

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 772

SPONSOR: Committee on Children and Families and Senator Sanderson

SUBJECT: Public Records/Child Support Service

DATE: March 9, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dowds	Whiddon	CF	Favorable/CS
2.	_____	_____	GO	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The Committee Substitute for SB 772 provides confidentiality and exemption from public records disclosure for identifying information regarding non-Title IV-D individuals served by county child support enforcement agencies. This confidentiality and disclosure exemption is basically the same as is provided to individuals served through the Department of Revenue’s child support enforcement program. The bill provides limitations for the disclosure of identifying information. Non-Title IV-D county child support enforcement agencies are prohibited from disclosing identifying information to the person against whom a protective order has been entered if there is reason to believe that the release of such information could result in harm to the individual or the child. The bill also contains a statement of public necessity for the exemption.

This bill creates a new section of the Florida Statutes.

II. Present Situation:

Public Records

Section 24 of Article I of the Florida Constitution provides the right of access to public records by stating that every person has the right to inspect or copy any public records made or received in connection with official state business. This right of access to public records applies to the legislative, executive, and judicial branches of government; counties, municipalities, and districts; and each constitutional officer, board, commission, or entity created pursuant to law or by the Constitution. Exemptions may be provided by general law based on an expressed statement of public necessity which justifies the exemption that can be no broader than necessary to accomplish the purpose of the law.

The corresponding general law is found in ch. 119, F.S., which requires the custodian of a public record to permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under the supervision of the custodian of the public record or the custodian's designee [s. 119.07(1), F.S.]. Chapter 119, F.S., also provides additional requirements for the establishment of a public records exemption. There must be an identifiable public purpose and it must be no broader than necessary to meet the public purpose it serves [s. 119.15(4)(b), F.S.]. The public purpose must be sufficiently compelling to override the strong public policy of open government such that the public purpose cannot be accomplished without the exemption and satisfies one of three other criteria relating to the sensitivity and confidentiality of the information.

The Open Government Sunset Review Act of 1995 provides for the automatic 5-year review and repeal of an exemption under the Public Records Act, unless the Legislature acts upon it to re-enact the exemption (s.119.15, F.S.).

Child Support Enforcement

The Department of Revenue is the state agency responsible for the administration of the child support enforcement program as required by Title IV-D of the Social Security Act (s. 409.2557, F.S.). The services of the department's child support enforcement program include establishment of paternity and child support orders, enforcement of support orders, and distribution of child support collection for all recipients of public assistance, as well as for individuals who are not recipients of public assistance but request the services of the program. The Department of Revenue, through the Title IV-D requirements for the child enforcement program, is also responsible for some of the state systems established to facilitate the collection and disbursement of child support payments, including the parent locator service, State Case Registry and State Disbursement Unit, each of which contain requirements relative to access to information.

Section 409.2577, F.S., requires the Department of Revenue to establish a parent locator service to assist in locating parents who have deserted their children and to assist in locating other individuals who have an obligation of support. The locator service is required to use all sources of information available and may request and is to receive information from any person or the state or any of its political subdivisions or any officer thereof. The department can disapprove an application for location services if there is reasonable evidence of domestic violence or child abuse and the disclosure of the information could be harmful to the custodial parent or child.

The State Case Registry contains records for each case in which services are being provided by the Title IV-D agency and for each non-Title IV-D case where the support order was established or modified in the state on or after October 1, 1998 (s. 61.1825, F.S.). A mechanism is provided to protect families where domestic violence or child abuse may result if the information on the family in the State Case Registry is disclosed.

Section 61.1824, F.S., creates the State Disbursement Unit to provide one central address for the collection and disbursement of child support payments made in all Title IV-D cases and in non-Title IV-D cases in which the initial support order was issued in this state on or after

January 1, 1994. Local depositories operated by the Clerk of the Circuit Court are required to transmit data regarding the child support payment to the State Disbursement Unit.

Information concerning parents receiving services through the Department of Revenue's Title IV-D child support enforcement program is provided confidentiality and exemption from disclosure as required by s. 119.07(1), F.S., pursuant to s. 409.2579, F.S. Use or disclosure of the information is provided for and limited to the administration of the plans and programs provided under certain sections of the Social Security Act, any investigation or proceeding connected with the administration of these plans or programs, the administration of other federal or federally assisted programs which provide services on the basis of need, reporting abuse or neglect to the appropriate agency, and identifying and location information for the State Case Registry. The Department of Revenue's child support enforcement program is prohibited from disclosing any information that identifies the parents to federal, state or local legislative bodies or committees if a protective order has been entered or if there is reason to believe that the release of the information will result in harm to the parents or child.

