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:	SPB 7008
INTRODUCER:	Children, Families, and Elder Affairs Committee
SUBJECT:	OGSR/Substance Abuse Impaired Persons
DATE:	November 29, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox		**Pre-meeting**

I. Summary:

SPB 7008 saves from repeal the public records exemption for petitions for involuntary assessment and stabilization, court orders, and related records filed with or by a court under Part V of the Marchman Act, relating to involuntary admissions procedures.

The public records exemption stands repealed on October 2, 2022, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act. The bill removes the scheduled repeal of the exemption to continue the confidential and exempt status of the petitions, court orders, and related records.

This bill is effective October 1, 2022.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.[1] This 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.[2]

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.[3] The Public Records Act states that

[1] FLA. CONST., art. I, s. 24(a).
[2] *Id*.
[3] Public records laws are found throughout the Florida Statutes.

> [i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.[4]

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.[5] Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines "public records" to include:

> 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 connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to "perpetuate, communicate, or formalize knowledge of some type."[6]

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person's right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.[7] A violation of the Public Records Act may result in civil or criminal liability.[8]

Only the Legislature may create an exemption to public records requirements.[9] An exemption must be created by general law and must specifically state the public necessity justifying the exemption.[10] Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions[11] and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.[12]

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[4] Section 119.01(1), F.S.
[5] *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).
[6] *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc*., 379 So. 2d 633, 640 (Fla. 1980).
[7] Section 119.07(1)(a), F.S.
[8] Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.
[9] FLA. CONST., art. I, s. 24(c).
[10] *Id.*
[11] The bill may, however, contain multiple exemptions that relate to one subject.
[12] FLA. CONST., art. I, s. 24(c)

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.[13] Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.[14] Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.[15]

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,[16] with specified exceptions.[17] The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.[18] In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

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.[19] 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 subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;[20]
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;[21] or
- It protects trade or business secrets.[22]

The Act also requires specified questions to be considered during the review process.[23] In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

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[13] *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).
[14] *Id.*
[15] *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).
[16] Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.
[17] Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.
[18] Section 119.15(3), F.S.
[19] Section 119.15(6)(b), F.S.
[20] Section 119.15(6)(b)1., F.S.
[21] Section 119.15(6)(b)2., F.S.
[22] Section 119.15(6)(b)3., F.S.
[23] 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?

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.[24] If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.[25]

The Marchman Act

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance abuse.[26] The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.[27] Each of these laws governed different aspects of addiction, and thus had different rules promulgated by the state to fully implement the respective pieces of legislation.[28] However, because persons with substance abuse issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance abuse problem.[29] In 1993, legislation was adopted to combine ch. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).[30]

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.[31] However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.[32] As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.[33]

- 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?

[24] FLA. CONST. art. I, s. 24(c).
[25] Section 119.15(7), F.S.
[26] The Department of Children and Families, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Children, Families, and Elder Affairs Committee).
[27] *Id*.
[28] *Id*.
[29] *Id*.
[30] Chapter 93-39, s. 2, L.O.F., which codified current ch. 397, F.S.
[31] *See* s. 397.601(1) and (2), F.S. An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.
[32] Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at http://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/ (last visited November 20, 2021) (hereinafter cited as "Fundamentals of the Marchman Act").
[33] *Id*.

Involuntary Admissions

The Marchman Act establishes a variety of methods under which substance abuse assessment, stabilization, and treatment can be obtained on an involuntary basis. There are five involuntary admission procedures that can be broken down into two categories depending upon whether the court is involved.[34] Three of the procedures do not involve the court, while two require direct petitions to the circuit court. The same criteria for involuntary admission apply regardless of the admission process used.[35]

An individual meets the criteria for an involuntary admission under the Marchman Act when there is good faith reason to believe the individual is substance abuse impaired and, because of such impairment, has lost the power of self-control with respect to substance use, and either:

- Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that he or she is incapable of appreciating his or her need for such services and of making a rational decision in that regard;[36] or
- Without care or treatment:
  - The person is likely to suffer from neglect or refuse to care for himself or herself;
  - Such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and
  - It is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
  - There is substantial likelihood that the person:
    - Has inflicted, or threatened to or attempted to inflict physical harm on himself, herself, or another; or
    - Is likely to inflict, physical harm on himself, herself, or another unless he or she is admitted.[37]

Non-Court Involved Involuntary Admissions

The three types of non-court procedures for involuntary admission for substance abuse treatment under the Marchman Act include protective custody, emergency admission, and the alternative involuntary assessment for minors.

