

**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.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: CS/SB 7010

INTRODUCER: Governmental Oversight and Accountability Committee and Military and Veterans Affairs and Space Committee

SUBJECT: OGSR/ Servicemembers and the Spouses and Dependents of Servicemembers

DATE: January 14, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Brown</u>	<u>Caldwell</u>		<b>MS Submitted as Committee Bill</b>
1.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	<b>Fav/CS</b>
2.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 7010 amends s. 119.0171(5)(k), Florida Statutes, to save from repeal the current exemption for contact information of a servicemember and his or her family that is held by an agency. Specifically, the exemption protects from public inspection and copying identification and location information of current or former active duty servicemembers who served after September 11, 2001, for the United States Armed Forces, a reserve component of the Armed Forces, or the National Guard. The exemption is scheduled for repeal October 2, 2020.

Protected information consists of the:

- Home address, telephone number, and date of birth of a servicemember;
- Home address, telephone number, date of birth, and place of employment of a spouse or dependent; and
- Name and location of a school attended by a spouse or dependent or a day care facility attended by a dependent.

The bill also removes the requirement that the servicemember include a statement that reasonable efforts have been made to otherwise protect the information from public access in their written request to an agency to have qualified information exempted, which expands the exemption. The bill provides for future legislative review and repeal on October 2, 2025, unless the Legislature saves the exemption from repeal before that date.

Because the bill expands the public records exemption, a two-thirds vote by each house of the Legislature is required for its passage.

This bill takes effect October 1, 2020.

## II. Present Situation:

### Access to Public Records – Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, Florida Statutes (F.S.), provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.<sup>3</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, chapter 119, F.S., provides requirements for public records held by executive agencies.

### Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.<sup>5</sup>

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”<sup>7</sup>

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

<sup>2</sup> *Id.*

<sup>3</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

<sup>4</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4<sup>th</sup> DCA 2018).

<sup>5</sup> Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person's right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>8</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>9</sup>

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.<sup>10</sup> The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>11</sup>

General exemptions from the public records requirements are contained in the Public Records Act.<sup>12</sup> Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.<sup>13</sup>

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." Custodians of records designated as "exempt" are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.<sup>14</sup> Custodians of records designated as "confidential and exempt" may not disclose the record except under circumstances specifically defined by the Legislature.<sup>15</sup>

### **Open Government Sunset Review Act**

The Open Government Sunset Review Act<sup>16</sup> (the Act) prescribes a legislative review process for newly created or substantially amended<sup>17</sup> public records or open meetings exemptions, with specified exceptions.<sup>18</sup> It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>19</sup>

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<sup>8</sup> Section 119.07(1)(a), F.S.

<sup>9</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>10</sup> FLA. CONST. art. I, s. 24(c).

<sup>11</sup> *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

<sup>12</sup> *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

<sup>13</sup> *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

<sup>14</sup> *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

<sup>15</sup> *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

<sup>16</sup> Section 119.15, F.S.

<sup>17</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>18</sup> Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>19</sup> Section 119.15(3), F.S.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>20</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;<sup>21</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>22</sup> or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>23</sup>

The Act also requires specified questions to be considered during the review process.<sup>24</sup> In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>25</sup> If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.<sup>26</sup>

### **Public Records Exemption for Contact Information of Servicemembers**

On November 30, 2014, the Federal Bureau of Investigation (FBI) and the Department of Homeland Security (DHS) issued a Joint Intelligence Bulletin, *Islamic State of Iraq and the Levant and Its Supporters Encouraging Attacks Against Military Personnel* (Joint Bulletin).<sup>27</sup> In

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<sup>20</sup> Section 119.15(6)(b), F.S.

<sup>21</sup> Section 119.15(6)(b)1., F.S.

<sup>22</sup> Section 119.15(6)(b)2., F.S.

<sup>23</sup> Section 119.15(6)(b)3., F.S.

