

Tab 1	SB 158 by Polsky; (Identical to H 00029) Value of Motor Vehicles Exempt from Legal Process				
Tab 2	CS/SB 224 by GO, Wright; (Similar to H 00413) Citizen Volunteer Advisory Committees				
719536	A	S	RCS	RC, Wright	Delete L.21 - 31: 01/30 05:56 PM
Tab 3	CS/SB 346 by MS, Ingoglia (CO-INTRODUCERS) Yarborough, Collins; (Identical to CS/H 00357) Special Observances				
Tab 4	SM 370 by Wright; (Similar to CS/H 00143) Spaceports				
Tab 5	SB 446 by Simon (CO-INTRODUCERS) Harrell; (Identical to H 00073) Supported Decisionmaking Authority				
Tab 6	CS/CS/SB 462 by HP, JU, Grall (CO-INTRODUCERS) Book, Davis; (Identical to CS/H 00461) Excusal from Jury Service				
Tab 7	CS/SB 474 by GO, Grall (CO-INTRODUCERS) Book; (Identical to CS/H 00529) Public Records/Suicide Victims				
Tab 8	SB 548 by Collins; (Identical to H 00319) Public Records/Military Personnel and their Spouses and Dependents				
Tab 9	CS/SB 580 by JU, Yarborough (CO-INTRODUCERS) Broxson, Garcia; (Identical to CS/CS/1ST ENG/H 00385) Safe Exchange of Minor Children				
Tab 10	SM 598 by Ingoglia; (Identical to H 00669) Enforcement of Federal Immigration Laws				
Tab 11	SB 712 by Powell; (Similar to CS/H 00103) Public Records/County Attorneys and City Attorneys				
921980	D	S	RCS	RC, Powell	Delete everything after 01/30 06:24 PM
Tab 12	SM 800 by Rodriguez; (Identical to H 00517) Foreign Polluters				
Tab 13	CS/SB 7006 by GO, RI; (Identical to H 07047) OGSr/Utility Owned or Operated by a Unit of Local Government				
Tab 14	CS/SB 7008 by GO, RI; (Identical to H 07045) OGSr/Department of the Lottery				
Tab 15	SB 7022 by HE; (Identical to H 07007) OGSr/Campus Emergency Response				
Tab 16	SB 7036 by CF; (Identical to H 07001) OGSr/Identifying Information of Persons Reporting Child Abuse, Abandonment, or Neglect				

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Mayfield, Chair
Senator Perry, Vice Chair

MEETING DATE: Tuesday, January 30, 2024

TIME: 3:30—5:30 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Mayfield, Chair; Senator Perry, Vice Chair; Senators Baxley, Book, Boyd, Brodeur, Broxson, Burgess, Burton, DiCeglie, Garcia, Hooper, Hutson, Jones, Osgood, Rodriguez, Rouson, Simon, Torres, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 158 Polsky (Identical H 29)	Value of Motor Vehicles Exempt from Legal Process; Increasing the value of a motor vehicle owned by a natural person which is exempt from legal process, etc. JU 01/09/2024 Favorable CA 01/22/2024 Favorable RC 01/30/2024 Favorable	Favorable Yeas 18 Nays 0
2	CS/SB 224 Governmental Oversight and Accountability / Wright (Similar H 413)	Citizen Volunteer Advisory Committees; Authorizing specified regional citizen volunteer advisory committees to conduct public meetings and workshops by means of communications media technology; requiring that such technology allow all persons to audibly communicate; providing notice requirements for public meetings or workshops conducted by means of communications media technology, etc. CA 01/09/2024 Favorable GO 01/22/2024 Fav/CS RC 01/30/2024 Fav/CS	Fav/CS Yeas 18 Nays 0
3	CS/SB 346 Military and Veterans Affairs, Space, and Domestic Security / Ingoglia (Identical CS/H 357)	Special Observances; Designating each November as "Veterans Appreciation Month"; authorizing the Governor to issue a proclamation with specified information, etc. MS 01/09/2024 Fav/CS CA 01/22/2024 Favorable RC 01/30/2024 Favorable	Favorable Yeas 18 Nays 0
4	SM 370 Wright (Similar CS/HM 143)	Spaceports; Urging Congress to add spaceports as a qualified tax-exempt category of private activity bonds, etc. CM 12/05/2023 Favorable RC 01/30/2024 Favorable	Favorable Yeas 18 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Tuesday, January 30, 2024, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 446 Simon (Identical H 73)	Supported Decisionmaking Authority; Requiring a circuit court to consider certain needs and abilities of a person with a developmental disability when determining whether to appoint a guardian advocate; defining the term “supported decisionmaking agreement”; prohibiting such agreement from acting as a durable power of attorney; requiring a petition to determine incapacity of a person to include specified information relating to the alleged incapacitated person’s use of assistance, etc. JU 01/09/2024 Favorable CF 01/17/2024 Favorable RC 01/30/2024 Favorable	Favorable Yeas 18 Nays 0
6	CS/CS/SB 462 Health Policy / Judiciary / Grall (Identical CS/H 461)	Excusal from Jury Service; Requiring that a woman who has recently given birth be excused from certain jury service under specified conditions, etc. JU 12/13/2023 Fav/CS HP 01/16/2024 Fav/CS RC 01/30/2024 Favorable	Favorable Yeas 18 Nays 0
7	CS/SB 474 Governmental Oversight and Accountability / Grall (Identical CS/H 529)	Public Records/Suicide Victims; Defining the term “suicide of a person”; creating an exemption from public records requirements for a photograph or video or audio recording of the suicide of a person; providing exceptions; requiring that any viewing, copying, listening to, or other handling of such photograph or video or audio recording be under the direct supervision of the custodian of the record or his or her designee; creating an exemption from public records requirements for autopsy reports of suicide victims; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CF 12/13/2023 Favorable GO 01/16/2024 Fav/CS RC 01/30/2024 Favorable	Favorable Yeas 18 Nays 0
8	SB 548 Collins (Identical H 319, Compare S 308)	Public Records/Military Personnel and their Spouses and Dependents; Providing an exemption from public records requirements for identification and location information of certain current and former military personnel and their spouses and dependents; providing for retroactive application of the exemption; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. MS 01/09/2024 Favorable GO 01/22/2024 Favorable RC 01/30/2024 Favorable	Favorable Yeas 18 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Tuesday, January 30, 2024, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	CS/SB 580 Judiciary / Yarborough (Identical CS/CS/H 385)	Safe Exchange of Minor Children; Citing this act as the "Cassie Carli Law"; providing requirements for a parenting plan relating to the exchange of a child; requiring the court to order the parties in a parenting plan to exchange their child at a neutral safe exchange location or at a location authorized by a supervised visitation program under certain circumstances; requiring sheriffs to designate certain areas as neutral safe exchange locations; providing immunity from civil liability, etc. JU 01/09/2024 Fav/CS RC 01/30/2024 Favorable	Favorable Yeas 19 Nays 0
10	SM 598 Ingoglia (Identical HM 669)	Enforcement of Federal Immigration Laws; Urging the Federal Government to secure the southern border of the United States and fix the legal immigration system, etc. JU 01/09/2024 Favorable RC 01/30/2024 Favorable	Favorable Yeas 18 Nays 0
11	SB 712 Powell (Similar CS/H 103)	Public Records/County Attorneys and City Attorneys; Providing an exemption from public records requirements for the personal identifying and location information of current or former county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys and the names and personal identifying and location information of the spouses and children of such attorneys; providing an exception; providing for future legislative review and repeal of the exemption; providing for retroactive application; providing a statement of public necessity, etc. CA 01/09/2024 Favorable RC 01/30/2024 Fav/CS	Fav/CS Yeas 18 Nays 0
12	SM 800 Rodriguez (Identical HM 517)	Foreign Polluters; Urging Congress to support solutions that examine the pollution differential between United States production and that of other countries and that hold foreign polluters accountable for their pollution, etc. EN 01/17/2024 Favorable RC 01/30/2024 Favorable	Favorable Yeas 19 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Tuesday, January 30, 2024, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
13	CS/SB 7006 Governmental Oversight and Accountability / Regulated Industries (Identical H 7047)	OGSR/Utility Owned or Operated by a Unit of Local Government; Amending a provision which provides exemptions from public record requirements for information related to the security of certain technology, processes, practices, information technology systems, industrial control technology systems, and customer meter-derived data and billing information held by a utility owned or operated by a unit of local government; extending the date of scheduled repeal of public record exemptions relating to the security of certain technology, processes, practices, information technology systems, and industrial control technology systems; amending a provision which provides an exemption from public meeting requirements for meetings held by a utility owned or operated by a unit of local government which would reveal certain information; extending the date of scheduled repeal of the exemption, etc. GO 01/22/2024 Fav/CS RC 01/30/2024 Favorable	Favorable Yeas 18 Nays 0
14	CS/SB 7008 Governmental Oversight and Accountability / Regulated Industries (Identical H 7045)	OGSR/Department of the Lottery; Amending a provision relating to an exemption from public records requirements for certain information held by the Department of the Lottery, information about lottery games, personal identifying information of retailers and vendors for purposes of background checks, and certain financial information held by the department; providing for future legislative review and repeal of an exemption from public records requirements for information relating to the security of certain technologies, processes, and practices; removing the scheduled repeal of an exemption, etc. GO 01/22/2024 Fav/CS RC 01/30/2024 Favorable	Favorable Yeas 18 Nays 0
15	SB 7022 Education Postsecondary (Identical H 7007)	OGSR/Campus Emergency Response; Amending a provision which provides exemptions from public record and public meeting requirements for those portions of a campus emergency response which address the response of a public postsecondary educational institution to an act of terrorism or other public safety crisis or emergency; removing a provision allowing disclosure of certain information to certain entities; removing the scheduled repeal of the exemption, etc. GO 01/22/2024 Favorable RC 01/30/2024 Favorable	Favorable Yeas 18 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Tuesday, January 30, 2024, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
16	SB 7036 Children, Families, and Elder Affairs (Identical H 7001)	OGSR/Identifying Information of Persons Reporting Child Abuse, Abandonment, or Neglect; Amending a provision which provides a public records exemption for identifying information of persons reporting child abuse, abandonment, or neglect; abrogating the scheduled repeal of the exemption and the reversion of specified statutory text, etc. RC 01/30/2024 Favorable	Favorable Yeas 18 Nays 0

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 Rules

BILL: SB 158

INTRODUCER: Senator Polsky

SUBJECT: Value of Motor Vehicles Exempt from Legal Process

DATE: January 29, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Davis	Cibula	JU	Favorable
2. Hackett	Ryon	CA	Favorable
3. Davis	Twogood	RC	Favorable

I. Summary:

SB 158 increases from \$1,000 to \$5,000, the maximum value of a debtor's motor vehicle that is exempt from attachment, garnishment, or other legal process. The \$1,000 amount was established in 1993 and has not been increased since then.

The bill takes effect July 1, 2024.

II. Present Situation:

The Florida Constitution protects a homestead, used as a residence, and personal property that does not exceed \$1,000, from the forced sale by creditors.¹ The purpose of the homestead exemption is a matter of public policy - to maintain the home as a shelter for a family and prevent the family from becoming dependent on public assistance.²

In a similar manner, the Florida Statutes protect certain assets from the claims of creditors. Chapter 222 exempts, or protects, the following items:

- A life insurance policy.³
- The cash surrender value of a life insurance policy and the proceeds of an annuity contract.⁴
- Disability income benefits.⁵
- Pension money and funds placed in certain tax-exempt accounts.⁶

¹ FLA. CONST. art. X, s. 4.

² 28A Fla. Jur. 2d Homesteads s. 3. (2023).

³ Section 222.13(1), F.S.

⁴ Section 222.14, F.S.

⁵ Section 222.18, F.S.

⁶ Section 222.21, F.S.

- Assets held in qualified tuition programs, health savings and medical savings accounts, Coverdell education savings accounts, which are also known as an educational IRA, and hurricane savings accounts.⁷
- Certain wages, unless the person has agreed in writing to waive the exemption.⁸
- Personal property when properly inventoried and filed with a court.⁹
- Professionally prescribed health aids for the debtor or his or her dependent.¹⁰
- Items exempted under the federal Bankruptcy Reform Act of 1978 including a social security benefit, unemployment compensation, or a local public assistance benefit; a veterans' benefit; a disability, illness, or unemployment benefit; alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and his or her dependent; and payments under a stock bonus, pension, profit-sharing, annuity, or similar plan under specified circumstances.¹¹
- A debtor's interest in a single motor vehicle which does not exceed \$1,000 in value.¹²

III. Effect of Proposed Changes:

The bill increases the value of an exempt motor vehicle from \$1,000 to \$5,000. This \$1,000 limit was placed in statute in 1993 and has not been increased since.¹³

According to the U.S. Bureau of Labor Statistics Consumer Price Index Inflation Calculator,¹⁴ \$1,000 in October 1993 is the equivalent of \$2,107.42 in November 2023.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁷ Section 222.22, F.S.

⁸ Section 222.11, F.S.

⁹ Section 222.061, F.S.

¹⁰ Section 222.25, F.S.

¹¹ Section 222.201, F.S. and 11 U.S. Code s. 522(d)(10).

¹² Section 222.25(1), F.S.

¹³ Chapter 93-256, s. 3, Laws of Fla.

¹⁴ U.S. Bureau of Labor Statistics, CPI Inflation Calculator, https://www.bls.gov/data/inflation_calculator.htm (last visited on Jan. 4, 2024).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 222.25 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.

By Senator Polsky

30-00419-24

2024158__

A bill to be entitled

An act relating to the value of motor vehicles exempt from legal process; amending s. 222.25, F.S.; increasing the value of a motor vehicle owned by a natural person which is exempt from legal process; providing an effective date.

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

Section 1. Subsection (1) of section 222.25, Florida Statutes, is amended to read:

222.25 Other individual property of natural persons exempt from legal process.—The following property is exempt from attachment, garnishment, or other legal process:

(1) A debtor's interest, not to exceed \$5,000 ~~\$1,000~~ in value, in a single motor vehicle as defined in s. 320.01(1) ~~s. 320.01~~.

Section 2. This act shall take effect July 1, 2024.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Appropriations Committee on Agriculture, Environment,
and General Government
Criminal Justice
Environment and Natural Resources
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR TINA SCOTT POLSKY

30th District

January 23, 2024

Chair Debbie Mayfield
Committee on Rules
402 Senate Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Mayfield,

I respectfully request that you place SB 158, relating to Value of Motor Vehicles Exempt from Legal Process, on the agenda of the Committee on Rules, at your earliest convenience.

Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Kindest Regards,

A handwritten signature in dark ink, appearing to read "Tina S. Polsky", with a stylized flourish at the end.

Senator Tina S. Polsky
Florida Senate, District 30

cc: Phillip Twogood, Staff Director
Shasta W. Kruse, Deputy Staff Director
Cynthia Futch, Administrative Assistant

REPLY TO:

- ☐ 5301 North Federal Highway, Suite 135, Boca Raton, Florida 33487 (561) 443-8170
- ☐ 220 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

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 Rules

BILL: CS/CS/SB 224

INTRODUCER: Rules Committee; Governmental Oversight and Accountability Committee; and Senator Wright

SUBJECT: Citizen Volunteer Advisory Committees

DATE: January 31, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Harmsen</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	<u>Hunter</u>	<u>Twogood</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 224 authorizes citizen volunteer advisory committees created to provide technical expertise and support to the National Estuary Program to conduct public meetings and workshops by means of communications media technology, as permitted by the Administrative Procedures Act. The bill provides that an advisory committee member who participates in a meeting or workshop by means of communications media technology is deemed to be present at such meeting or workshop.

The bill also provides notice requirements and audible communication requirements for such meetings.

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

The bill takes effect upon becoming a law.

II. Present Situation:

Open Meetings Law

The Florida Constitution provides that the public has a right to access governmental meetings.¹ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.² This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.³ Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law,”⁴ or the “Sunshine Law,”⁵ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.⁶ Meetings of advisory boards appointed to make recommendations to an appointing authority, but that do not otherwise act on a final determination, are also subject to the Sunshine Law.⁷ Conversely, “a committee is not subject to the Sunshine Law if the committee has only been delegated information-gathering or fact-finding authority and only conducts such activities.”⁸

The board or commission must provide the public reasonable notice of such meetings.⁹ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.¹⁰ Minutes of a public meeting must be promptly recorded and open to public inspection.¹¹

Failure to abide by public meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.¹² A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.¹³

¹ FLA CONST., art. I, s. 24(b).

² *Id.*

³ FLA CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

⁴ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

⁵ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

⁶ Section 286.011(1)-(2), F.S.

⁷ Op. Att’y Gen. Fla. 98-13 (1998). *See also*, *Krause v. Reno*, 366 So.2d 1244 (Fla. Dist. Ct. App. 1979);

⁸ *Sarasota Citizens for Responsible Gov’t. v. City of Sarasota*, 48 So.3d 755, 762-763 (Fla. 2010), *quoting* *Wood v. Marston*, 442 So.2d at 940-41 (Fla. 1983).

⁹ *Id.*

¹⁰ Section 286.011(6), F.S.

¹¹ Section 286.011(2), F.S.

¹² Section 286.011(1), F.S.

¹³ Section 286.011(3), F.S. Penalties include a fine of up to \$500 or a second degree misdemeanor.

Administrative Procedure Act

The Administrative Procedure Act (APA)¹⁴ outlines a comprehensive administrative process by which agencies exercise the authority granted by the Legislature while offering citizen involvement. The process subjects state agencies to a uniform procedure in enacting rules and issuing orders and allows citizens to challenge an agency's decision.¹⁵

The term “agency” is defined in s. 120.52(1), F.S., as:

- The Governor, each state officer and state department, and each departmental unit described in s. 20.04, F.S.;¹⁶
- The Board of Governors of the State University System;
- The Commission on Ethics;
- The Fish and Wildlife Conservation Commission;
- A regional water supply authority;
- A regional planning agency;
- A multicounty special district, but only if a majority of its governing board is comprised of non-elected persons;
- Educational units;
- Each entity described in chs. 163 (Intergovernmental Programs), 373 (Water Resources), 380 (Land and Water Management), and 582 (Soil and Water Conservation), F.S., and s. 186.504 (regional planning councils), F.S.;
- Each officer and governmental entity in the state having statewide jurisdiction or jurisdiction in more than one county; and
- Each officer and governmental entity in the state having jurisdiction in one county or less than one county, to the extent they are expressly made subject to the act by general or special law or existing judicial decisions.¹⁷

Use of Electronic Media and Public Meetings

Section 120.54(5)(b)2, F.S., requires the Administration Commission¹⁸ to create uniform rules for state agencies to use when conducting public meetings, hearings or workshops, including procedures for conducting meetings in person and by means of communications media technology (CMT).¹⁹ Specifically, a notice for a public meeting, hearing, or workshop that will use CMT must state:

- That the public meeting will be conducted using CMT;
- If attendance may be provided for through CMT;

¹⁴ See ch. 120, F.S.

