILL NO. and INTRODUCER   | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS   | COMMITTEE ACTION           |
|-----|---|---|----------------------------|
| 4   | <b>CS/SB 1306</b><br>Health Policy / Grimsley<br>(Similar H 1063, Compare H 1061,<br>Linked S 1316) | Public Records and Meetings/Nurse Licensure Compact; Providing an exemption from public records requirements for certain information held by the Department of Health or the Board of Nursing pursuant to the Nurse Licensure Compact; providing an exemption from public meeting requirements for certain meetings of the Interstate Commission of Nurse Licensure Compact Administrators; providing an exemption from public records requirements for recordings, minutes, and records generated during the closed portion of such a meeting; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc.<br><br>HP 02/09/2016 Temporarily Postponed<br>HP 02/16/2016 Fav/CS<br>GO 02/22/2016 Favorable<br>RC | Favorable<br>Yeas 3 Nays 0 |

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Other Related Meeting Documents

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**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.)

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

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BILL: SB 724

INTRODUCER: Senator Joyner

SUBJECT: Public Records

DATE: January 15, 2016

REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|---------|----------------|-----------|--------------------|
| 1. | Kim     | McVaney        | GO        | <b>Pre-meeting</b> |
| 2. |         |                | ACJ       |                    |
| 3. |         |                | AP        |                    |

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**I. Summary:**

SB 724 makes the public records custodian, including the elected or appointed officer heading the agency, personally liable for the reasonable costs of enforcement, including attorney fees, if a court finds the agency or custodian:

- Unlawfully refused to permit a public record to be inspected or copied; and
- Knowingly asserted a claim or defense that was not supported by facts.

The bill becomes law on July 1, 2016.

**II. Present Situation:**

**Public Records**

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

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.<sup>3</sup> Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>4</sup> The Public Records Act states that

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> FLA. CONST., art. I, s. 24(a).

<sup>3</sup> The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature's records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>5</sup>

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”<sup>7</sup>

### **Custodian of Public Records**

Pursuant to s. 119.011(5), F.S., a custodian of public records is “the elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.”

A custodian of public records is required to perform statutorily required duties such as maintaining records in fireproof vaults, repairing records and comply with retention schedules set by the Department of State.<sup>8</sup> In addition, s. 119.07, F.S., provides that public records custodian has additional duties which include:

- Acknowledging a public records request and responding to those requests in good faith;<sup>9</sup>
- Producing records after redacting exempt information or provide the statutory citation for an exemption if the entire document is exempt;<sup>10</sup>
- Maintaining records which are the subject of public records litigation;<sup>11</sup>
- If public records are provided by remote electronic means, a records custodian must ensure that those records are secure;<sup>12</sup>
- Provide supervision if someone wishes to photograph records;<sup>13</sup> and
- Provide certified copies of public records upon payment of a fee.<sup>14</sup>

Public records custodians are also responsible for supervising the production of records by all agency personnel. Section 119.07(1)(a), F.S., provides that that “[e]very person who has custody of a public record shall permit the record to be inspected and copied ... at any reasonable time, under reasonable conditions, and under reasonable supervision by the custodian of the public records.”

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<sup>5</sup> Section 119.01(1), F.S.

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

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

<sup>8</sup> Section 119.021, F.S.

<sup>9</sup> Section 119.07(1)(c), F.S.

<sup>10</sup> Section 119.07(1)(d)-(f), F.S.

<sup>11</sup> Section 119.07(1)(g)-(i), F.S.

<sup>12</sup> Section 119.07(2), F.S.

<sup>13</sup> Section 119.07(3), F.S.

<sup>14</sup> Section 119.07(4), F.S.

An agency may not place any conditions upon responding to a public records request other than what is specifically laid out in the law. For example, an agency may not require a person seeking a public record reveal his or her background.<sup>15</sup> Nor may an agency require an individual to put his or her request in writing as a condition of production.<sup>16</sup> In addition, a request must be honored whether it is made by phone, in writing, or in person.<sup>17</sup>

### **Enforcing Public Records Laws and Attorney Fees**

Section 119.11, F.S., provides that a court may award a plaintiff attorney fees if a plaintiff files a civil suit to enforce the provisions of ch. 119, F.S., and the court determines that the agency refused to permit inspection or copying of a public record.

Whenever an action is filed to enforce the provisions of ch. 119, F.S., the court must set an immediate hearing, giving the case priority over other pending cases.<sup>18</sup> If the court finds that the agency unlawfully refused access to a public record, the court will order the public agency to pay the plaintiff's costs and attorney fees.<sup>19</sup> A delay in turning over public records is considered an unlawful refusal, and a court will award attorney fees even if the delay was not willful or was due to incompetence.<sup>20</sup>

Enforcement lawsuits are composed of two parts: the request for production of a record and the assessment of fees. The assessment of attorney fees is a legal consequence independent of the public records request.<sup>21</sup> Once an enforcement action has been filed, a court will require a public agency to pay the plaintiff's attorney fees even after the agency has produced the records.<sup>22</sup>

The public policy behind awarding attorney fees is to encourage people to pursue their right to access government records after an initial denial.<sup>23</sup> In addition, granting attorney fees also makes it more likely that public agencies will comply with public records laws and deters improper denials of requests.<sup>24</sup>

### **Personal Liability for Violating the Public Records Act**

Violation of the Public Records Act may result in civil and criminal liability pursuant to s. 119.10, F.S. A public officer who violates any provision of the Public Records Act commits a

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<sup>15</sup> *Bevan v. Wanichka*, 505 So. 2d 1116, 1118 (Fla. 2d DCA Fla. 1987).

<sup>16</sup> *Dade Aviation Consultants v. Knight Ridder, Inc.*, 800 So. 2d 302 n.1 (Fla. 3d DCA 2001). Op. Att'y Gen. Informal Opinion dated December 16, 2003.

<sup>17</sup> Op. Att'y Gen. Fla. 80-57 (1980).

<sup>18</sup> Section 119.11(1), F.S.

<sup>19</sup> Section 119.12, F.S.

<sup>20</sup> *Lilker v. Suwannee Valley Transit Authority*, 133 So. 3d 654 (Fla. 1st DCA 2014). *Barfield v. Town of Eatonville*, 675 So. 2d 223, 225 (Fla. 5th DCA 1996).

<sup>21</sup> *Mazer v. Orange County*, 811 So. 2d 857, 859 (Fla. 5th DCA 2002). *Lilker v. Suwannee Valley Transit Authority*, 133 So. 3d 654 (Fla. 1st DCA 2014).

<sup>22</sup> *Mazer v. Orange County*, 811 So. 2d 857, 860 (Fla. 5th DCA 2002). *Barfield v. Town of Eatonville*, 675 So. 2d 223, 224 (Fla. 5th DCA 1996). *Althouse v. Palm Beach County Sheriff's Office*, 92 So. 3d 899, 902 (Fla. 4th DCA 2012). Attorney fee provisions for violation of open meetings laws can be found in s. 286.011(4), F.S.

<sup>23</sup> *New York Times Co. v. PHH Mental Health Services, Inc.*, 616 So. 2d 27, 29 (Fla. 1993).

<sup>24</sup> *Id.*

civil infraction and may be fined up to \$500.<sup>25</sup> A public officer who violates a provision of s. 119.071(1), F.S., which addresses the rights of the public to inspect and copy public records, is may be suspended, removed from office or impeached. In addition a public officer who violates s. 119.07(1), F.S., commits a first degree misdemeanor.

The punishment for a first degree misdemeanor includes imprisonment for up to one year<sup>26</sup> and a \$1000 fine.<sup>27</sup> A court may sentence an individual to pay a fine in addition to or in lieu of imprisonment.<sup>28</sup>

Section 119.10, F.S., also provides that any person, not just public officers, can be held liable for violating the Public Records Act. Section 119.10(2), F.S. states that any person who willfully and knowingly violates any provision of the Public Records Act commits a first degree misdemeanor. In addition, any person who willfully and knowingly violates s. 119.105, F.S., commits a third degree felony. Section 119.105, F.S., provides confidential or exempt information contained in police reports may not be used for commercial solicitation of victims or their relatives of crimes or accidents.

A third degree felony is punishable by imprisonment for up to five years<sup>29</sup> or a fine of up to \$5000.<sup>30</sup> A court may sentence an individual to pay the fine in addition to or in lieu of imprisonment.<sup>31</sup>

### **Limitations of Liability of Governmental Employees**

Governmental employees cannot be held personally liable for tort action, or named as defendants “in any action for any injury or damage suffered as a result of any act, event or omission of action in the scope of her or his employment or function” unless the employee acted in bad faith, malicious purpose or with wanton and willful disregard of human rights, safety or property, pursuant to s. 768.28(9)(a), F.S. Instead, a plaintiff must sue the employing governmental entity.<sup>32</sup>

### **III. Effect of Proposed Changes:**

The bill allows a court to hold the public records custodian, including the elected or appointed officer heading the agency, personally liable for the reasonable costs of enforcement, including reasonable attorney fees. Attorney fees may be awarded if the following conditions are met:

- The agency or the custodian unlawfully refused to permit a public record to be inspected or copied; and
- The agency or the custodian knowingly asserted a claim or defense which the agency or the custodian knew was not supported by material facts.

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<sup>25</sup> Section 119.10(1)(a), F.S.

<sup>26</sup> Section 775.082(4)(a), F.S.

<sup>27</sup> Section 775.083(1)(d), F.S.