<sup>24</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>25</sup> See generally s. 119.15, F.S.

<sup>26</sup> Section 119.15(7), F.S.

<sup>27</sup> Federal Bureau of Investigation (FBI) and Department of Homeland Security (DHS), *Joint Intelligence Bulletin, Islamic State of Iraq and the Levant and Its Supporters Encouraging Attacks Against Military Personnel* (Nov. 30, 2014)(on file with the Senate Committee on Military and Veterans Affairs and Space).

it, the FBI and the DHS warn of potential attacks by the Islamic State of Iraq and the Levant (ISIL) on current and former servicemembers.<sup>28</sup> Specifically the report states,

The FBI recently received reporting indicating individuals located overseas are spotting and assessing like-minded individuals in the United States who are willing and capable of conducting attacks against current and former US-based members of the United States military.<sup>29</sup>

Based on this, the Joint Bulletin urged servicemembers to be mindful of their content and presence on online social media accounts.<sup>30</sup>

In 2015, the Legislature enacted a public records exemption for the contact and location information of a servicemember and his or her family.<sup>31</sup> Specifically, the public records exemption protects from disclosure the identification and location information of current or former active duty servicemembers who served after September 11, 2001 of:

- The United States Armed Forces;
- A reserve component of the Armed Forces; or
- The National Guard.

The public records exemption protects from disclosure the identification and location information of the servicemember, his or her spouse, and his or her dependents. The information protected by the exemption consists of the:

- Home address, telephone number (including the telephone number of a personal communications device), and date of birth of a servicemember;
- Home address, telephone number (including the telephone number of a personal communications device), date of birth, and place of employment of the spouse or dependent of a servicemember; and
- Name and location of a school attended by the spouse of a servicemember or a school or day care facility attended by a dependent of a servicemember.

The servicemember must request the exemption in writing and include a statement that the servicemember has made reasonable efforts to protect the information from public access through other means. The term “reasonable efforts” is not defined in law.

The original public necessity statement articulates as justification for the exemption that without the exemption the safety of servicemembers, their spouses, and their dependents is jeopardized. Specifically, the public necessity statement provided:

Servicemembers perform among the most critical, most effective, and most dangerous operations in defense of our nation’s freedom. Terrorist groups have threatened servicemembers and their families and have encouraged terrorist sympathizers to harm servicemembers and their families within the United

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<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at p. 2.

<sup>30</sup> *Id.* at p. 2.

<sup>31</sup> Chapter 2015-86, L.O.F.

States. One terrorist group has allegedly gathered the photographs and home addresses of servicemembers from public sources to create and publish a list of servicemembers in order to make such persons vulnerable to an act of terrorism.<sup>32</sup>

The public records exemption is scheduled to repeal on October 2, 2020.

## **Open Government Sunset Review**

### ***Survey on Public Records Exemption***

During the interim of 2019, Senate and House staff drafted a survey to query various entities on the public records exemption.<sup>33</sup> Staff sent the survey to 23 state agencies, and the associations for the supervisors of elections and the property appraisers for distribution. Staff received 80 responses, or 51 percent:

- State agencies - Of 22 surveyed, 18 responded, for an 82 percent response rate<sup>34</sup>;
- Supervisors of Elections - Of 67 surveyed, 21 responded, for a 31 percent response rate; and
- Property Appraisers. - Of 67 surveyed, 41 responded, for a 61 percent response rate.

### ***Requests for Public Record Exemption***

When asked about the number of requests made since the exemption took effect, the year 2015, entities receiving the top requests are as follows:

- Agencies - The Department of Highway Safety and Motor Vehicles received 512 requests, the Fish and Wildlife Conservation Commission received 34, and the Department of Law Enforcement received 20 to date;
- Supervisors of Elections - Volusia County received 1,465 requests, Pinellas received 325, and Okaloosa received 243 requests to date;
- Property Appraisers - Brevard County received 1,000 requests; Miami-Dade received 95, and Pinellas County received 76 requests to date.<sup>35</sup>

Many entities responded that they have received zero requests for this exemption<sup>36</sup>, and a few did not answer whether they had received requests.