¹⁵ Joint Administrative Procedures Committee, *A Primer on Florida's Administrative Procedure Act*, available at <http://www.japc.state.fl.us/Documents/Publications/PocketGuideFloridaAPA.pdf> (last visited Jan. 22, 2024).

¹⁶ Section 20.04, F.S., specifies the structure of the executive branch of state government.

¹⁷ The definition of agency does not include a municipality or legal entity created solely by a municipality and expressly excludes certain legal entities or organizations found in chs. 343, 348, and 361, F.S., and ss. 339.175 and 163.01(7), F.S.

¹⁸ Section 14.202, F.S. The Administration Commission is composed of the Governor and the Cabinet (The Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture compose the Cabinet. Section 20.03(1), F.S.).

¹⁹ Section 120.54(5)(b)2., F.S. The term “communications media technology” means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available. See also, Rules 28-109.001-.006, Fla. Admin. Code.

- How persons who wish to attend²⁰ the meeting may do so; and
- The locations at which CMT facilities will be available to allow participation in the meeting.

Other laws relating to public meetings, hearings, and workshops, including penal and remedial provisions, apply to meetings conducted by means of CMT, and must be “liberally construed in their application to such public meetings, hearings, and workshops.”²¹

A body subject to public meetings laws that will conduct its meeting exclusively using CMT must provide a means for a member of the public to attend, which must include physical attendance if the available technology is insufficient to permit all interest persons to attend.²² The public access to the meeting must be provided via a “designated place where a person interested in attending a CMT proceeding may go for the purpose of attending the proceeding.”²³

Unless otherwise authorized by the Legislature, these procedures for communications media technology apply only to state agencies and not to local boards or commissions.

The Office of Attorney General has opined that only state agencies can conduct meetings and vote via communications media technology, thus rejecting a school board’s request to conduct board meetings via electronic means.²⁴ The Attorney General reasoned that s. 120.54(5)(b)2, F.S., limits its terms only to uniform rules that apply to state agencies.²⁵ The Attorney General explained that a similar rationale is not applicable to local boards and commissions even though it may be convenient and save money since the representation on these boards and commissions are local thus, “such factors would not by themselves appear to justify or allow the use of electronic media technology in order to assemble the members for a meeting.”²⁶

The Attorney General clarified this finding, stating in a 2020 opinion, that “any requirement for physical presence of members derives from other law specifying that a quorum be present to lawfully conduct public business or that the meeting of a local government body be held at a place within the body’s jurisdiction.”²⁷ Therefore, in the absence of any law otherwise, local government bodies that require a quorum to conduct their business may only use communications media technology to do so if either a statute permits a quorum to be present by

²⁰ Rule 28-109.002, Fla. Admin. Code defines attendance as having access to the CMT network being used to conduct a proceeding, or being used to take evidence, testimony, or argument relative to issues considered at the proceeding. The entity must also publish a public meeting notice which includes the address of each access point (a designated place where a person interested in attending a CMT proceeding may go for the purpose of attending). *See*, Rules 28-109.002, and .005, Fla. Admin. Code.

²¹ Section 120.54(5)(b)2., F.S.

²² *See*, Rule 28-109.004, Fla. Admin. Code.

²³ Rule 28-109.002(1), F.S.

²⁴ Op. Att’y Gen. Fla. 98-28 (1998).

²⁵ *Id.* The Attorney General explained that “allowing state agencies and their boards and commissions to conduct meetings via communications media technology under specific guidelines recognizes the practicality of members from throughout the state participating in meetings of the board or commission.”

²⁶ *Id.* However, if a quorum of a local board is physically present at the public meeting, a board may allow a member who is unavailable to physically attend the meeting due to extraordinary circumstances such as illness, to participate and vote at the meeting via communications media technology.

²⁷ Op. Att’y Gen. Fla. 2020-03.

means other than in-person or the in-person requirement for constituting a quorum is lawfully suspended.²⁸

Section 163.01(18), F.S., of the Florida Interlocal Cooperation Act provides that any separate legal entity created by interlocal agreement may conduct public meetings, hearings, and workshops by means of communications media technology if the legal entity includes public agencies located in at least five counties, of which at least three are not contiguous.²⁹

Other entities authorized under current law to conduct meetings and vote by means of communications media technology include:

- Regional planning councils (RPCs) that cover three or more counties;³⁰
- A water management district's governing board, basin board, committee, or advisory board;³¹
- The Florida Inland Navigation District's Board of Governors;³²
- Charter school governing boards, however, their appointed representative and principal or director must be physically present;³³ and
- Members of special committees and advisory committees that operate under a District School Board.³⁴

National Estuary Program

Estuaries are wetland watersheds where a river body of water meets the sea,³⁵ which are unique ecosystems consisting of many animals that rely on them for food, breeding and migration.³⁶ The United States Environmental Protection Agency (EPA) has established a non-regulatory program that currently improves the waters, habitats and living resources of 28 estuaries across the country called the National Estuary Program (NEP).³⁷ NEPs seek to develop a long term plan for their watershed that involves community members in the decision making process.³⁸

As such, there are advisory committees relating to estuary partnerships across the state that advise on policies related to NEP watersheds. These include the Indian River Lagoon National

²⁸ *Id.*

²⁹ This provision allowing the use of communications media technology was added in 2012. *See*, ch. 2012-164, Laws of Fla.

³⁰ Section 120.525(4), F.S. However, note that at least one-third of the RPC's voting members must be physically present at the meeting location. Chapter 186, F.S., finds that RPCs are comprehensive planning districts of the state, designated as the primary organization to address problems and plan solutions that are of greater-than-local concern or scope and recognized as Florida's multipurpose regional entities in a position to plan for and coordinate intergovernmental solutions to growth-related problems. By statute, the state is divided into 10 RPC regions. Each county must be a member of their respective RPC and municipalities may be members at their option.

³¹ Section 373.079(7), F.S.

³² Section 374.983(3), F.S.

³³ Section 1002.33(9)(p)3., F.S.

³⁴ Section 1001.43(10), F.S.

³⁵ National Oceanic and Atmospheric Administration, What is an Estuary? Available at <https://oceanservice.noaa.gov/facts/estuary.html> (last visited Jan. 31, 2024)

³⁶ *Id.*

³⁷ United States Environmental Protection Agency, Overview of the National Estuary Program, available at <https://www.epa.gov/nep/overview-national-estuary-program> (last visited Jan. 31, 2024.)

³⁸ *Id.*

Estuary Program³⁹ and the Coastal and Heartland National Estuary Partnership.⁴⁰ NEP advisory committees provide input about public policy concerns and ideas⁴¹ to their leadership. These advisory meetings are open to the public.⁴²

III. Effect of Proposed Changes:

The bill amends s. 286.011, F.S., to authorize citizen advisory committees created to provide technical expertise and support to the National Estuary Program established by Congress under s. 320 of the Clean Water Act whose membership is composed of representatives of four or more counties, to conduct public meetings and workshops by means of communications media technology pursuant to the rules of the Administrative Procedures Act. This will allow such meetings to be conducted by telephonic hearing, video-conferencing, and any other electronic transmission of printed matter, audio, full-motion video, freeze-frame video compressed video, and digital video.

The bill provides that an advisory committee member who participates in a meeting or workshop by means of communications media technology is deemed to be present at such meeting. This will increase the likelihood that a quorum can be established for the committee meetings using attendance via communications media technology. The bill requires that communications media technology allow for all persons attending such public meeting or workshop to audibly communicate, as would be allowed if they were physically present.

The bill states that notice for such a meeting or workshop must state whether it will be conducted using communications media technology, how an interested person may participate, and the locations of any facilities where communications media technology will be available. This could still require a physical meeting location to allow public access to the meeting conducted by communications media technology.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

³⁹ The Indian River Lagoon National Estuary Program executed an interlocal agreement between Volusia County, Brevard County, St. Lucie County, Martin County, Florida Department of Environmental Protection, St. Johns Water Management District, South Florida Water Management District, and the Indian River Lagoon Coalition to support the estuary available at https://onelagoon.org/wp-content/uploads/2017-2ndAmendedInterlocal__20200201.pdf (last visited Jan. 19, 2024).

⁴⁰ The Coastal and Heartland National Estuary Partnership is made up of representatives from a number of cities and counties as well as members of the public. Their governance is available at <https://www.chnep.org/governance> (last visited Jan. 22, 2024).

⁴¹ See, e.g., Coastal & Heartland National Estuary Partnership, Citizen's Advisory Committee, <https://www.chnep.org/citizens-advisory-committee> (last visited Jan. 22, 2024).

⁴² *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

Members of citizens volunteer advisory committees may be required to spend less money to travel to attend committee meetings. This may attract additional participation in such committees.

C. Government Sector Impact:

Authorizing citizen volunteer advisory committees to use communication media technology for meeting purposes may save on travel time and cost for these entities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 286.011 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Rules on January 30, 2024:

The CS clarifies that the bill applies to citizen volunteer advisory committees, created to provide technical expertise and support to the National Estuary Program established by Congress under s. 320 of the Clean Water Act.

CS by Governmental Oversight and Accountability on January 22, 2024:

The CS removes language that is duplicative of s. 120.54(5)(b), F.S.

- B. **Amendments:**

None.



719536

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
	.	
	.	
	.	

The Committee on Rules (Wright) recommended the following:

Senate Amendment

Delete lines 21 - 31
and insert:

(9)(a) Notwithstanding any law to the contrary, a regional
citizen volunteer advisory committee, created to provide
technical expertise and support to the National Estuary Program
established by Congress under s. 320 of the Clean Water Act,
whose membership is composed of representatives from four or
more counties may conduct public meetings and workshops by means
of communications media technology as defined in s.



719536

12 120.54(5)(b)2. An advisory committee member who participates in
13 a public meeting or workshop by communications media technology
14 is deemed to be present at the meeting or workshop. The use of
15 communications media technology must allow for all persons
16 attending the meeting or workshop to audibly communicate as if
17 the person is physically present.

By the Committee on Governmental Oversight and Accountability;
and Senator Wright

585-02358-24

2024224c1

A bill to be entitled

An act relating to citizen volunteer advisory committees; amending s. 286.011, F.S.; authorizing specified regional citizen volunteer advisory committees to conduct public meetings and workshops by means of communications media technology; providing that the use of such technology by a member constitutes that member's presence at the meeting or workshop; requiring that such technology allow all persons to audibly communicate; providing notice requirements for public meetings or workshops conducted by means of communications media technology; providing an effective date.

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

Section 1. Subsection (9) is added to section 286.011, Florida Statutes, to read:

286.011 Public meetings and records; public inspection; criminal and civil penalties.—

(9) (a) Notwithstanding any law to the contrary, regional citizen volunteer advisory committees whose membership is composed solely of representatives from four or more counties may conduct public meetings and workshops by means of communications media technology as defined in s. 120.54(5)(b)2. An advisory committee member who participates in a public meeting or workshop by communications media technology is deemed to be present at the meeting or workshop. The use of communications media technology must allow for all persons

Page 1 of 2

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

585-02358-24

2024224c1

attending the meeting or workshop to audibly communicate as if the person is physically present.

(b) The notice for a public meeting or workshop must state whether the meeting or workshop will be conducted using communications media technology, how an interested person may participate, and the location of facilities where communications media technology will be available during the meeting or workshop.

Section 2. This act shall take effect upon becoming a law.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 24, 2024

I respectfully request that **Senate Bill 224**, relating to Citizen Volunteer Advisory Committees, be placed on the:

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

This bill would permit certain citizen volunteer advisory committees to conduct public meetings and workshops by means of communications media technology. The bill would also provide that an advisory committee member who participates in a meeting or workshop by means of communications media technology is deemed to be present at such meeting or workshop.

Thank you for your consideration.

A handwritten signature in cursive script that reads "Tom A. Wright".

Senator Tom A. Wright
Florida Senate, District 8

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 Rules

BILL: CS/SB 346

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee and Senator Ingoglia and others

SUBJECT: Special Observances

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Proctor</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Favorable</u>
3.	<u>Brown</u>	<u>Twogood</u>	<u>RC</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 346 designates the month of November each year as Veterans Appreciation Month, as a replacement in law to Veterans Week. The Governor may annually issue a proclamation designating Veterans Appreciation Month and encourage counties, municipalities, public schools, and state residents to observe the occasion through providing special programs and events to honor veterans.

The bill takes effect July 1, 2024.

II. Present Situation:

Legal Holidays and Observances

Examples of legal holidays are New Year's Day (January 1), Memorial Day (the last Monday in May), Independence Day (July 4), Labor Day (the first Monday in September), Thanksgiving Day (the fourth Thursday in November), and Christmas Day (December 25).¹

¹ Section 683.01, F.S.

In addition to legal holidays, special observances are recognized and observed by the state. Special observance days include Law Enforcement Memorial Day², Arbor Day³, and Law Day and Law Week⁴.

Veterans Recognition Days

The legal holiday of Veterans' Day is annually celebrated November 11.⁵ In addition to the one-day holiday, the 2023 Legislature enacted as a special observance a Veterans Week.⁶ Veterans Week begins with the Sunday preceding November 11 of each year. If November 11 is on a Sunday, Veterans Week begins that day. If the Governor proclaims a Veterans Week, public officials, schools, private organizations, and state residents are called upon to mark the observance by honoring veterans who answered the call in war and peace.⁷

Veterans in Florida

Population

Ranked lower than only California and Texas for number of veteran residents, Florida has the third largest population of veterans in the nation.⁸ In excess of 1.4 million veterans reside in Florida. The number of veterans in Florida represents 12 percent of the state's population of persons who are at least 18 years old.⁹

Medal of Honor Recipients

The highest military decoration awarded by the U.S. government, the Medal of Honor is bestowed by the President on behalf of Congress.¹⁰ The Medal of Honor is conferred only upon members of the U.S. Armed Forces who distinguish themselves through "conspicuous gallantry and intrepidity at the risk of his or her life above and beyond the call of duty."¹¹

According to the Congressional Medal of Honor Society, 24 Medal of Honor recipients have been accredited to Florida.¹²

² Section 683.115, F.S.

³ Section 683.04, F.S.

⁴ Section 683.22, F.S.

⁵ Section 683.01(1)(q), F.S.

⁶ Section 683.1474, F.S.; s 4, ch. 2023-162, Laws of Fla.

⁷ Section 683.1475(2), F.S.

⁸ Florida Dep't of Veterans Affairs, *FDVA - Our Veterans*, available at <https://www.floridavets.org/our-veterans/> (last visited Jan. 17, 2023).

⁹ *Id.*

¹⁰ U.S. Dep't of Defense, *Honors for Valor*, available at <https://www.defense.gov/Multimedia/Experience/honors-for-valor/> (last visited Jan. 17, 2023).

¹¹ *Id.*

¹² Congressional Medal of Honor Society, *The Recipients*, available at <https://www.cmoHS.org/recipients/overview> (last visited Jan. 17, 2023).

III. Effect of Proposed Changes:

CS/SB 346 amends s. 683.1475, F.S., to replace Veterans Week with a Veterans Appreciation Month. Veterans Appreciation Month will run the full month of November. In support of this month, the Governor may annually issue a proclamation designating Veterans Appreciation Month and encourage counties, municipalities, public schools, and state residents to observe the occasion through providing special programs and events to honor veterans.

The bill takes effect July 1, 2024.

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.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

As local entities are encouraged but not required to celebrate Veteran Appreciation Month with activities and events, a fiscal impact is not expected

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 683.1475 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS by Military and Veterans Affairs, Space, and Domestic Security on January 9, 2024:

- Provides in law for a Veterans Appreciation Month as a replacement for Veterans Week; and
- Authorizes the Governor to annually proclaim a Veterans Appreciation Month and encourage local entities and state residents to observe the occasion through special programming and events.

B. Amendments:

None.

By the Committee on Military and Veterans Affairs, Space, and Domestic Security; and Senators Ingoglia and Yarborough

583-01979-24

2024346c1

A bill to be entitled

An act relating to special observances; amending s. 683.1475, F.S.; designating each November as "Veterans Appreciation Month"; authorizing the Governor to issue a proclamation with specified information; providing an effective date.

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

Section 1. Section 683.1475, Florida Statutes, is amended to read:

683.1475 Veterans Appreciation Month ~~Week~~.—

(1) The month of November of each year is designated as "Veterans Appreciation Month." ~~week beginning with the Sunday preceding November 11 of each year is designated as "Veterans Week." If November 11 falls on a Sunday, "Veterans Week" begins on that day.~~

(2) The Governor may ~~annually~~ issue a proclamation annually designating the month ~~week~~ of November ~~11~~ as Veterans Appreciation Month ~~Week~~ and encouraging counties, municipalities, public schools, and residents of this state to observe the occasion by creating special programs and events to show appreciation for the veterans who have served calling upon public officials, schools, private organizations, and all residents of the state to commemorate Veterans Week and honor the men and women who answered the call during times of war and peace to protect and preserve the treasured freedom of all citizens of the United States.

Section 2. This act shall take effect July 1, 2024.



THE FLORIDA SENATE

Tallahassee, Florida. 32399-1100

COMMITTEES:

Finance and Tax, *Chair*
Appropriations
Banking and Insurance
Criminal Justice
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Administrative Procedures
Committee, *Alternating Chair*

Senator Blaise Ingoglia
11th District

January 23, 2024

The Honorable Debbie Mayfield, Chair
Rules
400 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Re: SB 346 Special Observances

Chair Mayfield,

SB 346 has been referred to the Rules as its final committee of reference. I respectfully request that it be placed on the agenda at your earliest convenience.

If I may answer questions or be of assistance, please do not hesitate to contact me.
Thank you for your leadership and consideration.

Regards,

A handwritten signature in dark ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Blaise Ingoglia
State Senator, District 11

Cc: Philip Twogood, Staff Director, Shasta W. Kruse, Deputy Staff Director, Cynthia Futch, Committee
Administration Assistant

1/30/24

Meeting Date

Rules

Committee

The Florida Senate
APPEARANCE RECORD

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

346 - Special Observances

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Karen Murillo - AARP**

Phone **850-567-0414**

Address **215 S. Monroe St., Ste. 603**

Email **kmurillo@aarp.org**

Street

Tallahassee

City

FL

State

32301

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:

AARP

☐ 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)

1/30/24

Meeting Date

Rules

Committee

Name

Bill Helmich

Phone

8502513126

Address

303 Johns Drive

Email

bill@helmichconsulting.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:

VFW/American Legion

☐

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. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

346

Bill Number or Topic

Amendment Barcode (if applicable)

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

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 Rules

BILL: SM 370

INTRODUCER: Senator Wright

SUBJECT: Spaceports

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	Favorable
2.	Renner	Twogood	RC	Favorable

I. Summary:

SM 370 is a memorial to Congress urging the members of Congress to add spaceports as a qualified tax-exempt category of private activity bonds.

Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

The memorial does not have a fiscal impact on the state or local governments.

II. Present Situation:

Spaceports

A spaceport is defined as any area of land or water, or any manmade object or facility located therein, developed by Space Florida, which area is intended for public use or for the launching, takeoff, and landing of spacecraft and aircraft, and includes any appurtenant areas which are used or intended for public use, for spaceport buildings, or for other spaceport facilities, spaceport projects, or rights-of-way.¹ Spaceport territory includes certain real property located in:

- Brevard County which is included in the 1998 boundaries of Patrick Space Force Base, Cape Canaveral Space Force Station and John F. Kennedy Space Center;
- Santa Rosa, Okaloosa, Gulf, and Walton Counties which is included in the 1997 boundaries of Eglin Air Force Base;
- Duval County which is included within the boundaries of Cecil Airport and Cecil Commerce Center;
- Brevard County which is included within the boundaries of Space Coast Regional Airport, Space Coast Regional Airport Industrial Park, and Spaceport Commerce Park; and

¹ Section 331.303(17), F.S.

- The state which is a spaceport licensed by the Federal Aviation Administration, as designated by the Space Florida Board of Directors.²

In 1999, space was designated as the fifth mode of transportation in Florida and spaceports as the associated modal facilities. The Florida Department of Transportation (FDOT) was given significant responsibilities related to aerospace³ and spaceports in Florida.⁴ Space Florida acts as Florida's point of contact for state aerospace-related activities with federal agencies, the military, state agencies, businesses, and the private sector.⁵ The FDOT and Space Florida work together to plan and facilitate space transportation services on spaceport properties throughout the state.⁶ Additionally, the FDOT, in consultation with Space Florida, is authorized to fund up to 100 percent of a project at strategic spaceport launch support facilities if the following criteria have been met:

- Important access and on-spaceport and commercial launch facility capacity improvements are provided;
- Capital improvements that strategically position the state to maximize opportunities in international trade are achieved;
- Goals of an integrated intermodal transportation system for Florida are achieved; and
- Feasibility and availability of matching funds through federal, local, or private partners are demonstrated.⁷

The FDOT's Spaceport Improvement Program (SIP) is designed to stimulate private sector investment and commercial spaceport development. The program provides funding for projects that:

- Improve aerospace transportation facilities;
- Encourage cooperation and integration of airports and spaceports; and
- Facilitate and promote inter-agency efforts to improve space transportation capacity and efficiency.⁸

The SIP partners with commercial space launch and spacecraft operators for initiatives such as expanded commercial heavy lift; launch vehicle manufacturing in Florida; high volume Florida satellite production; upgraded small launch capability to meet multiple space user needs; crewed launches to the International Space Station; refurbish processing facilities; and support launch of

² Section 331.304, F.S.

³ Section 331.303(1), F.S., defines aerospace as the technology and industry related to the design, manufacture, maintenance, repair, and operation of aircraft or any other device intended to be used or designed for flight or reentry, including rockets, missiles, spacecraft, satellites, space vehicles, space stations, space and aircraft facilities or components thereof, and related equipment, systems, facilities, simulators, programs, and activities, including, but not limited to, the application of aerospace and aviation technologies in air-based, land-based, space-based, and sea-based platforms for commercial, civil, and defense purposes.

⁴ Chapter 99-256, Laws of Fla. *See also* s. 331.360(1), F.S.

⁵ Section 331.3011, F.S.

⁶ Section 331.360, F.S.

⁷ Section 331.371, F.S.

⁸ Florida Department of Transportation, *Spaceport Improvement Program, 2023-2024*, p. iv, available at <https://www.spaceflorida.gov/wp-content/uploads/2023/10/SF0080.02DEL-FDOT-Spaceport-Handbook-Update-2023-230426.pdf> (last visited Dec. 4, 2023).

new rockets for human transportation in space.⁹ Partners who have requested SIP funding include SpaceX, United Launch Alliance, Boeing, Blue Origin, OneWeb, Firefly, and others.¹⁰

In performance year 2022, Space Florida recruited, retained, and expanded 15 space and aerospace related companies and nearly 6,000 jobs, as well as provided \$4.3 million in funding for 30 research projects, partnerships, and grants. Additionally, 85 projects within Space Florida's three stages of project development had an estimated value of \$2.4 billion in capital investment and are located in 26 counties. Lastly, 989 payloads went into orbit, there were 39 supported launches, and 384 tons of total payload mass went into orbit.¹¹

Private Activity Bonds

State and local government bonds are classified under the federal tax code as either governmental bonds or private activity bonds.¹² The tax code defines "private business" use as use (directly or indirectly) in a trade or business carried on by any person other than a governmental official.¹³ The interest on state and local governmental bonds is generally exempt from taxation; however, the interest on private activity bonds is not tax exempt.¹⁴ A state or local bond is a private activity bond if, as of the bond issue date or at any time while the bonds are outstanding, the bond issue exceeds the limits set forth in either:

- The private business tests in 26 U.S.C. §141(b), which consist of the private use test private security and payment test; or
- The private loan financing test in 26 U.S.C. §141(c).¹⁵

If the bond passes both conditions, the bonds are taxable and carry a higher interest rate. However, the bond could still qualify for tax-exempt status if the bond is identified in the tax code as a qualified private activity.¹⁶ Currently there are 30 qualified activities including airports, docks and wharves.¹⁷

The federal government controls the amount of private activity bonds that are permitted to be issued in each state. Part VI of ch. 159, F.S., establishes statewide procedures for allocating Florida's share of private activity bonds. Such allocation is referred to as the allocation of state volume limitation pursuant to s. 159.804, F.S. The Division of Bond Finance of the State Board of Administration is responsible for annually determining the amount of the private activity

⁹ *Id* at p. 4.

¹⁰ *Id* at p. 6.

¹¹ Space Florida, *2022 Annual Report*, p. 9, available at <https://www.spaceflorida.gov/wp-content/uploads/2023/01/Space-Florida-FY22-Annual-Operating-Report.pdf> (last visited Dec. 4, 2023).

¹² Congressional Research Service, *Private Activity Bonds: An Introduction* (January 31, 2022), p. 1, available at <https://crsreports.congress.gov/product/pdf/RL/RL31457> (last visited Dec. 4, 2023).

¹³ 26 U.S.C. §141-3.

¹⁴ 26 U.S.C. § 103.

¹⁵ Internal Revenue Service, *Tax-Exempt Private Activity Bonds* (2019), p. 2, available at <https://www.irs.gov/pub/irs-pdf/p4078.pdf> (last visited Dec. 4, 2023).

¹⁶ *Supra* note 12 at 3

¹⁷ 26 U.S.C. § 142(a)(1) and (2). *See Supra* note 12 at 11 for the full list of qualified private activities.

bonds permitted for statewide allocation under the 1986 Internal Revenue Code, as amended. For 2023, the total private activity bond allocation for Florida is \$2.6 billion.¹⁸

In Florida, access to private activity bonds is provided by the Florida Development Finance Corporation (FD FC),¹⁹ with the power to function within the corporate limits of any public agency with which it has entered into an interlocal agreement.²⁰ The FD FC issues the bonds, which are purchased by a bank or investor(s). The proceeds from the sale are then loaned to finance capital projects. The interest on the bonds received by the investor is exempt from federal income tax.²¹

III. Effect of Proposed Changes:

The memorial urges Congress to add spaceports as a qualified tax-exempt category of private activity bonds.

Copies of the memorial will be sent by Florida's Secretary of State to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the governor's veto power. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The memorial does not require counties and municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁸ State of Florida, Division of Bond Finance, *2023 PAB Allocation with Regional Map*, available at <https://www.sbafla.com/bond/Portals/0/Content/2023%20PAB%20State%20Volume%20Cap%20Allocation%20By%20Pool%20with%20MAP.pdf?ver=2022-12-28-130416-030> (last visited Dec. 4, 2023).

¹⁹ See s. 288.9604, F.S. for the creation of the Corporation.

²⁰ Section 288.9605(1), F.S.

²¹ Florida Development Finance Corporation, *Private Activity Bonds*, available at <https://www.fdfcbonds.com/pab> (last visited Dec. 4, 2023).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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.

By Senator Wright

8-00539-24

2024370__

Senate Memorial

A memorial to the Congress of the United States, urging Congress to add spaceports as a qualified tax-exempt category of private activity bonds.

WHEREAS, commercial investment in space and space transportation is driving the requirements for spaceport sites, operating environments, and infrastructure, and

WHEREAS, this state has acted decisively to integrate space transportation into the fabric of its statewide strategic intermodal system, and

WHEREAS, in 1999, state leaders made a landmark decision to designate space as an official mode of transportation and spaceports as the associated transportation facilities, which gave space standing within the Department of Transportation similar to that of other long-established modes of transportation, such as airports and docks and wharfs, and

WHEREAS, space is not simply a program; it is a collection of high-value destinations for freight and people, and these destinations require safe, reliable, and sustainable transportation operating on market-driven schedules, and

WHEREAS, in order for this state to become the planet's premiere transportation hub for global space commerce; to facilitate the logistics and transport of commodities, materials, human crew, and robotic systems to operate facilities in various orbits, at Earth-lunar waypoints, and on the moon; and to become the primary port of entry into Earth's marketplace for products from space, spaceports should qualify as private activity bonds financing-exempt facilities under the Internal

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Revenue Code, and

WHEREAS, this qualification will encourage more investment in aerospace infrastructure, ensuring that this state remains at the forefront of the space economy, and

WHEREAS, in the face of growing competition from China and others, the aggressive development of infrastructure in Florida, the dominant state in the commercial space economy, is key to maintaining the United States' leadership in space, and

WHEREAS, currently, certain parts of operations at airports and docks and wharfs qualify for tax-exempt financing, NOW, THEREFORE,

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

That the Congress of the United States is urged to add spaceports as a qualified tax-exempt category of private activity bonds.

BE IT FURTHER RESOLVED that the Secretary of State dispatch copies of this memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

Page 2 of 2

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The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 24, 2024

I respectfully request that **Senate Bill 370**, relating to Spaceports, be placed on the:

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

SM 370 is a memorial to Congress urging the members of Congress to add spaceports as a qualified tax-exempt category of private activity bonds.

Thank you for your consideration.

A handwritten signature in black ink that reads "Tom A. Wright". The signature is written in a cursive style with a large, sweeping "T" and "W".

Senator Tom A. Wright
Florida Senate, District 8

The Florida Senate

APPEARANCE RECORD

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

1/30/24

Meeting Date

Rules

Committee

370

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Lindsay Pierce

Phone

334-268-8282

Address

113 E College Ave

Email

lpierce@spaceflorida.gov

Street

TLH,

City

FL

State

32301

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:

SpaceFlorida

☐

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 Rules

BILL: SB 446

INTRODUCER: Senator Simon

SUBJECT: Supported Decisionmaking Authority

DATE: January 29, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Collazo	Cibula	JU	Favorable
2. Hall	Tuszynski	CF	Favorable
3. Collazo	Twogood	RC	Favorable

I. Summary:

SB 446 explicitly incorporates the concepts of supported decision-making (SDM) and SDM agreements into state law. SDM is a tool that allows people with disabilities to retain their decision-making capacity by choosing supporters to help them make choices, instead of relying upon court-appointed guardians or guardian advocates to make choices for them.

In summary, the bill:

- Amends the statute governing the appointment of guardian advocates for persons with developmental disabilities to require:
 - Courts to consider the specific needs and abilities of individuals when delegating decision-making tasks.
 - Petitions and court orders to identify and assess the sufficiency of guardian advocacy alternatives like SDM.
- Amends the powers of attorney statute to authorize the granting of SDM agreements as a form of a power of attorney.
- Creates a statute defining, authorizing, and regulating SDM agreements.
- Amends statutes governing adjudications of incapacity and the appointment of guardians to:
 - Require petitions to state whether alleged incapacitated persons use assistance, including SDM, and if so, why it is insufficient for them to exercise their rights.
 - Authorize examining committee members to facilitate, when requested by appointed counsel, communication between supporters and allegedly incapacitated persons.
 - Clarify that suggestions of capacity must address whether the ward has the ability to exercise removed rights on his or her own or with appropriate assistance.
- Amends the statute regulating the development of an individual education plan (IEP) for the purpose of accommodating students with disabilities in public schools, to include SDM agreements as one method by which students may provide informed consent to allow his or her parents to continue to participate in educational decisions.

II. Present Situation:

Guardianship

If a court finds that a person does not have the ability to safely manage the things that belong to him or her, or the ability to meet his or her basic health, safety, and self-care needs, the court will rule that this person is incapacitated.¹ In many cases, after a court decides that a person is incapacitated, it will choose someone else to make some or all the decisions for the incapacitated person. This is called a guardianship.²

Being placed in a guardianship results in the loss of an individual's right to make his or her own life choices. The rights that a person can lose include the right to contract, vote, travel, marry, work, consent to treatment, sue or defend lawsuits, choose living arrangements, make decisions about their social life, have a driver's license, personally apply for benefits, and manage money or property.³

Guardianships must be specific to the abilities and needs of the individual and should not be any more restrictive than necessary.⁴ Consequently, there are different types of guardianships under state law. They include:⁵

- Preneed guardian.⁶
- Voluntary guardianship.⁷
- Emergency temporary guardianship.⁸
- Limited guardianship.⁹
- Guardian advocate for individuals who have a developmental disability.¹⁰
- Guardian advocate for individuals receiving mental health treatment.¹¹
- Full (*i.e.* plenary) guardianship.¹²

The powers and duties of a court-appointed guardian include, but are not limited to:

- Filing an initial plan and annual reports.¹³
- Making provision for the medical, mental, rehabilitative, and personal care of the person.¹⁴
- Making residential decisions on behalf of the person.¹⁵

¹ See generally Part V, Ch. 744, F.S.

² See *id.*

³ See 744.1012(1), F.S.; see also Disability Rights Florida, *Types of Guardianship*, available at https://disabilityrightsflorida.org/disability-topics/disability_topic_info/types_of_guardianship (last visited Jan. 12, 2024).

⁴ Section 744.1012(2), F.S.; see also Disability Rights Florida, *Types of Guardianship*, available at https://disabilityrightsflorida.org/disability-topics/disability_topic_info/types_of_guardianship (last visited Jan. 12, 2024).

⁵ See generally Disability Rights Florida, *Types of Guardianship*, available at https://disabilityrightsflorida.org/disability-topics/disability_topic_info/types_of_guardianship (last visited Jan. 12, 2024).

⁶ Sections 744.3045 and 744.3046, F.S.

⁷ Section 744.341, F.S.

⁸ Section 744.3031, F.S.

⁹ Section 744.441, F.S.; see also s. 744.102(9)(a), F.S. (defining “limited guardian”).

¹⁰ Sections 744.3085 and 393.12, F.S.

¹¹ Sections 744.3085 and 394.4598, F.S.

¹² Section 744.441(1), F.S.; see also s. 744.102(9)(b), F.S. (defining “plenary guardian”).

¹³ Section 744.361(6)-(7), F.S.

¹⁴ Section 744.361(13)(f), F.S.

¹⁵ Section 744.361(13)(h), F.S.

- Advocating on behalf of the person in institutional and other residential settings.¹⁶
- Making financial decisions on behalf of the person.¹⁷

Any resident of the state who is 18 years old and of sound mind is qualified to act as a guardian.¹⁸ Additionally, a non-resident may serve if he or she is related to the person with a developmental disability by blood, adoption, or law.¹⁹ Certain individuals, however, cannot be appointed to act as a guardian.²⁰

Guardians must file an initial guardianship report with the court within 60 days after appointment.²¹ The initial guardianship report must consist of an initial guardianship plan,²² which must include certain specified information for the person for whom the guardianship is being established. For example, the initial guardianship plan must include information regarding the provision of medical, mental, or personal care services for the welfare of the person, as well as the place and kind of residential setting best suited for the needs of the person.²³

Guardians must also file an annual guardianship report with the court.²⁴ The annual guardianship report must be filed within 90 days after the last day of the anniversary month that the letters of guardianship were signed, and the plan must cover the coming fiscal year, ending on the last day in such anniversary month. The annual guardianship report must include an annual guardianship plan²⁵ containing information regarding the residence of the person for whom the guardianship has been established; the medical and mental health conditions, treatment, and rehabilitation needs of the person; the social condition of the person; and a list of any preexisting orders not to resuscitate, or preexisting advance directives.²⁶

Incapacity

The term “incapacitated person” means a person who has been judicially determined to lack the capacity to manage at least some of the property or to meet at least some of the essential health and safety requirements of the person.²⁷

The process to determine incapacity and appoint a guardian begins with the filing of a petition in the appropriate circuit court. The petition must be served on, and read to, the alleged incapacitated person. Notice and copies of the petition must also be provided to the attorney for the alleged incapacitated person and served on all next of kin identified in the petition.²⁸

¹⁶ Section 744.361(13)(i), F.S.

¹⁷ Section 744.361(12), F.S.

¹⁸ Section 744.309(1), F.S.

¹⁹ Section 744.309(2), F.S.

²⁰ *See generally* ss. 744.309(3), (6), F.S.

²¹ Sections 744.361(6) and 744.362(1), F.S.

²² Section 744.362(1), F.S.

²³ *See* s. 744.363(1)(a)-(f), F.S.

²⁴ Section 744.367(1), F.S.

²⁵ Section 744.367(3)(a), F.S.

²⁶ *See generally* s. 744.3675, F.S.

²⁷ Section 744.102(12), F.S.

²⁸ Section 744.331(1), F.S.