Law enforcement officers use the protective custody procedure when an individual is substance-impaired or intoxicated in public and such impairment is brought to the attention of the officer.[38] The purpose of this procedure is to allow the person to be taken to a safe environment for observation and assessment to determine the need for treatment. A law enforcement officer may take the individual to their residence, to a hospital, a detoxification center, or an addiction receiving facility, whichever the officer determines is most appropriate.[39]

[34] *Id.*
[35] *Id*.
[36] Section 394.675(2)(a), F.S. However, mere refusal to receive services does not constitute evidence of lack of judgment with respect to the person's need for such services.
[37] Section 397.675(2)(b), F.S.
[38] Section 397.677, F.S. The individual can be a minor or adult under this process.
[39] Section 397.6771, F.S. A person may be held in protective custody for no more than 72 hours, unless a petition for involuntary assessment or treatment has been timely filed with the court within that timeframe to extend protective custody.

If the individual in these circumstances does not consent to protective custody, the officer may do so against the person's will, without using unreasonable force. Additionally, the officer has the option of taking an individual to a jail or detention facility for his or her own protection. Such detention cannot be considered an arrest for any purpose and no record can be made to indicate that the person has been detained or charged with any crime.[40] However, if the individual is a minor, the law enforcement officer must notify the nearest relative of a minor in protective custody without consent.[41]

The second process, emergency admission, authorizes an individual who appears to meet the criteria for involuntary admission to be admitted to a hospital, an addiction receiving facility, or a detoxification facility for emergency assessment and stabilization, or to a less intensive component of a licensed service provider for assessment only.[42] Individuals admitted for involuntary assessment and stabilization under this provision must have a certificate from a specified health professional[43] demonstrating the need for this type of placement and recommending the least restrictive type of service that is appropriate to the needs of the individual.[44]

Lastly, the alternative involuntary assessment for minors provides a way for a parent, legal guardian, or legal custodian to have a minor admitted to an addiction receiving facility to assess the minor's need for treatment by a qualified professional.[45]

Court Involved Involuntary Admissions

The two court involved Marchman Act procedures are involuntary assessment and stabilization, which provides for short-term court-ordered substance abuse services,[46] and involuntary services, which provides for long-term court-ordered substance abuse services.[47] Both are initiated through the filing of a petition.[48]

Involuntary Assessment and Stabilization

An individual's spouse, legal guardian, any relative, a private practitioner, the director of a licensed service provider or the director's designee, or any adult who has direct personal knowledge of the individual's substance abuse impairment may file a petition for involuntary

[40] Section 397.6772(1), F.S.
[41] Section 397.6772(2), F.S.
[42] Section 397.679, F.S.
[43] Section 397.6793(1), F.S., provides a list of professionals that include a physician, a clinical psychologist, a physician assistant working under the scope of practice of the supervising physician, a psychiatric nurse, an advanced practice registered nurse, a mental health counselor, a marriage and family therapist, a master's-level-certified addictions professional for substance abuse services, or a clinical social worker
[44] Section 397.6793, F.S. The certificate can be from a physician, advanced practice registered nurse, a psychiatric nurse, a clinical psychologist, a clinical social worker, a marriage and family therapist, a mental health counselor, or a physician assistant working under the scope of a practice of the supervising physician, or a master's-level-certified addictions professional for substance abuse services.
[45] Section 397.6798, F.S.
[46] *See* ss. 397.6811 through 397.6822, F.S.
[47] *See* ss. 397.693 through 397.6978, F.S.
[48] Section 397.681, F.S. The court may not charge a filing fee for these petitions.

assessment and stabilization on behalf of the individual.[49] If the individual is a minor, only a parent, legal guardian, legal custodian, or licensed service provider may file such a petition.[50]

The petition for involuntary assessment and stabilization must contain:

- The name of the applicant or applicants (the individual(s) filing the petition with the court);
- The name of the respondent (the individual whom the applicant is seeking to have involuntarily assessed and stabilized);
- The relationship between the respondent and the applicant;
- The name of the respondent's attorney, if known; and
- Facts to support the need for involuntary assessment and stabilization, including the reason for the applicant's belief that:
  - The respondent is substance abuse impaired;
  - Because of such impairment, the respondent has lost the power of self-control with respect to substance abuse; and
  - The respondent:
    - Has inflicted or is likely to inflict physical harm on himself or herself or others unless admitted; or
    - Will refuse, or has refused voluntary care and based on his or her judgement being so impaired from the substance abuse, he or she is incapable of appreciating his or her need for care and of making a rational decision regarding the need for care. [51]

Once the petition is filed with the court, the court issues a summons to a respondent and must schedule a hearing to take place within ten days. Alternatively, the court can issue an ex parte order immediately.[52] Under the ex parte order, the court may order a law enforcement officer or other designated agent of the court to take the respondent into custody and deliver him or her to the nearest appropriate licensed service provider.[53]