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<sup>32</sup> *Id.*

<sup>33</sup> *Open Government Sunset Review Questionnaire, Identification and Location Information of Servicemembers* (July 2019)(on file with the Senate Committee on Military and Veterans Affairs and Space).

<sup>34</sup> Surveys were sent to the Departments of Agriculture and Consumer Services, Business and Professional Regulation, Children and Families, Corrections, Economic Opportunity, Education, Elder Affairs, Environmental Protection, Financial Services, Health, Highway Safety and Motor Vehicles, Juvenile Justice, Law Enforcement, Legal Affairs, Lottery, Management Services, Military Affairs, Revenue, State, Transportation, Veterans' Affairs, and the Fish and Wildlife Conservation Commission.

<sup>35</sup> A number of agencies and counties report that they maintain data on requests for public records exemptions in the aggregate, so that they have no way of discerning how many requests are made for this specific public records exemption.

<sup>36</sup> Entities reporting that they have not received any requests for this public records exemption are: Agencies - the Departments of Corrections, Economic Opportunity, Environmental Protection, Health, Juvenile Justice, and Legal Affairs; Property Appraisers - Alachua, Baker, Bradford, Charlotte, Columbia, Desoto, Dixie, Gilchrist, Gulf, Hardee, Hendry, Indian River, Liberty, Madison, Okeechobee, Putnam, Taylor, Union, and Wakulla counties; and Supervisors of Election - Citrus, Collier, Holmes, and Union counties.

### ***Process for Request of Public Record Exemption***

Respondents were asked if the agency has a process in place for a servicemember to request a public records exemption. Entities responded that some provide a form, online, in person or both while others handle it case by case. Several agencies include a public records exemption request form in the packet provided to new employees. Forms typically provide a checkoff list of available exemptions.<sup>37</sup> A number of counties specifically identify form DOS-119, provided by the Florida Department of State, as the Public Records Exemption Request form in use by their office.<sup>38</sup> The form requires servicemembers to have served after September 11, 2001, and for the applicant to certify, in signing the form that reasonable efforts have been made to protect the information from public disclosure.<sup>39</sup>

### ***Complaints About Public Records Exemption***

When asked whether the agency has received complaints about the exemption, nine entities responded that they had received at least one. Most complaints were made to the Property Appraiser and may indicate the unique nature of the information maintained by their office and accessed for various purposes. As noted by the St. Johns County Property Appraiser:

We occasionally hear verbal complaints, because once someone has made their information confidential within our office, we can no longer discuss any sort of property information with them electronically or over the phone. Further, other organizations or departments (such as the building department) cannot look up the tax payer's information electronically. So, if the taxpayer is trying to pull a permit, or refinance their house, they physically have to come in with their driver's license or ID to receive such information when usually those organizations can simply pull it from our website.<sup>40</sup>

### ***Recommendation on Exemption***

When asked whether an entity would recommend continuing the exemption, of total respondents, 37 recommended reenacting the exemption as is. In contrast, 25 respondents recommended reenactment with changes. Of these, 10 respondents recommended deleting the reasonable efforts requirement or defining the term.<sup>41</sup> Twelve other respondents specifically requested that the Legislature lift the restriction on the post-September 11, 2001 date.<sup>42</sup> Remaining respondents either did not answer the question or specified that they wished to remain neutral.

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<sup>37</sup> These are the Departments of Education, Environmental Protection, Financial Services, Health, Legal Affairs, Management Services, Military Affairs, and Revenue.

<sup>38</sup> These are Bay, Collier, Flagler, Levy, Monroe, Pinellas, Putnam, Volusia, and Walton counties.