<sup>28</sup> Section 775.083(1), F.S.

<sup>29</sup> Section 775.082(3)(e), F.S.

<sup>30</sup> Section 775.083(1)(c), F.S.

<sup>31</sup> Section 775.083(1), F.S.

<sup>32</sup> Section 768.28(9)(a), F.S.

The bill will take effect July 1, 2016.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

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 a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Unknown.

C. Government Sector Impact:

Unknown.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Usually, an employing agency will defend the agency (and therefore the employee or officer) in a public records case and the associated attorney fee lawsuit. This bill may create a situation where the interest of the agency and the interests of the public records custodian may conflict, and independent attorneys may be required. If independent attorneys are required, it is not clear who will pay those costs.

**VIII. Statutes Affected:**

This bill substantially amends section 119.12 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.

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

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By Senator Joyner

19-00715-16

2016724\_\_

1 A bill to be entitled  
 2 An act relating to public records; amending s. 119.12,  
 3 F.S.; authorizing a court to hold a custodian of a  
 4 public record personally liable for the reasonable  
 5 costs of enforcement, including attorney fees, in a  
 6 civil action to enforce ch. 119, F.S., if certain  
 7 conditions exist; providing an effective date.  
 8

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

10 Section 1. Section 119.12, Florida Statutes, is amended to  
 11 read:

12 119.12 ~~Attorney~~ Attorney's fees.—

13 (1) If a civil action is filed against an agency to enforce  
 14 the provisions of this chapter and ~~if~~ the court determines that  
 15 ~~the such~~ agency unlawfully refused to permit a public record to  
 16 be inspected or copied, the court shall assess and award,  
 17 against such agency ~~the agency responsible~~, the reasonable costs  
 18 of enforcement, including reasonable attorney ~~attorneys'~~ fees.  
 19

20 (2) The court, on motion by the party who filed the civil  
 21 action or in its own discretion, may hold the custodian of the  
 22 public record that is the subject matter of such civil action  
 23 personally liable for the reasonable costs of enforcement,  
 24 including reasonable attorney fees, if the court finds that:

25 (a) The agency or the custodian of the public record  
 26 unlawfully refused to permit a public record to be inspected or  
 27 copied; and

28 (b) The agency or the custodian of the public record has  
 29 asserted any claim or defense during the pendency of the civil

Page 1 of 2

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19-00715-16

2016724\_\_

30 action which the agency or the custodian knew was not supported  
 31 by the material facts necessary to establish such a claim or  
 32 defense.

33 Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/22/2015

Meeting Date

Topic \_\_\_\_\_

Bill Number 727  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH  
*Street*

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705  
*City State Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

**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.)

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

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BILL: CS/SB 1436

INTRODUCER: Judiciary Committee and Senator Braynon

SUBJECT: Public Records

DATE: February 19, 2016

REVISED: \_\_\_\_\_

|    | ANALYST      | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|--------------|----------------|-----------|--------------------|
| 1. | <u>Brown</u> | <u>Cibula</u>  | <u>JU</u> | <u>Fav/CS</u>      |
| 2. | <u>Kim</u>   | <u>McVaney</u> | <u>GO</u> | <u>Pre-meeting</u> |
| 3. | _____        | _____          | <u>RC</u> | _____              |

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 1436 creates two new public records exemptions related to court documents.

Current law prohibits a clerk of the court from placing an image or a copy of a public record on a publicly available website if it is an image or copy of a military discharge, death certificate, or a court file, record, or paper relating to a matter or case governed by the Florida Family Law Rules of Procedure. These court records relate to alimony, dissolution of marriage, parenting plans, paternity, and related matters. This bill makes confidential and exempt from public record inspection and copying requirements those public records relating to a matter or case governed by the Florida Family Law Rules of Procedure which are prohibited from being displayed on a publicly available website.

Current law authorizes a person to petition the court for several types of injunctions for protection, including injunctions against domestic violence;<sup>1</sup> repeat violence;<sup>2</sup> dating violence;<sup>3</sup> sexual violence;<sup>4</sup> and stalking. This bill makes confidential and exempt from public inspection and disclosure requirements those petitions, and the contents thereof, for injunctions that are dismissed without a hearing or at an ex parte hearing due to the petitioner's failure to state a claim, lack of jurisdiction, or any reason having to do with the sufficiency of the petition itself.

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<sup>1</sup> Section 741.30(1), F.S.

<sup>2</sup> Section 784.046(2), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

Because this bill creates new public records exemptions, a two-thirds vote of the members present and voting in each house of the Legislature is required for passage.

Both public record exemptions are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2021, unless reviewed and saved from repeal through legislative reenactment.

## II. Present Situation:

### Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.<sup>5</sup> The records of the legislative, executive, and judicial branches are specifically included.<sup>6</sup>

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act<sup>7</sup> guarantees every person's right to inspect and copy any state or local government public record<sup>8</sup> at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>9</sup>

Only the Legislature may create an exemption to public records requirements.<sup>10</sup> Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.<sup>11</sup> Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions<sup>12</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>13</sup>

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<sup>5</sup> FLA. CONST. art. I, s. 24(a).

<sup>6</sup> *Id.*

<sup>7</sup> Chapter 119, F.S.

<sup>8</sup> Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." The Public Records Act does not apply to legislature or its members. (*See Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)); *but see* s. 11.0431, F.S. (providing public access to records of the Senate and the House of Representatives received in connection with the official business of the Legislature, subject to specified exemptions).

<sup>9</sup> Section 119.07(1)(a), F.S.

<sup>10</sup> FLA. CONST. art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, the record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. *See* Op. Att'y Gen. Fla. 85-62 (1985).

<sup>11</sup> FLA. CONST. art. I, s. 24(c).

<sup>12</sup> The bill may, however, contain multiple exemptions that relate to one subject.

<sup>13</sup> FLA. CONST. art. I, s. 24(c).

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly-created or substantially-amended public records or open meetings exemptions.<sup>14</sup> It requires the automatic repeal of the exemption on October 2 of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>15</sup> 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 to meet such public purpose.<sup>16</sup>

### **Clerk of the Court**

The clerk of the court is considered to be the county recorder.<sup>17</sup> As county recorder, the clerk must record all instruments in one general series called “official records.”<sup>18</sup>

The clerk of the circuit court is responsible for:

- Keeping and maintaining all court documents and electronic filings in the clerk’s office;<sup>19</sup>
- Affixing a stamp, which may be electronic, to each document indicating the date and time that the submission was filed;<sup>20</sup>
- Maintaining a progress docket on which the filing of each pleading or motion is noted;<sup>21</sup> and
- Implementing an electronic filing process.<sup>22</sup>

The clerk may keep minutes of court proceedings.<sup>23</sup>

All instruments recorded in the official records must always be available to the public for inspection.<sup>24</sup> The term “public records” includes each official record.<sup>25</sup>

### **Electronic Access to Official Records**

Florida law prohibits a county recorder or a clerk of the court from placing certain images or copies of public records, including an official record, on a publicly available Internet website.<sup>26</sup> Specifically, a court file, record, or paper relating to matters or cases governed by the Florida Rules of Family Law may not be placed on a public website.<sup>27</sup>

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<sup>14</sup> Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records. The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System.

<sup>15</sup> Section 119.15(3), F.S.

<sup>16</sup> Section 119.15(6)(b), F.S.

<sup>17</sup> Section 28.222(1), F.S.

<sup>18</sup> Section 28.222(2), F.S. Official records consist of each instrument that the clerk is required or authorized to record. Sections 28.001(1), F.S.

<sup>19</sup> Section 28.13, F.S.

<sup>20</sup> *Id.*

<sup>21</sup> Section 28.211, F.S.

<sup>22</sup> Section 28.22205, F.S.

<sup>23</sup> Section 28.212, F.S.

<sup>24</sup> Section 28.222, F.S.

<sup>25</sup> Section 28.001(2), F.S.

<sup>26</sup> Section 28.2221(5)(a), F.S.

<sup>27</sup> *Id.*

## Injunctions

A person may petition the court for several types of injunctions for protection, including injunctions against domestic violence;<sup>28</sup> repeat violence;<sup>29</sup> dating violence;<sup>30</sup> sexual violence;<sup>31</sup> and stalking.<sup>32</sup>

Domestic violence is an assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.<sup>33</sup>

Repeat violence constitutes two incidents of violence or stalking committed by the respondent, one of which must have been within six months of the filing of the petition, which are directed against the petitioner or the petitioner's immediate family member.<sup>34</sup>

Dating violence is violence between individuals who have or have had a continuing and significant romantic relationship.<sup>35</sup> The existence of a dating relationship is determined based on the following:

- A dating relationship must have existed within the past six months;
- The nature of the relationship must have been characterized by the expectation of affection or sexual involvement; and
- The frequency and type of interaction must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

Sexual violence is any one incident of:

- Sexual battery;
- A lewd or lascivious act committed upon or in the presence of a person younger than 16 years of age;
- Luring or enticing a child;
- Sexual performance by a child; or
- Any other forcible felony wherein a sexual act is committed or attempted, regardless of whether criminal charges were filed, reduced, or dismissed by the state attorney.<sup>36</sup>

A form for a petition for injunction against domestic violence is provided in Florida law.<sup>37</sup> A similar form for a petition for injunction for protection against the other types of violence noted above is provided in sections 784.046(4)(b) and 784.0485(3)(b), F.S.

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<sup>28</sup> Section 741.30(1), F.S.

