

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Burgess, Chair
Senator Gibson, Vice Chair

MEETING DATE: Tuesday, January 18, 2022
TIME: 9:00—10:30 a.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Burgess, Chair; Senator Gibson, Vice Chair; Senators Baxley, Boyd, Bradley, Broxson, Mayfield, Polsky, Rodrigues, and Rouson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1420 Burgess (Similar H 1213)	Public Records/County and City Attorneys; Providing an exemption from public records requirements for the personal identifying and location information of current and former county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys, and the names and personal identifying and location information of the spouses and children of such attorneys; providing for retroactive application; providing for future legislative review and repeal; providing a statement of public necessity, etc. JU 01/18/2022 Favorable CA RC	Favorable Yeas 8 Nays 0
2	SB 288 Garcia (Identical H 33)	Electronic Dissemination of Commercial Recordings and Audiovisual Works; Revising the definition of the term "electronic dissemination", etc. CM 11/02/2021 Favorable JU 01/18/2022 Favorable RC	Favorable Yeas 8 Nays 0
3	SB 884 Boyd (Identical H 537)	Fees in Lieu of Security Deposits; Authorizing a landlord to offer a tenant the option to pay a fee in lieu of a security deposit; requiring the landlord to provide certain written notice to the tenant; requiring a written agreement signed by the landlord, or the landlord's agent, and the tenant if the tenant decides to pay a fee in lieu of the security deposit; specifying that the fee is not a security deposit, etc. JU 01/18/2022 Fav/CS CA RC	Fav/CS Yeas 7 Nays 2
4	SB 1114 Bradley (Similar H 817)	Emergency Medical Care and Treatment of Minors; Deleting the requirement that emergency medical care or treatment by physicians and emergency medical personnel without parental consent be provided only in specified settings, etc. JU 01/18/2022 Favorable HP RC	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, January 18, 2022, 9:00—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Other Related Meeting Documents			

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 Judiciary

BILL: SB 1420

INTRODUCER: Senator Burgess

SUBJECT: Public Records/County and City Attorneys

DATE: January 14, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 1420 creates a public records exemption for specified personal information of current and former county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys. Personal information relating to their spouses and children is likewise exempt. The specific personal information made exempt from public records disclosure requirements includes:

- Home addresses, telephone numbers, places of employment, dates of birth, and photographs;
- Names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children; and
- Names and locations of schools and day care facilities attended by the children.

The exemption, however, does not apply to a current or former county attorney, assistant county attorney, city attorney, or assistant city attorney who qualifies as a candidate for election to public office. A statement of public necessity is included in the bill as required by the State Constitution.

This bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2024, unless reviewed and saved from the repeal through reenactment by the Legislature.

Because this bill creates a public records exemption, it will require a two-thirds vote of each house in order to pass.

The bill is effective July 1, 2022.

II. Present Situation:

Position of County Attorney and City Attorney

The term “county attorney” is not defined by statute, but is referenced in eight statutes as a local government employee expected to assist in the enforcement of various laws.¹ Similarly, the term “city attorney” is not defined by statute, but is referenced in four statutes, again as a local government employee expected to assist in the enforcement of various laws.²

The duties of a county attorney or city attorney vary and are set by the governing board of the local government. The duties of an assistant county attorney or assistant city attorney are set by their respective county attorney or city attorney. As an example, one county has defined the duties of its county attorney:

- Employing and managing all personnel of the County Attorney’s Office, establishing the organizational framework of the Office, and supervising the conduct of all employees of the Office of the County Attorney.
- Providing legal advice and counsel to, and legal representation of the Board and County departments, agencies, officers and employees on matters pertaining to the business of the County or in connection with the duties of the Board, department, agency, officer or employee.
- Representing the County in all litigation, administrative hearings, mediation, appeals and judicial proceedings in which the County, the Board, or a County department or agency under the jurisdiction of the Board is a party.
- Providing legal advice and counsel to, and legal representation of, constitutional officers of Sarasota County and its employees on matters pertaining to the respective business and duties of the constitutional officers and employees at the request of constitutional officers.
- Representing any constitutional officer or employee of the officer in any litigation, administrative hearing, mediation, appeal or judicial proceeding upon request of said constitutional officer.
- Advising and providing recommendations to the Board regarding the need for the selection of any special counsel to be retained by the County to provide legal representation in specified matters.
- Supervising, monitoring and coordinating, as appropriate, the representation, services and work of any special counsel.
- At the request of the Board, the County Attorney is hereby authorized to represent the Board or a Board member when the Board or a member is acting as a separate agency or board or in an ex-officio capacity or is otherwise officially representing the county at the direction of the Board.
- Providing legal advice and counsel to and representation of any other State or local governmental office, unit, or entity as may be required by law or interlocal agreement entered into by the Board.³

¹ Sections 60.05, 373.609, 381.0012, 409.2554, 499.002, 499.81, 509.285, and 705.106, F.S.

² Sections 60.05, 409.2554, 705.106, and 849.44, F.S.

³ Sarasota County ordinance 2-63.

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.⁴ 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.⁵

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the Legislature.⁶ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁷ Lastly, chapter 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

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.⁸

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 that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁹

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

⁴ FLA. CONST. art. I, s. 24(a).

⁵ *Id.*

⁶ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2020-2022) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2020-2022).

⁷ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁸ 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.”

⁹ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

custodian of the public record.¹⁰ A violation of the Public Records Act may result in civil or criminal liability.¹¹

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.¹² 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.¹³

General exemptions from the public records requirements are contained in the Public Records Act.¹⁴ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹⁵

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*.¹⁶ 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.¹⁷ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁸

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁹ (the Act), prescribe a legislative review process for newly created or substantially amended²⁰ public records or open meetings exemptions, with specified exceptions.²¹ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²²

¹⁰ Section 119.07(1)(a), F.S.

¹¹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹² FLA. CONST. art. I, s. 24(c).

¹³ *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).

¹⁴ *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).

¹⁵ *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).

¹⁶ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁷ *Id.*

¹⁸ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁹ Section 119.15, F.S.

²⁰ 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.

²¹ 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.

²² 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.²³ 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;²⁴
- 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;²⁵ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²⁶

The Act also requires specified questions to be considered during the review process.²⁷ In examining an exemption, the Act directs the Legislature to 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.²⁸ 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 expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁹

General Public Records Exemptions for State and Local Agency Personnel

There are three general public records exemptions that apply to all state and local agency personnel: disclosure of an employee's social security number, medical information, and personal identifying information of dependent children who are insured by an agency group insurance plan.³⁰

²³ Section 119.15(6)(b), F.S.

²⁴ Section 119.15(6)(b)1., F.S.

²⁵ Section 119.15(6)(b)2., F.S.

²⁶ Section 119.15(6)(b)3., F.S.

²⁷ 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?

²⁸ See *generally* s. 119.15, F.S.

²⁹ Section 119.15(7), F.S.

³⁰ Section 119.071(4)(a) and (b), F.S.

Social Security Numbers

Social security numbers of all current and former agency personnel are confidential and exempt when held by the employing agency.³¹ An employing agency may only release social security numbers for the following reasons:

- It is required by federal or state law, or court order.
- A receiving government agency needs the social security number to perform its duties.
- The employee consents to disclose his or her social security number.³²

In addition, there is a general exemption for social security numbers which applies to the public that makes social security numbers confidential and exempt.³³ This exemption applies to any agency that holds anyone's social security number, including those belonging to the personnel of that agency. This exemption, however, permits the agency to disclose social security numbers of agency personnel in order to administer health or retirement benefits.³⁴

Medical Information

A prospective, current, or former agency employee's medical information is also exempt from public disclosure if the medical information could identify the employee. Such information may be disclosed if the person to whom the information pertains or the person's legal representative provides written permission pursuant to a court order.³⁵

Personal Identifying Information

The personal identifying information of a dependent child of an agency employee who is insured by an agency group insurance plan is exempt from public disclosure. This exemption applies to the dependent children of current and former employees and is also retroactively applied.³⁶

Public Records Exemptions for Specified Personnel and Their Families (s. 119.071(4)(d), F.S.)

Provisions in s. 119.071(4)(d), F.S., exempt from public disclosure certain personal identification and location information of specified state and local government agency personnel and their spouses and children. Personnel covered by these exemptions include, in part:

- Active or former sworn or civilian law enforcement personnel employed by a law enforcement agency, including correctional and correctional probation officers, certain investigative personnel of the DCF and the Department of Health, and certain personnel of the Department of Revenue and local governments involved in revenue collection and child support enforcement;³⁷
- Certain current or former nonsworn investigative personnel of the Department of Financial Services;³⁸

³¹ Section 119.071(4)(a)1., F.S.

³² Section 119.071(4)(a), F.S.

³³ Section 119.071(5)(a)5., F.S.

³⁴ Section 119.071(5)(a)6.f. and g., F.S.

³⁵ Section 119.071(4)(b)1., F.S.

³⁶ Section 119.071(4)(b)2., F.S.

³⁷ Section 119.071(4)(d)2.a., F.S.

³⁸ Section 119.071(4)(d)2.b., F.S.

- Certain current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations;³⁹
- Current or former certified firefighters;⁴⁰
- Current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges;⁴¹
- Current or former state attorneys, assistant state attorneys, statewide prosecutors, and assistant statewide prosecutors;⁴²
- Current or former code enforcement officers;⁴³
- Current or former guardians ad litem;⁴⁴
- Current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel;⁴⁵
- Current or former investigators or inspectors of the Department of Business and Professional Regulation;⁴⁶
- County tax collectors;⁴⁷
- Current or former certified emergency medical technicians and paramedics;⁴⁸
- Current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility;⁴⁹
- Current or former directors, managers, supervisors, and clinical employees of certain child advocacy centers;⁵⁰ and
- Current or former staff of domestic violence centers, including domestic violence advocates.⁵¹

The employing agency as well as the employee may assert the right to the exemption by submitting a written request to each agency that holds the employee's information.⁵² Further, all of these exemptions have retroactive application.⁵³

The information exempted by the various provisions of s. 119.071(4)(d)2., F.S., is similar but not identical. All of the provisions in s. 119.071(4)(d)2., F.S., exempt from public disclosure the

³⁹ Section 119.071(4)(d)2.c., F.S.

⁴⁰ Section 119.071(4)(d)2.d., F.S.

⁴¹ Section 119.071(4)(d)2.e., F.S.

⁴² Section 119.071(4)(d)2.f., F.S.

⁴³ Section 119.071(4)(d)2.i., F.S.

⁴⁴ Section 119.071(4)(d)2.j., F.S. Guardians ad litem are volunteers who offer their services to the program.

⁴⁵ Section 119.071(4)(d)2.l., F.S.

⁴⁶ Section 119.071(4)(d)2.m., F.S.

⁴⁷ Section 119.071(4)(d)2.n., F.S.

⁴⁸ Section 119.071(4)(d)2.q., F.S.

⁴⁹ Section 119.071(4)(d)2.s., F.S.

⁵⁰ Section 119.071(4)(d)2.t., F.S.

⁵¹ Section 119.071(4)(d)2.u., F.S.

⁵² Section 119.071(4)(d)3. and 4., F.S.