<sup>39</sup> Florida Department of State, *Public Records Exemption Request, Form DOS-119; Rev. 06/2015*; available at: <https://dos.myflorida.com/media/695507/public-records-exemption-formdos-119.pdf>.

<sup>40</sup> St. Johns County Property Appraiser, *Survey Response* (July 18, 2019) (on file with the Senate Committee on Military and Veterans Affairs and Space).

<sup>41</sup> These are: the Florida Department of Law Enforcement; the Property Appraisers of Charlotte, Duval, Hernando, Miami-Dade, Palm Beach, St. Lucie, and Wakulla counties; and the Supervisors of Election of Collier and Union counties.

<sup>42</sup> These are: the Departments of Elder Affairs, Highway Safety and Motor Vehicles, Law Enforcement, and Military Affairs; the Property Appraisers of Brevard and Polk Counties; and the Supervisors of Election of Hernando, Levy, Okaloosa, Pinellas, St. Johns, and Volusia counties.

Only the Alachua County Property Appraiser, St. Johns County Property Appraiser, and Wakulla County Property Appraiser recommended repeal of the exemption.<sup>43</sup>

### ***Current Threat to Servicemembers***

The FBI provided a letter<sup>44</sup> to the Florida Senate updating threats to servicemembers since its issuance of the Joint Bulletin of 2014. In the letter, the FBI submitted that on September 23, 2016, Ardit Ferizi was sentenced to 20 years imprisonment for providing material support to the Islamic State of Iraq and the Levant (ISIL), and accessing databases containing personal identifying information of tens of thousands of people, including military servicemembers and other governmental personnel. Mr. Ferizi subsequently culled the personal identifying information of servicemembers and other government personnel, which totaled about 1,300 individuals, and provided it to an ISIL member, who on August 11, 2015, posted by tweet a hit list that contained the personal identifying information of the individuals.

In February 2019, the FBI Jacksonville Field Office identified 12 new web pages that were hosting the ISIL hit list with all or some of the personal identifying information of the 1,300 individuals. One of the pages states:

O Crusaders, as you continue your ag[g]ression towards the Islamic State and your bombing campaign against the muslims, know that we are in your emails and computer systems, watching and recording your every move ... . [W]e are extracting confidential data and passing on your personal information to the soldiers ... who ... will strike at your necks in your own lands!<sup>45</sup>

### ***Requirement of Reasonable Efforts***

As noted above, what is meant by “a reasonable effort” to protect information from public access is not defined in law. Prior to 2017, various other public record exemptions required the requesting applicant to include a written statement that a reasonable effort had been made to protect the information from other sources.

In 2017, however, the Legislature deleted this requirement from the following exemptions afforded to:

- A general magistrate;
- A special magistrate;
- A judge of compensation claims;
- An administrative law judge of the Division of Administrative hearings;
- A child support enforcement hearing officer;
- A current or former guardian ad litem;
- A current or former investigator or inspector of the Department of Business and Professional Regulation;

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<sup>43</sup> “The concept, first enacted for law enforcement decades ago, has been eclipsed by the continued advancement of available technology.” Alachua County Property Appraiser, *Survey Response* (July 25, 2019) (on file with the Senate Committee on Military and Veterans Affairs and Space).

<sup>44</sup> FBI, *Re: Update on Department of Justice Press Release 16-1085 regarding Ardit Ferizi* (Oct. 11, 2019)(on file with the Senate Committee on Military and Veterans Affairs and Space).