<sup>29</sup> Section 784.046(2), F.S.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Section 784.0485(1), F.S.

<sup>33</sup> Section 741.28(2), F.S.

<sup>34</sup> Section 784.046(1)(b), F.S.

<sup>35</sup> Section 784.046(1)(d), F.S.

<sup>36</sup> Section 784.046(1)(c), F.S.

<sup>37</sup> Section 741.30(3)(b), F.S., provides a petition for injunction for protection against domestic violence.

Upon the filing of a petition for injunction, the court must hold a hearing at the earliest possible time.<sup>38</sup>

If an immediate and present danger of domestic violence appears to exist, the court may grant a temporary injunction ex parte prior to the full hearing.<sup>39</sup>

### **Florida Family Law Rules of Procedure**

The Florida Family Law Rules of Procedure govern a wide variety of court cases. The Florida Family Law Rule of Procedure Rule 12.010(a)(1) provides that:

These rules apply to all actions concerning family matters, including injunctions for protection against domestic, repeat, dating, and sexual violence, and stalking, .... “Family matters,” “family law matters,” or “family law cases” as used within these rules include, but are not limited to, matters arising from dissolution of marriage, annulment, support unconnected with dissolution of marriage, paternity, child support, an action involving a parenting plan for a minor child or children ... proceedings for temporary or concurrent custody of minor children by extended family, adoption, proceedings for emancipation of a minor, declaratory judgment actions related to premarital, marital, or postmarital agreements ... injunctions for protection against domestic, repeat, dating, and sexual violence, and stalking, and all proceedings for modification, enforcement, and civil contempt of these actions.

The Florida Family Law Rules of Procedure protect from disclosure certain sensitive information recorded in family law cases.<sup>40</sup> Rule 12.004(a), Florida Family Law Rules of Procedure, authorizes a judge hearing a family law case to access and review files of any related case. However, parties, judges, and court personnel are prohibited from disclosing confidential information and documents contained in related case files unless disclosure complies with state and federal law.<sup>41</sup>

Identifying information, as sensitive information, in any pleading or exhibit, such as account numbers, social security numbers, employee identification numbers, driver’s license numbers, passport numbers, or other personal identifying information is considered to be sensitive information, may not be filed with the court.<sup>42</sup>

A petitioner for a domestic violence injunction may request that his or her address be kept confidential and exempt from public records disclosure pursuant to statute,<sup>43</sup> and the address is then considered a confidential court record.<sup>44</sup>

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<sup>38</sup> Sections 741.30(4) and 784.046(5), F.S.

<sup>39</sup> Section 741.30(5)(a), F.S.

<sup>40</sup> RULE 12.012, FLA. FAM. L. R. P.

<sup>41</sup> RULES 12.004(c) and 12.007(c), FLA. FAM. L. R. P.

<sup>42</sup> RULE 12.130(c), FLA. FAM. L. R. P., referencing RULE 2.425, FLA. R.J.A., which restricts the filing of sensitive information, including identifying information.

<sup>43</sup> Section 741.30(3)(b), F.S., authorizes a petitioner to furnish his or her address in a separate confidential filing.

<sup>44</sup> RULE 12.007(b), FLA. FAM. L. R. P.

A family law court may consider closing proceedings or records or sealing records, including ordering the conditional sealing of financial information.<sup>45</sup>

The Federal Parent Locator Service (FPLS) helps state and local child support agencies locate parents for participation in child support.<sup>46</sup> A family violence indicator is a notation in the FPLS that has been placed on a record when a state has reasonable evidence of domestic violence or child abuse.<sup>47</sup> In parent locator cases, a state court may override a family violence indicator to release information from the FPLS.<sup>48</sup> The state clerk of the court, however, must ensure the protection of records of open cases relating to family violence. All court records in these proceedings are confidential and not available for public inspection until the court issues a final judgment.<sup>49</sup>

### III. Effect of Proposed Changes:

This bill creates two new public records exemptions. The bill provides that the following records are confidential and exempt from disclosure:

- A public record relating to a matter or case governed by the Florida Family Law Rules of Procedure; and
- A petition for an injunction that is dismissed without a hearing or at an ex parte hearing due to failure to state a claim, lack of jurisdiction, or any reason having to do with the sufficiency of the petition itself without an injunction being issued, and the contents of the petition.

This bill applies to all types of injunctions for protection, including injunctions against domestic violence;<sup>50</sup> repeat violence;<sup>51</sup> dating violence;<sup>52</sup> sexual violence;<sup>53</sup> and stalking.

The main types of cases governed by the Florida Family Law Rules of Procedure are matters arising from dissolution of marriage, annulment, support including child support, paternity, adoption, and injunctions for protection.<sup>54</sup>

The bill includes statements of public necessity. Regarding the public records exemption on family law cases, the public necessity asserted to justify the exemption is that the records:

- Often contain material that is of a personal, sensitive nature and that a person's privacy and potential for damage outweighs any public benefit in making the information accessible; and
- May include financial information the disclosure of which could lead to identity theft or other criminal activity.

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<sup>45</sup> RULE 12.400(a) through (c), FLA. FAM. L. R. P.

<sup>46</sup> The Federal Office of Child Support Enforcement administers the program. More at <http://www.acf.hhs.gov/programs/css> (Last visited Feb. 8, 2016).

<sup>47</sup> RULE 12.650(b)(4), FLA. FAM. L. R. P.

<sup>48</sup> 42 U.S.C. s. 653; RULE 12.650(a), FLA. FAM. L. R. P.

<sup>49</sup> RULE 12.650(b)(4)(i), FLA. FAM. L. R. P.

<sup>50</sup> Section 741.30(1), F.S.

<sup>51</sup> Section 784.046(2), F.S.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> RULE 12.010(a)(1), FLA. FAM. L. R. P.

Regarding the public records exemption on injunctions that are dismissed, the public necessity asserted to justify the exemption is that the records may be defamatory to the person named in the petition and cause unwarranted damage to his or her reputation.

The bill requires petitions for a protective injunction that are confidential and exempt under this bill to be removed from publically available websites. The process for removal, however, differs depending on when the petition is placed on a website. If a petition is placed on a website, and later dismissed on or after the effective date of the bill, the webmaster with the clerk of the court or county recorder must remove the petition and any related documents. If the petition is placed on the website prior to the effective date of the bill, it is the responsibility of the person named in the petition to request removal. The request must be in writing, signed, and include the case name and number, document heading, and page number. The person requesting removal must deliver the request by mail, fax, electronic transmission, or in person to the clerk of the court. The clerk may not charge a fee for removal.

Both public record exemptions are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2021, unless reviewed and saved from repeal through legislative reenactment.

The bill takes effect upon becoming law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require counties or municipalities to take an action requiring the significant expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or 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 Florida Constitution requires a two-thirds vote of the members present and voting in each house of the Legislature for passage of a newly-created or expanded public records or public meetings exemption. Because the bill creates new public records exemptions, it requires a two-thirds vote for passage.

###### **Public Necessity Statement**

Article I, s.24(c), of the Florida Constitution requires a public necessity statement for a newly-created or expanded public records or public meetings exemption. The bill creates a two new public records exemptions and includes a public necessity statement for each exemption.

Article I, s. 24(c), of the Florida Constitution, requires all public records exemptions “to state with specificity the public necessity justifying the exemption and shall be no broader than necessary to accomplish the stated purpose of the law.”

***Public Necessity Statement for Family Law Records***

Whether a court may consider the public records exemption for all family law records to be overbroad is unknown. The public necessity for the exemption provides that “such records often contain material that is of a personal, sensitive nature and that the damage to the privacy interest of persons involved outweighs the public benefit of making such information” public. The public necessity statement also finds that the records contain financial information which could facilitate identity theft. The exemption could also be made narrower by redacting information that is personal and sensitive, and including a definition of ‘personal and sensitive’ information. The exemption could be made no broader than necessary to accomplish the public necessity statement by redacting financial information only. The information within the records could be redacted without making entire court files confidential and exempt from public disclosure.

A definition of personal and sensitive information would be useful because a public records exemption was once declared unconstitutional because it did not define an important term. The Florida Supreme Court struck down an exemption afforded to a public hospital’s governing board meetings when a strategic plan is discussed.<sup>55</sup> In so doing, the Court held that a strategic plan may cover any range of topics relating to the operation of facilities, some of which may not necessitate confidential treatment.<sup>56</sup>

The scope of coverage of the exemption in the bill, for “a matter or case governed by the Florida Family Law Rules of Procedure which may not be placed on a publicly available website” may be too broad. Moreover, the Florida Family Law Rules of Procedure includes a number of restrictions and blanket prohibitions on disclosure of certain information recorded in family law cases.

***Public Necessity Statement for Petitions for Injunction***

The justification of necessity provided in this bill for a petition for injunction is that disclosure could otherwise defame and damage the reputation of the person identified in the petition. Other court cases, such as criminal charges filed but dismissed, may similarly damage the reputation of the person named as a defendant. This bill does not include those cases with this exemption, however. If this exemption is challenged, a court may consider as suspect the statement of public necessity in light of the lack of an exemption afforded to other court filings which are later dismissed.

One way to narrow this exemption to match the public necessity statement would be to redact the name and address of a person whose case was disposed of in the manner described in the bill.

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<sup>55</sup> *Halifax Hospital Medical Center v. News-Journal Corp.*, 724 So. 2d 567, 570 (Fla. 1999).