⁵³ Section 119.071(4)(d)5., F.S.

home addresses,⁵⁴ telephone numbers,⁵⁵ and dates of birth of the specified personnel. However, exemptions are not uniform for names, photographs, and places of employment.

Section 119.071(4)(d)2., F.S., also exempts from public disclosure certain types of information about employees' spouses and children. The exemptions for family members include home addresses, telephone numbers, spouses' places of employment, and names and locations of children's schools and day care facilities. However, exemptions are not uniform for names, dates of birth, and photographs of family members.

III. Effect of Proposed Changes:

SB 1420 creates a public records exemption from public records disclosure for specified personal information of current and former county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys. Personal information relating to their spouses and children is likewise exempt. The specific personal information made exempt from public records disclosure requirements includes:

- Home addresses, telephone numbers, places of employment, dates of birth, and photographs;
- Names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children; and
- Names and locations of schools and day care facilities attended by the children.

The exemption does not apply to a current or former county attorney, assistant county attorney, city attorney, or assistant city attorney who qualifies as a candidate for election to public office.

The bill provides a public necessity statement as required by Article I, s. 24(c) of the State Constitution. The public necessity statement provides that:

The Legislature finds that it is a public necessity that the home addresses, telephone numbers, dates of birth, and photographs of current or former county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature further finds that it is a public necessity that the names, home addresses, telephone numbers, dates of birth, photographs, and places of employment of the spouses and children of current or former county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys, and the names and locations of schools and day care facilities attended by the children of such attorneys, be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The responsibilities of county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys regularly

⁵⁴ Section 119.071(4)(d)1.a., F.S., defines "home addresses" to mean "the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address."

⁵⁵ Section 119.071(4)(d)1.b., F.S., defines "telephone numbers" to include "home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices."

involve legal enforcement proceedings in areas of neglect and abuse related to violations of codes and ordinances. Legal enforcement proceedings have led to retribution and threats by defendants and other persons on numerous occasions. Such attorneys have received death threats and e-mails from disgruntled persons advocating the murder of other attorneys. Other incidents have included the stalking of such attorneys and their spouses and children. The Legislature finds that the release of such personal identifying and location information could place such persons in danger of being physically or emotionally harmed or stalked by a defendant or another person. The Legislature finds that the harm that may result from the release of such personal identifying and location information outweighs any public benefit that may be derived from the disclosure of the information

The bill is subject to the Open Government Sunset Review Act and is repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature

The bill is effective on July 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 enacts a new exemption for the personal identifying and location information of current and former county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys, thus, the bill requires 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 requirements to state with specificity the public necessity justifying the exemption. Section 2. of the bill contains a statement of public necessity for 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 stated purpose of the law is to protect the attorneys and their families from the danger of becoming a victim of stalking, emotional abuse, and physical violence. This

bill exempts only certain personal identifying information from the public records requirements, consistent with 21 similar exemptions. 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:

SB 1420 does not appear to have a fiscal impact on state or local governments.

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 Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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

By Senator Burgess

20-00270A-22

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; providing an exemption from public
 4 records requirements for the personal identifying and
 5 location information of current and former county
 6 attorneys, assistant county attorneys, city attorneys,
 7 and assistant city attorneys, and the names and
 8 personal identifying and location information of the
 9 spouses and children of such attorneys; providing
 10 applicability; providing for retroactive application;
 11 providing for future legislative review and repeal;
 12 providing a statement of public necessity; providing
 13 an effective date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Paragraph (d) of subsection (4) of section
 18 119.071, Florida Statutes, is amended to read:
 19 119.071 General exemptions from inspection or copying of
 20 public records.—
 21 (4) AGENCY PERSONNEL INFORMATION.—
 22 (d)1. For purposes of this paragraph, the term:
 23 a. "Home addresses" means the dwelling location at which an
 24 individual resides and includes the physical address, mailing
 25 address, street address, parcel identification number, plot
 26 identification number, legal property description, neighborhood
 27 name and lot number, GPS coordinates, and any other descriptive
 28 property information that may reveal the home address.
 29 b. "Telephone numbers" includes home telephone numbers,

Page 1 of 15

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20-00270A-22

20221420__

30 personal cellular telephone numbers, personal pager telephone
 31 numbers, and telephone numbers associated with personal
 32 communications devices.
 33 2.a. The home addresses, telephone numbers, dates of birth,
 34 and photographs of active or former sworn law enforcement
 35 personnel or of active or former civilian personnel employed by
 36 a law enforcement agency, including correctional and
 37 correctional probation officers, personnel of the Department of
 38 Children and Families whose duties include the investigation of
 39 abuse, neglect, exploitation, fraud, theft, or other criminal
 40 activities, personnel of the Department of Health whose duties
 41 are to support the investigation of child abuse or neglect, and
 42 personnel of the Department of Revenue or local governments
 43 whose responsibilities include revenue collection and
 44 enforcement or child support enforcement; the names, home
 45 addresses, telephone numbers, photographs, dates of birth, and
 46 places of employment of the spouses and children of such
 47 personnel; and the names and locations of schools and day care
 48 facilities attended by the children of such personnel are exempt
 49 from s. 119.07(1) and s. 24(a), Art. I of the State
 50 Constitution.
 51 b. The home addresses, telephone numbers, dates of birth,
 52 and photographs of current or former nonsworn investigative
 53 personnel of the Department of Financial Services whose duties
 54 include the investigation of fraud, theft, workers' compensation
 55 coverage requirements and compliance, other related criminal
 56 activities, or state regulatory requirement violations; the
 57 names, home addresses, telephone numbers, dates of birth, and
 58 places of employment of the spouses and children of such

Page 2 of 15

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20-00270A-22 20221420__

59 personnel; and the names and locations of schools and day care
60 facilities attended by the children of such personnel are exempt
61 from s. 119.07(1) and s. 24(a), Art. I of the State
62 Constitution.

63 c. The home addresses, telephone numbers, dates of birth,
64 and photographs of current or former nonsworn investigative
65 personnel of the Office of Financial Regulation's Bureau of
66 Financial Investigations whose duties include the investigation
67 of fraud, theft, other related criminal activities, or state
68 regulatory requirement violations; the names, home addresses,
69 telephone numbers, dates of birth, and places of employment of
70 the spouses and children of such personnel; and the names and
71 locations of schools and day care facilities attended by the
72 children of such personnel are exempt from s. 119.07(1) and s.
73 24(a), Art. I of the State Constitution.

74 d. The home addresses, telephone numbers, dates of birth,
75 and photographs of current or former firefighters certified in
76 compliance with s. 633.408; the names, home addresses, telephone
77 numbers, photographs, dates of birth, and places of employment
78 of the spouses and children of such firefighters; and the names
79 and locations of schools and day care facilities attended by the
80 children of such firefighters are exempt from s. 119.07(1) and
81 s. 24(a), Art. I of the State Constitution.

82 e. The home addresses, dates of birth, and telephone
83 numbers of current or former justices of the Supreme Court,
84 district court of appeal judges, circuit court judges, and
85 county court judges; the names, home addresses, telephone
86 numbers, dates of birth, and places of employment of the spouses
87 and children of current or former justices and judges; and the

Page 3 of 15

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20-00270A-22 20221420__

88 names and locations of schools and day care facilities attended
89 by the children of current or former justices and judges are
90 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
91 Constitution.

92 f. The home addresses, telephone numbers, dates of birth,
93 and photographs of current or former state attorneys, assistant
94 state attorneys, statewide prosecutors, or assistant statewide
95 prosecutors; the names, home addresses, telephone numbers,
96 photographs, dates of birth, and places of employment of the
97 spouses and children of current or former state attorneys,
98 assistant state attorneys, statewide prosecutors, or assistant
99 statewide prosecutors; and the names and locations of schools
100 and day care facilities attended by the children of current or
101 former state attorneys, assistant state attorneys, statewide
102 prosecutors, or assistant statewide prosecutors are exempt from
103 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

104 g. The home addresses, dates of birth, and telephone
105 numbers of general magistrates, special magistrates, judges of
106 compensation claims, administrative law judges of the Division
107 of Administrative Hearings, and child support enforcement
108 hearing officers; the names, home addresses, telephone numbers,
109 dates of birth, and places of employment of the spouses and
110 children of general magistrates, special magistrates, judges of
111 compensation claims, administrative law judges of the Division
112 of Administrative Hearings, and child support enforcement
113 hearing officers; and the names and locations of schools and day
114 care facilities attended by the children of general magistrates,
115 special magistrates, judges of compensation claims,
116 administrative law judges of the Division of Administrative

Page 4 of 15

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20-00270A-22

20221420__

117 Hearings, and child support enforcement hearing officers are
 118 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 119 Constitution.

120 h. The home addresses, telephone numbers, dates of birth,
 121 and photographs of current or former human resource, labor
 122 relations, or employee relations directors, assistant directors,
 123 managers, or assistant managers of any local government agency
 124 or water management district whose duties include hiring and
 125 firing employees, labor contract negotiation, administration, or
 126 other personnel-related duties; the names, home addresses,
 127 telephone numbers, dates of birth, and places of employment of
 128 the spouses and children of such personnel; and the names and
 129 locations of schools and day care facilities attended by the
 130 children of such personnel are exempt from s. 119.07(1) and s.
 131 24(a), Art. I of the State Constitution.

132 i. The home addresses, telephone numbers, dates of birth,
 133 and photographs of current or former code enforcement officers;
 134 the names, home addresses, telephone numbers, dates of birth,
 135 and places of employment of the spouses and children of such
 136 personnel; and the names and locations of schools and day care
 137 facilities attended by the children of such personnel are exempt
 138 from s. 119.07(1) and s. 24(a), Art. I of the State
 139 Constitution.

140 j. The home addresses, telephone numbers, places of
 141 employment, dates of birth, and photographs of current or former
 142 guardians ad litem, as defined in s. 39.820; the names, home
 143 addresses, telephone numbers, dates of birth, and places of
 144 employment of the spouses and children of such persons; and the
 145 names and locations of schools and day care facilities attended

Page 5 of 15

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20-00270A-22

20221420__

146 by the children of such persons are exempt from s. 119.07(1) and
 147 s. 24(a), Art. I of the State Constitution.

148 k. The home addresses, telephone numbers, dates of birth,
 149 and photographs of current or former juvenile probation
 150 officers, juvenile probation supervisors, detention
 151 superintendents, assistant detention superintendents, juvenile
 152 justice detention officers I and II, juvenile justice detention
 153 officer supervisors, juvenile justice residential officers,
 154 juvenile justice residential officer supervisors I and II,
 155 juvenile justice counselors, juvenile justice counselor
 156 supervisors, human services counselor administrators, senior
 157 human services counselor administrators, rehabilitation
 158 therapists, and social services counselors of the Department of
 159 Juvenile Justice; the names, home addresses, telephone numbers,
 160 dates of birth, and places of employment of spouses and children
 161 of such personnel; and the names and locations of schools and
 162 day care facilities attended by the children of such personnel
 163 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 164 Constitution.