At hearing, the partial or total incapacity of the person must be established by clear and convincing evidence.²⁹ After finding that a person is incapacitated with respect to the potential exercise of one or more rights, the court must enter a written order of incapacity. A person is deemed incapacitated only as to those rights specified in the court's order.³⁰ If the order provides that the person is incapable of exercising delegable rights (described below), the court must next consider whether there are any alternatives to guardianship which will sufficiently address the incapacitated person's problems. If not, a guardian will be appointed.³¹

Rights of Incapacitated Persons

A person who has been determined to be incapacitated retains certain rights, regardless of the determination of incapacity, including (among others) the right to be treated humanely and with dignity and respect; the right to be protected against abuse, neglect, and exploitation; the right to receive visitors and communicate with others; and the right to privacy.³²

Certain rights may be removed from a person by an order determining incapacity, but not delegated to a guardian. They include the right to marry (if the right to enter into a contract has been removed, the right to marry is subject to court approval); the right to vote; the right to personally apply for government benefits; the right to have a driver license; the right to travel; and the right to seek or retain employment.³³

Additionally, certain other "delegable" rights may be removed from a person by an order determining incapacity, and also delegated to a guardian. They include the rights to:

- Contract.
- Sue and defend lawsuits.
- Apply for government benefits.
- Manage property or to make any gift or disposition of property.
- Determine his or her residence.
- Make health care decisions.
- Make decisions about his or her social environment or other social aspects of his or her life.³⁴

Advance Directives

State law defines an advance directive as a witnessed, oral statement or written instruction that expresses a person's desires about any aspect of his or her future health care, including the designation of a health care surrogate, a living will, or an anatomical gift.³⁵ Designation of each of these can serve different purposes and have their own unique requirements and specifications under the law.³⁶

²⁹ Section 744.331(5)(c), F.S.

³⁰ Section 744.331(6), F.S.

³¹ Section 744.331(6)(b), F.S.

³² See s. 744.3215(1)(a)-(o), F.S. (specifying all retained rights).

³³ Section 744.3215(2)(a)-(f), F.S.

³⁴ Section 744.3215(3)(a)-(g), F.S.

³⁵ Section 765.101(1), F.S.

³⁶ See *id.*

One type of advance directive, an “order not to resuscitate” or a “do not resuscitate order,” results in the withholding of cardiopulmonary resuscitation from an individual if the order is presented to the health care professional treating the patient.³⁷ For the order to be valid, it must be on the yellow form adopted by the Department of Health, signed by the patient’s physician and by the patient, or if the patient is incapacitated, the patient’s health care surrogate or proxy, court-appointed guardian, or agent under a durable power of attorney.³⁸

A power of attorney is a writing that grants authority to an agent to act in the place of the principal.³⁹ A “durable” power of attorney is a kind of power of attorney that is not terminated by the principal’s incapacity.⁴⁰ Among many other things, a durable power of attorney may be used to allow another person to make health care decisions on behalf of an incapacitated principal.⁴¹

Guardian Advocates

A “guardian advocate” is a person appointed by a written order of the court to represent a person with developmental disabilities.⁴² A “developmental disability” means a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.⁴³

Guardian advocacy is a circuit court process for family members, caregivers, or friends of individuals with a developmental disability to obtain the legal authority to act on their behalf if:

- The person lacks the decision-making ability to do some, but not all, of the decision-making tasks necessary to care for his or her person or property; or
- The person has voluntarily petitioned for the appointment of a guardian advocate.⁴⁴

State law recognizes the appointment of a guardian advocate as a less restrictive alternative to guardianship.⁴⁵ A guardian advocate can be appointed without having to declare the person with a developmental disability incapacitated.⁴⁶ The process of becoming a guardian advocate of a person with a developmental disability does not require the hiring of an attorney, although during

³⁷ See Fla. Admin. Code R. 64J-2.018(1).

³⁸ Section 401.45(3), F.S.; see also Fla. Admin. Code R. 64J-2.018(1)-(3).

³⁹ Section 709.2102(9), F.S.

⁴⁰ Section 709.2102(4), F.S.; see also s. 709.2104 (specifying that a power of attorney is durable if it contains the words: “This durable power of attorney is not terminated by subsequent incapacity of the principal except as provided in chapter 709, Florida Statutes,” or similar words that show the principal’s intent that the authority conferred is exercisable notwithstanding the principal’s subsequent incapacity).

⁴¹ See *id.*; see also The Florida Bar, *Consumer Pamphlet: Florida Power of Attorney, About the Power of Attorney*, available at <https://www.floridabar.org/public/consumer/pamphlet13/#about> (last visited Jan. 13, 2024).

⁴² Sections 393.063(20), F.S.; see also s. 393.12, F.S. (regulating the appointment of guardian advocates for persons with developmental disabilities).

⁴³ Section 393.063(11), F.S.

⁴⁴ See s. 393.12(2)(a), F.S.; see also Eighteenth Judicial Circuit, Seminole County, Florida, *Florida Guardian Advocate Law and Information* (Jul. 2017), at 1, available at https://flcourts18.org/docs/sem/Florida_Guardian_Advocate_Law_and_information_Guide.pdf (last visited Jan. 13, 2024).

⁴⁵ Section 744.3085, F.S.

⁴⁶ Section 393.12(2)(a), F.S.

the proceedings the court will appoint an attorney for the person with the developmental disability to ensure that his or her best interests are protected.⁴⁷

If the person lacks the capacity to make any decisions about his or her care, it may be more appropriate for the court to appoint a plenary guardian who is authorized to act on the person's behalf in all matters. The process of appointing a plenary guardian requires the court to determine that the person is incapacitated. Additionally, the person petitioning to become a plenary guardian must have an attorney.⁴⁸

A guardian advocate for a person with a developmental disability has the same powers, duties, and responsibilities required of a guardian under the guardianship statute or as defined by court order issued under the statute governing the appointment of guardian advocates.⁴⁹

The qualifications to serve as a guardian advocate are the same as those required of any guardian under the guardianship statute.⁵⁰ The court will also consider the wishes expressed by a developmentally disabled person as to whom will be appointed as his or her guardian advocate.⁵¹ A guardian advocate need not be the caregiver of the person with a disability.⁵²

Supported Decision-making

Generally

Supported decision-making (SDM) is a tool that allows people with disabilities to retain their decision-making capacity by choosing supporters to help them make choices.⁵³ SDM assumes that people commonly seek advice and guidance with respect to decision-making and, so long as people have the ability to communicate, they should also have the ability and right to make choices, and to have those choices honored by third parties.⁵⁴

A person using SDM selects trusted advisors, such as friends, family members, or professionals, to serve as supporters. The supporters then agree to help the person with a disability understand,

⁴⁷ Section 393.12(2)(b), F.S.; *see also* Eighteenth Judicial Circuit, Seminole County, Florida, *Florida Guardian Advocate Law and Information* (Jul. 2017), at 2, available at https://flcourts18.org/docs/sem/Florida_Guardian_Advocacy_Law_and_information_Guide.pdf (last visited Jan. 13, 2024).

⁴⁸ Eighteenth Judicial Circuit, Seminole County, Florida, *Florida Guardian Advocate Law and Information* (Jul. 2017), at 1, available at https://flcourts18.org/docs/sem/Florida_Guardian_Advocacy_Law_and_information_Guide.pdf (last visited Dec. 22, 2023).

⁴⁹ Section 393.12(10), F.S.

⁵⁰ Fifth Judicial Circuit, Lake County, Florida, *Florida Law and Guardian Advocacy: A Guide for Families and Friends of Developmentally Disabled Individuals* (Oct. 2014), at 2, available at <https://www.lakecountyclerk.org/forms/Guardianship/DavisGuardianAdvocacyManual.pdf> (last visited Jan. 13, 2024).

⁵¹ *Id.*

⁵² Eighteenth Judicial Circuit, Seminole County, Florida, *Florida Guardian Advocate Law and Information* (Jul. 2017), at 2, available at https://flcourts18.org/docs/sem/Florida_Guardian_Advocacy_Law_and_information_Guide.pdf (last visited Jan. 13, 2024).

⁵³ American Civil Liberties Union, *Supported Decision-Making: Frequently Asked Questions*, available at https://www.aclu.org/wp-content/uploads/legal-documents/faq_about_supported_decision_making.pdf (last visited Jan. 13, 2024).

⁵⁴ Blanck, P., and Martinis, J., *The Right to Make Choices: The National Resource Center for Supported Decisionmaking*, 3 INCLUSION 24 (2015), available at www.bbi.syr.edu/publications/2015/SDM_Overview.pdf.

consider, and communicate decisions, giving the person with a disability the tools to make his or her own informed decisions.⁵⁵ For example, supporters can help a person using SDM by:

- Collecting and communicating information that is related to the decision.
- Helping to understand a problem and explore options.
- Explaining the risks and benefits of options.
- Giving guidance and recommendations.
- Assisting in communicating and carrying out decisions.⁵⁶

Although there is a structure and a process to SDM, it is also flexible and can be adapted to meet an individual's situation and needs. While SDM can vary from place to place and from individual to individual, it generally follows a four-step process:⁵⁷

- The individual identifies the areas where he or she needs decision-making assistance – e.g. health care, employment, relationships, finances, etc. – and the type of support he or she needs.
- The individual chooses supporters he or she trusts.
- Supporters commit to providing information to the individual so that he or she can make his or her own decisions, and honoring the individual's decisions.
- The individual and supporters execute an SDM agreement.⁵⁸

SDM Agreements

An SDM agreement is a written document evidencing an agreement between a disabled person and at least one supporter that describes, in detail, the type of help the person needs. The agreement outlines the terms and conditions of both parties and asks that third parties, including courts, recognize and respect the agreement. In an SDM agreement, those who can help in making decisions are called supporters; supporters agree to help explain information, answer questions, weigh options, and let others know about the decisions that are made. The supporter does not make the decisions. Although signed writings are not necessarily required, SDM agreements can be beneficial in helping doctors, bankers, lawyers, and other third parties to feel confident in accepting the decisions of people with disabilities without fearing lawsuits or malpractice claims.⁵⁹

⁵⁵ Disability Rights Florida, *What is Supported Decision-Making?*, <https://disabilityrightsflorida.org/disability-topics/disability-topic-info/what-is-supported-decision-making> (last visited Jan. 13, 2024).

⁵⁶ *Id.*

⁵⁷ Center for Public Representation, *About Supported Decision-Making: Does Supported Decision-Making work?*, <https://supporteddecisions.org/about-supported-decision-making/> (last visited Jan. 13, 2024).

⁵⁸ *Id.*

⁵⁹ Disability Rights Florida, *What is Supported Decision-Making?*, available at <https://disabilityrightsflorida.org/disability-topics/disability-topic-info/what-is-supported-decision-making> (last visited Jan. 13, 2024); American Civil Liberties Union, *Supported Decision-Making: Frequently Asked Questions*, available at https://www.aclu.org/wp-content/uploads/legal-documents/faq_about_supported_decision_making.pdf (last visited Jan. 13, 2024); see also National Resource Center for Supported Decision-Making, *Supported Decision-Making Model Agreements*, available at https://supporteddecisionmaking.org/resource_library/sdm-model-agreements/ (last visited Jan. 13, 2024) (providing model agreements from various jurisdictions).

State Legislation

SDM is gaining support at both state and federal levels of government. As of June 2023, 27 states and the District of Columbia have adopted some kind of SDM legislation.⁶⁰ SDM has also been recognized and endorsed by the Administration for Community Living of the U.S. Department of Health and Human Services, which funds the National Resource Center for Supported Decision-Making,⁶¹ and has gained international recognition, notably in the United Nations Convention on Rights of Persons with Disabilities.⁶²

III. Effect of Proposed Changes:

Although existing law already allows SDM,⁶³ it neither specifically regulates SDM agreements, nor expressly requires consideration of SDM in connection with the appointment of a guardian or guardian advocate. Accordingly, the bill amends several statutes, and also creates a new statute, in order to explicitly require consideration of SDM and SDM agreements as less restrictive alternatives to appointing a guardian or guardian advocate.

Considering SDM in Connection with the Appointment of Guardian Advocates

Section 1 of the bill amends the developmental disabilities statute⁶⁴ in connection with the appointment of guardian advocates.

When determining whether to appoint a guardian advocate, the bill amends the statute to require circuit courts to:

- Consider the person's unique needs and abilities, including, but not limited to, the person's ability to independently exercise his or her rights with appropriate assistance.
- Only delegate decision-making tasks that the person lacks the decision-making ability to exercise.

With respect to petitions to appoint a guardian advocate for persons with developmental disabilities, the bill amends the statute to require petitions to:

- Identify any other type of guardian advocacy or alternatives to guardian advocacy that the person has designated, is in currently, or has been in previously and the reasons why alternatives to guardian advocacy are insufficient to meet the needs of the person.

⁶⁰ American Bar Association, *Supported Decision-Making: A Statutory Chart*, Jun. 2023, available at https://www.americanbar.org/content/dam/aba/administrative/law_aging/2022-sdm-lst-rstctd-altntvs.pdf (identifying the 27 states as Alabama, Alaska, Arkansas, Arizona, California, Colorado, Delaware, Illinois, Indiana, Kansas, Louisiana, Maine, Maryland, Minnesota, Montana, Nevada, New Hampshire, North Dakota, Oklahoma, Rhode Island, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin, and Wyoming).

⁶¹ The National Resource Center for Supported Decision-Making provides many resources on SDM including, among other things, tools, state-level information, and newsletters and webinars. *See generally* National Resource Center for Supported Decision-Making, *Home*, available at <https://supporteddecisionmaking.org/> (last visited Jan. 13, 2024).

⁶² American Bar Association, *Less Restrictive Options*, Nov. 21, 2023, available at https://www.americanbar.org/groups/law_aging/resources/guardianship_law_practice/supported-decision-making/.

⁶³ *See, e.g.*, s. 765.523(1)(a), F.S. (identifying SDM services as one of several “auxiliary aids and services” for purposes of ensuring access to anatomical gifts and organ transplants).

⁶⁴ Section 393.12, F.S.

- State whether the person uses assistance to exercise his or her rights, including, but not limited to, SDM, and if so, why the assistance is inappropriate or insufficient to allow the person to independently exercise the person's rights.

The bill also amends the statute to require court orders appointing a guardian advocate to identify existing alternatives, and to include a finding as to the validity or sufficiency of such alternatives, to alleviate the need for the appointment of a guardian advocate.

Authorization and Regulation of SDM Agreements

Section 2 of the bill amends the powers of attorney statute⁶⁵ to include explicit authority to grant an SDM agreement as defined under the bill, if such authority is specifically limited.

Section 3 of the bill creates s. 709.2209, F.S., entitled "Supported decisionmaking agreements," to authorize and regulate SDM agreements. Specifically, the new statute:

- Defines the term "supported decisionmaking agreement" to mean an agreement in which the power of attorney grants an agent the authority to receive information and to communicate on behalf of the principal without granting the agent the authority to bind or act on behalf of the principal on any subject matter.
- Provides that an SDM agreement is not a durable power of attorney under state law, and that any language of durability in an SDM agreement is of no effect.
- Provides that an SDM agreement may only include the authority to:
 - Obtain information on behalf of the principal, including, but not limited to, protected health information under the Health Insurance Portability and Accountability Act of 1996, as amended;⁶⁶ educational records under the Family Educational Rights and Privacy Act of 1974;⁶⁷ or information protected under certain provisions of federal law.⁶⁸
 - Assist the principal in communicating with third parties, including conveying the principal's communications, decisions, and directions to third parties on behalf of the principal.
- Provides that a communication made by the principal with the assistance of or through an agent under an SDM agreement that is within the authority granted to the agent may be recognized as a communication of the principal.

Considering SDM in Connection with the Adjudication of Incapacity and Appointment of Guardians

Section 4 of the bill amends s. 744.3201, F.S., which identifies the information that must be included in a petition to determine incapacity, to require the petition to state whether the alleged incapacitated person uses assistance to exercise his or her rights, including, but not limited to, SDM, and if so, why the assistance is inappropriate or insufficient to allow the person to independently exercise the person's rights.

⁶⁵ Section 709.2201, F.S.

⁶⁶ 42 U.S.C. s. 1320d.

⁶⁷ 20 U.S.C. s. 1232g.

⁶⁸ 42 U.S.C. s. 290dd-2; 42 C.F.R. pt. 2.

Section 5 of the bill amends s. 744.331, F.S., which identifies the procedures to determine incapacity, to provide that an examining committee member may allow a person to assist in communicating with the alleged incapacitated person when requested by the court-appointed counsel for the alleged incapacitated person. The examining committee member must identify the person who provided assistance and describe the nature and method of assistance provided in his or her report.

Section 6 of the bill amends s. 744.464, F.S., which addresses how a ward may be restored from an adjudication of incapacity to capacity, to clarify that a suggestion of capacity must state that the ward is currently capable of exercising some or all of the rights which were removed, including the capability to independently exercise his or her rights with appropriate assistance.

Considering SDM in Connection with Accommodating Students with Disabilities in Public Schools

Section 7 of the bill amends s. 1003.5716, F.S., which regulates the development of an individual education plan for the purpose of accommodating students with disabilities in public schools, to include SDM agreements as one method by which students may provide informed consent to allow his or her parents to continue to participate in educational decisions.

Effective Date

Section 8 of the bill provides that it takes effect on July 1, 2024.

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:

Supported decision-making agreements will result in fewer expenditures relating to guardianships and guardian advocates to the extent that the SDM agreements substitute for the more costly arrangements.

C. Government Sector Impact:

The bill will reduce costs to the court system for guardianship and guardian advocate proceedings to the extent that those proceedings are replaced by supported decision-making agreements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 393.12, 709.2201, 744.3201, 744.331, 744.464, and 1003.5716.

This bill creates section 709.2209 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.

By Senator Simon

3-00860-24

2024446__

1 A bill to be entitled
 2 An act relating to supported decisionmaking authority;
 3 amending s. 393.12, F.S.; requiring a circuit court to
 4 consider certain needs and abilities of a person with
 5 a developmental disability when determining whether to
 6 appoint a guardian advocate; providing requirements
 7 for a petition to appoint a guardian advocate for a
 8 person with a developmental disability and for a court
 9 order if the court finds that such person requires
 10 such appointment; amending s. 709.2201, F.S.;
 11 authorizing an agent acting for a principal to grant a
 12 supported decisionmaking agreement; creating s.
 13 709.2209, F.S.; defining the term "supported
 14 decisionmaking agreement"; prohibiting such agreement
 15 from acting as a durable power of attorney;
 16 authorizing specified authority to a supported
 17 decisionmaking agreement; providing that certain
 18 communications shall be recognized as a communication
 19 of the principal under certain circumstances; amending
 20 s. 744.3201, F.S.; requiring a petition to determine
 21 incapacity of a person to include specified
 22 information relating to the alleged incapacitated
 23 person's use of assistance; amending s. 744.331, F.S.;
 24 providing requirements for an examining committee
 25 member when determining the alleged incapacitated
 26 person's ability to exercise his or her rights;
 27 amending s. 744.464, F.S.; authorizing a suggestion of
 28 capacity to include certain capabilities of the ward;
 29 amending s. 1003.5716, F.S.; revising the requirements

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30 for a specified process relating to individual
 31 education plans for certain students to include
 32 supported decisionmaking agreements; providing an
 33 effective date.