<sup>56</sup> *Id.*

The Legislature may wish to consider narrowing the exemption to weaken arguments that the bill is overly broad.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Florida Constitution provides that its citizens have a right to privacy, but that those rights may be limited by the right to access public records. Article 1, section 23, of the Florida Constitution states:

Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill creates two public records exemptions designed to protect the privacy of persons named in the documents. The bill may preserve the reputation of these persons. The exemption provided to records maintained in family law cases may prevent information in these documents from being used for identity theft, although that information may already be kept confidential under the Florida Family Law Rules of Procedure.

C. Government Sector Impact:

Indeterminate. Clerks of Court will have to take information off of their websites as well as train their staff on what information will not be subject to release if a request is made in the future.

**VI. Technical Deficiencies:**

The meaning of the phrase 'records that relate to a matter' (lines 79 and 90) is unclear.

The bill does not provide for any means of releasing confidential and exempt records. This may be problematic since it may be necessary for the records to be released after the cases have been closed. As currently drafted, someone seeking a record may need to get a court order in order to get access.

On line 122, the term "publically" should be replaced with the term "publicly."

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 28.2221 and 119.0714.

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

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

**CS by Judiciary on February 9, 2016:**

This CS corrects and replaces the term “Florida Rules of Family Law” with “Florida Family Law Rules of Procedure” in several places in the bill.

**B. Amendments:**

None.



724828

LEGISLATIVE ACTION

| Senate     | . | House |
|------------|---|-------|
| Comm: FAV  | . |       |
| 02/22/2016 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

**Senate Amendment (with title amendment)**

Delete lines 117 - 125

and insert:

injunction being issued, and the contents and any record created  
from the petition, are confidential and exempt from s. 119.07(1)  
and s. 24(a), Art. I of the State Constitution.

2.a. A petition described in subparagraph 1. dismissed on  
or after the effective date of this act, and the contents and  
any record created from the petition, must be removed from all



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11 publicly accessible records upon dismissal.

12 b. A petition described in subparagraph 1. dismissed before  
13 the effective date of this act, and the contents and any record  
14 created from the petition, shall

15

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

17 And the title is amended as follows:

18 Delete lines 11 - 13

19 and insert:

20 petition for an injunction that is dismissed, the  
21 petition's contents, and a specified record; providing  
22 for removal of a petition, its contents, and a  
23 specified record if the petition was dismissed on or  
24 after the effective

By the Committee on Judiciary; and Senator Braynon

590-03302A-16

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A bill to be entitled

An act relating to public records; amending s.

28.2221, F.S.; making technical changes; providing an exemption from public records requirements for certain official records relating to matters or cases governed by the Florida Family Law Rules of Procedure; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; amending s. 119.0714, F.S.; providing an exemption from public records requirements for a petition for an injunction that is dismissed and the petition's contents; providing for removal of petitions that were dismissed before the effective date of the act from publicly accessible records; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a directive to the Division of Law Revision and Information; providing an effective date.

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

Section 1. Subsection (5) of section 28.2221, Florida Statutes, is amended to read:

28.2221 Electronic access to official records.—

(5) (a) A ~~No~~ county recorder or clerk of the court may not place an image or copy of a public record, including an official record, on a publicly available ~~Internet~~ website for general public display if that image or copy is of a military discharge; a death certificate; or a court file, record, or paper relating to matters or cases governed by the Florida ~~Rules of Family Law~~ Rules of Procedure, the Florida Rules of Juvenile Procedure, or

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the Florida Probate Rules.

(b) Any records specified in this subsection made available by the county recorder or clerk of the court on a publicly available ~~Internet~~ website for general public display before ~~prior to~~ June 5, 2002, must be removed if the affected party identifies the record and requests that it be removed. Such request must be in writing and delivered by mail, facsimile, or electronic transmission, or in person to the county recorder or clerk of the court. The request must specify the identification page number of the document to be removed. A ~~No~~ fee may not be charged for the removal of a document pursuant to such request.

(c) No later than 30 days after June 5, 2002, notice of the right of any affected party to request removal of records pursuant to this subsection shall be conspicuously and clearly displayed by the county recorder or clerk of the court on the publicly available ~~Internet~~ website on which images or copies of the county's public records are placed and in the office of each county recorder or clerk of the court. In addition, no later than 30 days after June 5, 2002, the county recorder or the clerk of the court must have published, on two separate dates, a notice of such right in a newspaper of general circulation in the county where the county recorder's office is located as provided for in chapter 50. Such notice must contain appropriate instructions for making the removal request in person, by mail, by facsimile, or by electronic transmission. The notice shall state, in substantially similar form, that any person has a right to request that a county recorder or clerk of the court remove an image or copy of a public record, including an official record, from a publicly available ~~Internet~~ website if

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62 that image or copy is of a military discharge; a death  
 63 certificate; or a court file, record, or paper relating to  
 64 matters or cases governed by the Florida ~~Rules of Family Law~~  
 65 Rules of Procedure, the Florida Rules of Juvenile Procedure, or  
 66 the Florida Probate Rules. Such request must be made in writing  
 67 and delivered by mail, facsimile, or electronic transmission, or  
 68 in person to the county recorder or clerk of the court. The  
 69 request must identify the document identification page number of  
 70 the document to be removed. A fee may not ~~will~~ be charged for  
 71 the removal of a document pursuant to such request.

72 (d) Any affected person may petition the circuit court for  
 73 an order directing compliance with this subsection.

74 (e) By January 1, 2006, each county recorder or clerk of  
 75 the court shall provide for electronic retrieval, at a minimum,  
 76 of images of documents referenced as the index required to be  
 77 maintained on the county's official records website by this  
 78 section.

79 (f)1. A public record that relates to a matter or case  
 80 governed by the Florida Family Law Rules of Procedure which may  
 81 not be placed on a publicly available website or which must be  
 82 removed from such a website pursuant to this subsection is  
 83 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 84 of the State Constitution.

85 2. This paragraph is subject to the Open Government Sunset  
 86 Review Act in accordance with s. 119.15 and shall stand repealed  
 87 on October 2, 2021, unless reviewed and saved from repeal  
 88 through reenactment by the Legislature.

89 Section 2. The Legislature finds that it is a public  
 90 necessity that a public record that relates to a matter or case

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91 governed by the Florida Family Law Rules of Procedure which may  
 92 not be placed on a publicly available website or that must be  
 93 removed from such a website pursuant to s. 28.2221(5), Florida  
 94 Statutes, be made confidential and exempt from s. 119.07(1),  
 95 Florida Statutes, and s. 24(a), Article I of the State  
 96 Constitution. The Legislature finds that such records often  
 97 contain material that is of a personal, sensitive nature and  
 98 that the damage to the privacy interests of persons involved in  
 99 such matters or cases by making such information public  
 100 outweighs any public benefit in making such information  
 101 accessible. Additionally, such records may contain financial  
 102 information that may facilitate identity theft or other criminal  
 103 activity, and making such records confidential and exempt would  
 104 prevent such activity.

105 Section 3. Paragraph (g) is added to subsection (3) of  
 106 section 119.0714, Florida Statutes, to read:

107 119.0714 Court files; court records; official records.—

108 (3) OFFICIAL RECORDS.—A person who prepares or files a  
 109 record for recording in the official records as provided in  
 110 chapter 28 may not include in that record a social security  
 111 number or a bank account, debit, charge, or credit card number  
 112 unless otherwise expressly required by law.

113 (g)1. A petition for an injunction that is dismissed  
 114 without a hearing or at an ex parte hearing due to failure to  
 115 state a claim, lack of jurisdiction, or any reason having to do  
 116 with the sufficiency of the petition itself without an  
 117 injunction being issued, and the contents thereof, are  
 118 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 119 of the State Constitution.

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120 2.a. A petition described in subparagraph 1. dismissed on  
 121 or after the effective date of this act, and the contents  
 122 thereof, must be removed from all publically accessible records  
 123 upon dismissal.

124 b. A petition described in subparagraph 1. dismissed before  
 125 the effective date of this act, and the contents thereof, shall  
 126 be removed upon request by an individual named in the petition  
 127 as a respondent. The request must be in the form of a signed,  
 128 legibly written request specifying the case name, case number,  
 129 document heading, and page number. The request must be delivered  
 130 by mail, facsimile, electronic transmission, or in person to the  
 131 clerk of the court. A fee may not be charged for the removal  
 132 pursuant to the request.

133 3. This paragraph is subject to the Open Government Sunset  
 134 Review Act in accordance with s. 119.15 and shall stand repealed  
 135 on October 2, 2021, unless reviewed and saved from repeal  
 136 through reenactment by the Legislature.

137 Section 4. The Legislature finds that it is a public  
 138 necessity that a petition for an injunction that is dismissed  
 139 without a hearing or at an ex parte hearing due to failure to  
 140 state a claim, lack of jurisdiction, or any reason having to do  
 141 with the sufficiency of the petition itself without an  
 142 injunction being issued, and the contents thereof, be made  
 143 confidential and exempt from s. 119.07(1), Florida Statutes, and  
 144 s. 24(a), Article I of the State Constitution. The Legislature  
 145 finds that the existence of such a petition and of the  
 146 unverified allegations contained in such a petition could be  
 147 defamatory to an individual and cause unwarranted damage to the  
 148 reputation of such individual and that correction of the public

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20161436c1

149 record by the removal of such a petition is the sole means of  
 150 protecting the reputation of an individual named in such a  
 151 petition.

