

By Senator Fasano

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 400.0077, F.S., relating to the State Long-Term Care
4 Ombudsman program; providing an exemption from public-
5 records requirements for the home addresses, telephone
6 numbers, places of employment, and photographs of
7 ombudsmen, employees, and their families; providing
8 for future repeal and legislative review of the
9 exemption under the Open Government Sunset Review Act;
10 providing a statement of public necessity; providing
11 an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 400.0077, Florida Statutes, is amended
16 to read:

17 400.0077 Confidentiality.—

18 (1) The following are confidential and exempt from ~~the~~
19 ~~provisions of s. 119.07(1) and s. 24(a), Art. I of the State~~
20 Constitution:

21 (a) Resident records held by the ombudsman or by the state
22 or a local ombudsman council.

23 (b) The names or identities of the complainants or
24 residents involved in a complaint, including any problem
25 identified by an ombudsman council as a result of an
26 investigation, unless:

27 1. The complainant or resident, or the legal representative
28 of the complainant or resident, consents to the disclosure in
29 writing;

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30 2. The complainant or resident consents orally and the
31 consent is documented contemporaneously in writing by the
32 ombudsman council requesting such consent; or

33 3. The disclosure is required by court order.

34 (c) Any other information about a complaint, including any
35 problem identified by an ombudsman council as a result of an
36 investigation, unless the ~~an~~ ombudsman council determines that
37 the information does not meet any of the criteria specified in
38 s. 119.15(6)(b) ~~s. 119.14(4)(b)~~; or unless the information is to
39 collect data for submission to those entities specified in s.
40 712(c) of the federal Older Americans Act for the purpose of
41 identifying and resolving significant problems.

42 (d) The home addresses, telephone numbers, places of
43 employment, and photographs of certified ombudsmen and employees
44 of the state and local councils; the home addresses, telephone
45 numbers, and places of employment of their spouses and children;
46 and the names and locations of schools and day care facilities
47 attended by their children. This exemption does not apply to a
48 state or federal agency that is lawfully authorized to have
49 access to such information in furtherance of its statutory
50 duties. This paragraph is subject to the Open Government Sunset
51 Review Act in accordance with s. 119.15, and shall stand
52 repealed on October 2, 2015, unless reviewed and saved from
53 repeal through reenactment by the Legislature.

54 (2) That portion of an ombudsman council meeting in which
55 an ombudsman council discusses information that is confidential
56 and exempt from ~~the provisions of~~ s. 119.07(1) is closed to the
57 public and exempt from ~~the provisions of~~ s. 286.011.

58 (3) All other matters before the council are ~~shall be~~ open

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59 to the public and subject to chapter 119 and s. 286.011.

60 (4) Members of the ~~any~~ state or local ombudsman council are
61 ~~shall not be~~ required to testify in ~~any~~ court with respect to
62 matters held to be confidential under s. 429.14 except as ~~may be~~
63 necessary to enforce the provisions of this part act.

64 (5) Subject to the provisions of this section, the Office
65 of State Long-Term Care Ombudsman shall adopt rules for the
66 disclosure by the ombudsman or local ombudsman councils of files
67 maintained by the program.

68 (6) This section does not limit the subpoena power of the
69 Attorney General pursuant to s. 409.920(10)(b).

70 Section 2. The Legislature finds that it is a public
71 necessity that the home addresses, telephone numbers, places of
72 employment, and photographs of certified ombudsmen and employees
73 of the State Long-Term Care Ombudsman program; the home
74 addresses, telephone numbers, and places of employment of their
75 spouses and children; and the names and locations of schools and
76 day care facilities attended by their children be made exempt
77 from public-records requirements. Release of such identifying
78 and location information might place such persons and their
79 family members in danger of physical and emotional harm from
80 disgruntled owners and employees of long-term care facilities
81 subject to inspection by the program. Therefore, the harm that
82 might result from the release of such information outweighs any
83 public benefit that could be derived from its disclosure.

84 Section 3. This act shall take effect July 1, 2010.