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

36
 37 Section 1. Paragraph (a) of subsection (2), paragraph (a)
 38 of subsection (3), and subsection (8) of section 393.12, Florida
 39 Statutes, are amended to read:

40 393.12 Capacity; appointment of guardian advocate.—

41 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

42 (a) A circuit court may appoint a guardian advocate,
 43 without an adjudication of incapacity, for a person with
 44 developmental disabilities, if the person lacks the
 45 decisionmaking ability to do some, but not all, of the
 46 decisionmaking tasks necessary to care for his or her person or
 47 property or if the person has voluntarily petitioned for the
 48 appointment of a guardian advocate. In determining whether to
 49 appoint a guardian advocate, the court shall consider the
 50 person's unique needs and abilities, including, but not limited
 51 to, the person's ability to independently exercise his or her
 52 rights with appropriate assistance, and may only delegate
 53 decisionmaking tasks that the person lacks the decisionmaking
 54 ability to exercise. Except as otherwise specified, the
 55 proceeding shall be governed by the Florida Rules of Probate
 56 Procedure.

57 (3) PETITION.—

58 (a) A petition to appoint a guardian advocate for a person

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with a developmental disability may be executed by an adult person who is a resident of this state. The petition must be verified and must:

1. State the name, age, and present address of the petitioner and his or her relationship to the person with a developmental disability;

2. State the name, age, county of residence, and present address of the person with a developmental disability;

3. Allege that the petitioner believes that the person needs a guardian advocate and specify the factual information on which such belief is based;

4. Specify the exact areas in which the person lacks the decisionmaking ability to make informed decisions about his or her care and treatment services or to meet the essential requirements for his or her physical health or safety;

5. Specify the legal disabilities to which the person is subject; ~~and~~

6. Identify any other type of guardian advocacy or alternatives to guardian advocacy that the person has designated, is in currently, or has been in previously and the reasons why alternatives to guardian advocacy are insufficient to meet the needs of the person;

7. State whether the person uses assistance to exercise his or her rights, including, but not limited to, supported decisionmaking, and if so, why the assistance is inappropriate or insufficient to allow the person to independently exercise the person's rights; and

8. State the name of the proposed guardian advocate, the relationship of that person to the person with a developmental

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disability; the relationship that the proposed guardian advocate had or has with a provider of health care services, residential services, or other services to the person with a developmental disability; and the reason why this person should be appointed. The petition must also state if a willing and qualified guardian advocate cannot be located.

(8) COURT ORDER.—If the court finds the person with a developmental disability requires the appointment of a guardian advocate, the court shall enter a written order appointing the guardian advocate and containing the findings of facts and conclusions of law on which the court made its decision, including:

(a) The nature and scope of the person's lack of decisionmaking ability;

(b) The exact areas in which the individual lacks decisionmaking ability to make informed decisions about care and treatment services or to meet the essential requirements for his or her physical health and safety;

(c) The specific legal disabilities to which the person with a developmental disability is subject;

(d) The identity of existing alternatives and a finding as to the validity or sufficiency of such alternative to alleviate the need for the appointment of a guardian advocate;

(e)-(d) The name of the person selected as guardian advocate and the reasons for the court's selection; and

(f)-(e) The powers, duties, and responsibilities of the guardian advocate, including bonding of the guardian advocate, as provided in s. 744.351.

Section 2. Paragraph (d) is added to subsection (2) of

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section 709.2201, Florida Statutes, to read:

709.2201 Authority of agent.—

(2) As a confirmation of the law in effect in this state when this part became effective, such authorization may include, without limitation, authority to:

(d) If such authority is specifically limited, grant a supported decisionmaking agreement as defined in s. 709.2209(1).

Section 3. Section 709.2209, Florida Statutes, is created to read:

709.2209 Supported decisionmaking agreements.—

(1) For purposes of this section, “supported decisionmaking agreement” means an agreement in which the power of attorney grants an agent the authority to receive information and to communicate on behalf of the principal without granting the agent the authority to bind or act on behalf of the principal on any subject matter.

(2) A supported decisionmaking agreement is not a durable power of attorney under s. 709.2104. Any language of durability in a supported decisionmaking agreement is of no effect.

(3) A supported decisionmaking agreement may only include the authority to:

(a) Obtain information on behalf of the principal, including, but not limited to, protected health information under the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. s. 1320d, as amended; educational records under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s. 1232g; or information protected under 42 U.S.C. s. 290dd-2 or 42 C.F.R. part 2.

(b) Assist the principal in communicating with third

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parties, including conveying the principal’s communications, decisions, and directions to third parties on behalf of the principal.

(4) A communication made by the principal with the assistance of or through an agent under a supported decisionmaking agreement that is within the authority granted to the agent may be recognized as a communication of the principal.

Section 4. Subsection (2) of section 744.3201, Florida Statutes, is amended to read:

744.3201 Petition to determine incapacity.—

(2) The petition must be verified and must:

(a) State the name, age, and present address of the petitioner and his or her relationship to the alleged incapacitated person;

(b) State the name, age, county of residence, and present address of the alleged incapacitated person;

(c) Specify the primary language spoken by the alleged incapacitated person, if known;

(d) State whether the alleged incapacitated person uses assistance to exercise his or her rights, including, but not limited to, supported decisionmaking, and if so, why the assistance is inappropriate or insufficient to allow the person to independently exercise the person’s rights;

(e)-(d) Allege that the petitioner believes the alleged incapacitated person to be incapacitated and specify the factual information on which such belief is based and the names and addresses of all persons known to the petitioner who have knowledge of such facts through personal observations;

(f)-(e) State the name and address of the alleged

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incapacitated person's attending or family physician, if known;
~~(g)(f)~~ State which rights enumerated in s. 744.3215 the
 alleged incapacitated person is incapable of exercising, to the
 best of petitioner's knowledge. If the petitioner has
 insufficient experience to make such judgments, the petition
 must so state; and

~~(h)(g)~~ State the names, relationships, and addresses of the
 next of kin of the alleged incapacitated person, so far as are
 known, specifying the dates of birth of any who are minors.

Section 5. Paragraph (e) of subsection (3) of section
 744.331, Florida Statutes, is amended to read:

744.331 Procedures to determine incapacity.—

(3) EXAMINING COMMITTEE.—

(e) Each member of the examining committee shall examine
 the person. Each examining committee member must determine the
 alleged incapacitated person's ability to exercise those rights
 specified in s. 744.3215. An examining committee member may
allow a person to assist in communicating with the alleged
incapacitated person when requested by the court-appointed
counsel for the alleged incapacitated person and shall identify
the person who provided assistance and describe the nature and
method of assistance provided in his or her report. In addition
 to the examination, each examining committee member must have
 access to, and may consider, previous examinations of the
 person, including, but not limited to, habilitation plans,
 school records, and psychological and psychosocial reports
 voluntarily offered for use by the alleged incapacitated person.
 Each member of the examining committee must file his or her
 report with the clerk of the court within 15 days after

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appointment.

Section 6. Paragraph (a) of subsection (2) of section
 744.464, Florida Statutes, is amended to read:

744.464 Restoration to capacity.—

(2) SUGGESTION OF CAPACITY.—

(a) Any interested person, including the ward, may file a
 suggestion of capacity. The suggestion of capacity must state
 that the ward is currently capable of exercising some or all of
 the rights which were removed, including the capability to
independently exercise his or her rights with appropriate
assistance.

Section 7. Paragraph (d) of subsection (1) of section
 1003.5716, Florida Statutes, is amended to read:

1003.5716 Transition to postsecondary education and career
 opportunities.—All students with disabilities who are 3 years of
 age to 21 years of age have the right to a free, appropriate
 public education. As used in this section, the term "IEP" means
 individual education plan.

(1) To ensure quality planning for a successful transition
 of a student with a disability to postsecondary education and
 career opportunities, during the student's seventh grade year or
 when the student attains the age of 12, whichever occurs first,
 an IEP team shall begin the process of, and develop an IEP for,
 identifying the need for transition services before the student
 with a disability enters high school or attains the age of 14
 years, whichever occurs first, in order for his or her
 postsecondary goals and career goals to be identified. The plan
 must be operational and in place to begin implementation on the
 first day of the student's first year in high school. This

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process must include, but is not limited to:

(d) At least 1 year before the student reaches the age of majority, provision of information and instruction to the student and his or her parent on self-determination and the legal rights and responsibilities regarding the educational decisions that transfer to the student upon attaining the age of 18. The information must include the ways in which the student may provide informed consent to allow his or her parent to continue to participate in educational decisions, including:

1. Informed consent to grant permission to access confidential records protected under the Family Educational Rights and Privacy Act (FERPA) as provided in s. 1002.22.
2. Powers of attorney as provided in chapter 709.
3. Guardian advocacy as provided in s. 393.12.
4. Guardianship as provided in chapter 744.
5. Supported decisionmaking agreements as provided in s. 709.2209.

The State Board of Education shall adopt rules to administer this paragraph.

Section 8. This act shall take effect July 1, 2024.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 17, 2024

I respectfully request that **Senate Bill # 446**, relating to Supported Decision-making Authority, be placed on the:

- ☐ Committee agenda at your earliest possible convenience.
- ☒ Next committee agenda.

A handwritten signature in black ink, appearing to read "Corey Simon", is written over a horizontal line.

Senator Corey Simon
Florida Senate, District 3

The Florida Senate

APPEARANCE RECORD

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

1/30/2024

Meeting Date

Rules

Committee

SB 0446

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Dina Justice

Phone

Address

The Arc of Florida

Email

dina@arcoflorida.org

Street

2898 Mahan Dr Ste 1

Zip

City

State

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:

The Arc of Florida

☐

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)

1/30/24

Meeting Date

Rules

Committee

Name

Karen Murillo - AARP

Phone

850-567-0414

Address

215 S. Monroe St., Ste. 603

Email

kmurillo@aarp.org

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:

AARP

☐

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
APPEARANCE RECORD

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

446 - Supported Decision-

Bill Number or Topic

Amendment Barcode (if applicable)

The Florida Senate

APPEARANCE RECORD

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

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:

Disability Rights FL

☐ 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 Rules

BILL: CS/CS/SB 462

INTRODUCER: Health Policy Committee; Judiciary Committee; and Senator Grall and others

SUBJECT: Excusal from Jury Service

DATE: January 29, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Davis	Cibula	JU	Fav/CS
2. Brown	Brown	HP	Fav/CS
3. Davis	Twogood	RC	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 462 creates a new basis for someone to be excused from jury duty. The bill provides that a woman who has given birth within the 6-month period immediately prior to the date on which she is to report for jury service shall be excused upon request.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

The Right to Trial by Jury

The right to a trial by jury is deeply ingrained in American law. Both the U.S. Constitution and the State Constitution guarantee the right to a trial by jury. In a jury trial, jurors, not judges, serve as the fact-finders who determine what actually happened in the case and render a verdict.¹

¹ Alexis de Tocqueville observed the importance of the American jury system in his 1835 treatise *Democracy in America*. He wrote that “The institution of the jury ... places the real direction of society in the hands of the governed, or of a portion of the governed, instead of leaving it under the authority of the Government. ... Now the institution of the jury raises the people itself, or at least a class of citizens, to the bench of judicial authority.” Alexis de Tocqueville, *Democracy in America*, 312 (Henry Reeve, trans., 2002) (1835), <http://seas3.elte.hu/coursematerial/LojkoMiklos/Alexis-de-Tocqueville-Democracy-in-America.pdf>.

The U.S. Constitution ensures the right to a federal jury trial in the Sixth and Seventh Amendments. The Sixth Amendment states that “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed”² The Seventh Amendment states that in matters at common law where the amount in controversy exceeds “twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.”³

The State Constitution provides that “The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law.”⁴

Additionally, s. 918.0157, F.S., states, in part, that a defendant in a trial which is punishable by imprisonment, shall have, upon demand, the right to a trial by an impartial jury in the county where the offense was committed.

The right to a jury trial is effectuated by laws requiring citizens to appear for jury selection and serve as jurors.

State Jury Selection Process

The clerks of the court are responsible for summoning prospective jurors at least 14 days before they are to appear in court for jury selection.⁵

If a person is summoned to attend as a juror and fails to attend without providing a sufficient excuse, he or she may be fined up to \$100 by the court and held in contempt of court.⁶ The statute does not specify or limit the sanctions a court may impose for contempt of court.

Potential jurors are randomly selected from a list of names provided quarterly to the clerk of the circuit court by the Department of Highway Safety and Motor Vehicles.⁷ A juror must:

- Be at least 18 years old.
- Be a U.S. citizen.
- Be a legal resident of the state and his or her respective county.
- Possess a driver license or identification card issued by the Department of Highway Safety and Motor Vehicles or have executed an affidavit, as prescribed by statute, in which he or she indicates a desire to serve as a juror.⁸

² U.S. CONST. amend. VI.

³ U.S. CONST. amend. VII. The right to a jury trial for crimes in other types of cases, except impeachment cases, is also stated in Article III, Section 2.

⁴ FLA. CONST. art. 1, s. 22.

⁵ Section 40.23(1), F.S.

⁶ Section 40.23(3), F.S.

⁷ Section 40.011, F.S.

⁸ Section 40.01, F.S.

People who are Disqualified or Excused from Jury Service

Although most adult citizens of this state may be summoned for jury service, the statutes allow any person summoned to postpone his or her service for any reason for a period not to exceed 6 months.⁹ Additionally, the statutes specify grounds for many persons summoned to be excused from service upon request. Finally, statutes and court rules identify persons who are disqualified from serving on a jury. The grounds for excusal and disqualification are detailed below.

Excusal

The following persons *must be excused* from jury service *unless* they choose to serve:

- Any full-time federal, state, or local law enforcement officer.
- Federal, state, or local law enforcement investigative personnel.¹⁰

The following persons *must be excused* from jury service *upon their request*:

- Any expectant mother.
- Any parent who is not employed full time and has custody of a child under 6 years of age.
- A person who is 70 years of age or older. This person may be permanently excused upon written request.
- Anyone who is responsible for the care of a person who is incapable of caring for himself or herself because of mental illness, intellectual disability, senility, or other physical or mental incapacity.
- A full-time student between 18 and 21 years of age who is attending high school or any state university, private postsecondary educational institution, Florida College System institution, or career center.¹¹

The following persons *may be excused*:

- A person who demonstrates a showing of hardship, extreme inconvenience, or public necessity.¹²
- A person who, because of mental illness, intellectual disability, senility, or other physical or mental incapacity, is permanently incapable of caring for himself or herself.¹³

The following persons are *exempt* from jury service:

- People who, within the last year, were summoned and reported for jury duty in the county where they reside.¹⁴

A presiding judge has the discretion to excuse a practicing attorney, a practicing physician, or a person who is physically infirm from jury service.¹⁵

⁹ Section 40.23(2), F.S.

¹⁰ Section 40.013(2)(b), F.S.

¹¹ Section 40.013(4), (8), (10), (11), F.S.

¹² Section 40.013(6), F.S.

¹³ Section 40.013(9), F.S. Such person may be permanently excused if a written statement to this effect is provided by a physician.

¹⁴ Section 40.013(7), F.S.

¹⁵ Section 40.013(5), F.S.

Disqualification

Prospective jurors may be disqualified from jury service based upon grounds specified in statute. Others may be excused if the court believes that the prospective juror is not qualified to serve.¹⁶ If a potential juror in a civil trial does not have the reading, writing, and math skills to understand the evidence that will be offered, he or she may be excused.¹⁷

The following persons are *disqualified* from the jury selection process:

- A person under prosecution for a crime or who has been convicted of a felony, unless his or her civil rights have been restored.¹⁸
- The Governor, Lieutenant Governor, Cabinet officer, clerk of court, or judge.¹⁹
- A person having an interest in an issue that is being tried.²⁰

Statutes Permitting Excusal from Jury Service to Take Care of Young Children

While there is no specific provision in current law exempting a woman from jury service who has recently given birth, existing law may address many of these circumstances indirectly. As discussed above, one statute permits any person who has been summoned for jury duty to postpone his or her service for a period that does not exceed 6 months by making a written or oral request.²¹ Another statute, requires a person to be excused from jury service if she is an expectant mother or if he or she is a parent who is not employed full time and has custody of a child under 6 years of age.²² The potential juror needs only to request the excuse.

Legislation Passed by Other States

According to the National Conference of State Legislatures (NCSL), no state permits a woman to be excused from jury service solely on the basis that she has given birth within the last 6 months. However, NCSL research has found that at least 22 states and Puerto Rico allow mothers who are breastfeeding their infants to postpone or be exempt from jury service.²³

III. Effect of Proposed Changes:

CS/CS/SB 462 amends s. 40.013, F.S., to create a new basis for someone to be excused from jury duty. The bill provides that a woman who has given birth within the 6-month period immediately prior to the date on which she is to report for jury service shall be excused upon request.

The bill provides an effective date of July 1, 2024.

¹⁶ Fla. R. Crim. P. 3.300.

¹⁷ Fla. R. Civ. P. 1.431(c)(3).

¹⁸ Section 40.013(1), F.S.

¹⁹ Section 40.013(2)(a), F.S.

²⁰ Section 40.013(3), F.S.

²¹ Section 40.23(2), F.S.

²² Section 40.013(4), F.S.

²³ National Conference of State Legislatures, *Breastfeeding State Laws* (Aug. 26, 2021), <https://www.ncsl.org/ncsl-search-results/searchtext/breastfeeding%20laws>.

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:

The bill may financially benefit businesses employing mothers of newborns and the mothers of newborns themselves to the extent that such women use the bill's excusal from jury service to attend a job instead of jury service.

C. Government Sector Impact:

The bill may increase costs to impanel jurors to the extent that courts could be required to issue additional summons for jury service. Such costs, if any, are likely to be minimal since the excusal authorized by the bill somewhat overlaps the right to be excused or to postpone jury service under current law.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 40.013 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Health Policy on January 16, 2024:

The CS removes the underlying bill's requirement that a person who wishes to be excused from jury duty under the bill must request the excusal in writing and provide a photocopy of the newborn's birth certificate.

CS by Judiciary on December 13, 2023:

The CS clarifies that the "6 months" period in the bill is measured from the birth date of the child to the reporting date on the summons.

- B. **Amendments:**

None.