152 Section 5. The Division of Law Revision and Information is  
 153 directed to replace the phrase "the effective date of this act"  
 154 wherever it occurs in this act with such date.

155 Section 6. This act shall take effect upon becoming a law.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/20/2016

Meeting Date

Topic \_\_\_\_\_

Bill Number 1256

(if applicable)

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/20/11)

**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.)

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

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**BILL:** CS/SB 702

**INTRODUCER:** Ethics and Elections Committee and Senator Altman and others

**SUBJECT:** Public Records/Voters and Voter Registration

**DATE:** February 19, 2016      **REVISED:** \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|---------|----------------|-----------|------------------|
| 1. | Fox     | Roberts        | EE        | <b>Fav/CS</b>    |
| 2. | Peacock | McVaney        | GO        | <b>Favorable</b> |
| 3. |         |                | RC        |                  |

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 702 makes confidential and exempt from public inspection and copying requirements all information concerning 16 and 17-year-olds who preregister to vote while they are minors; once they reach the age of 18, their information will become available like any other voter registrant or voter.

The bill provides for repeal of the exemption on October 2, 2021, unless reviewed and saved from repeal by the Legislature. It also 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 will take effect July 1, 2016, but applies retroactively to all currently pre-registered 16 and 17-year-olds.

## II. Present Situation:

### Public Records Law

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

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.<sup>3</sup> Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>4</sup> The Public Records Act states that it is the policy of this state 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.<sup>5</sup>

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may create an exemption to public records requirements.<sup>9</sup> An exemption must pass by a two-thirds vote of the House and the Senate.<sup>10</sup> In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>11</sup> A statutory

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> *Id.*

<sup>3</sup> The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

<sup>5</sup> Section 119.01(1), F.S.

<sup>6</sup> Section 119.011(12), F.S., defines “public record” as “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” 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.”

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

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

<sup>9</sup> FLA. CONST., art. I, s. 24(c).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.<sup>12</sup>

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’<sup>13</sup> Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.<sup>14</sup>

### **Open Government Sunset Review Act**

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.<sup>15</sup> The OGSR provides that an exemption automatically repeals 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.<sup>16</sup> In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.<sup>17</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.<sup>18</sup>

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<sup>12</sup> *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

<sup>13</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

<sup>14</sup> A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991).

<sup>15</sup> Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

<sup>16</sup> Section 119.15(3), F.S.

<sup>17</sup> FLA. CONST., art. I, s. 24(c).

<sup>18</sup> Section 119.15(7), F.S.

## Public Record Exemption for Voter Registration Information

Current law provides a public record exemption for certain information held by an agency<sup>19</sup> for purposes of voter registration.<sup>20</sup> Specifically, the following information is confidential and exempt from public record requirements:

- All declinations to register to vote made pursuant to ss. 97.057 and 97.058, F.S.
- Information relating to the place where a person registered to vote or where a person updated a voter registration.
- The social security number, driver's license number, and Florida identification number of a voter registration applicant or voter.

In addition, the signature of a voter registration applicant or a voter is exempt from copying requirements.<sup>21</sup>

## Voter Pre-Registration for Minors

An individual may register to vote in accordance with Florida law if he or she is at least 18 years old, a United States citizen, a legal resident of Florida, and a legal resident of the county in which he or she seeks to register.<sup>22</sup> However, individuals who are otherwise qualified to register to vote but are not yet 18 may pre-register to vote on or after the individual's 16<sup>th</sup> birthday.<sup>23</sup>

## Publication of Voter Information

Since 1998 when the State first began compiling all 67 counties' "official" voter registration lists into a unified statewide voter registration database,<sup>24</sup> anyone has been able to request an electronic copy of every Florida voters' non-exempt information.<sup>25</sup> The rise of the Internet has enabled publication of this information for literally the entire world to see at little to no cost, thereby giving rise to serious personal privacy issues.

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<sup>19</sup> Section 119.011(2), F.S., defines "agency" to mean "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."

<sup>20</sup> Section 97.0585, F.S.

<sup>21</sup> Section 97.0585(2), F.S.

<sup>22</sup> Section 97.041(a)(a), F.S.

<sup>23</sup> Section 97.041(1)(b), F.S.

<sup>24</sup> Ch. 97-13, ss. 39, 56, LAWS OF FLA. (effective January 1, 1998).

<sup>25</sup> In 2001, the Legislature sought to adopt a much more restrictive public records scheme similar to the one proposed in the original bill, in connection with a then-newly-authorized statewide voter registration database. Ch. 2001-40, s. 70-72, LAWS OF FLA. (codified at s. 98.0979, F.S. (2002)). Three years later, a Leon County circuit court judge struck the statute down void ab initio on procedural grounds, finding that it was adopted in a general elections bill without the requisite statement of public necessity in violation of Art. I, s. 24 of the Florida Constitution—the effect being that the statute never existed or was never on the books. See *Cable News Network, et al. v. Florida Dep't of State*, Case No. 2004 CA 001259 (2nd Jud. Cir., July 1, 2004) (Final Declaratory Summary Judgment). The Legislature repealed the statute the following year. See, Ch. 2005-278, s. 55, LAWS OF FLA.; Ch. 2005-277, s. 77, LAWS OF FLA.

At least one web site<sup>26</sup> that contains commercial or sponsored links, provides extensive details about every registered and pre-registered voter in the State — including the voter’s name, date of birth, residence address, mailing address, voter ID number, when the person registered to vote, what political party the person is affiliated with, the voter’s telephone number, e-mail address, race, precinct number, as well as other information about district races in which the person is eligible to vote. This information can be accessed by voter’s name, birth date, or address.

### III. Effect of Proposed Changes:

CS/SB 702 makes confidential and exempt from public inspection and copying requirements all information concerning 16 and 17-year-olds who preregister to vote while they are minors; once they become adults, their non-exempt information will become available to the same degree as any other adult voter registrant or voter.

The bill provides for repeal of the exemption on October 2, 2021, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

This bill will take effect July 1, 2016, but applies retroactively to all currently pre-registered 16 and 17-year-olds.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

##### **Vote Requirement**

Section 24(c) of Article I of the Florida Constitution requires a two-thirds vote of the members present and voting for passage of a newly created or expanded public-records or public-meetings exemption. Therefore, this bill requires a two-thirds vote for passage.

##### **Public Necessity Statement**

Section 24(c) of Article I of the Florida Constitution requires a public necessity statement for a newly created or expanded public records or public meetings exemption. The Florida Constitution provides that an exemption must state with specificity the public necessity of the exemption.

This public necessity statement provides that disclosure of information concerning preregistered voter registration applicants who are 16 or 17 years of age which is held by an agency could be misused to solicit, harass, stalk, or intimidate such individuals, and

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<sup>26</sup> See <http://flvoters.com/> (last visited on February 18, 2016).

without such protection, a minor may be less likely to take advantage of preregistering to vote.

### **Breadth of Exemption**

Section 24(c) of Article I of the Florida Constitution requires a public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law.

CS/SB 702 expands the public record exemption to include all information concerning preregistered voter registration applicants who are 16 or 17 years of age which is held by an agency.

Generally, the exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

C. **Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

A. **Tax/Fee Issues:**

None.

B. **Private Sector Impact:**

The bill may adversely impact commercial web sites and businesses that profit from sharing Florida voter registration data. However, since the bill only protects the information of minors before they become age-eligible to vote, the fiscal impact, if any, is unclear.

C. **Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 97.0585 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 Ethics and Elections on February 16, 2016:**

The committee substitute differs from the original bill in that it removes the public records exemption and exceptions for adult voters and voter registrants, while retaining the original proposed exemption for 16 and 17-year olds pre-registrants while they are minors.

- B. **Amendments:**

None.

By the Committee on Ethics and Elections; and Senators Altman  
and Dean

582-03675-16

2016702c1

1 A bill to be entitled  
2 An act relating to public records; amending s.  
3 97.0585, F.S., and reenacting subsection (3), relating  
4 to a public records exemption for information  
5 regarding voters and voter registration; providing an  
6 exemption from public records requirements for  
7 information concerning minor preregistered voter  
8 registration applicants; providing for future  
9 legislative review and repeal; providing for  
10 retroactive application; providing a statement of  
11 public necessity; providing an effective date.  
12  
13 Be It Enacted by the Legislature of the State of Florida:  
14  
15 Section 1. Subsection (1) of section 97.0585, Florida  
16 Statutes, is amended, and subsection (3) of that section is  
17 reenacted, to read:  
18 97.0585 Public records exemption; information regarding  
19 voters and voter registration; confidentiality.—  
20 (1) The following information held by an agency as defined  
21 in s. 119.011, and obtained for the purpose of voter  
22 registration, is confidential and exempt from s. 119.07(1) and  
23 s. 24(a), Art. I of the State Constitution and may be used only  
24 for purposes of voter registration:  
25 (a) All declinations to register to vote made pursuant to  
26 ss. 97.057 and 97.058.  
27 (b) Information relating to the place where a person  
28 registered to vote or where a person updated a voter  
29 registration.  
30 (c) The social security number, driver license number, and  
31 Florida identification number of a voter registration applicant

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

582-03675-16 2016702c1  
32 or voter.  
33 (d) All information concerning preregistered voter  
34 registration applicants who are 16 or 17 years of age. This  
35 paragraph is subject to the Open Government Sunset Review Act in  
36 accordance with s. 119.15 and shall stand repealed on October 2,  
37 2021, unless reviewed and saved from repeal through reenactment  
38 by the Legislature.  
39 (3) This section applies to information held by an agency  
40 before, on, or after the effective date of this exemption.  
41 Section 2. The Legislature finds that it is a public  
42 necessity that all information concerning preregistered voter  
43 registration applicants who are 16 or 17 years of age which is  
44 held by an agency, and obtained for the purpose of voter  
45 registration, be confidential and exempt from public records  
46 requirements and be used only for purposes of voter  
47 registration. Information concerning preregistered 16-year-old  
48 and 17-year-old voter registration applicants could be misused  
49 if released. Minors are more vulnerable members of society, and  
50 the widespread release of information acquired through  
51 preregistration activities may be used to solicit, harass,  
52 stalk, or intimidate such individuals. Without such protection,  
53 a minor may be less likely to take advantage of preregistering  
54 to vote, thus hindering the effective and efficient  
55 administration of a program that otherwise encourages greater  
56 participation in the democratic process.  
57 Section 3. This act shall take effect July 1, 2016.

