

**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 Transportation

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BILL: SPB 7012

INTRODUCER: For Consideration by the Transportation Committee

SUBJECT: OGSR/Department of Highway Safety and Motor Vehicles

DATE: December 1, 2025

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

| ANALYST   | STAFF DIRECTOR | REFERENCE | ACTION             |
|-----------|----------------|-----------|--------------------|
| 1. Shutes | Vickers        |           | <b>Pre-meeting</b> |

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## **I. Summary:**

SPB 7012 saves from repeal the current public record exemptions for information held by the Department of Highway Safety and Motor Vehicles (DHSMV) as a result of an investigation or examination of:

- Suspected violations of ch. 319, F.S., relating to motor vehicle titles;
- Suspected violations of ch. 320, F.S., relating to motor vehicle registrations and motor vehicle dealer and manufacturer licensing;
- Suspected violations of ch. 322, F.S., relating to driver licenses and identification cards; and
- Suspected violations of s. 319.1414, F.S., by private rebuilt inspection providers.

These exemptions are subject to the Open Government Sunset Review Act and stand to be repealed on October 2, 2026 unless reenacted by the Legislature. The bill saves these exemptions from repeal by deleting the scheduled repeal date.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect October 1, 2026.

## **II. Present Situation:**

### **Public Records Law**

The State 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> 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.<sup>2</sup>

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

<sup>2</sup> *Id.* See also, *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.<sup>3</sup> The Public Records Act states that:

[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.<sup>4</sup>

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.<sup>5</sup> 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:

[a]ll 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.

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.”<sup>6</sup>

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.<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

Only the Legislature may create an exemption to public records requirements.<sup>9</sup> An exemption must be created by general law and must specifically state the public necessity justifying the exemption.<sup>10</sup> 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<sup>11</sup>

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<sup>3</sup> Public records laws are found throughout the Florida Statutes.

<sup>4</sup> Section 119.01(1), F.S.

<sup>5</sup> *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); see also *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

<sup>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>7</sup> Section 119.07(1)(a), F.S.

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST. art. I, s. 24(c).

<sup>10</sup> *Id.*

<sup>11</sup> The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>12</sup>

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*.<sup>13</sup> 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.<sup>14</sup> Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>15</sup>

### **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,<sup>16</sup> with specified exceptions.<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup> An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>20</sup>
- It protects sensitive, personal information, the release of which 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;<sup>21</sup> or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>22</sup>

<sup>12</sup> FLA. CONST. art. I, s. 24(c).

<sup>13</sup> *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5<sup>th</sup> DCA 2004).

<sup>14</sup> *Id.*

<sup>15</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5<sup>th</sup> DCA 1991).

<sup>16</sup> 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.

<sup>17</sup> 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.

<sup>18</sup> Section 119.15(3), F.S.

<sup>19</sup> Section 119.15(6)(b), F.S.

<sup>20</sup> Section 119.15(6)(b)1., F.S.

<sup>21</sup> Section 119.15(6)(b)2., F.S.

<sup>22</sup> Section 119.15(6)(b)3., F.S.

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

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 again required.<sup>24</sup> 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.<sup>25</sup>

### **DHSMV Investigations and Examinations**

The Department of Highway Safety and Motor Vehicles (DHSMV) has jurisdiction to administer multiple chapters of the Florida Statutes with various degrees of investigative authority. In 2021, the Legislature created four public record exemptions for information received by DHSMV as a result of certain investigations and examinations.<sup>26</sup>

The exemptions cover records of active administrative investigations or examinations conducted by the DHSMV relating to private rebuilt vehicle inspection providers (PRVIPs),<sup>27</sup> motor vehicle certificates of title,<sup>28</sup> motor vehicle registrations, motor vehicle dealers and manufacturers,<sup>29</sup> driver licenses, and identification cards.<sup>30</sup>

The Department may release information that is made confidential and exempt in furtherance of its official duties and responsibilities or, if released to another governmental agency, in the furtherance of that agency's official duties and responsibilities. The exemptions apply only during the pendency of administrative investigations. Once an investigation ceases to be active, administrative action by the Department has concluded, or the records are made part of a hearing or court proceeding, the respective exemption no longer applies and the records may be released to the public.

The covered records include any consumer complaints submitted to the Department, regulatory investigations performed by Department employees, and the resulting investigative files. Details

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<sup>23</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>24</sup> FLA. CONST. art. I, s. 24(c).

<sup>25</sup> Section 119.15(7), F.S.