By the Committees on Health Policy; and Judiciary; and Senators
Grall and Book

588-02170-24

2024462c2

1 A bill to be entitled
2 An act relating to excusal from jury service; amending
3 s. 40.013, F.S.; requiring that a woman who has
4 recently given birth be excused from certain jury
5 service under specified conditions; providing an
6 effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Subsection (12) is added to section 40.013,
11 Florida Statutes, to read:
12 40.013 Persons disqualified or excused from jury service.—
13 (12) A woman who has given birth within the 6 months before
14 the reporting date on a summons for jury service shall be
15 excused upon request. The excusal applies only to the specific
16 summons for which the excusal is requested.
17 Section 2. This act shall take effect July 1, 2024.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 16, 2024

I respectfully request that **Senate Bill #462**, relating to Excusal from Jury Service, be placed on the:

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

Erin K. Grall

Senator Erin Grall
Florida Senate, District 29

The Florida Senate

APPEARANCE RECORD

1/30/24

Meeting Date

Rules

Committee

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

462

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Morgan Parrish**

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
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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
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 Rules

BILL: CS/SB 474

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Grall and others

SUBJECT: Public Records/Suicide Victims

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hall	Tuszynski	CF	Favorable
2.	Harmsen	McVaney	GO	Fav/CS
3.	Hall	Twogood	RC	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 474 makes confidential and exempt from public inspection and copying the photograph or video or audio recording that depicts or records the suicide of a person when it is held by an agency. The bill allows for disclosure to a surviving spouse of the deceased; the surviving parents, if there is no surviving spouse; or the surviving adult children or siblings, if there are no surviving spouse or parents. The bill defines the “suicide of a person” and specifies who may obtain such photographs and recordings and the process for obtaining these materials.

The bill amends s. 119.071(2)(p), F.S., to conform to the expanded exemption for photographs or video or audio recordings that depict the suicide of a person. Specifically:

- Certain government entities may access such photographs or video or audio recordings in furtherance of their official duties;
- A court, upon showing of good cause, may issue an order authorizing any person to view or copy such photographs or video or audio recordings;
- If a petition is filed with a court to review the photograph, video, or audio recordings, the court must give the surviving spouse or appropriate next of kin reasonable notice of the petition; a copy of the petition; and opportunity to be present and heard at any hearing on the matter;
- The record custodian in control of photographs or video or audio recordings, or his or her designee, must directly supervise anyone who views, copies, or handles such; and

- Any custodian of photographs or video or audio recordings that depict the suicide of a person who willfully and knowingly violates the provisions in the section and any person who violates a court order issued pursuant to the section, commits a third degree felony.

The bill also makes confidential and exempt from public inspection and copying requirements an autopsy report of a person whose manner of death was suicide as held by a medical examiner. The bill allows for disclosure to a surviving spouse of the deceased; the surviving parents, if there is no surviving spouse; or the surviving adult children or siblings, if there are no surviving spouse or parents.

The bill amends s. 406.135, F.S., to conform to the expanded exemption for autopsy reports of a person whose manner of death was suicide. Specifically:

- Certain government entities may access such reports in furtherance of their official duties;
- The custodian of record, or his or her designee, may not permit any other person, except an authorized designated agent, to view or copy an autopsy report of a person whose manner of death was suicide;
- A court may use its discretion to authorize the disclosure of such reports;
- The court must provide reasonable notice to the surviving spouse or appropriate next of kin that a petition to view or copy the autopsy report was filed. The court must also provide a copy of the petition and opportunity to be present and heard at any hearing on the matter; and
- Any person who willfully and knowingly violates a court order regarding the disclosure of these reports, and any custodian who willfully and knowingly discloses these reports in violation of the law, are subject to a third degree felony.

The bill gives retroactive application to both of these exemptions so that photographs, recordings, and autopsy reports addressed by this bill, regardless of when they were initially held by an agency, are treated as confidential and exempt from public inspection and copying requirements upon this bill becoming a law.

The bill makes findings that the new exemptions from public records disclosure for photographs or video or audio recordings that depict the suicide of a person and for an autopsy report of a person whose manner of death was suicide meet public necessities as required by the Florida Constitution. A two-thirds vote of both the House and the Senate is required for final passage.

The exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2029, unless reviewed and reenacted by the Legislature.

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

The bill takes effect upon becoming law.

II. Present Situation:

Access to Public Records – Generally

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

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.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, Ch. 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.⁵

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

All documents, papers, letters, maps, books, tapes, photography, 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.”⁶

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

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, (2022-2024).

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

⁵ 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.”

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

record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

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.⁹ 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.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

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

Open Government Sunset Review Act

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

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. 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).

¹¹ *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).

¹² *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).

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

¹⁴ *Id.*

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

¹⁶ Section 119.15, F.S.; Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

date.¹⁸ In practice, many exemptions continue by repealing the sunset date, rather than reenacting the exemption.

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

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁹
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual's safety. However, if this public purpose is cited as the basis of the exemption, only personal identifying information is exempt;²⁰ or
- It protects trade or business secrets.²¹

The Act also requires specified questions to be considered during the review process.²² 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 is required.²³ 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.²⁴

Exemptions related to Sensitive Photos Videos, or Audio Recordings of Deaths

Autopsy Photographs, Videos, or Audio Depictions

Section 406.135, F.S., makes confidential and exempt from public inspection or copying a photograph, video, or audio recording of an autopsy held by a medical examiner. It does not limit the disclosure of any written autopsy report. There is an exception which allows for a surviving spouse to view and copy a photograph or video recording or listen to or copy an audio recording of the deceased spouse's autopsy.²⁵ If there is no surviving spouse, the surviving parent must

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b)1., F.S.

²⁰ Section 119.15(6)(b)2., F.S.

²¹ Section 119.15(6)(b)3., F.S.

²² 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?

²³ See generally s. 119.15, F.S.

²⁴ Section 119.15(7), F.S.

²⁵ Section 406.135(2), F.S.

have access to such records.²⁶ If there is no surviving spouse and no surviving parent, then an adult child is required to have access to such records.²⁷ Current law also allows for the disclosure to a local, state, or federal agency if the disclosure is in furtherance of its official duties.²⁸

The custodian of the record, or his or her designee, may not allow any other person to view or copy such records unless the deceased's surviving relative who has authority to request such records, or his or her designated agent, grants permission to view or copy such records.²⁹

Upon a showing of good cause, a court may issue an order authorizing any person to view or copy a photograph or video recording, or listen to, or copy any audio recording of an autopsy.³⁰ The court may impose any restrictions or stipulations that it deems appropriate.³¹ The court must consider three factors when determining whether good cause exists, including:

- Whether such disclosure is necessary for the public evaluation of governmental performance;
- The seriousness of the intrusion into the family's right to privacy and whether such disclosure is the least intrusive means available; and
- The availability of similar information in other public records.³²

Any handling of photographs, video, or audio recordings of an autopsy must be under the direct supervision of the custodian of record or his or her designee.³³

The surviving spouse, surviving parent, or adult children of the deceased, as appropriate, must be given:

- Reasonable notice of a petition filed with the court to view or copy a photograph or video recording, or listen to or copy an audio recording of an autopsy;
- A copy of such petition; and
- Reasonable notice of the opportunity to be present and hearing at any hearing.³⁴

A custodian of a photograph, video, or audio recording of an autopsy who willfully and knowingly violates these provisions commits a felony of the third degree.³⁵ Any person who willfully and knowingly violates a court order issued after showing good cause to view or copy a photograph or video, or listen to or copy an audio recording of an autopsy commits a felony of the third degree.³⁶

A criminal or administrative proceeding is exempt from s. 406.135, F.S., but is subject to all the provisions of Ch. 119, F.S., unless otherwise exempted.³⁷ A court in a criminal or administrative

²⁶ *Id.*

²⁷ *Id.*

²⁸ Section 406.135(3)(b), F.S.

²⁹ Section 406.135(3)(a), F.S.

³⁰ Section 406.135(4)(a), F.S.

³¹ *Id.*

³² Section 406.135(4)(b), F.S.

³³ Section 406.135(4)(c), F.S.

³⁴ Section 406.135(5)(a), F.S.

³⁵ Section 406.135(6)(a), F.S.; A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine.

³⁶ Section 406.135(6)(b), F.S.

³⁷ Section 406.135(7), F.S.

proceeding, however, may, upon a showing of good cause, restrict or otherwise control the disclosure of an autopsy, crime scene, or similar photograph, video, or audio recording.³⁸

Killing of a Law Enforcement Officer, a Minor, and Mass Killings

Section 119.071(2)(p), F.S., makes confidential and exempt from public records requirements a photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties,³⁹ the killing of a minor,⁴⁰ and the killing of a victim of mass violence, when it is held by an agency.^{41,42} Similar to the above-described public records exemption related to autopsies, a surviving spouse of the decedent may view and copy any such photograph or video recording or listen to or copy any such audio recording. If there is no surviving spouse, the surviving parents must have access to such records, and if there is no surviving spouse or parent, then the adult children must have access to such records.⁴³

Additionally, a court may allow access to the photograph or video or audio recordings through the same process as described above for autopsies.⁴⁴

There is currently no exemption for photographs or video or audio recordings related to the suicide of a person.

³⁸ *Id.*

³⁹ Section 119.071(2)(p)1.a., F.S., defines “killing of a law enforcement officer who was acting in accordance with his or her official duties” to mean all acts or events that cause or otherwise relate to the death of a law enforcement officer who was acting in accordance with his or her official duties, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death.

⁴⁰ Section 119.071(2)(p)1.b., F.S., defines the “killing of a minor” to mean all acts or events that cause or otherwise relate to the death of a victim who has not yet reached the age of 18 at the time of the death, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of the death of a victim under the age of 18, events that depict a victim under the age of 18 being killed, or events that depict the body of a victim under the age of 18 who has been killed.

⁴¹ Section 119.071(2)(p)1.c., F.S., defines “killing of a victim of mass violence” to mean events that depict either a victim being killed or the body of a victim killed in an incident in which three or more persons, not including the perpetrator, are killed by the perpetrator of an intentional act of violence.

⁴² Section 119.011(2), F.S., defines an “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 [ch. 119] 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.”

⁴³ Section 119.071(2)(p)2., F.S.

⁴⁴ See s. 119.071(2)(p)4.-6., F.S.

Suicide

Suicide is one of the leading causes of death in the United States.⁴⁵ In 2021, 48,183 people died by suicide in the United States equating to 1 death every 11 minutes.⁴⁶ Suicide rates increased in 2022, with an estimated 49,449 deaths by suicide.⁴⁷ This is the highest rate of suicide since 1941.⁴⁸

In 2022, Florida's suicide rates were higher than any of the last four years.⁴⁹ Provisional data shows Florida had a rate of 15.8 per 100,000 people dying by suicide. This is a slight increase over 2021's suicide rate of 15.4.⁵⁰ As a result, suicide is on the list of the 10 leading causes of death in Florida.⁵¹

The largest percentage increase in suicide deaths is among older adults. Suicide deaths have increased by nearly 7 percent in people ages 45 to 64 and more than 8 percent in people 65 and older.⁵² Additionally, suicide deaths for adults aged 25 to 44 have increased by 1 percent.⁵³

III. Effect of Proposed Changes:

Section 1 amends s. 119.071(2), F.S., to make a photograph or video or audio recording that depicts the suicide of a person confidential and exempt from public copying and inspection when held by an agency. Examples of recordings that depict the suicide of a person that are held by an agency include law enforcement body camera footage, surveillance recordings of public spaces, and recordings taken from an individual's personal phone or recording device during the course of an investigation of a death by suicide.

The bill defines "suicide of a person" to mean events that depict the suicide of a person, the body of a person whose manner of death was suicide, or any portion of such person's body. The bill also conforms the provisions of s. 119.071(2)(p), F.S., to the expanded exemption for photographs or video or audio recordings that depict the suicide of a person. Specifically:

- Certain government entities may access such photographs or video or audio recordings in furtherance of their official duties;

⁴⁵ Centers for Disease Control and Prevention, Suicide Prevention, *Suicide Data and Statistics* (Nov. 29, 2023), available at <https://www.cdc.gov/suicide/suicide-data-statistics.html> (last visited Jan. 5, 2024).

⁴⁶ *Id.*

⁴⁷ Mary Kekatos, ABC NEWS GO, *Number of Suicides in the U.S. in 2022 Reaches Record Level: CDC* (Nov. 29, 2023), available at <https://abcnews.go.com/Health/number-suicides-us-2022-reaches-record-level-cdc/story?id=105204012#:~:text=The%20suicide%20rate%20increased%20by,1941%2C%20according%20to%20the%20report.> (last visited Jan. 5, 2024).

⁴⁸ *Id.*

⁴⁹ Justin Matthews, FOX 13 TAMPA BAY, *Higher Suicide Rates Reported in Florida in 2022, CDC Says* (Aug. 12, 2023), available at <https://www.fox13news.com/news/higher-suicide-rates-reported-in-florida-in-2022-cdc-says> (last visited Jan. 5, 2024).

⁵⁰ Claire Farrow, TAMPA BAY 10, *Deaths by Suicide in Florida Increased in 2022, CDC Data Suggests* (Aug. 11, 2023), available at <https://www.wtsp.com/article/news/health/florida-suicide-death-rate-cdc-2022-data/67-2e25f0b2-c3d7-4f19-97db-242f2ebe4d2f> (last visited Jan. 5, 2024).

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

- The court, upon showing of good cause, may issue an order authorizing any person to view or copy such photographs or video or audio recordings;
- If a petition is filed with a court to review the photograph, video, or audio recordings, the court must give the surviving spouse or appropriate next of kin reasonable notice of the petition; a copy of the petition; and opportunity to be present and heard at any hearing on the matter;
- The record custodian in control of photographs or video or audio recordings, or his or her designee, must directly supervise anyone who views, copies, or handles such;
- Any custodian of photographs or video or audio recordings that depict the suicide of a person who willfully or knowingly violates the provision in the section and any person who violates a court order issued pursuant to the section, commits a third degree felony.

The bill gives retroactive application to the exemption.

The bill provides for repeal of the exemption on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 constitutes the statement of public necessity as required by the Florida Constitution. The public necessity statement provides that the release of photographs, videos, and audio recordings could result in trauma, sorrow, humiliation, or emotional injury to the immediate family of the deceased and detract from the memory of the deceased. The widespread dissemination of the photographs, videos, and audio recordings through the Internet could subject the immediate family of the deceased to continuous injury.

Section 3 amends s. 406.135, F.S., to make confidential and exempt an autopsy report of a person whose manner of death was suicide held by a medical examiner.⁵⁴ This section allows for the disclosure to the surviving spouse of the deceased; the surviving parent, if there is no surviving spouse; or the surviving adult children and siblings, if there is no surviving spouse or parent.

This section also amends s. 406.135, F.S., to conform to the expanded exemption for autopsy reports of a person whose manner of death was suicide. Specifically:

- Certain government entities may access such reports in furtherance of their official duties;
- The custodian of the record, or his or her designee, may not permit any other person, except an authorized designated agent, to view or copy an autopsy report of a person whose manner of death was suicide;
- The court may, upon a showing of good cause, issue an order authorizing any person to view or copy an autopsy report of a person whose manner of death was suicide;
- The court must provide reasonable notice to the surviving spouse or appropriate next of kin that a petition to view or copy the autopsy report was filed. The court must also provide a copy of the petition and opportunity to be present and heard at any hearing on the matter;

⁵⁴ The term “medical examiner” in s. 409.135, F.S., means anyone who serves in the role of a district medical examiner, as well as any employee, deputy, or agent of the medical examiner, or any other person who may obtain possession of a report, photograph, or audio or video recording of an autopsy in the court assisting a medical examiner in the performance of his or her official duties.

- The record custodian in control of an autopsy report of a person whose manner of death was suicide, or his or her designee, must directly supervise anyone who views, copies, or handles the autopsy report; and
- Any custodian of an autopsy report of a person whose manner of death was suicide who willfully and knowingly violates the provisions in s. 406.135, F.S., and any person who violates a court order issued pursuant to s. 406.135, F.S., commits a third degree felony.

The bill gives retroactive application to the exemption.

The bill provides for repeal of the exemption on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4 constitutes the statement of public necessity as required by the Florida Constitution. The public necessity statement provides that the release of autopsy reports of a person whose manner of death was suicide could result in trauma, sorrow, humiliation, or emotional injury to the immediate family of the deceased and detract from the memory of the deceased. The widespread, unauthorized dissemination of such reports could subject the immediate family of the deceased to continuous injury.

Section 5 provides that the bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

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 the final passage of a bill creating and expanding an exemption to the public records requirements. This bill enacts a new exemption for autopsy reports of a person whose manner of death was suicide held by a state agency or medical examiner, and a photograph or video or audio recording that depicts the suicide of a person when held by a state agency. Thus, the bill will require a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill that creates or expands an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Sections 2 and 4 of the bill contain statements of public necessity for the exemptions.

This exemption will likely preclude the disclosure of recordings or photographs generated by a state agency. These recordings or photographs may be otherwise protected by existing public records exemptions, such as the active criminal investigation exemption,⁵⁵ law enforcement body camera footage exemption,⁵⁶ and the pre-existing autopsy records exemption.⁵⁷ However, those photos or recordings that are made by a private individual and livestreamed during the event of their suicide on social media, or otherwise obtained and released by another private individual, will not be fully protected from their disbursement, as the government cannot control access of recordings or photographs that are initiated outside of its scope.

Scope of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect the surviving spouse and family members of a person whose manner of death was suicide. This bill exempts both (a) the photographs, video recordings, and audio recordings that depict the suicide of a person that are held by an agency, and (b) any autopsy reports of persons whose manner of death was suicide that are held by a medical examiner. The exemptions do 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.

⁵⁵ Section 119.071(2)(c), F.S. This exemption only applies to cases that are both “active” and constitute “criminal investigative” information. *See Wooling v. Lamar*, 764 So. 2d 765, 768 (Fla. 5th DCA 2000), *rev. denied*, 786 So. 2d 1186 (Fla. 2001). Criminal investigative information is “active” as long as it relates to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future. Section 119.011(3)(d), F.S.

⁵⁶ Section 119.071(2)(l), F.S.

⁵⁷ Section 406.135(2)(a), F.S. This provision makes a photograph or video or audio recording of an autopsy held by a medical examiner confidential and exempt from public records law.

B. Private Sector Impact:

The private sector will be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

Staff responsible for compliance with public record requests may require training related to the new public record exemptions. Additionally, agencies may experience additional workload associated with the redaction of exempt information prior to the release of a record. However, this workload should be absorbed as part of the day-to-day agency responsibilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 119.071 and 406.135 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS by Governmental Oversight and Accountability on January 16, 2024:

Requires notice to a surviving spouse or appropriate next of kin when a petition requesting to view or copy records exempted under the bill is filed with a court. The surviving spouse or kin must also be given a copy of the petition and an opportunity to be present and heard at any hearing on the petition.