165 l. The home addresses, telephone numbers, dates of birth,
 166 and photographs of current or former public defenders, assistant
 167 public defenders, criminal conflict and civil regional counsel,
 168 and assistant criminal conflict and civil regional counsel; the
 169 names, home addresses, telephone numbers, dates of birth, and
 170 places of employment of the spouses and children of current or
 171 former public defenders, assistant public defenders, criminal
 172 conflict and civil regional counsel, and assistant criminal
 173 conflict and civil regional counsel; and the names and locations
 174 of schools and day care facilities attended by the children of

Page 6 of 15

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20-00270A-22 20221420__

175 current or former public defenders, assistant public defenders,
 176 criminal conflict and civil regional counsel, and assistant
 177 criminal conflict and civil regional counsel are exempt from s.
 178 119.07(1) and s. 24(a), Art. I of the State Constitution.
 179 m. The home addresses, telephone numbers, dates of birth,
 180 and photographs of current or former investigators or inspectors
 181 of the Department of Business and Professional Regulation; the
 182 names, home addresses, telephone numbers, dates of birth, and
 183 places of employment of the spouses and children of such current
 184 or former investigators and inspectors; and the names and
 185 locations of schools and day care facilities attended by the
 186 children of such current or former investigators and inspectors
 187 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 188 Constitution.
 189 n. The home addresses, telephone numbers, and dates of
 190 birth of county tax collectors; the names, home addresses,
 191 telephone numbers, dates of birth, and places of employment of
 192 the spouses and children of such tax collectors; and the names
 193 and locations of schools and day care facilities attended by the
 194 children of such tax collectors are exempt from s. 119.07(1) and
 195 s. 24(a), Art. I of the State Constitution.
 196 o. The home addresses, telephone numbers, dates of birth,
 197 and photographs of current or former personnel of the Department
 198 of Health whose duties include, or result in, the determination
 199 or adjudication of eligibility for social security disability
 200 benefits, the investigation or prosecution of complaints filed
 201 against health care practitioners, or the inspection of health
 202 care practitioners or health care facilities licensed by the
 203 Department of Health; the names, home addresses, telephone

Page 7 of 15

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20-00270A-22 20221420__

204 numbers, dates of birth, and places of employment of the spouses
 205 and children of such personnel; and the names and locations of
 206 schools and day care facilities attended by the children of such
 207 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 208 the State Constitution.
 209 p. The home addresses, telephone numbers, dates of birth,
 210 and photographs of current or former impaired practitioner
 211 consultants who are retained by an agency or current or former
 212 employees of an impaired practitioner consultant whose duties
 213 result in a determination of a person's skill and safety to
 214 practice a licensed profession; the names, home addresses,
 215 telephone numbers, dates of birth, and places of employment of
 216 the spouses and children of such consultants or their employees;
 217 and the names and locations of schools and day care facilities
 218 attended by the children of such consultants or employees are
 219 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 220 Constitution.
 221 q. The home addresses, telephone numbers, dates of birth,
 222 and photographs of current or former emergency medical
 223 technicians or paramedics certified under chapter 401; the
 224 names, home addresses, telephone numbers, dates of birth, and
 225 places of employment of the spouses and children of such
 226 emergency medical technicians or paramedics; and the names and
 227 locations of schools and day care facilities attended by the
 228 children of such emergency medical technicians or paramedics are
 229 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 230 Constitution.
 231 r. The home addresses, telephone numbers, dates of birth,
 232 and photographs of current or former personnel employed in an

Page 8 of 15

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20-00270A-22

20221420__

233 agency's office of inspector general or internal audit
 234 department whose duties include auditing or investigating waste,
 235 fraud, abuse, theft, exploitation, or other activities that
 236 could lead to criminal prosecution or administrative discipline;
 237 the names, home addresses, telephone numbers, dates of birth,
 238 and places of employment of spouses and children of such
 239 personnel; and the names and locations of schools and day care
 240 facilities attended by the children of such personnel are exempt
 241 from s. 119.07(1) and s. 24(a), Art. I of the State
 242 Constitution.

243 s. The home addresses, telephone numbers, dates of birth,
 244 and photographs of current or former directors, managers,
 245 supervisors, nurses, and clinical employees of an addiction
 246 treatment facility; the home addresses, telephone numbers,
 247 photographs, dates of birth, and places of employment of the
 248 spouses and children of such personnel; and the names and
 249 locations of schools and day care facilities attended by the
 250 children of such personnel are exempt from s. 119.07(1) and s.
 251 24(a), Art. I of the State Constitution. For purposes of this
 252 sub-subparagraph, the term "addiction treatment facility" means
 253 a county government, or agency thereof, that is licensed
 254 pursuant to s. 397.401 and provides substance abuse prevention,
 255 intervention, or clinical treatment, including any licensed
 256 service component described in s. 397.311(26).

257 t. The home addresses, telephone numbers, dates of birth,
 258 and photographs of current or former directors, managers,
 259 supervisors, and clinical employees of a child advocacy center
 260 that meets the standards of s. 39.3035(2) and fulfills the
 261 screening requirement of s. 39.3035(3), and the members of a

20-00270A-22

20221420__

262 Child Protection Team as described in s. 39.303 whose duties
 263 include supporting the investigation of child abuse or sexual
 264 abuse, child abandonment, child neglect, and child exploitation
 265 or to provide services as part of a multidisciplinary case
 266 review team; the names, home addresses, telephone numbers,
 267 photographs, dates of birth, and places of employment of the
 268 spouses and children of such personnel and members; and the
 269 names and locations of schools and day care facilities attended
 270 by the children of such personnel and members are exempt from s.
 271 119.07(1) and s. 24(a), Art. I of the State Constitution.

272 u. The home addresses, telephone numbers, places of
 273 employment, dates of birth, and photographs of current or former
 274 staff and domestic violence advocates, as defined in s.
 275 90.5036(1)(b), of domestic violence centers certified by the
 276 Department of Children and Families under chapter 39; the names,
 277 home addresses, telephone numbers, places of employment, dates
 278 of birth, and photographs of the spouses and children of such
 279 personnel; and the names and locations of schools and day care
 280 facilities attended by the children of such personnel are exempt
 281 from s. 119.07(1) and s. 24(a), Art. I of the State
 282 Constitution.

283 v. The home addresses, telephone numbers, dates of birth,
 284 and photographs of current or former county attorneys, assistant
 285 county attorneys, city attorneys, and assistant city attorneys;
 286 the names, home addresses, telephone numbers, dates of birth,
 287 photographs, and places of employment of the spouses and
 288 children of current or former county attorneys, assistant county
 289 attorneys, city attorneys, and assistant city attorneys; and the
 290 names and locations of schools and day care facilities attended

20-00270A-22 20221420__
 291 by the children of current or former county attorneys, assistant
 292 county attorneys, city attorneys, and assistant city attorneys
 293 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 294 Constitution. This exemption does not apply to a current or
 295 former county attorney, assistant county attorney, city
 296 attorney, or assistant city attorney who qualifies as a
 297 candidate for election to public office.

298 3. An agency that is the custodian of the information
 299 specified in subparagraph 2. and that is not the employer of the
 300 officer, employee, justice, judge, or other person specified in
 301 subparagraph 2. must maintain the exempt status of that
 302 information only if the officer, employee, justice, judge, other
 303 person, or employing agency of the designated employee submits a
 304 written and notarized request for maintenance of the exemption
 305 to the custodial agency. The request must state under oath the
 306 statutory basis for the individual's exemption request and
 307 confirm the individual's status as a party eligible for exempt
 308 status.

309 4.a. A county property appraiser, as defined in s.
 310 192.001(3), or a county tax collector, as defined in s.
 311 192.001(4), who receives a written and notarized request for
 312 maintenance of the exemption pursuant to subparagraph 3. must
 313 comply by removing the name of the individual with exempt status
 314 and the instrument number or Official Records book and page
 315 number identifying the property with the exempt status from all
 316 publicly available records maintained by the property appraiser
 317 or tax collector. For written requests received on or before
 318 July 1, 2021, a county property appraiser or county tax
 319 collector must comply with this sub-subparagraph by October 1,

20-00270A-22 20221420__
 320 2021. A county property appraiser or county tax collector may
 321 not remove the street address, legal description, or other
 322 information identifying real property within the agency's
 323 records so long as a name or personal information otherwise
 324 exempt from inspection and copying pursuant to this section are
 325 not associated with the property or otherwise displayed in the
 326 public records of the agency.

327 b. Any information restricted from public display,
 328 inspection, or copying under sub-subparagraph a. must be
 329 provided to the individual whose information was removed.

330 5. An officer, an employee, a justice, a judge, or other
 331 person specified in subparagraph 2. may submit a written request
 332 for the release of his or her exempt information to the
 333 custodial agency. The written request must be notarized and must
 334 specify the information to be released and the party authorized
 335 to receive the information. Upon receipt of the written request,
 336 the custodial agency must release the specified information to
 337 the party authorized to receive such information.

338 6. The exemptions in this paragraph apply to information
 339 held by an agency before, on, or after the effective date of the
 340 exemption.

341 7. Information made exempt under this paragraph may be
 342 disclosed pursuant to s. 28.2221 to a title insurer authorized
 343 pursuant to s. 624.401 and its affiliates as defined in s.
 344 624.10; a title insurance agent or title insurance agency as
 345 defined in s. 626.841(1) or (2), respectively; or an attorney
 346 duly admitted to practice law in this state and in good standing
 347 with The Florida Bar.

348 8. The exempt status of a home address contained in the

20-00270A-22

20221420__

349 Official Records is maintained only during the period when a
 350 protected party resides at the dwelling location. Upon
 351 conveyance of real property after October 1, 2021, and when such
 352 real property no longer constitutes a protected party's home
 353 address as defined in sub-subparagraph 1.a., the protected party
 354 must submit a written request to release the removed information
 355 to the county recorder. The written request to release the
 356 removed information must be notarized, must confirm that a
 357 protected party's request for release is pursuant to a
 358 conveyance of his or her dwelling location, and must specify the
 359 Official Records book and page, instrument number, or clerk's
 360 file number for each document containing the information to be
 361 released.

362 9. Upon the death of a protected party as verified by a
 363 certified copy of a death certificate or court order, any party
 364 can request the county recorder to release a protected
 365 decedent's removed information unless there is a related request
 366 on file with the county recorder for continued removal of the
 367 decedent's information or unless such removal is otherwise
 368 prohibited by statute or by court order. The written request to
 369 release the removed information upon the death of a protected
 370 party must attach the certified copy of a death certificate or
 371 court order and must be notarized, must confirm the request for
 372 release is due to the death of a protected party, and must
 373 specify the Official Records book and page number, instrument
 374 number, or clerk's file number for each document containing the
 375 information to be released. A fee may not be charged for the
 376 release of any document pursuant to such request.

377 10. This paragraph is subject to the Open Government Sunset

Page 13 of 15

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20-00270A-22

20221420__

378 Review Act in accordance with s. 119.15 and shall stand repealed
 379 on October 2, 2024, unless reviewed and saved from repeal
 380 through reenactment by the Legislature.