<sup>45</sup> *Id.*



- A county tax collector;
- A current or former employee of the Department of Health;
- A current or former impaired practitioner consultant retained by an agency or whose duties result in a determination of a person's skill and safety to practice a licensed profession;
- A current or former emergency medical technician or paramedic; or
- A current or former employee of an inspector general or internal audit department.<sup>46</sup>

In its public necessity statement, the Legislature notes:

Requiring these personnel prove that they made reasonable efforts to protect their identification and location information is an added burden on these individuals as well as on agencies . . . . The extent to which these individuals must protect their information from public accessibility is unclear. It is also unclear how much proof an agency needs . . . . The burden on an agency . . . adversely impacts the effective and efficient administration of government in establishing who is eligible for an exemption. Relatively few public record exemptions require an individual to prove that he or she made reasonable efforts to protect his or her information . . . . Such inconsistencies among public record exemptions reduce accuracy and efficiency when redacting exempt information . . . . It is not in the public interest for the public to receive inaccurately redacted information.<sup>47</sup>

Currently, in addition to the servicemember exemption the only remaining requirement of reasonable efforts applies to an exemption for a current or former United States attorney, assistant United States attorney, judge of the United States Court of Appeal, United States district judge, or United States magistrate.<sup>48</sup>

### ***Other Exemptions***

Part of the OGSR requires a review of other exemptions that may protect the same public record or meeting, and consideration of whether multiple exemptions may be merged. While it is possible that portions of information may be protected if a servicemember qualifies under another exemption, for example if the servicemember works in law enforcement<sup>49</sup>, s. 119.071(5)(k), F.S., uniquely protects the identifying and location information of servicemembers and their families. Additionally, no other exemption would be appropriate for merging. Therefore, the information and application of this exemption is not duplicated elsewhere in law, nor can it be merged with another exemption.

### **III. Effect of Proposed Changes:**

The public necessity statement for the original exemption provides as justification that without the exemption the safety of servicemembers, their spouses, and their dependents is jeopardized.

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<sup>46</sup> Chapter 2017-66, L.O.F.

<sup>47</sup> *Id.*

<sup>48</sup> Section 119.071(5)(i), F.S.

<sup>49</sup> Section 119.071(4)(d), F.S., provides a public records exemption for home addresses, phone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel.

Based on information received from the FBI, that concern has not lifted. Therefore, the bill reenacts the public record exemption for servicemembers and their families.

Additionally, the bill expands the exemption by removing the requirement that a servicemember provide a statement that reasonable efforts have been made to otherwise protect the information. Removing this requirement reflects concerns expressed by survey respondents in how to define a reasonable effort and is also consistent with the wholesale change that the Legislature made in 2017 in deleting the requirement of reasonable efforts from most other exemptions.

Although some survey respondents also requested that the Legislature expand the exemption to all servicemembers, the bill does not do so, as the intended target of the threat appears to continue to apply to servicemembers who served after September 11, 2001.<sup>50</sup>

The public necessity statement provides that exempting servicemembers' identifying information is required to protect the servicemembers from targeted threats made by terrorist groups.

The bill provides for future legislative review and repeal on October 2, 2025, unless the Legislature saves the exemption from repeal before that date.

Because the bill expands the public records exemption, a two-thirds vote of each house of the Legislature is needed for it to pass.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

##### **B. Public Records/Open Meetings Issues:**

###### ***Vote Requirement***

Article I, s. 24(c) of the State Constitution requires two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. Because the bill expands the public records exemption to include identification and location information for certain servicemembers and their families regardless of the servicemember's efforts to protect such information, a two-thirds vote is required for enactment.

###### ***Public Necessity Statement***

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity

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<sup>50</sup> FBI, *supra* note 40.

justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption which supports the public policy of the exemption.

***Breadth of Exemption***

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect the personal identifying information of servicemembers contained in a record held by government agencies from use by terrorist groups. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The private sector will continue to be subject to the cost associated with an agency making redactions in response to a public records request.

**C. Government Sector Impact:**

The agencies will continue to incur costs relating to the redaction of exempt records.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 119.071 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 Governmental Oversight and Accountability on January 13, 2020:**

The committee substitute revises the public necessity statement to explain that the exemption is meant to thwart targeted threats on servicemembers from terrorist groups.

- B. **Amendments:**

None.