The Department of Revenue contracts with the Clerk of the Circuit Court in Manatee County and the State Attorney for the Eleventh Judicial Circuit for the provision of its Title IV-D child support enforcement program in those counties. The confidentiality and exemption from disclosure provided to applicants for and recipients of the Title IV-D child support enforcement services provided by the Department of Revenue are also provided to the parents receiving Title IV-D through these contracts.

In some other counties, the Clerk of the Circuit Courts or the county government has established child support enforcement programs to assist non-Title IV-D parents with enforcement of their child support orders which compliment their local depository services for the collection of child support payments. With the exception of Broward County, the child support enforcement services are offered by the Clerks of the Circuit Courts. The services of these county programs mirror many of the enforcement services offered by the Department of Revenue but vary in type and level of assistance. In Broward County, a comprehensive child support enforcement program for non-Title IV-D parents is offered through County Administration, instead of the Clerks of the Circuit Courts. As with the Title IV-D parents, information on some of the non-Title IV-D parents served through these county based programs is required to be maintained or accessible to the parent locator service, State Case Registry, and State Disbursement Unit.

While Title IV-D parents are provided with the protection of confidentiality for the sensitive and detailed information obtained during the enforcement process, non-Title IV-D parents receiving child support enforcement services through either the county or the Clerks of the Circuit Court are not provided the same protection. As a result of the services provided through these county child support enforcement programs, sensitive information is on file which is not protected by the Department of Revenue's public records exemption.

III. Effect of Proposed Changes:

CS/SB 772 provides confidentiality and exemption from public records disclosure for non-Title IV-D cases served by county child support enforcement programs.

Section 1. provides that the identifying information of individuals seeking or receiving child support services held by a non-Title IV-D county child support enforcement agency is confidential and exempt from public disclosure pursuant to s. 119.07(1), F.S. and s. 24(a) of Article 1 of the State Constitution. The section limits the disclosure of this information to the following three purposes:

- any investigation, prosecution, or criminal or civil proceeding connected with the administration of the non-Title IV-D county child support enforcement program;
- mandatory disclosure of certain identifying and location information required for the State Case Registry, pursuant to s. 61.13(9), F.S.; and
- mandatory disclosure of certain information for the parent locator services (s. 409.2577, F.S.); for the State Disbursement Unit (s. 61.181, F.S.); between the local depositories, state case registry system and State Disbursement Unit (s. 61.1826, F.S.); for the State Case Registry that was not provided for in s. 61.13(9), F.S.; and as required by Title IV-D of the Social Security Act.

The bill prohibits a Non-Title IV-D county child support enforcement agency from disclosing information that identifies an applicant or recipient of child support services or the location of such individual or child to a person against whom a protective order has been entered if the county child support enforcement agency has reason to believe that the release of that information could result in physical or emotional harm to the individual or child.

A “Non-Title IV-D county child-support-enforcement agency” is defined as a department, division, or other agency of a county government which is operated by the county to provide child support enforcement and depository services to county residents and specifically excludes local depositories, provided in s. 61.181, F.S, that are operated by the Clerks of the Court. At this time, only Broward County would be provided with the confidentiality and exemption from disclosure based on this definition. However, other counties choosing in the future to offer child support enforcement and depository services through a county office other than the Clerks of the Court would be provided the protection of this public records provision.

The bill provides for the review and repeal of the exemption created by the bill under the Open Government Sunset Review Act of 1995.

Section 2. provides for a statement of public necessity for the exemption of identifying information concerning applicants for and recipients of child support services which is in the possession of non-Title IV-D county child support enforcement agencies. The justification for the exemption is that individuals receiving child support services from the Title IV-D agency are afforded protections for personal identifying information and those same protections should be extended to those individuals receiving child support services from non-Title IV-D county child support enforcement agencies.

Section 3. provides an effective date for the bill of July 1, 2001.

CS/SB 772 provides individuals receiving child support services through the non-Title IV-D county child support enforcement agencies with basically the same confidentiality and exemption from disclosure as individuals receiving child support services through the Department of Revenue's child support enforcement program.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

CS/SB 772 exempts from disclosure under statutory and constitutional law any information that reveals the identity of applicants for or recipients of child support services in the possession of non-Title IV-D county child support enforcement agencies.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 24 of Article I of the State Constitution establishes a constitutional right of access to any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except those records exempted otherwise by law or specifically made confidential by the constitution.

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:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
