

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1969 (formerly PCB PS 04-22) Public Records Exemption
SPONSOR(S): Public Safety & Crime Prevention
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2704

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Public Safety & Crime Prevention</u>	<u>19 Y, 0 N</u>	<u>Cole</u>	<u>De La Paz</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Current law authorizes each county to create an independent special district to oversee children’s services throughout the county. There is not currently a public records exemption for the children’s identifying information that allows these entities to keep the children’s information confidential.

HB 1969 creates a public records exemption for children’s’ services councils, juvenile welfare boards, or any other similar named entity created under s.125.901, F.S. All information that could identify the child or reasonably lead to their identification, directly or through the identification of a parent(s) will be exempt from public records requests. The bill allows a sunset provision to occur on October 1, 2009. At that time, the Legislature must renew the law or it will expire.

The bill requires a two-thirds vote of the members present and voting for passage since it creates a new public records exemption.

There does not appear to be a fiscal impact to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|-----------------------------------------|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Article I, s. 24(a), Florida Constitution, sets forth the state’s public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

The Legislature may, however, provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24, Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07(1), F.S., also guarantees every person a right to inspect, examine, and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act of 1995¹ provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes: 1. Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption; 2. Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual’s safety. However, only the identity of an individual may be exempted under this provision; or, 3. Protecting trade or business secrets.

Section 125.901, F.S. authorizes each county to create a special district to oversee the needs of children in that particular area. Statistical data is used by the many programs overseen by these boards that can be used to identify individual children. There is not currently any public records exemption for the information the special districts collect and utilize to do their work.

HB 1969 creates a public records exemption for these special districts by whatever name they may be called as long as they were created under s. 125.901, F.S. The bill exempts any information that could identify a child including the name, addresses, telephone number, social security number, photograph, or any other information that would reasonably lead to the identification of any child. This could be direct identification or be indirect, like through the identification of a parent(s).

The bill provides a Legislative finding that there is a compelling state interest to exempt these records from public scrutiny in order to minimize any opportunity for the use of such information to facilitate stalking, harassment, abduction, or abuse of any child who is the subject of such information.

¹ Section 119.15, F.S.

C. SECTION DIRECTORY:

Section 1: Amends S. 119.07(3), F.S., relating to the inspection, examination, and duplication of records.

Section 2: Relates to the compelling state interest for the need for the public records exemption.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There does not appear to be any fiscal impact to this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable.

2. Other:

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. HB 1969 then requires a two-thirds vote of the members in the House for passage.

B. RULE-MAKING AUTHORITY:

No rule making authority is necessary to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Public Safety and Crime Prevention Committee adopted three amendments on April 14, 2004. Amendment 1 clarified the types of welfare boards and children's services councils that were to be covered under this public records exemption. Amendment 2-3 more narrowly construed the public records exemption by removing the language "any other information" from the list of information which would be exempt.