381 Section 2. The Legislature finds that it is a public
 382 necessity that the home addresses, telephone numbers, dates of
 383 birth, and photographs of current or former county attorneys,
 384 assistant county attorneys, city attorneys, and assistant city
 385 attorneys be made exempt from s. 119.07(1), Florida Statutes,
 386 and s. 24(a), Article I of the State Constitution. The
 387 Legislature further finds that it is a public necessity that the
 388 names, home addresses, telephone numbers, dates of birth,
 389 photographs, and places of employment of the spouses and
 390 children of current or former county attorneys, assistant county
 391 attorneys, city attorneys, and assistant city attorneys, and the
 392 names and locations of schools and day care facilities attended
 393 by the children of such attorneys, be made exempt from s.
 394 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 395 State Constitution. The responsibilities of county attorneys,
 396 assistant county attorneys, city attorneys, and assistant city
 397 attorneys regularly involve legal enforcement proceedings in
 398 areas of neglect and abuse related to violations of codes and
 399 ordinances. Legal enforcement proceedings have led to
 400 retribution and threats by defendants and other persons on
 401 numerous occasions. Such attorneys have received death threats
 402 and e-mails from disgruntled persons advocating the murder of
 403 other attorneys. Other incidents have included the stalking of
 404 such attorneys and their spouses and children. The Legislature
 405 finds that the release of such personal identifying and location
 406 information could place such persons in danger of being

Page 14 of 15

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20-00270A-22

20221420__

407 physically or emotionally harmed or stalked by a defendant or
408 another person. The Legislature finds that the harm that may
409 result from the release of such personal identifying and
410 location information outweighs any public benefit that may be
411 derived from the disclosure of the information.

412 Section 3. This act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

SB 1420

1/18/22

Meeting Date

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Judiciary

Committee

Amendment Barcode (if applicable)

Name Martha Edenfield

Phone 850-999-4100

Address 106 E. College Ave #1200

Email medenfield@deanmead.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Charlotte County

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

January 18, 2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 1420

Bill Number or Topic

Judiciary

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Jeffrey Steinsnyder

Phone 727-847-8120

Address 8731 Citizens Drive Ste 340

Email jsteinsnyder@pascocountyfl.net

Street

New Port Richey

FL

34654

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Pasco County

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

01/18/2022

Meeting Date

Judiciary

Committee

Name

Edward G. Labrador

Phone

850-922-4300

Address

100 S. Monroe Street

Email

elabrador@fl-counties.com

Street

Tallahassee

FL

32301

City

State

Zip

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1420

Bill Number or Topic

Amendment Barcode (if applicable)

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Judiciary

BILL: SB 288

INTRODUCER: Senator Garcia

SUBJECT: Electronic Dissemination of Commercial Recordings and Audiovisual Works

DATE: January 18, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Ravelo</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 288 amends the True Origin of Digital Goods Act (Act) to include websites that provide commercial recordings, such as music, for *display or performance*. As enacted in 2015, the Act requires owners or operators of websites that disseminate commercial recordings or audiovisual works to Florida consumers to clearly post, and make readily accessible, the name of the operator or owner, their physical address, and their telephone number or e-mail address. A consumer may enjoin a violating website to require compliance with the Act and recover necessary expenses, including reasonable attorney fees. The additional language included under the bill appears to be aimed at covering situations where a commercial recording is used on a website through a streaming platform.

The bill takes effect on July 1, 2022.

II. Present Situation:

Florida True Origin of Digital Goods Act

The True Origin of Digital Goods Act¹ requires the owners or operators of websites that electronically disseminate commercial recordings or audiovisual works to Florida consumers to clearly post their true and correct name(s), physical address, and telephone number or e-mail address on their website.

A website electronically disseminates a commercial recording or audiovisual work by initiating the transmission of, making available, or otherwise offering it for distribution through the internet or another digital network. Any website that electronically disseminates such works must therefore post the above specific contact information.

¹ Section 501.155, F.S.

An owner, assignee, authorized agent, or licensee of a commercial recording or audiovisual work that appears on a website that lacks its owner's or operator's contact information may bring a private cause of action to obtain a declaratory judgment that the owner or operator's failure violates the Act. The owner, assignee, authorized agent, or licensee of the copyrighted work may also request an injunction to compel the website to comply with the Act. Prior to bringing a civil action, however, the aggrieved party must first make reasonable efforts to place the website's owner or operator on notice that they are violating the Act and that his or her failure to cure the violation within 14 days may result in the filing of a civil action.

Federal Copyright Law

The owner of original, copyrighted material has the exclusive rights to do and authorize any of the following:

- Reproduce the copyrighted work;
- Prepare derivative works based on the copyrighted work;
- Distribute copies of the copyrighted work to the public by sale, rental, lease, or lending;
- Publicly perform (or control the public performance of) the copyrighted work if it is a literary, musical, dramatic, choreographic, pantomime, motion picture, or other audiovisual copyrighted work;
- Publicly display (or control the public display of) the copyrighted work, if it is a literary, musical, dramatic, choreographic, pantomime, pictorial, graphic, or sculptural work—including individual images of a motion picture or audiovisual work; and
- Publicly perform sound recordings by means of a digital audio transmission.²

A display or performance is publicly available when it is (1) open or transmitted to the public or to any place where a substantial number of persons outside of a family and its friends are gathered, or (2) transmitted or communicated to the public through a device or process—whether or not the viewers view it in the same place or time.³

To display a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process. To perform a work means to recite, render, play, dance, or act it, either directly or by means of any device or process.⁴ Generally, the only distinction between a performance and a display of copyrighted material on the internet is that a performance occurs in a sequential, ongoing manner, while a display is static.⁵

Technological advances, such as faster internet connection and more powerful computer processors, have resulted the proliferation of streaming services, which in turn have made the

² 17 U.S.C. §§ 106-122, Copyrights. *See also*, U.S. Copyright Office, *Circular 1: Copyright Basics*, pp. 1-2 (Sept. 2021), <https://www.copyright.gov/circes/circ01.pdf> (last visited Nov. 1, 2021).

³ 17 U.S.C. § 101. *See also*, John Kennedy, Mary Rasenberger, Lorraine Ford and Joseph Fazio, *Internet Law and Practice- Intellectual Property Issues: Copyright: Public Performance and Display*, §12:13 (Nov. 2021).

⁴ 17 U.S.C. § 101. *See also*, *Information Law- Digital Copyright and Cyberspace- Network and Internet Issues, Public Display and Performance*, ch. 4 § 4:82 (May 2021).

⁵ *Id.*

public performance and display of copyrighted works over the internet more prevalent.⁶ Streaming copyrighted material over the internet has clearly been interpreted to constitute a public performance by courts throughout the U.S., but if done with proper authorization to distribute or perform the material from the copyright holder, is permissible under copyright law.⁷

Federal Digital Millennium Copyright Act

The Digital Millennium Copyright Act (DMCA) updated federal copyright law to address the relationship between copyrighted material and the internet. To provide certainty regarding liability for copyright infringement while balancing the rights of copyright holders, the DMCA created the notice-and-takedown system.⁸ This system requires online service providers to expeditiously remove infringing content after receipt of notice from a copyright holder.⁹ As the internet, related consumer activity, and specifically third party posting of copyrighted content continues to grow, so have takedown notices.¹⁰ For example, Google received take down notices for approximately three million URLs in 2013, as of October 21, 2021, it received notices identifying 5.3 billion URLs to be taken down.¹¹

The DMCA also requires online service providers to designate an agent to receive copyright owners' notices, and provide the agent's contact information on their websites.

Protecting Lawful Streaming Act

The Consolidated Appropriations Act of 2021 created the Protecting Lawful Streaming Act (PLSA),¹² which increases the federal penalty for illegal streaming from a misdemeanor to a felony. The act of offering copyrighted material for download without specific license or

⁶ U.S. Department of Commerce Internet Policy Task Force, *White Paper on Remixes, First Sale, and Statutory Damages: Copyright Policy, Creativity, and Innovation in the Digital Economy*, pp. 40-43 (Jan. 2016),

<https://www.uspto.gov/sites/default/files/documents/copyrightwhitepaper.pdf> (last visited Nov. 1, 2021). See also, Congressional Research Service, *Illegal Internet Streaming of Copyrighted Content: Legislation in the 112th Congress* (Aug. 29, 2011), <https://www.everycrsreport.com/reports/R41975.html#fn19> (last visited Nov. 1, 2021).

⁷ See, e.g., *Warner Bros. Entertainment Inc. v. WTV Systems, Inc.*, 824 F. Supp.2d 1003, 1010-1011 (C.D. Cal. 2011). *A&M Records, Inc. v. Napster, Inc.*, 114 F. Supp.2d 896 (N.D. Cal. 2000), *aff'd in relevant part*, 239 F.3d 1004 (9th Cir. 2001).

⁸ 17 U.S.C. § 512 (2)(b)-(d). U.S. Copyright Office, *The Digital Millennium Copyright Act: Section 1202- Copyright Management Information Protection*, <https://www.copyright.gov/dmca/> (last visited Nov. 1, 2021). See also, U.S. Copyright Office, *Section 512 Report*, pp. 1, 8 (May 2020), available at <https://www.copyright.gov/policy/section512/section-512-full-report.pdf> (last visited Nov. 1, 2021).

⁹ U.S. Copyright Office, *Section 512 of Title 17: Resources on Online Service Provider Safe Harbors and Notice-and-Takedown System* (May 21, 2020), <https://www.copyright.gov/512/> (last visited Nov. 1, 2021). See also, 17 U.S.C. §§512(b)-(d)

¹⁰ See also, U.S. Copyright Office, *Section 512 Report*, pp. 10 (May 2020), available at <https://www.copyright.gov/policy/section512/section-512-full-report.pdf> (last visited Nov. 1, 2021).

¹¹ *Id.* at 31-32, citing Google, *How Google Fights Piracy* (2018), https://www.blog.google/documents/25/GO806_Google_FightsPiracy_eReader_final.pdf (last visited Nov. 1, 2021). See also, *Google Transparency Report*, available at <https://transparencyreport.google.com/copyright/overview> (last visited Nov. 1, 2021).

¹² 18 U.S.C. 2319C, "Illicit Digital Transmission Services."

authorization is separately classified a felony under the No Electronic Theft (NET) Act, but this provision did not cover streaming copyrighted material.¹³

Specifically, the PLSA targets individuals who act (1) willfully, (2) for purposes of commercial advantage or private financial gain, and (3) offer or provide to the public a digital transmission service. Additionally, their digital transmission service must:¹⁴

- Be primarily designed or provided for the purpose of publicly performing copyright-protected works by digital transmission without the copyright owner’s authority;
- Have no commercially-significant purpose or use other than to publicly perform copyright-protected work by an unauthorized digital transmission; or
- Be intentionally marketed by or at the direction of a person to promote its use in publicly performing copyright-protected works by means of an unauthorized digital transmission.

III. Effect of Proposed Changes:

The bill amends s. 501.155, F.S., to expand the definition of “electronic dissemination” to include transmitting, making available, or otherwise offering a commercial recording or audiovisual work for distribution, *display*, or *performance*. As a result, any website that electronically transmits, makes available, or offers a display or performance must post the website operator’s or owner’s contact information and is subject to injunction and other judgments under the Florida True Origin of Digital Goods Act.