B. Amendments:

None.

By the Committee on Governmental Oversight and Accountability;
and Senators Grall and Book

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A bill to be entitled

An act relating to public records; amending s. 119.071, F.S.; defining the term "suicide of a person"; creating an exemption from public records requirements for a photograph or video or audio recording of the suicide of a person; providing exceptions; requiring that any viewing, copying, listening to, or other handling of such photograph or video or audio recording be under the direct supervision of the custodian of the record or his or her designee; providing notice requirements; providing criminal penalties; providing construction; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; amending s. 406.135, F.S.; creating an exemption from public records requirements for autopsy reports of suicide victims; providing exceptions; requiring that any viewing, copying, listening to, or other handling of such autopsy reports be under the direct supervision of the custodian of the record or his or her designee; providing notice requirements; providing criminal penalties; providing construction; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

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Section 1. Paragraph (p) of subsection (2) of section 119.071, Florida Statutes, is amended to read:
119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(p)1. As used in this paragraph, the term:

a. "Killing of a law enforcement officer who was acting in accordance with his or her official duties" means all acts or events that cause or otherwise relate to the death of a law enforcement officer who was acting in accordance with his or her official duties, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death.

b. "Killing of a minor" means all acts or events that cause or otherwise relate to the death of a victim who has not yet reached the age of 18 at the time of the death, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of the death of a victim under the age of 18, events that depict a victim under the age of 18 being killed, or events that depict the body of a victim under the age of 18 who has been killed.

c. "Killing of a victim of mass violence" means events that depict either a victim being killed or the body of a victim killed in an incident in which three or more persons, not including the perpetrator, are killed by the perpetrator of an intentional act of violence.

d. "Suicide of a person" means events that depict the suicide of a person, the body of a person whose manner of death

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59 was suicide, or any portion of such person's body.

60 2.a. A photograph or video or audio recording that depicts
61 or records the killing of a law enforcement officer who was
62 acting in accordance with his or her official duties or the
63 killing of a victim of mass violence is confidential and exempt
64 from s. 119.07(1) and s. 24(a), Art. I of the State
65 Constitution, except that a surviving spouse of the decedent may
66 view and copy any such photograph or video recording or listen
67 to or copy any such audio recording. If there is no surviving
68 spouse, the surviving parents shall have access to such records.
69 If there is no surviving spouse or parent, the adult children
70 shall have access to such records. Nothing in this sub-
71 subparagraph precludes a surviving spouse, parent, or adult
72 child of the victim from sharing or publicly releasing such
73 photograph or video or audio recording.

74 b. A photograph or video or audio recording that depicts or
75 records the killing of a minor is confidential and exempt from
76 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
77 except that a surviving parent of the deceased minor may view
78 and copy any such photograph or video recording or listen to or
79 copy any such audio recording. Nothing in this sub-subparagraph
80 precludes a surviving parent of the victim from sharing or
81 publicly releasing such photograph or video or audio recording.

82 c. A photograph or video or audio recording that depicts or
83 records the suicide of a person is confidential and exempt from
84 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
85 except that a surviving spouse of the deceased may view and copy
86 any such photograph or video recording or listen to or copy any
87 such audio recording. If there is no surviving spouse, the

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88 surviving parents must have access to such records. If there is
89 no surviving spouse or parent, the adult children and siblings
90 must have access to such records. This section does not preclude
91 a surviving spouse, parent, adult child, or sibling of the
92 victim from sharing or publicly releasing such photograph or
93 video or audio recording.

94 3.a. The deceased's surviving relative, with whom authority
95 rests to obtain such records, may designate in writing an agent
96 to obtain such records.

97 b. Notwithstanding subparagraph 2., a local governmental
98 entity, or a state or federal agency, in furtherance of its
99 official duties, pursuant to a written request, may view or copy
100 a photograph or video recording or may listen to or copy an
101 audio recording of the killing of a law enforcement officer who
102 was acting in accordance with his or her official duties, the
103 killing of a victim of mass violence, ~~or~~ the killing of a minor,
104 or the suicide of a person, and, unless otherwise required in
105 the performance of its duties, the identity of the deceased
106 shall remain confidential and exempt.

107 c. The custodian of the record, or his or her designee, may
108 not permit any other person to view or copy such photograph or
109 video recording or listen to or copy such audio recording
110 without a court order.

111 4.a. The court, upon a showing of good cause, may issue an
112 order authorizing any person to view or copy a photograph or
113 video recording that depicts or records the killing of a law
114 enforcement officer who was acting in accordance with his or her
115 official duties, the killing of a victim of mass violence, ~~or~~
116 the killing of a minor, or the suicide of a person or to listen

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to or copy an audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass violence, ~~or~~ the killing of a minor, or the suicide of a person and may prescribe any restrictions or stipulations that the court deems appropriate.

b. In determining good cause, the court shall consider:

(I) Whether such disclosure is necessary for the public evaluation of governmental performance;

(II) The seriousness of the intrusion into the family's right to privacy and whether such disclosure is the least intrusive means available; and

(III) The availability of similar information in other public records, regardless of form.

c. In all cases, the viewing, copying, listening to, or other handling of a photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass violence, ~~or~~ the killing of a minor, or the suicide of a person must be under the direct supervision of the custodian of the record or his or her designee.

5.a. A surviving spouse shall be given reasonable notice of a petition filed with the court to view or copy a photograph or video recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence, or to listen to or copy any such audio recording, a copy of such petition, and reasonable notice of the opportunity to be present and heard at any hearing on the matter. If there is no surviving

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spouse, such notice must be given to the parents of the deceased and, if there is no surviving parent, to the adult children of the deceased.

b. A surviving parent must be given reasonable notice of a petition filed with the court to view or copy a photograph or video recording that depicts or records the killing of a minor or to listen to or copy any such audio recording; a copy of such petition; and reasonable notice of the opportunity to be present and heard at any hearing on the matter.

c. A surviving spouse shall be given reasonable notice of a petition filed with the court to view or copy a photograph or video recording that depicts or records the suicide of a person, or to listen to or copy any such audio recording; a copy of such petition; and reasonable notice of the opportunity to be present and heard at any hearing on the matter. If there is no surviving spouse, such notice must be given to the parents of the deceased and, if there is no surviving parent, to the adult children and siblings of the deceased.

6.a. Any custodian of a photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass violence, ~~or~~ the killing of a minor, or the suicide of a person who willfully and knowingly violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. Any person who willfully and knowingly violates a court order issued pursuant to this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083,

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or s. 775.084.

c. A criminal or administrative proceeding is exempt from this paragraph but, unless otherwise exempted, is subject to all other provisions of chapter 119; however, this paragraph does not prohibit a court in a criminal or administrative proceeding upon good cause shown from restricting or otherwise controlling the disclosure of a killing, crime scene, or similar photograph or video or audio recording in the manner prescribed in this paragraph.

7. The ~~exemptions~~ exemption in this paragraph shall be given retroactive application and shall apply to all photographs or video or audio recordings that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass violence, ~~or~~ the killing of a minor, or the suicide of a person, regardless of whether the killing or suicide of the person occurred before, on, or after May 23, 2019. However, nothing in this paragraph is intended to, nor may be construed to, overturn or abrogate or alter any existing orders duly entered into by any court of this state, as of the effective date of this act, which restrict or limit access to any photographs or video or audio recordings that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties, the killing of a victim of mass violence, ~~or~~ the killing of a minor, or the suicide of a person.

8. This paragraph applies only to such photographs and video and audio recordings held by an agency.

9. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed

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on October 2, ~~2029~~ 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that photographs, video, and audio recordings that depict or record the suicide of a person be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution and that such exemption be applied retroactively. The Legislature finds that photographs, video, and audio recordings that depict or record the suicide of a person render graphic and often disturbing visual or aural representations of the deceased. Such photographs, video, and audio recordings provide a view of the deceased in the final moments of life, in which they are often experiencing severe symptoms of depression or other mental illness, and may depict graphic and gruesome self-inflicted wounds. As such, photographs, video, and audio recordings that depict or record the suicide of a person are highly sensitive representations of the deceased which, if heard, viewed, copied, or publicized, could result in trauma, sorrow, humiliation, or emotional injury to the immediate family of the deceased and detract from the memory of the deceased. The Legislature recognizes that the existence of the Internet and the proliferation of personal computers and cellular telephones throughout the world encourages and promotes the wide dissemination of such photographs, video, and audio recordings and that widespread unauthorized dissemination of such photographs, video, and audio recordings would subject the immediate family of the deceased to continuous injury. The Legislature further finds that such photographs, video, and audio recordings that depict or record

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the suicide of a person are harmful to the public. The release of such photographs, video, and audio recordings may trigger persons who have a mental illness or who are experiencing severe depression to consider suicide. The Legislature further finds that the exemption provided in this act should be given retroactive application because it is remedial in nature.

Section 3. Section 406.135, Florida Statutes, is amended to read:

406.135 Autopsies; confidentiality of photographs and video and audio recordings; confidentiality of reports of minor victims of domestic violence; exemption.-

(1) As used in this section, the term:

(a) "Domestic violence" has the same meaning as in s. 741.28.

(b) "Medical examiner" means any district medical examiner, associate medical examiner, or substitute medical examiner acting pursuant to this chapter, as well as any employee, deputy, or agent of a medical examiner or any other person who may obtain possession of a report, photograph, or audio or video recording of an autopsy in the course of assisting a medical examiner in the performance of his or her official duties.

(c) "Minor" means a person younger than 18 years of age who has not had the disability of nonage removed pursuant to s. 743.01 or s. 743.015.

(2) (a) A photograph or video or audio recording of an autopsy held by a medical examiner is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that a surviving spouse may view and copy a photograph or video recording or listen to or copy an audio

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recording of the deceased spouse's autopsy. If there is no surviving spouse, then the surviving parents shall have access to such records. If there is no surviving spouse or parent, then an adult child shall have access to such records.

(b) An autopsy report of a minor whose death was related to an act of domestic violence held by a medical examiner is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that a surviving parent of the deceased minor may view and copy the autopsy report if the surviving parent did not commit the act of domestic violence which led to the minor's death.

(c) An autopsy report of a person whose manner of death was suicide held by a medical examiner is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that a surviving spouse of the deceased may view and copy the autopsy report. If there is no surviving spouse, the surviving parents must have access to such records. If there is no surviving spouse or parent, the adult children and siblings must have access to such records.

(3) (a) The deceased's surviving relative, with whom authority rests to obtain such records, may designate in writing an agent to obtain such records.

(b) Notwithstanding subsection (2), a local governmental entity, or a state or federal agency, in furtherance of its official duties, pursuant to a written request, may:

1. View or copy a photograph or video recording or may listen to or copy an audio recording of an autopsy; ~~and~~

2. View or copy an autopsy report of a minor whose death was related to an act of domestic violence; and-

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291 3. View or copy an autopsy report of a person whose manner
 292 of death was determined by a medical examiner to have been by
 293 suicide.

294
 295 Unless otherwise required in the performance of official duties,
 296 the identity of the deceased shall remain confidential and
 297 exempt.

298 (c) The custodian of the record, or his or her designee,
 299 may not permit any other person, except an agent designated in
 300 writing by the deceased's surviving relative with whom authority
 301 rests to obtain such records, to view or copy an autopsy report
 302 of a person whose manner of death was determined by a medical
 303 examiner to have been by suicide, an autopsy report of a minor
 304 whose death was related to an act of domestic violence, or a
 305 photograph or video recording of an autopsy or listen to or copy
 306 an audio recording of an autopsy without a court order.

307 (4) (a) The court, upon a showing of good cause, may issue
 308 an order authorizing any person to view or copy an autopsy
 309 report of a person whose manner of death was determined by a
 310 medical examiner to have been by suicide, an autopsy report of a
 311 minor whose death was related to an act of domestic violence, or
 312 a photograph or video recording of an autopsy or to listen to or
 313 copy an audio recording of an autopsy and may prescribe any
 314 restrictions or stipulations that the court deems appropriate.

315 (b) In determining good cause, the court shall consider
 316 whether such disclosure is necessary for the public evaluation
 317 of governmental performance; the seriousness of the intrusion
 318 into the family's right to privacy and whether such disclosure
 319 is the least intrusive means available; and the availability of

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320 similar information in other public records, regardless of form.

321 (c) In all cases, the viewing, copying, listening to, or
 322 other handling of an autopsy report of a person whose manner of
 323 death was determined by a medical examiner to have been by
 324 suicide, an autopsy report of a minor whose death was related to
 325 an act of domestic violence, or a photograph or video or audio
 326 recording of an autopsy must be under the direct supervision of
 327 the custodian of the record or his or her designee.

328 (5) (a) A surviving spouse must be given reasonable notice
 329 of a petition filed with the court to view or copy a photograph
 330 or video recording of an autopsy or a petition to listen to or
 331 copy an audio recording, a copy of such petition, and reasonable
 332 notice of the opportunity to be present and heard at any hearing
 333 on the matter. If there is no surviving spouse, then such notice
 334 must be given to the parents of the deceased, and if there is no
 335 living parent, then to the adult children of the deceased.

336 (b) For an autopsy report of a minor whose death was
 337 related to an act of domestic violence, any surviving parent who
 338 did not commit the act of domestic violence which led to the
 339 minor's death must be given reasonable notice of a petition
 340 filed with the court to view or copy the autopsy report, a copy
 341 of such petition, and reasonable notice of the opportunity to be
 342 present and heard at any hearing on the matter.

343 (c) A surviving spouse must be given reasonable notice of a
 344 petition filed with the court to view or copy an autopsy report
 345 of a person whose manner of death was by suicide, a copy of such
 346 petition, and reasonable notice of the opportunity to be present
 347 and heard at any hearing on the matter. If there is no surviving
 348 spouse, then such notice must be given to the parents of the

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deceased, and if there is no living parent, then to the adult children and siblings of the deceased.

(6) (a) Any custodian of an autopsy report of a person whose manner of death was determined by a medical examiner to have been by suicide, an autopsy report of a minor whose death was related to an act of domestic violence or a photograph or video or audio recording of an autopsy who willfully and knowingly violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who willfully and knowingly violates a court order issued pursuant to this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) A criminal or administrative proceeding is exempt from this section but is subject to all other provisions of chapter 119 unless otherwise exempted. This section does not prohibit a court in a criminal or administrative proceeding upon good cause shown from restricting or otherwise controlling the disclosure of an autopsy, crime scene, or similar report, photograph, or video or audio recording in the manner prescribed herein.

(8) The exemptions in this section shall be given retroactive application.

(9) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029 ~~2028~~, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. The Legislature finds that it is a public necessity that autopsy reports of a person whose manner of death was suicide which are held by a medical examiner be made

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confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature finds that autopsy reports describe the deceased in a graphic and often disturbing fashion and that autopsy reports of a person whose manner of death was suicide may describe the deceased with graphic and gruesome self-inflicted wounds. As such, these reports often contain highly sensitive descriptions of the deceased which if heard, viewed, copied, or publicized could result in trauma, sorrow, humiliation, or emotional injury to the immediate family of the deceased and detract from the memory of the deceased. The Legislature recognizes that the existence of the Internet and the proliferation of personal computers and cellular telephones throughout the world encourages and promotes the wide dissemination of such reports and that widespread unauthorized dissemination of such reports would subject the immediate family of the deceased to continuous injury. The Legislature further finds that the exemption provided in this act should be given retroactive application because it is remedial in nature.

Section 5. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 17, 2024

I respectfully request that **Senate Bill #474**, relating to Public Records/Suicide Victims, be placed on the:

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

Erin K. Grall

Senator Erin Grall
Florida Senate, District 29

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 Rules

BILL: SB 548

INTRODUCER: Senator Collins

SUBJECT: Public Records/Military Personnel and their Spouses and Dependents

DATE: January 29, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Brown</u>	<u>Proctor</u>	<u>MS</u>	Favorable
2. <u>Limonas-Borja</u>	<u>McVane</u>	<u>GO</u>	Favorable
3. <u>Brown</u>	<u>Twoood</u>	<u>RC</u>	Favorable

I. Summary:

SB 548 creates a public records exemption making exempt from public records inspection and copying requirements personal identifying contact and location information held by an agency about certain current and former military personnel and their families.

The bill defines the following terms:

- “Military personnel” as persons employed by the United States Department of Defense (DoD) for whom the federal government grants access to “secret” or “top secret” information.
- “Special operations force” as those active and reserve component forces of the military services designated by the Secretary of Defense and specifically organized, trained, and equipped to conduct and support special operations.
- “Identification and location information” as:
 - Home address, telephone numbers, and date of birth of current or former military personnel;
 - Home address, telephone numbers, date of birth, and name and location of a school of a spouse or dependent of the current or former servicemember; and
 - Name and location of a day care facility attended by the dependents of the current or former servicemember.

To receive the exemption, a current or former military personnel member must submit to the agency that has custody of the exempt information a written request and include a statement that the applicant has made reasonable efforts to protect the information from being otherwise publicly accessible.

The bill provides that this exemption applies to information held by an agency before, on, or after the effective date of this exemption.

The bill provides a public necessity statement for the exemption stating that the disclosure of the information could otherwise compromise personal safety and security. A two-thirds vote of both the House and the Senate is required for final passage.

The exemption is subject to an Open Government Sunset Review and stands repealed on October 2, 2029, unless reenacted by the Legislature.

The bill takes effect upon becoming a law.

II. Present Situation:

Public Records Exemptions

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.¹ 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.²

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.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, Ch. 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.⁵

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

All documents, papers, letters, maps, books, tapes, photography, films, sound recordings, data processing software, or other material, regardless of the physical

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, (2022-2024).

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

⁵ 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.”

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.”⁶

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

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.⁹ 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.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

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

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

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. 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).

¹¹ *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).

¹² *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).

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

¹⁴ *Id.*

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

Open Government Sunset Review Act

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

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

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁹
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual's safety. However, if this public purpose is cited as the basis of the exemption, only personal identifying information is exempt;²⁰ or
- It protects trade or business secrets.²¹

The Act also requires specified questions to be considered during the review process.²² 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 is required.²³ 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.²⁴

¹⁶ Section 119.15, F.S.; Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b)1., F.S.

²⁰ Section 119.15(6)(b)2., F.S.

²¹ Section 119.15(6)(b)3., F.S.

²² 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?

²³ See generally s. 119.15, F.S.

²⁴ Section 119.15(7), F.S.