A court must conduct the hearing in accordance with s. 397.6811(1), F.S., and hear all relevant testimony. If the court determines that a respondent meets the criteria for involuntary assessment and stabilization, it must immediately enter an order that authorizes the involuntary assessment and stabilization of the respondent or, in the alternative, enter an order dismissing the petition if a respondent does not meet the criteria.[54]

If the court determines a respondent meets the criteria for involuntary assessment and stabilization, it may order him or her to be admitted for a period of five days[55] to a hospital, licensed detoxification facility, or addictions receiving facility for involuntary assessment and

[49] Section 397.6811(1), F.S.
[50] Section 397.6811(2), F.S.
[51] Section 397.6814, F.S. Further, if the person has refused to submit to an assessment, that fact must be included in the petition.
[52] Section 397.6815, F.S.
[53] Section 397.6815(2), F.S.
[54] Section 397.6818(1), F.S. This section also provides for the written findings that must be included in the order.
[55] Section 397.6819, F.S.

stabilization.[56] During that time, an assessment is completed on the individual.[57] Under certain circumstances, this order may be extended to complete the assessment.[58]

Based on the involuntary assessment at a hospital, detoxification facility, addictions receiving facility, or less restrictive component, the qualified professional must either:

- Release the individual and, if appropriate, refer the individual to another treatment facility or service provider, or to community services;
- Allow the individual to remain voluntarily at the licensed provider; or
- Hold the individual if a petition for involuntary treatment has been initiated.[59]

Involuntary Services

A person may be court-ordered for involuntary treatment if he or she meets the eligibility criteria for involuntary admission and has been involved in one of the following Marchman Act processes within certain timeframes:

- Protective custody or emergency admission within the previous ten days.
- Assessment by a qualified professional within five days.
- Involuntary assessment and stabilization or alternative involuntary admission pursuant to s. 397.6822, F.S.,[60] within the previous 12 days.[61]

An individual's spouse, legal guardian, any relative, or service provider, or any adult who has direct personal knowledge of the individual's substance abuse impairment or prior course of assessment and treatment may file a petition for involuntary services on behalf of the individual.[62] If the individual is a minor, only a parent, legal guardian, or service provider may file such a petition.[63]

Similar to a petition for involuntary assessment and stabilization, a petition for involuntary services must contain the same identifying information for all parties and attorneys and facts to support the same eligibility criteria as described above.[64] Upon filing of a petition, the court must schedule a hearing to be held within five days, and must provide a copy of the petition and notice of hearing to all parties and anyone else the court determines. The court also issues a summons to the person whose admission is sought.[65]

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[56] Section 397.6811, F.S. The individual may also be ordered to a less restrictive component of a licensed service provider for assessment only upon entry of a court order or upon receipt by the licensed service provider of a petition.
[57] Section 397.6819, F.S. The licensed service provider must assess the individual without unnecessary delay using a qualified professional. If an assessment is performed by a qualified professional who is not a physician, the assessment must be reviewed by a physician before the end of the assessment period.
[58] *See* s. 397.6819, F.S., for exceptions.
[59] Section 397.6822, F.S. The timely filing of a petition for involuntary services authorizes the service provider to retain physical custody of the individual pending further order of the court.
[60] Section 397.6822, F.S., refers to disposition of an individual after involuntary assessment, including release or referral to another treatment facility or service provider, or to community services; voluntary retention of the individual; or retention of an individual pending a petition for involuntary services.
[61] Section 397.693, F.S.
[62] Section 397.695(1), F.S.
[63] Section 397.695(2), F.S.
[64] Section 397.6951, F.S.
[65] Section 397.6955(1) through (3), F.S.

In a hearing for involuntary services, the petitioner must prove by clear and convincing evidence that:

- The individual is substance abuse impaired and has a history of lack of compliance with treatment for substance abuse;
- Because of such impairment the person is unlikely to voluntarily participate in the recommended services or is unable to determine for himself or herself whether services are necessary; and
- The respondent meets either of the following:
  - Without services the individual:
    - Is likely to suffer from neglect or refuse to care for himself or herself and such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and
    - That there is a substantial likelihood that without services the individual will cause serious bodily harm to himself, herself, or another in the near future, as evidenced by recent behavior; or
  - The individual's refusal to voluntarily receive care is based on judgment so impaired by reason of substance abuse that the respondent is incapable of appreciating his or her need for care and of making a rational decision regarding that need for care.[66]