Although the terms “display” and “performance” are not defined under the bill, courts are likely to rely on how the terms are utilized under federal copyright law.¹⁵

The bill provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹³ 17 U.S.C. 506. See also, Michael Antonucci, *New Legislation: CASE Act and Protecting Lawful Streaming Act* (Mar. 18, 2021), <https://www.mondaq.com/unitedstates/trademark/1047506/new-legislation-case-act-and-protecting-lawful-streaming-act> (last visited Nov. 1, 2021).

¹⁴ See generally, Kevin Madigan, Copyright Alliance, *Protecting Lawful Streaming Act Signed Into Law: What you Need to Know* (Jan. 12, 2021), <https://copyrightalliance.org/protecting-lawful-streaming-act-signed/> (last visited Nov. 1, 2021).

¹⁵ See footnote 4 and accompanying text.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

For a court to exercise jurisdiction over a respondent, it must have both subject matter jurisdiction and personal jurisdiction. State courts have general jurisdiction, and therefore a claim made under a state statute meets the subject matter jurisdiction requirement.¹⁶ In order to establish jurisdiction, a respondent must have minimum contacts with the state in which the court sits so that the court may exercise power over that respondent.¹⁷ A non-resident respondent, for example, may have sufficient contacts with Florida if he or she commits acts expressly enumerated in Florida's long-arm statute.¹⁸ Alternately, the non-resident respondent may be subject to a Florida court's personal jurisdiction because he or she has minimum contacts with the state that are otherwise unrelated to matter that brings him or her into court.¹⁹ Examples of sufficient minimum contacts include frequent business travel to the state, owning a company with a Florida office branch, or subjecting oneself to the court's jurisdiction by presenting oneself in the Florida court.²⁰ These jurisdictional requirements ensure that a respondent has sufficient notice and due process afforded to him or her under the U.S. Constitution before his or her rights are subjected to the court.²¹

Whether a non-resident internet company that electronically disseminates commercial recordings or audiovisual works into Florida has sufficient minimum contacts with the state is a fact-specific question that would likely need to be addressed on a case-by-case basis by a court.²²

Content-neutral regulations are legitimate if they advance important governmental interests that are not related to suppression of free speech, and do not substantially burden more speech than necessary to further those interests.²³ However, a law may be determined to be overbroad if a "substantial number of its applications are unconstitutional, judged in relation to the statute's plainly legitimate sweep."²⁴

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

None.

¹⁶ *Caiazza v. American Royal Arts Corp.*, 73 So. 3d 245, 250 (Fla. 4th DCA 2011).

¹⁷ *Id.*

¹⁸ *Id.*; § 48.193, F.S.

¹⁹ *Caiazza v. American Royal Arts Corp.*, 73 So. 3d 245, 250 (Fla. 4th DCA 2011).

²⁰ *Id.*

²¹ *Id.* at 250-251.

²² See *Caiazza v. American Royal Arts Corp.*, 73 So. 3d 245, (Fla. 4th DCA 2011); *Zippo Mfg. Co. v. Zippo Dot Com, Inc.*, 952 F. Supp. 1119, 1124 (W.D. Pa. 1997).

²³ *Turner Broadcasting System, Inc. v. F.C.C.*, 520 U.S. 180,189 (U.S. 1997).

²⁴ *U.S. v. Stevens*, 559 U.S. 460 (2010), quoting, *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442, 449, n. 6, (2008).

B. Private Sector Impact:

Parties involved in the litigation provided for under the Act will incur costs related to bringing or defending the action.

C. Government Sector Impact:

Florida courts may see an increase in case filings under this law.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear whether Florida could assert jurisdiction over foreign websites should an aggrieved party attempt to enforce the disclosure requirements of this bill against a website owner or operator located outside of Florida. It can be assumed that website owners or operators located outside of Florida are not expected to respond to lawsuits or submit willingly to jurisdiction in Florida courts. As such, any proceedings against owners or operators of websites located outside of Florida may end in default judgments.

Following a default or other declaratory judgment, the aggrieved party could proceed with third party injunctions to discourage Internet service providers, hosting services, payment services, or other Internet website services from working with websites that fail to disclose their personal information required by this bill. For example, ISP Terms of Service Agreements frequently forbid the user website from engaging in illegal activity.

This legislation captures a wide array of behaviors due to the broad definitions of the terms “commercial recording or audiovisual work,” “electronic dissemination,” “performance,” and “display” used. As a result, many, if not all, private individuals having a website may be required to disclose their true and correct name, physical address, and telephone number or e-mail address. For example, under these definitions, a teenager who creates her own website for the purpose of posting self-produced recordings or audiovisual works may be required to provide the identifying information. Moreover, the true target for the injunction and further consequences apparently are those websites that do not provide the identifying information.

An individual may be able to display or perform a commercial recording or audiovisual work for distribution to a sufficiently narrow group so that the act does not constitute a “public” display or performance under federal copyright law. However, this bill does not discern between a public or private display or performance.

VIII. Statutes Affected:

This bill substantially amends section 501.155 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.

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

By Senator Garcia

37-00471-22

2022288__

1 A bill to be entitled
2 An act relating to electronic dissemination of
3 commercial recordings and audiovisual works; amending
4 s. 501.155, F.S.; revising the definition of the term
5 "electronic dissemination"; providing an effective
6 date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Paragraph (b) of subsection (3) of section
11 501.155, Florida Statutes, is amended to read:
12 501.155 Electronic dissemination of commercial recordings
13 or audiovisual works; required disclosures; injunctive relief.-
14 (3) DEFINITIONS.-As used in this section, the term:
15 (b) "Electronic dissemination" means initiating a
16 transmission of, making available, or otherwise offering a
17 commercial recording or audiovisual work for distribution,
18 display, or performance through the Internet or other digital
19 network, regardless of whether another person has previously
20 electronically disseminated the same commercial recording or
21 audiovisual work.
22 Section 2. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Danny Burgess, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 12, 2022

I respectfully request that **Senate Bill 288**, relating to Electronic Dissemination of Commercial Recordings and Audiovisual Works, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.



Senator Neana Garcia
Florida Senate, District 37

Georgiades, Celia

From: DelValle, Ana
Sent: Tuesday, January 18, 2022 9:04 AM
To: Cibula, Thomas; Georgiades, Celia; Burgess, Danny
Subject: Judiciary Committee Absence - SB 288

Good morning,

Please see the absence request/ excused absence below from Senator Ileana Garcia:

I had to miss today's meeting of the Judiciary Committee. Senator Burgess will present SB 288 – Electronic Dissemination of Commercial Recordings and Audiovisual Works on my behalf during the Senate Judiciary meeting today.

Sincerely,

Ana del Valle
Legislative Assistant
Senator Ileana Garcia- District 37

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/18/2022

Meeting Date

288

Bill Number or Topic

JUDICIARY

Committee

Amendment Barcode (if applicable)

Name

EDGAR CASTRO

Phone

850 671 4401

Address

123 S. ADAM ST

Email

castro@flsenate.gov

Street

TALLAHASSEE FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

RIAA

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1, [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Judiciary

BILL: CS/SB 884

INTRODUCER: Judiciary Committee and Senator Boyd

SUBJECT: Fees in Lieu of Security Deposits

DATE: January 18, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ravelo	Cibula	JU	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 884 amends the Florida Residential Landlord and Tenant Act to expressly authorize and regulate agreements between a residential landlord and a tenant for the payment of a monthly fee in lieu of a security deposit.

By expressly authorizing the use of a fee in lieu of a security deposit, the bill may facilitate the use of security deposit insurance. This insurance product insures a landlord against losses that would otherwise be covered by a security deposit or advance rent.

The bill takes effect July 1, 2022.

II. Present Situation:

Security Deposits and the Florida Residential Landlord and Tenant Act

The Florida Residential Landlord and Tenant Act regulates residential rental agreements. The Act provides that when money is deposited or advanced by a tenant as security or advance rent, the landlord is required to:

- Hold the total amount of such money in a separate non-interest-bearing account in a Florida banking institution for the benefit of the tenant or tenants. The landlord may not commingle the funds with any other funds of the landlord or hypothecate, pledge, or in any other way make use of the funds until they are actually due the landlord;

- Hold the total amount of the funds in a separate interest-bearing account in a Florida banking institution for the benefit of the tenant or tenants, in which case the tenant must receive and collect interest in an amount of at least 75 percent of the annualized average interest rate payable on the account or interest at the rate of 5 percent per year, simple interest, whichever the landlord elects. The landlord may not commingle the funds with any other funds of the landlord or hypothecate, pledge, or in any other way make use of the funds until the funds are actually due the landlord; or
- Post a surety bond, executed by the landlord as principal and a surety company authorized and licensed to do business in the state as surety, with the clerk of the circuit court in the county in which the dwelling unit is located in the total amount of the security deposits and advance rent he or she holds on behalf of the tenants or \$50,000, whichever is less. In addition to posting the surety bond, the landlord must pay to the tenant interest at the rate of 5 percent per year, simple interest.¹

A landlord must, in the lease agreement or within 30 days after receipt of advance rent or a security deposit, give written notice to the tenant which includes disclosures relating to the advance rent or security deposit.² The written notice must:³

- Be given in person or by mail to the tenant;
- State the name and address of the depository where the advance rent or security deposit is being held or state that the landlord has posted a surety bond as provided by law;
- State whether the tenant is entitled to interest on the deposit; and
- Contain the following disclosure:

YOUR LEASE REQUIRES PAYMENT OF CERTAIN DEPOSITS. THE LANDLORD MAY TRANSFER ADVANCE RENTS TO THE LANDLORD'S ACCOUNT AS THEY ARE DUE AND WITHOUT NOTICE. WHEN YOU MOVE OUT, YOU MUST GIVE THE LANDLORD YOUR NEW ADDRESS SO THAT THE LANDLORD CAN SEND YOU NOTICES REGARDING YOUR DEPOSIT. THE LANDLORD MUST MAIL YOU NOTICE, WITHIN 30 DAYS AFTER YOU MOVE OUT, OF THE LANDLORD'S INTENT TO IMPOSE A CLAIM AGAINST THE DEPOSIT. IF YOU DO NOT REPLY TO THE LANDLORD STATING YOUR OBJECTION TO THE CLAIM WITHIN 15 DAYS AFTER RECEIPT OF THE LANDLORD'S NOTICE, THE LANDLORD WILL COLLECT THE CLAIM AND MUST MAIL YOU THE REMAINING DEPOSIT, IF ANY.

IF THE LANDLORD FAILS TO TIMELY MAIL YOU NOTICE, THE LANDLORD MUST RETURN THE DEPOSIT BUT MAY LATER FILE A LAWSUIT AGAINST YOU FOR DAMAGES. IF YOU FAIL TO TIMELY OBJECT TO A CLAIM, THE LANDLORD MAY COLLECT

¹ Section 83.49(1), F.S.

² Section 83.49(2) F.S. Additionally, if the landlord changes the manner or location in which he or she is holding the advance rent or security deposit, he or she must notify the tenant within 30 days after the change.

³ Section 83.49(2)(a-d), F.S.

FROM THE DEPOSIT, BUT YOU MAY LATER FILE A LAWSUIT CLAIMING A REFUND.

