

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 1436

INTRODUCER: Children, Families, and Elder Affairs Committee; Senators Flores and Bullard

SUBJECT: Public Records/Location of Safe Houses

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1436 provides a public records exemption for information about the location of safe houses and other facilities housing victims of human trafficking, as defined in s. 787.06, F.S. Specifically, the bill provides that the information regarding the location of safe houses that is held by an agency is confidential and exempt. However, the bill provides that the location of safe houses and safe foster homes may be provided to an agency to address emergency situations. The bill provides that the public records exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

The bill will take effect on the same date that SB 1440 or similar legislation takes effect.

Article I, s. 24(c), State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records exemption. The bill creates a public records exemption; thus, it requires a two-third vote for final passage.

II. Present Situation:

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

however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State 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.¹

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act² provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without an exemption;
- Protects 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; and
- Protects trade or business secrets.

Florida law defines human trafficking as “soliciting, recruiting, harboring, providing, enticing, maintain, or obtaining another person for the purpose of exploitation of that person.”³ Human trafficking is a form of modern-day slavery, which involves the exploitation of persons for commercial sex or forced labor.⁴ Trafficking subject victims to force, fraud, or coercion.⁵ Children experiencing this type of sexual exploitation often become bonded with their exploiters and do not see themselves as victims. These children experience trauma and are exposed to danger, but are often unable to leave their exploiter to seek help.

The Safe Harbor Act provided for “safe houses.” Safe houses are homes for sexually exploited children who have been adjudicated dependent or delinquent and need to reside in a secure⁶ residential facility.⁷ Safe houses must provide a living environment that has set aside gender-specific, separate, and distinct living quarters for sexually exploited children and must have awake staff members on duty 24 hours a day. Safe houses must also hold a license as a family foster home or residential child-caring agency. Each facility must be appropriately licensed in this state as a residential child-caring agency as defined in s. 409.175, F.S., and must have applied for accreditation within one year after being licensed.⁸ A safe house serving children

¹ FLA. CONST. art. I, s.24(c)

² Section 119.15, F.S.

³ Section 787.06(2)(d), F.S.

⁴ Section 787.06(1)(a), F.S.

⁵ *Id.*

⁶ The term “secure” is defined as a facility providing services and supervised 24 hours a day by staff members who are awake while on duty.

⁷ Section 409.1678(1)(b), F.S.

⁸ According to DCF, there are currently no entities that provides accreditation to safe houses and safe houses are not sure what type of accreditation they are required to have. No safe houses have applied for accreditation at this time.

who have been sexually exploited must have available staff or contract personnel who have the clinical expertise, credentials, and training to provide:

- Security;
- Crisis intervention services;
- General counseling and victim-witness counseling;
- A comprehensive assessment;
- Residential care;
- Transportation;
- Access to behavioral health services;
- Recreational activities;
- Food;
- Clothing;
- Supplies;
- Infant care;
- Miscellaneous expenses associated with caring for these children;
- Necessary arrangement for or provision of educational services, including life skills services and planning services for the successful transition of residents back to the community; and
- Ensuring necessary and appropriate health care and dental care.⁹

The Department of Children and Families (DCF) or the local community-based care organization is required to assess sexually exploited dependent children for placement in a safe house if the child is older than six years of age. The assessment is required to incorporate and address the following:

- Current and historical information from any law enforcement reports;
- Psychological testing or evaluation that has occurred;
- Current and historical information from the guardian ad litem, if one has been assigned;
- Current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child; and
- Any other information concerning the availability and suitability of safe-house placement.

The child may be placed in a safe house if such placement is determined to be appropriate as a result of this assessment and if one is available, but placement is not required.¹⁰ There are currently two safe houses in Florida, with a total of 11 beds statewide. If a trafficker learned the location of a safe house and went to the safe house, the safe house staff and individuals residing in the safe house could be in danger of physical and/or emotional harm.

III. Effect of Proposed Changes:

Section 1 amends s. 409.1678, F.S., to provide that information held by an agency as defined in s. 119.011, F.S., about the location of safe houses and safe foster homes is confidential and exempt from s. 119.07(1), F.S. and s. 24(a), Art. I of the State Constitution. Information about the location of safe houses and safe foster homes may be provided to an agency as defined in

⁹ Section 409.1671, F.S.

¹⁰ Section 39.524, F.S.

s. 119.011, F.S., as necessary to maintain health and safety standards and to address emergency situations that may occur in safe houses and safe foster homes.

The section also provides that the exemption is subject to the Open Government Sunset Review Act and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 provides a statement of public necessity as required by Section 24(c), Art. I of the State Constitution.

Section 3 provides for an effective date contingent upon the passage of SB 1440 or similar legislation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records exemption. The bill creates a public records exemption; thus, it requires a two-thirds vote for final passage.

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly-created or expanded public record or public meeting exemption. The bill expands current public record exemptions; thus, it includes a public necessity statement.

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for information relating to the identification and location of safe houses. The exemption does not appear to be in conflict with the constitutional requirement that the exemption must be no broader than necessary to accomplish its purpose.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 409.1678 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Children, Families, and Elder Affairs on April 1, 2014:**

The Committee Substitute:

- Provides that information held by an agency as defined in s. 119.011, F.S., about the location of safe houses and safe foster homes are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.
- Provides that information about the location of safe houses and safe fosters homes may be provided to an agency as defined in s. 119.011, F.S., as necessary to maintain health and safety standards and to address emergency situations in the safe house and safe foster home.

B. Amendments:

None.