<sup>26</sup> Ch. 2021-237, L.O.F.

<sup>27</sup> Section 319.1414(5), F.S.

<sup>28</sup> Section 319.25(7), F.S.

<sup>29</sup> Section 320.861(5), F.S.

<sup>30</sup> Section 322.71(5), F.S.

of an active administrative investigation are known only to the Department's investigators and other authorized DHSMV employees.<sup>31</sup>

### DHSMV Response to Public Records Questionnaire

In order to determine how DHSMV is utilizing the public record exemptions legislative staff requested that DHSMV complete a questionnaire and provide supporting documentation relating to the operation of the relevant programs.

The table below summarizes the number of administrative investigations by program type by fiscal year:<sup>32</sup>

| Program Type                     | FY20-21 | FY21-22 | FY22-23 | FY23-24 | FY24-25 | FY25-26 | Total          |
|----------------------------------|---------|---------|---------|---------|---------|---------|----------------|
| <b>Driver License Fraud Unit</b> | 3,350   | 4,277   | 3,734   | 3,320   | 3,300   | 1,572*  | 19,553         |
| <b>Motor Vehicle Fraud Unit</b>  | 1,231   | 1,154   | 1,103   | 1,512   | 1,324   | 252*    | 6,576          |
| <b>Rebuilt (Department)</b>      | 15,798  | 15,185  | 17,333  | 8,157   | 3,357   | 561*    | 60,391         |
| <b>Rebuilt (PRVIP)</b>           | 69,261  | 88,278  | 101,146 | 105,145 | 114,779 | 16,711* | 495,320        |
| <b>Combined Total</b>            |         |         |         |         |         |         | <b>581,840</b> |

The DHSMV response stated that similar to the parallel exemption for active criminal investigative information, the purpose of the exemptions is to protect the integrity of active administrative investigations by preventing the subject or other unauthorized persons from learning the investigative details at a time when such knowledge could assist the subject evade detection of violations.<sup>33</sup>

The Department noted that prior to the enactment of these exemptions, it received public record requests from subjects of administrative investigations or the subjects' attorneys, seeking the Department's complete investigative files in those matters.<sup>34</sup>

The Department requested that the Legislature reenact the public record exemptions as currently codified.<sup>35</sup>

<sup>31</sup> Email from Jonas Marquez, Director of Legislative Affairs, Department of Highway Safety and Motor Vehicles, RE: OGSR Questionnaires, regarding public records exemptions for investigations and examinations (September 19, 2025)

<sup>32</sup> Email from Jonas Marquez, Director of Legislative Affairs, Department of Highway Safety and Motor Vehicles, RE: Meeting Follow-Up, regarding public records exemptions for investigations and examinations (October 8, 2025)

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> DHSMV, *supra* note 31 at 5.

### III. Effect of Proposed Changes:

The bill removes the scheduled repeal of the four public record exemptions for certain investigatory and examination information received by DHSMV.

**Section 1** amends s. 319.1414, F.S., to remove the scheduled repeal date for the public record exemption relating to investigations or examinations of suspected violations by private rebuilt inspection providers.

**Section 2** amends s. 319.25, F.S., to remove the scheduled repeal date for the public record exemption relating to investigations or examinations of suspected violations of ch. 319, F.S., relating to motor vehicle titles.

**Section 3** amends s. 320.861, F.S., to remove the scheduled repeal date for the public record exemption relating to investigations or examinations of suspected violations of ch. 320, F.S., relating to motor vehicle registrations and motor vehicle dealer and manufacturer licensing.

**Section 4** amends s. 322.71, F.S., to remove the scheduled repeal date for the public record exemption relating to investigations or examinations of suspected violations of ch. 322, F.S., relating to driver licenses and identification cards.

The bill maintains the exempt status of the items above by deleting the scheduled October 2, 2026 repeal date.

The bill takes effect upon becoming a law.

### 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 disclosure requirements. This bill does not create or expand an exemption, and thus, the bill does not require a two-thirds vote to be enacted.

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

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records disclosure requirements to state with specificity the public necessity justifying the exemption. This bill does not create or expand an exemption and thus, a statement of public necessity is not required.

**Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires an exemption to the public records disclosure requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemptions in the bill do not appear to be broader than necessary to accomplish the purposes of the laws.

**C. Trust Funds Restrictions:**

None.

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

None.

**E. Other Constitutional Issues:**

None.

**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 the following sections of the Florida Statutes: 319.1414, 319.25, 320.861, and 322.71.

**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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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