

By the Committee on Children, Families, and Elder Affairs; and
Senators Fasano and Storms

586-02493-10

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 400.0077, F.S.; providing an exemption from public-
4 records requirements for personal identifying and
5 location information of any certified ombudsman or
6 employee of the Office of State Long-Term Care
7 Ombudsman within the Department of Elderly Affairs and
8 the spouses and children of such ombudsmen or
9 employees; correcting an obsolete reference; providing
10 for future review and repeal of the exemption;
11 providing a finding of public necessity; providing an
12 effective date.

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

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16 Section 1. Subsection (1) of section 400.0077, Florida
17 Statutes, is amended to read:

18 400.0077 Confidentiality.—

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

22 ~~1.(a)~~ Resident records held by the ombudsman or by the
23 state or a local ombudsman council.

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

28 ~~a.1.~~ The complainant or resident, or the legal
29 representative of the complainant or resident, consents to the

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30 disclosure in writing;

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

34 ~~c.3.~~ The disclosure is required by court order.

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

43 4.a. The home addresses, telephone numbers, places of
44 employment, if any, and photographs of certified ombudsmen or
45 employees of the Office of State Long-Term Care Ombudsman; the
46 home addresses, telephone numbers, and places of employment of
47 the spouses and children of such ombudsmen or employees; and the
48 names and locations of schools and day care facilities attended
49 by the children of such ombudsmen or employees.

50 b. A state or federal agency that is authorized to have
51 access to the information in sub-subparagraph a. under any
52 provision of law shall be granted such access in furtherance of
53 the agency's statutory duties, notwithstanding the provisions of
54 this subsection.

55 (b) Paragraph (a) is subject to the Open Government Sunset
56 Review Act in accordance with s. 119.15 and shall stand repealed
57 on October 2, 2015, unless reviewed and saved from repeal
58 through reenactment by the Legislature.

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59 Section 2. The Legislature finds that it is a public
60 necessity that personal identifying and location information of
61 certified ombudsmen or employees of the Office of State Long-
62 Term Care Ombudsman within the Department of Elderly Affairs and
63 the spouses and children of such ombudsmen or employees be made
64 confidential and exempt from public-records requirements. Under
65 the State Long-Term Care Ombudsman Program, a long-term care
66 ombudsman is a designated representative of the program who
67 helps to improve the lives of people who live in long-term care
68 settings such as nursing homes, assisted living facilities, and
69 adult family care homes by working to identify, explore, and
70 resolve the concerns of residents and their loved ones and
71 performing annual assessments of all long-term care facilities
72 in the state from a resident's perspective. Long-term care
73 ombudsmen explore thousands of complaints in long-term care
74 facilities each year. Because the personal information of long-
75 term care ombudsmen and employees of the Office of State Long-
76 Term Care Ombudsman is not currently exempt from disclosure, any
77 person who files a public-records request can obtain the home
78 address, phone number, photograph, and place of employment of an
79 ombudsman or employee. In addition, the names, home addresses,
80 telephone numbers, and places of employment of the spouses and
81 children of ombudsmen and employees and the names of schools and
82 day care facilities attended by an ombudsman's or employee's
83 children are not exempt from disclosure. Much of this
84 information can be found in the ombudsman's or employee's
85 program membership application, which is a public record. This
86 raises privacy and safety concerns among ombudsmen and
87 employees, most of whom are volunteers and many of whom are

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88 themselves elders. Exempting the personal information of
89 ombudsmen or employees and the personal identifying and location
90 information of the spouses and children of such ombudsmen or
91 employees from disclosure will provide the ombudsmen and
92 employees with a sense of security, eliminate fears of
93 harassment and retaliation, and allay concerns about identity
94 theft. Making the information exempt will also lead to increased
95 volunteer retention without negatively impacting the
96 individual's who request the program's documents. Therefore, it
97 is the finding of the Legislature that the reasons set forth
98 herein necessitate the exemption.

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