YOU SHOULD ATTEMPT TO INFORMALLY RESOLVE ANY DISPUTE BEFORE FILING A LAWSUIT. GENERALLY, THE PARTY IN WHOSE FAVOR A JUDGMENT IS RENDERED WILL BE AWARDED COSTS AND ATTORNEY FEES PAYABLE BY THE LOSING PARTY.

THIS DISCLOSURE IS BASIC. PLEASE REFER TO PART II OF CHAPTER 83, FLORIDA STATUTES, TO DETERMINE YOUR LEGAL RIGHTS AND OBLIGATIONS.

If the landlord does not intend to impose a claim on the security deposit, the landlord has 15 days to return the security deposit together with interest.⁴ If the landlord intends to impose a claim on the deposit, such as for damage to the unit, the landlord has 30 days to give the tenant written notice by certified mail of the landlord's intention to impose a claim on the deposit along with the reason. The notice must contain a statement in substantially the following form:

This is a notice of my intention to impose a claim for damages in the amount of _____ upon your security deposit, due to _____. It is sent to you as required by s. 83.49(3), Florida Statutes. You are hereby notified that you must object in writing to this deduction from your security deposit within 15 days from the time you receive this notice or I will be authorized to deduct my claim from your security deposit. Your objection must be sent to (landlord's address).⁵

The landlord may then deduct the amount of his or her claim and must remit the balance of the deposit to the tenant within 30 days after the date of the notice of intention to impose a claim for damages. If the landlord fails to give the required notice within 30 days, the landlord forfeits the right to impose a claim upon the security deposit. The failure of the tenant to make a timely objection does not waive any rights of the tenant to seek damages in a separate action.⁶

Security Deposit Insurance

Florida law does not specifically require any sort of security deposit for a residential lease. It is generally up to the landlord and tenant to set up the lease agreement consistent with the provisions in the Florida Residential Landlord and Tenant Act under ch. 83, F.S. Likewise, Florida law does not address the issue of "security deposit insurance" for residential leases. This insurance product, which has been called "lease insurance," "rent insurance," "tenant insurance," or "landlord insurance," generally protects the landlord from damage to the property or loss of rent.⁷ Different insurance providers offer different levels of coverage. At least one company,

⁴ Section 83.49(3)(a), F.S.

⁵ *Id.*

⁶ Section 83.49(3)(b), F.S.

⁷ One company operating in Florida provides the following explanation of its security deposit insurance:

provides both security deposit insurance as well as the ability to sign a lease as the tenant's guarantor.⁸ Another company operating in Florida offers personal property, security deposit, and flexible rent payment insurance.⁹

Generally, security deposit insurance protects the landlord and are distinct from the more commonly used "renter's insurance," which often provides personal liability and personal property protection for the tenant. Additionally, many security deposit insurance policies operate under surety bonds,¹⁰ and allow the insurance provider to recoup from the tenant any insurance claim paid out to the landlord.

III. Effect of Proposed Changes:

The bill states that if a rental agreement requires a security deposit, the landlord may instead offer a tenant the option to pay a fee in the lieu of the security deposit. This option, if provided, must be provided to the tenant in writing and state:

- That the tenant has the option to pay a security deposit instead of a fee;
- The tenant at any time may terminate the agreement to pay a security deposit in the amount that is otherwise offered to new tenants for a substantially similar dwelling unit on the date that the tenant terminates the agreement; and
- Whether any additional charges apply for either of the above circumstances.

The landlord has sole discretion as to whether to offer tenants the option to pay a fee in lieu of a security deposit. If a tenant decides to pay a fee in lieu of a security deposit, a written agreement

Jetty Deposit is a deposit alternative product that replaces a traditional cash deposit with either a one-time, non-refundable premium or a low, non-refundable monthly premium. Instead of paying a cash security deposit, Jetty Deposit gives you the option to pay a fraction of the amount, which serves as a Jetty-backed guarantee to your property that they'll be protected in the event that you fail to pay for damage or skipped rent. Keep in mind that if you purchase Jetty Deposit, you're agreeing to pay your rent in full, not to cause damage beyond standard wear and tear on your rental home, and you remain responsible for keeping it in good condition. And if you do cause excessive damage and fail to pay, Jetty assumes the responsibility of recovering the cost from you. (Emphasis added).

Jetty Frequently Asked Questions, *What is Jetty Deposit and how does it work?* (Aug. 2021), <https://jetty.zendesk.com/hc/en-us/articles/4405193685911-What-is-Jetty-Deposit-and-how-does-it-work> (last visited Jan. 13, 2022)

⁸ Rhino Frequently Asked Questions, *What is Rhino Guarantor Coverage?* (Mar. 2021), <https://support.sayrhino.com/hc/en-us/articles/360061185252-What-is-Rhino-guarantor-coverage> (last visited Jan. 13, 2022).

⁹ *Jetty Introduces New Flexible Rent Payment Product and Raises \$23M*, PRNewswire, (Sept. 8, 2021), <https://www.prnewswire.com/news-releases/jetty-introduces-new-flexible-rent-payment-product-and-raises-23m-301372540.html> (last visited Jan. 13, 2022).

¹⁰ "Sometimes, when a party owes others legal duties, the party posts a surety bond to guarantee their performance. The surety bond is like a security deposit, with the party promising to do something as the renter and person they owe obligations to, or obligee, is like the landlord. Thus, if the party that made the promise fails to perform their duty, the obligee is compensated out of the bond." See Legal Information Institute, *Surety Bond*, available at https://www.law.cornell.edu/wex/surety_bond.

One insurance provider provides the following explanation of surety bonds: Surety bonds—like Rhino's security deposit insurance—share a common purpose with traditional cash security deposits: to reimburse property owners for unpaid rent and excessive damage to the home. However, surety bonds are less expensive than traditional security deposits. Surety bonds also have transparency built into their insurance model. Instead of paying a cash security deposit and wondering if you'll ever see it again or if you'll get it back in its entirety, renters pay for incidents (if they happen) through Rhino directly.

Rhino Blog, *What renters need to know about surety bonds*, (Apr. 30, 2021), <https://www.sayrhino.com/blog/posts/surety-bonds-for-renting> (last visited Jan. 13, 2022).

to collect the fee must be signed by the landlord, or the landlord's agent, and the tenant. The written agreement must specify the amount of the fee and how and when the fee is to be collected. Additionally, written agreement must include the following disclosure:

THIS AGREEMENT HAS BEEN ENTERED INTO VOLUNTARILY BY BOTH PARTIES AND THE TENANT AGREES TO PAY THE LANDLORD A FEE IN LIEU OF A SECURITY DEPOSIT AS AUTHORIZED UNDER SECTION 83.491, FLORIDA STATUTES. THIS FEE IS NOT A SECURITY DEPOSIT AND PAYMENT OF THE FEE DOES NOT ABSOLVE THE TENANT OF ANY OBLIGATIONS UNDER THE RENTAL AGREEMENT, INCLUDING THE OBLIGATION TO PAY RENT AS IT BECOMES DUE AND ANY COSTS AND DAMAGES BEYOND NORMAL WEAR AND TEAR THAT THE TENANT OR HIS OR HER GUESTS MAY CAUSE. THE TENANT MAY TERMINATE THIS AGREEMENT AT ANY TIME AND STOP PAYING THE FEE AND INSTEAD PAY A SECURITY DEPOSIT AS PROVIDED IN SECTION 83.491, FLORIDA STATUTES.

THIS DISCLOSURE IS BASIC. PLEASE REFER TO PART II OF CHAPTER 83, FLORIDA STATUTES, TO DETERMINE YOUR LEGAL RIGHTS AND OBLIGATIONS.

The bill provides that a fee in lieu of a security deposit may be a recurring monthly fee, payable on the same date that the rent payment is due under the rental agreement; or payable upon a schedule that the landlord and tenant choose as specified in the written agreement.

If a landlord offers a tenant the option to pay a fee in lieu of a security deposit, the landlord must also offer all new tenants renting a dwelling unit on the same premises the option to pay a fee in lieu of a security deposit, unless the landlord chooses to terminate the fee option for all tenants.

The bill provides that this section applies to rental agreements entered into or renewed on or after July 1, 2022.

The bill provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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:

If implemented by landlords, a monthly fee in lieu of a security deposit may benefit certain tenants who may otherwise be unable to afford a large security deposit.

CS/SB 884 may positively impact insurance providers that offer security deposit insurance.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 83.491, Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on January 18, 2022

The CS specifies that a landlord has the sole discretion to determine whether to accept a fee in lieu of a security deposit.

B. Amendments:

None.

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



752772

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2022	.	
	.	
	.	
	.	

The Committee on Judiciary (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete line 71

and insert:

(6) A landlord has exclusive discretion as to whether to offer tenants the option to pay a fee in lieu of a security deposit and is not required to offer such fee option to tenants. However, if a landlord offers a tenant an option to pay a fee

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:



752772

12 Delete lines 13 - 15
13 and insert:
14 specifying that landlords have exclusive discretion as
15 to whether to offer tenants the option to pay a fee in
16 lieu of a security deposit; requiring that landlords
17 who offer a tenant the fee option offer such option to
18 all new tenants renting a dwelling unit on the same
19 premises, except in certain circumstances;

By Senator Boyd

21-00684-22

2022884__

A bill to be entitled

An act relating to fees in lieu of security deposits; creating s. 83.491, F.S.; authorizing a landlord to offer a tenant the option to pay a fee in lieu of a security deposit; requiring the landlord to provide certain written notice to the tenant; requiring a written agreement signed by the landlord, or the landlord's agent, and the tenant if the tenant decides to pay a fee in lieu of the security deposit; requiring a specified disclosure in the written agreement; providing options for paying the fee; specifying that the fee is not a security deposit; requiring a landlord to offer the option to pay a fee in lieu of a security deposit to all new tenants under certain circumstances; providing an exception; providing applicability; providing an effective date.

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

Section 1. Section 83.491, Florida Statutes, is created to read:

83.491 Fee in lieu of security deposit.-

(1) If a rental agreement requires a security deposit, a landlord may offer a tenant the option to pay a fee in lieu of the security deposit.

(2) If a landlord offers a tenant the option to pay a fee in lieu of a security deposit, the landlord must notify the tenant in writing of all of the following:

(a) That the tenant has the option to pay a security

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

21-00684-22

2022884__

deposit instead of the fee.

(b) That the tenant may, at any time, terminate the agreement to pay the fee in lieu of the security deposit and instead pay a security deposit in the amount that is otherwise offered to new tenants for a substantially similar dwelling unit on the date that the tenant terminates the agreement.

(c) Whether any additional charges apply for the options provided in paragraphs (a) and (b).

(3) (a) If a tenant decides to pay a fee in lieu of a security deposit, a written agreement to collect the fee must be signed by the landlord, or the landlord's agent, and the tenant. The written agreement must, at a minimum, specify the amount of the fee and how and when the fee is to be collected.