At the hearing, the court must hear and review all relevant evidence, including the results of the involuntary assessment by a qualified professional, and either dismiss the petition or order the individual to receive involuntary choices from his or her chosen licensed service provider, if possible and appropriate. The respondent must be present unless the court finds that his or her presence is likely to be injurious to himself or herself or others. If such finding is made, a guardian advocate must be appointed to act on behalf of the respondent.[67]

If the court finds that the conditions for involuntary services have been proven, it may order the respondent to receive involuntary services with a publicly funded licensed service provider for up to 90 days.[68] Alternatively, if the individual or a person on the individual's behalf is able and willing to pay for services, the court may also order the individual to receive services at a privately funded licensed service provider.[69] If an individual continues to need involuntary services, the licensed service provider can petition the court for continuances for up to 90 days.[70] Unless an extension is requested, the individual is released after 90 days.[71]

Confidentiality of Marchman Act Records

In 2017, the Legislature created a public records exemption in s. 397.6760, F.S., for petitions for involuntary assessment and stabilization, court orders, and related records filed with or by a court under Part V of the Marchman Act., related to involuntary admissions procedures[72] Petitions for

[66] Section 397.6957(2), F.S.
[67] Sections 397.6957(1), F.S.
[68] Section 397.697(1), F.S
[69] *Id*.
[70] The licensed service provider must file its petition at least 10 days before the 90-day period expires. A hearing must be held within 15 days. Section 397.6975, F.S.
[71] Section 397.6977, F.S.
[72] Chapter 2017-25, s. 1, L.O.F., which codified current s. 397.6760, F.S.

involuntary assessment and stabilization, court orders, and related records that are filed with the court under the Marchman Act are confidential and exempt from disclosure.[73] However, the clerk of the court may disclose such records to the following entities:

- The petitioner.
- The petitioner's attorney.
- The respondent.
- The respondent's attorney.
- The respondent's guardian or guardian advocate, if applicable.
- In the case of a minor respondent, the respondent's parent, guardian, legal custodian, or guardian advocate.
- The respondent's treating health care practitioner.
- The respondent's health care surrogate or proxy.
- The Department of Children and Families (the DCF), without charge.
- The Department of Corrections, without charge, if the respondent is committed or is to be returned to the custody of the Department of Corrections from the DCF.
- A person or entity authorized to view records upon a court order for good cause.
- The Florida Department of Law Enforcement.[74]

The clerk of the court is prohibited from publishing personal identifying information on court dockets or publicly accessible files.[75] Any individual or entity who receives information protected by the exemption is required to maintain the confidentiality of such information,[76] and the exemption applies to all documents filed with a court before, on, or after July 1, 2017.[77] The exemption stands repealed on October 2, 2022, unless reviewed and reenacted by the Legislature.[78]

Open Government Sunset Review Findings

According to the public necessity statement included in the original public records exemption, making petitions and court records filed under the Marchman Act confidential and exempt from s. 119.07(1), F.S. and s. 24(a), Art. I of the Florida Constitution protects a person's personal health information and sensitive personal information which, if released, could cause unwarranted damage to the person's reputation.[79] Additionally, the knowledge that such information could be disclosed could have a chilling effect on the willingness of individuals to seek treatment.[80]

In August 2021, the Senate Children, Families, and Elder Affairs Committee staff and the House Government Operations Subcommittee staff jointly sent an Open Government Sunset Review Questionnaire to each of the 67 clerks of court throughout Florida regarding the need to maintain

[73] Section 397.6760(1), F.S.
[74] Section 397.6760(1)-(2), F.S.
[75] Section 397.6760(3), F.S.
[76] Section 397.6760(4), F.S.
[77] Section 397.6760(5), F.S.
[78] Section 397.6760(6), F.S.
[79] Chapter 2017-25, s. 2, L.O.F.
[80] *Id*.

the public records exemption with 32 of the 67 clerks of court responding to the questionnaire with the following results:

- 29 of those 32 requested that the exemption be reenacted as is; and
- Three did not specify a preference as to their preferred action by the Legislature with regard to the exemption.

Additionally, the DCF recommends retaining the exemption in its current form.[81]

III. Effect of Proposed Changes:

The bill saves from repeal the public records exemption in s. 397.6760, F.S., for petitions for involuntary assessment and stabilization, court orders, and related records filed with or by a court under Part V of ch. 397, F.S., also known as the Marchman Act.

This bill is effective October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

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 bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote 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 justifying the exemption. This bill continues a current public records exemption without expansion.

[81] Meeting with staff of the DCF (October 1, 2021).

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 sensitive health information of those who are involuntarily examined and to protect their reputations and reputations of their families. This bill exempts only court records related to involuntary assessments under the Marchman Act. 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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 397.6760 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.