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*  
Children, Families, and Elder Affairs, *Vice-Chair*  
Appropriations  
Appropriations Subcommittee on General Government  
Environmental Preservation and Conservation  
Finance and Tax

### SENATOR THAD ALTMAN

16th District

February 22, 2016

The Honorable Jeremy Ring  
Senate Committee on Governmental Oversight and Accountability  
525 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Ring:

Senate Bill 702, related to *Public Records/Preregistered Voter Registration Applicants*, is on the Governmental Oversight and Accountability committee agenda on February 22, 2016. Due to chairing Military and Veterans Affairs, Space, and Domestic Security committee, I will be unable to attend.

Please recognize my Legislative Aide Ms. Devon West to present SB 702 on my behalf. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Thad Altman".

Thad Altman

CC: Joe McVaney, Staff Director, 525 Knott Building  
Allison Rudd, Committee Administrative Assistant

TA/dv

#### REPLY TO:

- 8910 Astronaut Blvd, Cape Canaveral, FL 32920 (321) 868-2132
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/22/16

Meeting Date

702

Bill Number (if applicable)

Topic VOTER INFORMATION - PUBLIC RECORDS

Name Ron LABASKY

Amendment Barcode (if applicable)

Job Title

Address 225 S. ADAMS ST. Street

Phone

TALL City FL State 32003 Zip

Email

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing SUPERVISOR OF ELECTIONS

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

**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.)

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

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BILL: CS/SB 1306

INTRODUCER: Health Policy Committee and Senator Grimsley

SUBJECT: Public Records and Meetings/Nurse Licensure Compact

DATE: February 22, 2016

REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|---------|----------------|-----------|------------------|
| 1. | Lloyd   | Stovall        | HP        | <b>Fav/CS</b>    |
| 2. | Kim     | McVaney        | GO        | <b>Favorable</b> |
| 3. |         |                | RC        |                  |

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1306 exempts from public record inspection and copying requirements personal identifying information of a nurse, other than the nurse's name, licensure status, or licensure number, obtained from the coordinated licensure information system (CLIS) under the Nurse Licensure Compact (NLC or compact), as defined in s. 464.0095,<sup>1</sup> and held by the Department of Health (department) or the Board of Nursing (board). This information is not exempt from public records requirements if the state originally reporting the information to the CLIS authorizes disclosure of such information by law.

The bill exempts from public meeting requirements a meeting or a portion of the meeting of the Interstate Commission of Nurse Licensure Compact Administrators established under the compact. The exemption applies when matters are specifically exempted from disclosure by state or federal law are discussed. The recordings, minutes, and records generated from those meetings are also exempt from requirements to disclose such public records.

The bill takes effect on the same date that SB 1316 or similar legislation takes effect. SB 1316, the substantive bill authorizing Florida's participation in the compact, is effective on December 31, 2018, or upon enactment of the NLC into law by 26 states whichever occurs first.

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<sup>1</sup> Section 464.0095, F.S., is created in SB 1316 and establishes the state's participation in the Nurse Licensure Compact and the coordinated licensure information system.

The bill provides for the repeal of the exemption on October 2, 2021, unless reviewed and reenacted by the Legislature. It also provides statements of public necessity for the public records and public meetings exemptions as required by the State Constitution.

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

## II. Present Situation:

The Florida Constitution provides that the public has the right to access government records and meetings. The public may inspect or copy any record made or received in connection with the official business of any public body, officer, or employee received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.<sup>2</sup> The public also has a right to be afforded notice and access to meetings of any collegial public body of the executive branch of state government or of any local government.<sup>3</sup> The Legislature's meetings must also be open and noticed to the public, unless there is an exception provided for by the Constitution.<sup>4</sup>

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. Chapter 119, F.S., the "Public Records Act" constitutes the main body of public records laws, and states that:

It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is the duty of each agency.<sup>5</sup>

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>7</sup>

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<sup>2</sup> FLA. CONST. art. 1, s. 24(a).

<sup>3</sup> FLA. CONST. art. 1, s. 24(b).

<sup>4</sup> FLA. CONST. art. 1, s. 24(b).

<sup>5</sup> Chapter 119, F.S.

<sup>6</sup> Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of their physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean 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 purpose 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 Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). The Legislature's records are public pursuant to s. 11.0431, F.S.

<sup>7</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are penalties for violations of those laws.

Section 286.011, F.S., the “Sunshine Law,”<sup>8</sup> requires all meetings of any board or commission or local agency or authority at which official acts are to be taken to be noticed and open to the public.<sup>9</sup>

The Legislature may, by two-thirds votes of the House and the Senate<sup>10</sup> create an exemption to public records or open meetings requirements.<sup>11</sup> An exemption must explicitly state the public necessity of the exemption<sup>12</sup> and must be tailored to accomplish the stated purpose of the law.<sup>13</sup> A statutory exemption which does not meet these two criteria may be found unconstitutional, and efforts may not be made by the court to preserve the exemption.<sup>14</sup>

### **Open Government Sunset Review Act**

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.<sup>15</sup> The OGSR provides that an exemption automatically repeals 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.<sup>16</sup> In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

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<sup>8</sup> *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

<sup>9</sup> Section 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in the Florida Constitution. Article III, s. 4(e) of the Florida Constitution provides the legislative committee meetings must be open and noticed to the public. In addition, prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of Representatives, the purpose of which is to agree upon or to take formal legislative action, must be reasonable open to the public.

<sup>10</sup> FLA. CONST. art. I, s. 24(c).

<sup>11</sup> FLA. CONST. art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates as *confidential* and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

<sup>12</sup> FLA. CONST. art. I, s. 24(c).

<sup>13</sup> FLA. CONST. art. I, s. 24(c).

<sup>14</sup> *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional.

<sup>15</sup> Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed; however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one Legislature cannot bind a future Legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

<sup>16</sup> Section 119.15(3), F.S.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following questions during its review of an exemption:<sup>17</sup>

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

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.<sup>18</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.<sup>19</sup>

### **Practitioner Profiles**

Pursuant to s. 456.041, F.S., the department operates a database of Florida's healthcare practitioners, which includes nurses. The practitioner profile database is online and searchable.<sup>20</sup> The profile may include information that is public record and relates to the practitioner's profession.<sup>21</sup> Practitioners and the department are required to update profiles.<sup>22</sup> Information exempt from public disclosure and submitted by another governmental entity that the department uses for practitioner profiles continues to maintain its exempt status.<sup>23</sup>

### **Nurse Licensure Compact**

The Nurse Licensure Compact bill, SB 1316, authorizes Florida to enter the revised Nurse Licensure Compact (NLC or compact), a multi-state agreement that establishes a mutual recognition system for the licensure of registered nurses and licensed practical or vocational nurses. A nurse who is issued a multi-state license from a state that is a party to the NLC would be permitted to practice in any state that is also a party to the compact. A nurse with a multistate license privilege must comply with the practice laws of the state in which he or she is practicing or where the patient is located. A party state may continue to issue a single-state license, authorizing practice only in that state.

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<sup>17</sup> Section 119.15(6)(a), F.S.

<sup>18</sup> FLA. CONST. art. I, s. 24(c).

<sup>19</sup> Section 119.15(7), F.S.

<sup>20</sup> Section 456.041(8), F.S. Department of Health Practitioner Profile Search, <https://appsmqa.doh.state.fl.us/MQASearchServices/HealthCareProviders/PractitionerProfileSearch> (last visited February 18, 2016).

<sup>21</sup> Section 456.041(7), F.S.

<sup>22</sup> Section 456.042, F.S.

<sup>23</sup> Section 456.046, F.S.

The NLC permits a state to take adverse action against the multistate licensure privilege of any nurse practicing in that state. The home state has the exclusive authority to take adverse action against the home state license, including revocation and suspension. The NLC requires all participating states to report to the CLIS, all adverse actions taken against a nurse's license or multistate licensure practice privilege, any current significant investigative information, and denials of information.

All party states may access the CLIS to see licensure and disciplinary information for nurses licensed in the party states. The CLIS includes nurse's personal identifying information, licensure classification information and statuses, public emergency and final disciplinary action information, and status information about multistate licensure privileges from all party states. A party state may designate the information it contributes to the CLIS as confidential, prohibiting its disclosure to nonparty states. State licensing boards must report disciplinary information, significant investigative information, and denials of applications to the CLIS promptly.