(b) The written agreement specified under paragraph (a) must also include a disclosure in substantially the following form:

FEE IN LIEU OF SECURITY DEPOSIT

THIS AGREEMENT HAS BEEN ENTERED INTO VOLUNTARILY BY BOTH PARTIES AND THE TENANT AGREES TO PAY THE LANDLORD A FEE IN LIEU OF A SECURITY DEPOSIT AS AUTHORIZED UNDER SECTION 83.491, FLORIDA STATUTES. THIS FEE IS NOT A SECURITY DEPOSIT AND PAYMENT OF THE FEE DOES NOT ABSOLVE THE TENANT OF ANY OBLIGATIONS UNDER THE RENTAL AGREEMENT, INCLUDING THE OBLIGATION TO PAY RENT AS IT BECOMES DUE AND ANY COSTS AND DAMAGES BEYOND NORMAL WEAR AND TEAR THAT THE TENANT OR HIS OR HER GUESTS MAY CAUSE. THE TENANT MAY TERMINATE THIS AGREEMENT AT ANY TIME AND STOP PAYING THE FEE AND INSTEAD PAY A SECURITY DEPOSIT AS PROVIDED IN SECTION 83.491, FLORIDA STATUTES.

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

21-00684-22

2022884__

59

60 THIS DISCLOSURE IS BASIC. PLEASE REFER TO PART II OF CHAPTER 83,
61 FLORIDA STATUTES, TO DETERMINE YOUR LEGAL RIGHTS AND
62 OBLIGATIONS.

63

64 (4) A fee in lieu of a security deposit may be:

65 (a) A recurring monthly fee, payable on the same date that
66 the rent payment is due under the rental agreement; or

67 (b) Payable upon a schedule that the landlord and tenant
68 choose and as specified in the written agreement.

69 (5) A fee collected under this section is not a security
70 deposit as defined in s. 83.43(12).

71 (6) If a landlord offers a tenant the option to pay a fee
72 in lieu of a security deposit, the landlord must also offer all
73 new tenants renting a dwelling unit on the same premises the
74 option to pay a fee in lieu of a security deposit, unless the
75 landlord chooses to terminate the fee option for all tenants.

76 (7) This section applies to rental agreements entered into
77 or renewed on or after July 1, 2022.

78 Section 2. This act shall take effect July 1, 2022.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JIM BOYD
21st District

COMMITTEES:

Banking and Insurance, *Chair*
Agriculture
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Judiciary
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

November 30, 2021

Senator Danny Burgess
404 South Monroe Street
515 Knott Building
Tallahassee, FL 32399

Dear Chairman Burgess:

I respectfully request Senate Bill 884: Fees in Lieu of Security Deposits, be scheduled for a hearing in the Committee on Judiciary at your earliest convenience.

If I may be of assistance to you on this or any other matter, please do not hesitate to contact me.

Thank you for your consideration of this matter.

Best regards,

A handwritten signature in black ink, appearing to read "Jim Boyd".

Jim Boyd

cc: Tom Cibula
Celia Georgiades

REPLY TO:

- 717 Manatee Avenue West, Bradenton, Florida 34205 (941) 742-6445
- 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate
APPEARANCE RECORD

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884

Bill Number or Topic

752772

Amendment Barcode (if applicable)

11/18/22

Meeting Date

Judiciary

Committee

Name Kelly Mallette

Phone (850) 224 3427

Address 104 W Jefferson Street

Email Kelly@rlbodepa.com

Tallahassee, FL 32300

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

APPEARANCE RECORD

884 ✓

1/18/22

Meeting Date

Judiciary

Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name

Ida V. Eskamani

Phone

Address

134 E. Colonial Dr

Email

Street

Ocala

FL

32801

City

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Housing Justice Alliance

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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1.18.22

The Florida Senate APPEARANCE RECORD

884



Meeting Date

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Bill Number or Topic

Judiciary
Committee

Amendment Barcode (if applicable)

Name

Jon Potter

Phone

202-494-5444

Address

14 Windermere Ct,
Street

Email

City

Rockville

State

MD

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Lease Lock

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

889

1.18.22

Meeting Date

Bill Number or Topic

JUDICIARY

Committee

Amendment Barcode (if applicable)

Deliver both copies of this form to
Senate professional staff conducting the meeting

Name SLATER, BAILESS

Phone 222 8900

Address 244 Roswell Dr
Street

Email

City TLH State FL Zip 32312

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

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 Judiciary

BILL: SB 1114

INTRODUCER: Senator Bradley

SUBJECT: Emergency Medical Care and Treatment of Minors

DATE: January 14, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	Favorable
2.			HP	
3.			RC	

I. Summary:

SB 1114 broadens an exception to the general rule that medical treatment cannot be rendered without a patient’s consent. Under current law, parental consent is required for a physician to provide emergency medical care to a minor outside of a hospital or college health service. Similarly, parental consent is required for paramedics and other emergency medical services personnel to perform emergency care outside of a prehospital setting such as at an accident scene or in an ambulance. The bill allows physicians and emergency medical personnel to provide emergency medical care or treatment to a minor at any location without the consent of the minor’s parents.

The bill continues the requirements of current law that the need for care be the result of a genuine emergency and that appropriate medical personnel first attempt to identify and contact the minor’s parents, guardian, or legal custodian to obtain consent before providing emergency care or treatment. The bill does not disturb the longstanding principle that children do not have the legal capacity to consent to treatment.

II. Present Situation:

Emergency Medical Care or Treatment of Minors Without Parental Consent

Physicians and Osteopathic Physicians

Section 743.064(1), F.S., establishes the limited circumstances under which emergency medical care or treatment may be given to minors without parental consent. Parental consent is not required if a minor has been injured in an accident or is suffering from an acute illness, disease,

or condition and a physician¹ or osteopathic physician² believes, within a reasonable degree of medical certainty, that a delay in initiating or providing the emergency care or treatment would endanger the health or physical well-being of the minor. However, under this statute, the emergency care or treatment must be administered in a licensed hospital or in a college health service.

Paramedics, Emergency Medical Technicians, and Other Emergency Personnel

In a similar manner, paramedics, emergency medical technicians, and other emergency medical services personnel may provide emergency medical care or treatment to a minor without parental consent if the care is rendered in a “prehospital”³ setting and rendered in a manner consistent with chapter 401, F.S., the medical telecommunications and transportation chapter.

Prerequisites for Authorization

However, the authorization to perform emergency medical care or treatment without parental consent is valid only when:

- The minor’s condition has rendered him or her unable to provide the identity of his or her parents, guardian, or legal custodian, and no one who accompanies the minor to the hospital knows that information; or
- The parents, guardian, or legal custodian cannot be immediately located by phone at their residence or business.⁴

Essential Updates to Medical Records

After emergency care or treatment is administered to the minor, the medical personnel must notify the minor’s parents, guardian, or legal custodian of the provision of medical care or treatment as soon as possible. The hospital records must reflect why the hospital was unable to obtain consent before treatment and contain a statement from the attending physician that the emergency care or treatment was necessary for the minor’s health or physical well-being. The hospital records must then be open for inspection by the person who is legally responsible for the minor.⁵

Parents’ Bill of Rights

General Overview

In 2021, the Legislature passed the “Parents’ Bill of Rights” act that is now contained in ch. 1014, F.S.⁶ In general terms, the statutes provide that the state, its political subdivisions, any other governmental entity, or other institution may not infringe upon the fundamental rights of a parent to direct the upbringing, education, health care, and mental health of a minor child. In addition to providing a list of parental rights that govern a child’s education, the statutes also

¹ “Physician” is defined in s. 458.307(4), F.S., to mean a person who is licensed to practice medicine in this state.

² “Osteopathic physician” is defined in s. 459.003(4), F.S., to mean a person who is licensed to practice osteopathic medicine in this state.

³ The term “prehospital” is not defined in the statutes.

⁴ Section 743.064(2), F.S.

⁵ Section 743.064(3), F.S.

⁶ Chapter 2021-199, Laws of Fla.

contain provisions requiring a parent's consent before health care services may be provided to a minor child.

It should be noted that the provisions contained in the Parents' Bill of Rights do not apply to abortion, which is governed by chapter 390, F.S.⁷

Criminal Penalties and Exceptions

Section 1014.06(1), F.S., states that, *except as otherwise provided by law*, a health care practitioner or his or her employee, "may not provide or solicit or arrange to provide health care services or prescribe medicinal drugs to a minor child without first obtaining *written* parental consent." Section 1014.06(2), F.S., states that, *except as otherwise provided by law or by a court order*, a provider "may not allow a medical procedure to be performed on a minor child in its facility without first obtaining *written* parental consent."⁸ A health care practitioner or other person who violates these provisions is subject to disciplinary action, as applicable, and commits a first degree misdemeanor. A first degree misdemeanor is punishable by a term of imprisonment not to exceed 1 year and a fine that may not exceed \$1,000.⁹

Potential Complications of Construing the Emergency Treatment of Minors Provisions with the Parents' Bill of Rights

Before the Parents' Bill of Rights was enacted in 2021, it does not appear that any statutes expressly made the rendering of medical care, without parental consent, a crime.¹⁰ In *Brown v. Wood*,¹¹ however, the court acknowledged that a plaintiff may bring an action for negligence or assault and battery against a physician who did not obtain the informed consent of a parent before performing an operation on a minor child.

Depending on how the two "except as otherwise provided" provisions of the Parents' Bill of Rights are interpreted, it is unclear if physicians and osteopathic physicians are subject to criminal penalties for practicing emergency medicine on a minor. If the provision of emergency medical care on a minor without parental consent as permitted in s. 743.064, F. S., constitutes an exception to the Parents' Bill of Rights, then there is no criminal risk for the medical professional who provides emergency treatment in a licensed hospital or college health service. However, the provision of emergency medical care to a minor outside of those locations could be subject to a criminal penalty.

If the restrictions that limit physicians and osteopathic physicians to rendering emergency care or treatment to a licensed hospital or a college health service, were deleted, it would clarify that those professionals could render emergency treatment at additional locations without the fear of

⁷ See section 1014.06(3), F.S.

⁸ Section 1014.06(3), F.S., states that this section does not apply to abortion, which is governed by chapter 390. Section 1014.06(4), F.S., states that this section does not apply to services provided by a clinical laboratory, unless the services are delivered through a direct encounter with the minor at the clinical laboratory facility.

⁹ See s. 775.082(4)(a), F.S., for penalties and s. 775.083(1)(d), F.S., for fines.

¹⁰ Arguably, the provision of medical care without consent constitutes the criminal offense of battery. Section 784.03(1), F.S., states that battery includes situations in which a person "[a]ctually and intentionally touches or strikes another person against the will of the other."

¹¹ *Brown v. Wood*, 202 So. 2d 125 (Fla. 2d DCA 1967).

committing a criminal act. In a similar manner, if the “prehospital setting” restriction that limits where paramedics, emergency medical technicians, and other emergency medical services personnel may provide emergency care to minors is removed, it would expand where they could render aid to minors without parental consent without the fear of committing a criminal act.

III. Effect of Proposed Changes:

The bill removes the restrictions on the locations where emergency medical care or treatment may be rendered for a minor without parental consent.

Physicians and Osteopathic Physicians

For physicians and osteopathic physicians, the emergency medical care or treatment location is no longer restricted to a licensed hospital or a college health service. However, before rendering emergency aid, these professionals must determine that the minor has been injured in an accident or is suffering from an acute illness, disease, or condition, and he or she believes, with a reasonable degree of medical certainty, that delaying in initiating or providing emergency medical care or treatment will endanger the minor’s health or well-being.

