

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: January 14, 1998 Revised: \_\_\_\_\_

Subject: Public Records

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/1 amendment</u>
2.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

Senate Bill 108 exempts certain personal information contained in a foster care licensure file regarding foster parents, their families and homes from the public access required by statute and the State Constitution, unless otherwise ordered by the court.

This bill substantially amends section 409.175, Florida Statutes.

**II. Present Situation:**

Section 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution provide that public records are open and available for inspection. The law allows exemptions to this requirement under certain circumstances including when the record is of a “. . . sensitive, personal nature concerning individuals. . .” or “. . . the exemption is necessary for the effective and efficient administration of a governmental program.”<sup>1</sup>

Section 409.175, F.S., requires family foster homes to be licensed by the Department of Children and Family Services. The file that is maintained by the department as part of the licensure process is open to the public. Included in the file is identifying information about the foster parents such as the floor plan of the licensee’s home, the licensee’s address, the names and addresses of the licensee’s children, references from neighbors and other information about the licensee and his or her family members that may be particularly sensitive. According to the department, some foster families report that, as a result of the release of information from their licensure files, they are contacted inappropriately by persons who pose a threat to their safety.

<sup>1</sup>Section 119.15(2), F.S.

Increasingly, the safety of children in foster care has become a public concern. The scrutiny that comes from having public access to foster parent licensure files is believed by some to contribute to the protection of children in foster care. On the other hand, the Department of Children and Family Services reports that the Florida State Foster Parent Association has had discussions with the department for several years on the need for additional protection for foster parents. The department also reports that public access to identifying and personal information about foster parents may discourage some potential foster parents from applying for licensure.

The department reports that from January 1, 1997, to June 30, 1997, approximately 50 percent of adoptions of children in state custody were by foster parents.

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

The bill amends s. 409.175, F.S., by providing for the exemption of certain specified information in the foster parent licensure file from the open government provisions in s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. The information which would be exempt includes such things as the home, work and school addresses of licensees and other family and household members; the licensee's home floor plan; telephone numbers; photographs; identifying information in neighbor references; and identifying information in sensitive, personal information about the licensee, his or her spouse, children, or other household members. This provision would apply to all individuals who were foster parents and became adoptive parents.

Information in the licensure file which would continue to be available for public scrutiny includes such things as the name of the licensee, the training received, the number and kind of children the person is licensed to care for, any arrest records and sanitation reports, a description of the physical environment, and any corrective actions which may have been taken.

The bill includes legislative findings to justify the creation of the exemptions. The cited justification for the exemption include lessening of the risk that foster parents and their families face from threats, harrasment, or physical harm or other injury from parents and relatives of children in foster care; and to minimize any negative effects on the recruitment and retention of foster parents caused by the availability of sensitive information about foster parents.

The exemption for foster care records is repealed, subject to prior legislative review, on October 2, 2003.

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

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

None.

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

Senate Bill 108 would exempt specified records associated with foster care licensure. A statement of the public necessity justifying the exemption is included. For this reason, the provisions of SB 108 appear to conform with the requirements of s. 24(c), Art. I, Fla. Const.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Children, Families and Seniors:

Clarifies that the exemption provision in SB 108 applies to family foster homes licensed under s. 409.175, F.S., which includes but is not limited to foster parents who become adoptive parents.