The NLC establishes the Interstate Commission of Nurse Licensure Compact Administrators (commission) to oversee the operation of the NLC. The head of each state's licensing board of his or her designee must serve as the state's delegate to the commission. The NLC grants the commission authority to promulgate uniform rules relating to the implementation and administration of NLC. The commission may also take action against a party state if a party state fails to meet its obligations under the NLC, including termination of membership after exhausting all other means of compliance.

All commission meetings are open to the public and must be publicly noticed. Both commission meetings and hearings for proposed rules must be noticed at least 60 days prior to each meeting on the commission's website and on the website of each party state's licensing board or published in the publication in which each state would otherwise post proposed rules. The compact also provides for public comment opportunities through both oral and written testimony. Closed meetings are permitted if the commission is discussing:

- A party state's noncompliance with its obligations under the compact;
- The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedure;
- Current, threatened, or reasonably anticipated litigation;
- Contract negotiations for the purchase or sale of goods, services, or real estate;
- Accusing a person of a crime or formally censuring a person;
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- Disclosure of investigatory records compiled for law enforcement purposes;
- Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigating compliance with the NLC; or
- Matters specifically exempted from disclosure by federal or state law.

The commission must keep comprehensive minutes of matters discussed in its meetings and provide a full and accurate summary of actions taken, and the reasons. Minutes of a closed meeting will be sealed; however, such minutes may be released pursuant to a majority vote of the commission or an order of a court of competent jurisdiction.

The compact is effective on December 31, 2018, or upon enactment of the NLC into law by 26 states whichever occurs first.<sup>24</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 464.0096, F.S., to make a nurse's personal identifying information, other than the nurse's name, licensure status, or licensure number, obtained from the coordinated licensure information system, as defined in s. 464.0095, F.S., and held by the department or board exempt from public disclosure under s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. The personal identifying information is exempt from public disclosure unless the state that originally reported the information to the coordinated licensure information system authorizes the disclosure of such information. Under such circumstances, the information may only be disclosed to the extent permitted by the reporting state's law.

The bill also creates an exemption from s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution for a meeting or any portion of a meeting of the commission during which any matters specifically exempted from disclosure by federal or state statute are discussed.

Recordings, minutes, and records generated during an exempt meeting are exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

These exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

**Section 2** provides, as required by the State Constitution, a statement of public necessity which states that protection of the specified information is required under the NLC which the state must adopt in order to become a party state to the compact. Without the public records exemption, the state would be unable to effectively and efficiently implement and administer the compact.

Additionally, the bill provides a statement of public necessity, as required by the State Constitution, for protecting any meeting or portion of a meeting of the commission at which matters specifically exempted from disclosure by federal or state statute are discussed. These meetings or portions of meetings would be exempted from s. 286.011, F.S., and s. 24(b), Art. I. of the Florida Constitution.

Without the public meeting exemption, the state will be prohibited from becoming a party to the compact. Thus, the state will be unable to effectively and efficiently administer the compact.

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<sup>24</sup> Twenty-five states have enacted the original Nurse Licensure Compact.

The bill includes a statement of public necessity by the Legislature that the recordings, minutes, and records generated during an exempt meeting of the commission is exempt pursuant to s. 464.0096, F.S., and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. Release of such information would negate the public meeting exemption.

**Section 3** provides that the act shall take effect on the same date as SB 1316 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

###### **Public Records**

SB 1316 provides that any contributing party state may designate information which cannot be disclosed without the express consent of the contributing state. A public records exemption for this information is not included in this bill, but may need to be considered.

SB 1306 provides that personal identifying information obtained from a nurse's home state may only be disclosed to the extent permitted by the home state's laws.

###### **Public Meetings**

Under the compact, SB 1316 provides that commission meetings must be open to the public, and such meetings, including rulemaking hearings, must be publicly noticed 60 days prior to each meeting. Proposed rules must be posted to the commission's website and to the party state's licensing board websites or the publication in which each party state would otherwise publish proposed rules. The public must also be provided a reasonable opportunity for public comment, orally or in writing, for proposed rules.

However, under SB 1316, the compact permits the commission to meet in closed, nonpublic meetings under these circumstances:

- A party state's noncompliance with its obligations under the compact;
- The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedure;
- Current, threatened, or reasonably anticipated litigation;
- Contract negotiations for the purchase or sale of goods, services, or real estate;
- Accusing a person of a crime or formally censuring a person;
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

- Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- Disclosure of investigatory records compiled for law enforcement purposes;
- Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigating compliance with the NLC; or
- Matters specifically exempted from disclosure by federal or state law.

CS/SB 1306 simplifies this list to the last bullet: matters specifically exempted from disclosure by state or federal statute. Typically, a public meetings bill specifically states what subjects are or are not subject to closing a meeting.

The commission is required to keep minutes of these closed sessions that fully describe all matters discussed and provide an accurate summary of actions taken. All minutes and documents of a closed meeting shall remain under seal according to the compact's provisions, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

### **Vote Requirement**

Article I, Section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records or public meeting exemption. This bill creates a public records exemption for information obtained from the coordinated licensure information system, and held by the department or the board, thus it requires a two-thirds vote.

### **Public Necessity Statement**

Article I, Section 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public records or public meeting exemption. This bill creates a new public records exemption and includes a public necessity statement that supports the exemption. The exemption is no broader than necessary to accomplish the stated purpose.

### **Breadth of the Exemption**

It is not clear if the public records exemption is broader than necessary to accomplish the purposes outlined in the public necessity statement. The exemption covers personal identifying information (excluding a nurse's name, licensure status and license number) that is otherwise exempt in the nurse's home state. In the context of the compact, it is not clear what information would be considered "personal identifying information" for purposes of this exemption. Personal identifying information is used throughout Florida statutes, but it may have a different meaning in other states. For example, it is not clear if a state would consider a nurse's business address, certifications, or level of education to be personal identifying information. State laws are also subject to change, so it is not clear if this exemption is limited to state laws as currently enacted or in the future. Therefore, the breadth of the exemption is subject to change depending on when or how the department or the board interprets the laws of the nurse's home state.

It is also unclear if the public meetings exemption is broader than necessary to accomplish the purposes outlined in the public necessity statement. SB 1316 provides instances during which a public meeting may be closed. Some of those matters are already exempted under Florida's public meetings exemptions.<sup>25</sup> In addition, SB 1306 provides that the commission has the authority to vote on when it will close a meeting, so it is not clear exactly which meetings or portions of meetings will be closed. It is unclear if giving the commission the authority to vote on when it will close its meetings would be considered an overly broad exemption. Finally, one reason the commission may close a meeting is to protect someone's personal privacy. This may conflict with Article 1, section 23, of the Florida Constitution which provides:

Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law.

Courts will look to the Legislature to balance these competing interests.<sup>26</sup>

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The department reports no impact for CS/SB 1306.

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<sup>25</sup> Meetings with attorneys on pending litigation are exempt under s. 286.011(8), F.S. Competitive solicitations team meetings and some negotiations are exempt under s. 286.0113(2), F.S. Meetings to determine if there is probable cause to find that a practitioner is subject to discipline are closed until 10 days after probable cause has been found pursuant to s. 456.073(4), F.S. These exemptions are provided as examples and not an exhaustive list of relevant public meetings exemptions.

<sup>26</sup> See *Campus Communications, Inc. v. Earnhardt*, 821 So. 2d 388, 402-403 (Fla. 5th DCA 2002) ("Thus our function here has not been to weigh these two constitutional rights with respect to autopsy photographs and determine whether the right that helps ensure an open government freely accessible by every citizen is more significant or profound than the right that preserves individual liberty and privacy. Rather, our function has been to determine whether the Legislature has declared that the latter prevails over the former in a manner that is consistent with the constitutional provisions that bestow upon it the power to do so."); see also *Wallace v. Guzman*, 687 So. 2d 1351, 1354 (Fla. 3d DCA 1997) (noting "[t]he [L]egislature has balanced the private/public rights by creating the various exemptions from public disclosure contained in section 119.07, Florida Statutes (1995).").

**VI. Technical Deficiencies:**

The exemption for records generated during a meeting does not specify that the records are held by the department, board or commission.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 464.0096 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 Health Policy on February 16, 2016**

The CS narrows the types of personal identifying information obtained from the coordinated licensure system and held by the department that will be exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. A nurse's name, licensure status, and licensure number will not be exempt. Additional information may be made public if the state that originally reported the information authorizes the disclosure of such information by law.

The CS provides that a meeting or a portion of a meeting of commission is specifically exempt from s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution at which matters specifically exempted from disclosure under federal or state statute are discussed. The bill no longer lists specific topics of discussion that are exempt.

The CS modifies both the public records and the meeting exemptions throughout the bill to reflect that such exemptions are only exempt, and are not 'confidential and exempt.'

A cross reference to the substantive bill, SB 1316, is added to the effective date.

- B. **Amendments:**

None.



571370

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: WD   | . |       |
| 02/22/2016 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

**Senate Amendment**

Delete lines 25 - 49  
and insert:

(1) A nurse's personal identifying information, other than the nurse's name, licensure type, licensure status, or licensure number, obtained from the coordinated licensure information system, as defined in s. 464.0095, and held by the department or the board is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution unless the state that originally reported



571370

11 the information to the coordinated licensure information system  
12 authorizes the disclosure of such information by law. Under such  
13 circumstances, the information may only be disclosed to the  
14 extent permitted by the reporting state's law.

15 (2) (a) A meeting or portion of a meeting of the Interstate  
16 Commission of Nurse Licensure Compact Administrators established  
17 under s. 464.0095 at which matters specifically exempted from  
18 disclosure by federal or state statute are discussed is exempt  
19 from s. 286.011 and s. 24(b), Art. I of the State Constitution.