Paramedics, Emergency Medical Technicians, and Other Emergency Medical Services Personnel

In a similar manner, paramedics, emergency medical technicians, and other emergency medical services personnel are not limited to rendering aid in a prehospital setting. However, they must render emergency medical care consistent with the provisions of chapter 401, the Medical Telecommunications and Transportation chapter.

Additional Requirements for Rendering Emergency Care or Treatment

Other requirements in existing law still apply before emergency medical treatment or care may be provided. It is still necessary to determine that the information identifying the minor’s parents cannot be immediately obtained or that they cannot be reached by phone at their home or business and that the records be updated as soon as possible. However, the bill removes the reference to “hospital records” and replaces the term with “patient records.”

The final subsection of the statute that is amended by the bill deletes the phrase “hospital, or college health service” for the purpose of conforming to other changes by the bill.

The bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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:

The Department of Health states that SB 1114 will have no impact on the Department.¹²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 743.064 of the Florida Statutes.

¹² Florida Department of Health, *Senate Bill 1114 Agency Analysis*, (Jan. 10, 2022) <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=29164&yr=2022>.

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.

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

By Senator Bradley

5-01013-22

20221114__

A bill to be entitled

An act relating to emergency medical care and treatment of minors; amending s. 743.064, F.S.; deleting the requirement that emergency medical care or treatment by physicians and emergency medical personnel without parental consent be provided only in specified settings; making technical and conforming changes; providing an effective date.

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

Section 1. Section 743.064, Florida Statutes, is amended to read:

743.064 Emergency medical care or treatment to minors without parental consent.—

(1) The absence of parental consent notwithstanding, a physician licensed under chapter 458 or an osteopathic physician licensed under chapter 459 may render emergency medical care or treatment to any minor who has been injured in an accident or who is suffering from an acute illness, disease, or condition if, within a reasonable degree of medical certainty, delay in initiation or provision of emergency medical care or treatment would endanger the health or physical well-being of the minor, ~~and provided such emergency medical care or treatment is administered in a hospital licensed by the state under chapter 395 or in a college health service.~~ Emergency medical care or treatment may also be rendered ~~in the prehospital setting~~ by paramedics, emergency medical technicians, and other emergency medical services personnel, provided that such care is rendered

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

5-01013-22

20221114__

consistent with ~~the provisions of~~ chapter 401. These persons shall follow the general guidelines and notification provisions of this section.

(2) This section shall apply only when parental consent cannot be immediately obtained for one of the following reasons:

(a) The minor's condition has rendered him or her unable to reveal the identity of his or her parents, guardian, or legal custodian, and such information is unknown to any person who accompanied the minor ~~to the hospital.~~

(b) The parents, guardian, or legal custodian cannot be immediately located by telephone at their place of residence or business.

(3) Notification shall be accomplished as soon as possible after the emergency medical care or treatment is administered. The patient ~~hospital~~ records shall reflect the reason such consent was not initially obtained and shall contain a statement by the attending physician that immediate emergency medical care or treatment was necessary for the patient's health or physical well-being. The patient ~~hospital~~ records shall be open for inspection by the person legally responsible for the minor.

(4) ~~A~~ No person as delineated in subsection (1) may not, ~~hospital, or college health service shall~~ incur civil liability by reason of having rendered emergency medical care or treatment pursuant to this section, provided such treatment or care was rendered in accordance with acceptable standards of medical practice.

Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



SENATOR JENNIFER BRADLEY
5th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Education
Ethics and Elections
Judiciary
Reapportionment

SELECT SUBCOMMITTEE:
Select Subcommittee on Congressional
Reapportionment, *Chair*

JOINT COMMITTEES:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

January 12, 2022

Senator Danny Burgess, Chairman
Senate Committee on Judiciary
308 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Burgess:

I respectfully request that Senate Bill 1114 be placed on the committee's agenda at your earliest convenience. This bill relates to treatment of emergency medical care and treatment of minors.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Bradley".

Jennifer Bradley

cc: Tom Cibula, Staff Director
Celia Georgiades, Administrative Assistant

REPLY TO:

- 1279 Kingsley Avenue, Kingsley Center, Suite 117, Orange Park, Florida 32073 (904) 278-2085
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate

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Jan. 18, 21

Meeting Date

Jud

Committee

1114

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Toni Large

Phone

850 556-1461

Address

1100 Brookwood

Email

toni@largestrategies.com

Street

Tallahassee, FL 32308

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without compensation or sponsorship.



I am a registered lobbyist, representing:



I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Florida College of Emergency Physicians
Florida Orthopedic Society

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

The Florida Senate

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1/18/22

Meeting Date

1114

Bill Number or Topic

Judiciary

Committee

Amendment Barcode (if applicable)

Name Mary Thomas

Phone 850 224 6496

Address 1430 Piedmont Dr E

Email MThomas@flmedical.org

Street

PLH

City

FL

State

32309

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Medical Association

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations
Appropriations Subcommittee on Health and
Human Services
Banking and Insurance
Children, Families, and Elder Affairs
Judiciary
Reapportionment
Regulated Industries

SELECT SUBCOMMITTEE:

Select Subcommittee on Congressional
Reapportionment

SENATOR DARRYL ERVIN ROUSON

19th District

January 17, 2022

Senator Danny Burgess
308 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Burgess,

Please excuse my absence from the Judiciary Committee meeting on January 18th, 2022.

Thank you,

A handwritten signature in cursive script that reads "Darryl E. Rouson".

Darryl E. Rouson
State Senator, District 19

REPLY TO:

- 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Judiciary Committee

Judge:

Started: 1/18/2022 9:01:19 AM

Ends: 1/18/2022 9:46:55 AM Length: 00:45:37

9:01:18 AM Meeting called to order by Chair Burgess
9:01:22 AM Roll call by Celia Georgiades
9:01:29 AM Quorum present
9:01:46 AM Chair Burgess states that Senator Gibson is present and Senator Rouson is excused
9:02:00 AM Comments from Chair Burgess
9:02:07 AM Introduction of Tab 3, SB 884 by Chair Burgess
9:02:18 AM Explanation of SB 884, Fees in Lieu of Security Deposits by Senator Boyd
9:04:49 AM Comments from Chair Burgess
9:04:55 AM Introduction of Amendment Barcode No. 752772 by Chair Burgess
9:05:00 AM Explanation of Amendment by Senator Boyd
9:05:19 AM Comments from Chair Burgess
9:05:32 AM Closure waived
9:05:36 AM Amendment adopted
9:05:38 AM Comments from Chair Burgess
9:05:43 AM Question from Senator Gibson
9:05:49 AM Response from Senator Boyd
9:06:13 AM Follow-up question from Senator Gibson
9:06:21 AM Response from Senator Boyd
9:06:42 AM Comments from Chair Burgess
9:06:49 AM Follow-up question from Senator Gibson
9:06:55 AM Response from Senator Boyd
9:07:15 AM Follow-up question from Senator Gibson
9:07:27 AM Response from Senator Boyd
9:08:27 AM Question from Senator Polsky
9:08:34 AM Response from Senator Boyd
9:08:51 AM Follow-up question from Senator Polsky
9:09:49 AM Response from Senator Boyd
9:09:58 AM Follow-up question from Senator Polsky
9:10:33 AM Response from Senator Boyd
9:10:48 AM Follow-up question from Senator Polsky
9:11:33 AM Response from Senator Boyd
9:12:31 AM Follow-up question from Senator Polsky
9:13:19 AM Response from Senator Boyd
9:13:30 AM Follow-up question from Senator Polsky
9:13:38 AM Response from Senator Boyd
9:13:45 AM Follow-up question from Senator Polsky
9:13:53 AM Response from Senator Boyd
9:15:02 AM Comments from Chair Burgess
9:15:08 AM Speaker Ida Eskamani, Florida Housing Justice Alliance in opposition
9:18:13 AM Speaker Jon Potter, LeaseLock in support
9:20:36 AM Slater Bayliss waives in support
9:21:45 AM Speaker Kelly Mallette in support of Amendment

9:22:08 AM Senator Gibson in debate
9:23:14 AM Senator Polsky in debate
9:25:27 AM Comments from Chair Burgess
9:25:38 AM Senator Rodrigues in debate
9:25:59 AM Chair Burgess in debate
9:26:13 AM Senator Boyd in closure
9:28:23 AM Roll call by CAA
9:29:23 AM CS/SB 884 reported favorably
9:29:40 AM Introduction of Tab 4, SB 1114 by Chair Burgess
9:29:58 AM Explanation of SB 1114, Emergency Medical Care and Treatment of Minors by Senator Bradley
9:31:40 AM Comments from Chair Burgess
9:31:44 AM Question from Senator Polsky
9:31:51 AM Response from Senator Bradley
9:32:38 AM Follow-up question from Senator Polsky
9:33:13 AM Response from Senator Bradley
9:33:28 AM Follow-up question from Senator Polsky
9:33:38 AM Response from Senator Bradley
9:34:20 AM Toni Large, Florida College of Emergency Physicians & Florida Orthopedic Society waives in support
9:34:25 AM Mary Thomas, Florida Medical Association waives in support
9:34:31 AM Comments from Chair Burgess
9:34:37 AM Senator Bradley in closure
9:34:42 AM Roll call by CAA
9:35:07 AM SB 1114 reported favorably
9:35:23 AM Comments from Chair Burgess
9:35:41 AM Gavel passed to Vice Chair Gibson
9:35:50 AM Introduction of Tab 1, SB 1420 by Chair Gibson
9:36:00 AM Explanation of SB 1420, Public Records/County and City Attorneys by Senator Burgess
9:37:12 AM Comments from Chair Gibson
9:37:19 AM Question from Senator Rodrigues
9:37:25 AM Response from Senator Burgess
9:38:38 AM Comments from Chair Gibson
9:38:44 AM Martha Edenfield, Charlotte County waives in support
9:38:54 AM Speaker Jeffrey Steinsnyder, Pasco County Attorney in support
9:40:19 AM Edward Labrador waives in support
9:41:21 AM Comments from Chair Gibson
9:41:31 AM Senator Boyd in debate
9:41:54 AM Chair Gibson in debate
9:42:23 AM Senator Burgess in closure
9:42:39 AM Roll call by CAA
9:43:02 AM SB 1420 reported favorably
9:43:20 AM Introduction of Tab 2, SB 288 by Chair Gibson
9:43:46 AM Explanation of SB 288, Electronic Dissemination of Commercial Recordings and Audiovisual Works by Senator Burgess
9:45:11 AM Comments from Chair Gibson
9:45:16 AM Edgar Castro, RIAA waives in support
9:45:34 AM Comments from Chair Gibson
9:45:39 AM Closure waived
9:45:41 AM Roll call by CAA
9:45:47 AM SB 288 reported favorably
9:46:05 AM Gavel returned to Senator Burgess

9:46:17 AM Comments from Chair Burgess

9:46:19 AM Senator Baxley shown voting favorably on CS/SB 884 and SB 1114

9:46:35 AM Comments from Chair Burgess

9:46:37 AM Senator Bradley moves to adjourn

9:46:44 AM Meeting adjourned