20 (b) Recordings, minutes, and records generated during an  
21 exempt meeting held by the Interstate Commission of Nurse  
22 Licensure Compact Administrators, the department, or the board  
23 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
24 Constitution.

25 (3) This section is subject to the Open Government Sunset  
26 Review Act in accordance with s. 119.15 and shall stand repealed  
27 on October 2, 2021, unless reviewed and saved from repeal  
28 through reenactment by the Legislature.

29 Section 2. (1) The Legislature finds that it is a public  
30 necessity that a nurse's personal identifying information, other  
31 than the nurse's name, licensure type, licensure status, or  
32 licensure number,

By the Committee on Health Policy; and Senator Grimsley

588-03658-16

20161306c1

1 A bill to be entitled  
 2 An act relating to public records and meetings;  
 3 creating s. 464.0096, F.S.; providing an exemption  
 4 from public records requirements for certain  
 5 information held by the Department of Health or the  
 6 Board of Nursing pursuant to the Nurse Licensure  
 7 Compact; authorizing disclosure of the information  
 8 under certain circumstances; providing an exemption  
 9 from public meeting requirements for certain meetings  
 10 of the Interstate Commission of Nurse Licensure  
 11 Compact Administrators; providing an exemption from  
 12 public records requirements for recordings, minutes,  
 13 and records generated during the closed portion of  
 14 such a meeting; providing for future legislative  
 15 review and repeal of the exemptions; providing a  
 16 statement of public necessity; providing a contingent  
 17 effective date.

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

21 Section 1. Section 464.0096, Florida Statutes, is created  
 22 to read:

23 464.0096 Nurse Licensure Compact; public records and  
 24 meetings exemptions.—

25 (1) A nurse's personal identifying information, other than  
 26 the nurse's name, licensure status, or licensure number,  
 27 obtained from the coordinated licensure information system, as  
 28 defined in s. 464.0095, and held by the department or the board  
 29 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 30 Constitution unless the state that originally reported the  
 31 information to the coordinated licensure information system  
 32 authorizes the disclosure of such information by law. Under such

Page 1 of 3

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

588-03658-16

20161306c1

33 circumstances, the information may only be disclosed to the  
 34 extent permitted by the reporting state's law.

35 (2) (a) A meeting or portion of a meeting of the Interstate  
 36 Commission of Nurse Licensure Compact Administrators established  
 37 under s. 464.0095 at which matters specifically exempted from  
 38 disclosure by federal or state statute are discussed is exempt  
 39 from s. 286.011 and s. 24(b), Art. I of the State Constitution.

40 (b) Recordings, minutes, and records generated during an  
 41 exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I  
 42 of the State Constitution.

43 (3) This section is subject to the Open Government Sunset  
 44 Review Act in accordance with s. 119.15 and shall stand repealed  
 45 on October 2, 2021, unless reviewed and saved from repeal  
 46 through reenactment by the Legislature.

47 Section 2. (1) The Legislature finds that it is a public  
 48 necessity that a nurse's personal identifying information, other  
 49 than the nurse's name, licensure status, or licensure number,  
 50 obtained from the coordinated licensure information system, as  
 51 defined in s. 464.0095, Florida Statutes, and held by the  
 52 Department of Health or the Board of Nursing be made exempt from  
 53 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
 54 State Constitution. Protection of such information is required  
 55 under the Nurse Licensure Compact, which the state must adopt in  
 56 order to become a party state to the compact. Without the public  
 57 records exemption, this state will be unable to effectively and  
 58 efficiently implement and administer the compact.

59 (2) (a) The Legislature finds that it is a public necessity  
 60 that any meeting or portion of a meeting of the Interstate  
 61 Commission of Nurse Licensure Compact Administrators established

Page 2 of 3

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

588-03658-16

20161306c1

62 under s. 464.0095, Florida Statutes, at which matters  
63 specifically exempted from disclosure by federal or state  
64 statute are discussed be made exempt from s. 286.011, Florida  
65 Statutes, and s. 24(b), Article I of the State Constitution.

66 (b) The Nurse Licensure Compact requires any meeting or  
67 portion of a meeting in which the substance of paragraph (a) is  
68 discussed to be closed to the public. Without the public meeting  
69 exemption, this state will be prohibited from becoming a party  
70 state to the compact. Thus, this state will be unable to  
71 effectively and efficiently administer the compact.

72 (3) The Legislature also finds that it is a public  
73 necessity that the recordings, minutes, and records generated  
74 during a meeting that is exempt pursuant to s. 464.0096, Florida  
75 Statutes, be made exempt from s. 119.07(1), Florida Statutes,  
76 and s. 24(a), Article I of the State Constitution. Release of  
77 such information would negate the public meeting exemption. As  
78 such, the Legislature finds that the public records exemption is  
79 a public necessity.

80 Section 3. This act shall take effect on the same date that  
81 SB 1316 or similar legislation takes effect, if such legislation  
82 is adopted in the same legislative session or an extension  
83 thereof and becomes law.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-22-16

Meeting Date

1306

Bill Number (if applicable)

Topic Public Rounds - Nurse Lic Compact

Amendment Barcode (if applicable)

Name Martha DeCastro

Job Title VP for Nursing

Address 306 E Collier Ave

Phone \_\_\_\_\_

Street

TLA FL 32301

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Hospital Assoc

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/22/16

Meeting Date

1306

~~1306~~

Bill Number (if applicable)

Topic Gov

Amendment Barcode (if applicable)

Name Greg Lourie

Job Title \_\_\_\_\_

Address 9166 Sunrise Dr

Phone \_\_\_\_\_

Street

Largo

City

Fla.

State

33773

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Pinellas County Florida Government Corruption

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/22/2016

Meeting Date

Topic \_\_\_\_\_

Bill Number 1308

(if applicable)

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/20/11)



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**

Education Pre-K - 12, Chair  
Ethics and Elections, Vice Chair  
Appropriations Subcommittee on Education  
Fiscal Policy  
Government Oversight and Accountability  
Higher Education

**SENATOR JOHN LEGG**

17th District

Legg.John.web@FLSenate.gov

February 22, 2016

The Honorable Jeremy Ring  
Committee on Governmental Oversight and Accountability, Chair  
525 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

**RE: Excused Absence**

Dear Chair Ring:

I am unable to attend the Committee on Governmental Oversight and Accountability on Monday, February 22, 2016, and I respectfully request that this absence be excused. Your leadership and consideration are appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "John Legg", written over a horizontal line.

John Legg  
State Senator, District 17

cc: Joe McVaney, Staff Director  
Allison Rudd, Administrative Assistant

REPLY TO:

- 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Transportation, *Vice Chair*  
Agriculture  
Appropriations Subcommittee on Education  
Education Pre-K - 12  
Governmental Oversight and Accountability

### JOINT COMMITTEE:

Joint Administrative Procedures Committee

### SENATOR DWIGHT BULLARD

39th District

February 22<sup>nd</sup>, 2016

Chairman Ring,

I am requesting to be excused from our Governmental Oversight and Accountability Committee meeting on Monday, February 22<sup>nd</sup>, 2016 due to illness. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Bullard".

State Senator, District 39

#### REPLY TO:

- 10720 Caribbean Boulevard, Suite 435, Cutler Bay, Florida 33189 (305) 234-2208 FAX: (305) 234-2210
- 218 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5039

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

# CourtSmart Tag Report

**Room:** SB 401  
**Caption:** Governmental Oversight and Accountability Committee

**Case No.:**

**Type:**  
**Judge:**

**Started:** 2/22/2016 4:05:47 PM

**Ends:** 2/22/2016 4:31:29 PM

**Length:** 00:25:43

**4:05:49 PM** Meeting called to order - Roll Call  
**4:06:15 PM** Tab 1 SB 724 will not be considered today.  
**4:06:36 PM** Tab 2 CS/SB 1436 by Judiciary / Senator Braynon - Public Records  
**4:06:56 PM** Senator Braynon is recognized to present the bill.  
**4:07:38 PM** Amendment Barcode 724828, Senator Bullard  
**4:07:55 PM** Senator Braynon presents amendment.  
**4:14:33 PM** Senator Latvala asks whether divorce info is exempt from bill  
**4:15:21 PM** Tab 2 CS/SB 1436 tp'd  
**4:16:08 PM** Tab 4 CS/SB 1306 by Health Policy / Senator Grimsley - Public Records and Meeting  
**4:16:32 PM** Senator Grimsley is recognized to present the bill.  
**4:17:39 PM** Senator Latvala asks about disciplinary actions Compact.  
**4:18:58 PM** Senator Grimsley responds.  
**4:19:35 PM** Senator Hays asks why the Compact is exempt.  
**4:20:15 PM** Senator Grimseley responds.  
**4:23:14 PM** Brian Pitts, Justice-2-Jesus, St. Petersburg, FL  
**4:26:13 PM** Greg Pound, Pinellas County Florida Government Corruption  
**4:27:52 PM** Senator Grimseley closes on the bill.  
**4:28:22 PM** Roll call for CS/SB 1306  
**4:28:47 PM** Tab 3 CS/SB 702 by Ethics and Elections / Senator Altman - Public Records/Preregist  
**4:29:35 PM** Senator Altman is recognized to present the bill.  
**4:30:56 PM** Roll call for CS/SB 702  
**4:31:17 PM** Meeting Adjourned