Special Operations Forces

Special Operations Forces (SOF) are those active and reserve component forces of the armed services designated by the Secretary of Defense and specifically organized, trained, and equipped to conduct and support special operations.²⁵ Specifically, SOF includes:

- Servicemembers of both the U.S. Army Special Forces and the Army 75th Ranger Regiment;
- U.S. Navy SEALs and Special Warfare Combatant-Craft Crewmen;
- U.S. Air Force Combat Control, Pararescue, and Tactical Air Control Party specialists;
- U.S. Marine Corps Critical Skills Operators; and
- Any other component of the U.S. Special Operations Command approved by the Criminal Justice Standards and Training Commission.²⁶

The U.S. Special Operations Command (USSOCOM), headquartered at MacDill Air Force Base in Tampa, Florida, is a functional combatant command responsible for training, doctrine, and equipping for SOF units.²⁷ As of 2020, USSOCOM out of MacDill Air Force Base consisted of over 70,000 active duty, reserve, National Guard, and civilian personnel assigned to its headquarters (about 2,500 personnel), its four components, and sub-unified commands.²⁸

History of Public Records Exemption on Identifying and Location Information of a Servicemember

Federal Bureau of Investigation Joint Intelligence Bulletin

On November 30, 2014, the Federal Bureau of Investigation (FBI) and the Department of Homeland Security (DHS) issued a Joint Intelligence Bulletin, *Islamic State of Iraq and the Levant and Its Supporters Encouraging Attacks Against Military Personnel* (Joint Bulletin).²⁹ In it, the FBI and DHS warn of potential attacks on current and former servicemembers by supporters of the Islamic State of Iraq and the Levant (ISIL) who are in Western countries.³⁰ In support, the Joint Bulletin references a document posted on September 16, 2014, by an ISIL supporter to an ISIL-dominated online forum. The document contained a list by name of potential targets for violence, including military officials.³¹

Based on this, the Joint Bulletin urged servicemembers to be mindful of their content and presence on online social media accounts.³²

²⁵ Section 943.10(22), F.S.

²⁶ *Id.*

²⁷ Congressional Research Service, *U.S. Special Operations Forces (SOF): Background and Issues for Congress* (May 11, 2022), available at <https://crsreports.congress.gov/product/pdf/RS/RS21048/71> (last visited Jan. 12, 2024).

²⁸ United States Special Operations Command, *Fact Book 2022*, p. 6 (2022), available at <https://www.socom.mil/FactBook/2022%20Fact%20Book.pdf> (last visited Jan. 12, 2024).

²⁹ Federal Bureau of Investigation (FBI) and Department of Homeland Security (DHS), *Joint Intelligence Bulletin, Islamic State of Iraq and the Levant and Its Supporters Encouraging Attacks Against Military Personnel* (Nov. 30, 2014) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

Public Records Exemption on Identifying and Location Information of Servicemember

The 2015 Legislature enacted a public records exemption for contact and location information of a servicemember and his or her family.³³ The public record exemption protected from disclosure the identification and location information of current or former active duty servicemembers who served after September 11, 2001 in:

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

The following information was protected by the exemption:

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

The bill required the servicemember to request the exemption in writing and include a statement that the servicemember made reasonable efforts to protect the information from public access.

The original public necessity statement articulated as justification for the exemption that without the exemption the safety of servicemembers, spouses, and dependents was jeopardized. The public necessity statement made specific reference to a terrorist group allegedly gathering and publishing from public sources photographs and home addresses of servicemembers to target them for terrorist acts.³⁴

The bill creating the exemption included a repeal date of October 2, 2020, unless the Legislature saved the exemption from repeal by that date. The Legislature conducted an Open Government Sunset Review of the public records exemption in 2020, but the bill did not pass.³⁵ Therefore, the Legislature did not reenact the exemption, and it expired.

Subsequent Threats to Servicemembers

The FBI provided a letter³⁶ to the Florida Senate updating threats to servicemembers since its issuance of the Joint Bulletin of 2014. In the letter, the FBI submitted that Ardit Ferizi culled the personal identifying information of servicemembers and other government personnel, which totaled about 1,300 individuals, and provided it to an ISIL member, who on August 11, 2015, posted by tweet a list that contained the personal identifying information of the individuals. Further, the FBI submitted that on September 23, 2016, Ardit Ferizi was sentenced to 20 years imprisonment for providing material support to ISIL, and accessing databases containing

³³ Chapter 2015-86, Laws of Fla.

³⁴ *Id.*

³⁵ CS/CS/SB 7010 (2020).

³⁶ FBI, *Re: Update on Department of Justice Press Release 16-1085 regarding Ardit Ferizi* (Oct. 11, 2019) (on file with the Senate Committee on Military and Veterans Affairs and Space).

personal identifying information of tens of thousands of people, including military servicemembers and other governmental personnel.

In 2023, the FBI provided a subsequent update to the Joint Intelligence Bulletin of 2014. In response to a query on present continuing threats to servicemembers, the FBI responded, “We have no known additional information that we can provide at this time pertaining to threats of service members and/or their families.”³⁷

III. Effect of Proposed Changes:

SB 548 creates a public records exemption making exempt from public records inspection and copying requirements personal identifying contact and location information held by an agency about certain current and former military personnel and their families.

The bill defines the following terms:

- “Military personnel” as persons employed by the United States Department of Defense (DoD) for whom the federal government grants access to “secret” or “top secret” information.
- “Special operations force” as those active and reserve component forces of the military services designated by the Secretary of Defense and specifically organized, trained, and equipped to conduct and support special operations.
- “Identification and location information” as:
 - Home address, telephone numbers, and date of birth of current or former military personnel;
 - Home address, telephone numbers, date of birth, and name and location of a school of a spouse or dependent of the current or former servicemember; and
 - Name and location of a day care facility attended by the dependents of the current or former servicemember.

As the public records exemption makes the information exempt from disclosure, rather than confidential and exempt, records may be publicly released at the discretion of the records custodian.

To receive the exemption, a current or former military personnel member must submit to the agency that has custody of the information a written request to exempt from disclosure the identification and location information, including a statement that the applicant has made reasonable efforts to protect the information from being publicly accessible through other available means.

The bill provides that this exemption applies to information held by an agency before, on, or after the effective date of this exemption.

The bill includes in its public necessity statement as justification for the exemption that disclosure of the information could otherwise compromise personal safety and security. In

³⁷ Email from Coult Markovsky, Federal Bureau of Investigation (Feb. 21, 2023) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

particular, the public necessity statement notes that terrorist groups have threatened military personnel and their families, including one terrorist group that allegedly published a list of photographs and home addresses of military personnel gathered from public sources.

The exemption is subject to an Open Government Sunset Review and stands repealed on October 2, 2029, unless saved from repeal through reenactment by the Legislature.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

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 personal identification and contact information of current or former military personnel, their spouse, and dependents; 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 and provides specific justification 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 purpose of the law is to protect the personal identifying and contact information of only those current or former military personnel with high security clearance and servicemembers of a special operations force, and their families, contained in a record held by government agencies from use by terrorist groups. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

Staff responsible for compliance with public record requests may require training related to the new public record exemptions. Additionally, agencies may experience additional workload associated with the redaction of exempt information prior to the release of a record. However, this workload should be absorbed as part of the day-to-day agency responsibilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not specify what legal documentation is required to prove eligible security clearance or membership in a special operations force.³⁸

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.

³⁸ Dep't of Veteran's Affairs, *2024 Agency Legislative Bill Analysis, SB 548*, pg. 5 (Dec. 18, 2023) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

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 Collins

14-00658-24

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A bill to be entitled

An act relating to public records; amending s. 119.071, F.S.; defining terms; providing an exemption from public records requirements for identification and location information of certain current and former military personnel and their spouses and dependents; providing for retroactive application of the exemption; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (k) is added to subsection (5) of section 119.071, Florida Statutes, to read:

119.071 General exemptions from inspection or copying of public records.—

(5) OTHER PERSONAL INFORMATION.—

(k)1. For purposes of this paragraph, the term:

a. "Identification and location information" means the:

(I) Home addresses, telephone numbers, and dates of birth of current and former military personnel, and the telephone numbers associated with the personal communication devices of current and former military personnel.

(II) Home addresses, telephone numbers, and dates of birth of the spouses and dependents of current and former military personnel, and the telephone numbers associated with the personal communication devices of such spouses and dependents.

(III) Names and locations of schools attended by the

Page 1 of 3

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14-00658-24

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spouses of current and former military personnel and schools or day care facilities attended by dependents of current and former military personnel.

b. "Military personnel" means persons employed by the United States Department of Defense who are authorized to access information that is deemed "secret" or "top secret" by the Federal Government or who are servicemembers of a special operations force.

c. "Special operations force" has the same meaning as provided in s. 943.10(22).

2. Identification and location information held by an agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if the current or former military personnel member submits to an agency that has custody of the identification and location information:

a. A written request to exempt the identification and location information from public disclosure; and

b. A written statement that he or she has made reasonable efforts to protect the identification and location information from being accessible through other means available to the public.

3. This exemption applies to identification and location information held by an agency before, on, or after the effective date of this exemption.

4. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public

Page 2 of 3

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14-00658-24

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59 necessity that identification and location information of
60 current and former military personnel, and of their spouses and
61 dependents, which is held by an agency be made exempt from s.
62 119.07(1), Florida Statutes, and s. 24(a), Article I of the
63 State Constitution. Military personnel perform among the most
64 critical, most effective, and most dangerous operations in
65 defense of our nation's freedom. Terrorist groups have
66 threatened military personnel and their families and have
67 encouraged terrorist sympathizers to harm military personnel and
68 their families within the United States. One terrorist group has
69 allegedly gathered the photographs and home addresses of
70 military personnel from public sources to create and publish a
71 list of military personnel in order to make such persons
72 vulnerable to an act of terrorism. The Legislature finds that
73 allowing continued public access to the identification and
74 location information of current and former military personnel
75 and their families jeopardizes the safety of these personnel,
76 their spouses, and their dependents. The Legislature finds that
77 protecting the safety and security of current and former
78 military personnel, and their spouses and dependents, outweighs
79 any public benefit that may be derived from the public
80 disclosure of the identification and location information.

81 Section 3. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 22, 2024

I respectfully request that **Senate Bill # 548**, relating to Public Records/Military Personnel and their Spouses and Dependents, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Jay Collins", written over a horizontal line.

Senator Jay Collins
Florida Senate, District 14

The Florida Senate

APPEARANCE RECORD

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

Jan 30. 2024

Meeting Date

548

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

Lauren Buete

Phone

727 212 7408

Address

317 E. Park Ave

Email

laurenb@flundatf.org

Street

Tallahassee

State

FL

Zip

32304

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: **FIRST**

Amendment Foundation

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)

1/30/24

Meeting Date

Rules

Committee

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Bill Helmich

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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:

VFW/American Legion

☐

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. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

548

Bill Number or Topic

Amendment Barcode (if applicable)

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

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 Rules

BILL: CS/SB 580

INTRODUCER: Judiciary Committee and Senator Yarborough

SUBJECT: Safe Exchange of Minor Children

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Bond</u>	<u>Twogood</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 580 requires each sheriff to designate at least one parking lot at the sheriff's office or a substation as a safe exchange location. The purpose is to provide a place where parents may bring their minor child for purposes of exchanging the child to comply with court-ordered timesharing. The location must be marked and have at least one surveillance camera with recordings maintained for at least 45 days. The bill does not require the sheriff to actively monitor the location, and thus provides that a sheriff and the sheriff's employees are not civilly liable for an incident that may occur as the result of the exchange of a child at a safe exchange location.

The bill is named the "Cassie Carli Law." Cassie Carli is believed to have been kidnapped and murdered by the father of their daughter after meeting him for the purpose of timesharing.

The bill is effective July 1, 2024.

II. Present Situation:

Rights and Responsibilities of a Parent

In a dissolution of marriage case with a minor child involved, or in a paternity case involving a minor child, issues of parenting must be resolved. The United States Supreme Court and Florida courts have consistently ruled that a parent's desire and right to the companionship, care, custody, and management of his or her children is an important interest that warrants deference

and, absent a powerful countervailing interest, protection.¹ Further, a parent has general responsibilities owed to his or her children, including supervision, health and safety, education, care, and protection. In Florida, parenting is broken down into two distinct components: parental responsibility (decision-making) and timesharing (physical visitation with the child based on a parenting plan).

Timesharing and Parental Responsibility

Section 61.13, F.S., provides guidelines to assist courts in determining matters related to parenting² and time-sharing³ of minor children, in accordance with the best interests of the child while balancing the rights of parents. As a threshold consideration, the Legislature has declared that:

It is the public policy of this state that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing.⁴

In establishing time-sharing, the court must consider the best interests of the child⁵ as the primary consideration and evaluate all factors affecting the welfare and interests of the child and the circumstances of the family.⁶

A court may order compliance with a “parenting plan”⁷ by which the parents are ordered to share decision-making and physical custody of the minor child. The parenting plan may order parents to exercise shared parental responsibility, delegate decision-making authority over specific matters to one parent, or grant a parent sole parental responsibility over the minor child. Common issues concerning a minor child may relate to education, healthcare, and social or emotional well-being. Further, once a court has established parental responsibility, a parenting plan or time-sharing plan⁸ may be ordered, and such plan may not be modified without a showing of a substantial and material change in circumstances and a determination that the modification is in the best interests of the child.⁹

¹ See *Lassiter v. Dep't of Soc. Services of Durham Cnty., N. C.*, 452 U.S. 18 (1981) (calling the right “plain beyond the need for multiple citation” and quoting *Stanley v. Illinois*, 405 U.S. 645 (1972)); *I.T. v. Dep't of Children & Families*, 338 So. 3d 6 (Fla. 3d DCA 2022); *D.M.T. v. T.M.H.*, 129 So. 3d 320 (Fla. 2013); *F.R. v. Adoption of Baby Boy Born November 2, 2010*, 135 So. 3d 301 (Fla. 1st DCA 2012); *In Interest of J.D.*, 510 So. 2d 623 (Fla. 1st DCA 1987).

² Parenting or parental responsibility refers to the responsibility and right to make important decisions about the child’s welfare, such as education and medical care after the parents separate. See CustodyXChange, *Parental Rights and Parental Responsibilities: Know Yours*, available at <https://www.custodyxchange.com/topics/custody/legal-concepts/parental-rights-responsibility.php> (last visited March 15, 2023)

³ Time-sharing refers to the time, including overnights and holidays, which the child spends with each parent. Section 61.046(23), F.S.

⁴ Section 61.13(2)(c)1., F.S.

⁵ Section 61.13(2)(c), F.S.

⁶ Section 61.13(3), F.S.

⁷ A “parenting plan” is a document created to govern the relationship between the parents relating to decisions which must be made regarding the child and must contain a timesharing schedule for the parents and child. Section 61.046(14), F.S. If a parenting plan is agreed to by the parties, it must be approved by the court.

⁸ Section 61.13(2)(b), F.S.

⁹ Section 61.13(3), F.S.

Domestic Violence

Section 741.30, F.S., addresses domestic violence issues by creating a cause of action for an injunction for protection against domestic violence. The section applies whether or not the parties are or were married. Where appropriate, a trial court may issue an injunction prohibiting domestic violence and restraining the respondent from having contact with the victim. The injunction often must address related issues of child custody, child support, and visitation. Inherent in the issue of visitation is the development of standards and procedures for transferring physical custody of the children from one parent to the other.

Supervised Visitation Programs

While most parents living apart reasonably and rationally handle the issues related to visitation with their minor children, some parents do not. Where there is a danger of abuse or kidnapping, supervised visitation programs provide a safer alternative for visitation that avoids having the child forego all visitation. Chapter 753, F.S., governs the establishment and operation of supervised visitation programs. A “supervised visitation program” means a program created to offer structured contact between a parent or caregiver and one or more children in the presence of a third person responsible for observing and ensuring the safety of those involved. Supervised visitation programs may also include exchange monitoring of children who are participating in court-ordered visitation programs or exchange monitoring where there has been mutual consent between parties for the purposes of facilitating a visitation.¹⁰

Cassie Carli

In March of 2022, 37-year-old Cassie Carli was the mother of 4-year-old daughter Saylor. She was not married to or living with the father, and their child custody and child support case was unusually contentious. The court had required exchanges of Saylor for the purpose of visitation to occur at the parking lot of a national retailer, but Cassie agreed to an exchange at a restaurant close to her home in Navarre Beach. Cassie and Saylor disappeared, and Cassie’s body was found days later in a shallow grave inside a barn in Springville, Alabama. It is believed that the father abducted Cassie and Saylor at the exchange. The father is currently awaiting trial for felonies related to Cassie’s disappearance and death.¹¹ Saylor was recovered alive.¹²

III. Effect of Proposed Changes:

The bill requires a court order setting a timesharing schedule to specify the location for the exchange of a child subject to visitation. This requirement is in addition to the other statutory requirements for a timesharing order. The parents may jointly waive the requirement and work out their own arrangements, but the waiver must be in writing. This new statutory requirement

¹⁰ Section 753.01(4), F.S.

¹¹ Dateline NBC, NBC NEWS, *Body of 37-year-old Florida mother Cassie Carli found in shallow grave in Alabama* (Apr. 3, 2022), <https://weartv.com/news/local/cassie-carlis-daughter-reunited-with-carli-family-in-navarre>

¹² Kai Davis, WEAR NEWS, *Cassie Carli’s daughter reunited with Carli family in Navarre* (Apr. 6, 2022), <https://www.nbcnews.com/dateline/body-37-year-old-florida-mother-cassie-carli-found-shallow-n1293968>.

conforms to current practice as the standard parenting plan form includes a section entitled “Transportation and Exchange of Child(ren).”¹³

Where the court is setting a place for exchange, the court may order that the location of the exchange be at a safe exchange location at the sheriff’s office or at a location designated by a local supervised visitation center if:

- There is a risk or an imminent threat of harm to a party or a child;
- The requirement to use a safe exchange location is necessary to ensure the safety of a parent or child; and
- Using a safe exchange location is in the best interest of the child.

The bill requires each sheriff to designate at least one parking lot at the sheriff’s office, or at a sheriff’s substation, as a public safe exchange location for parents to exchange custody of a child. The safe exchange location must:

- Display a purple light or a sign on the premises of the parking lot to identify the location as a designated public exchange location.
- Be accessible 24 hours a day, 7 days a week.
- Provide adequate lighting.
- Provide external video surveillance that records continuously, 24 hours a day, 7 days a week, and that meets all of the following criteria:
 - At least one camera is fixed on the parking lot.
 - The recordings from the camera must record images clearly and must display the accurate date and time of the recording.
 - The sheriff must retain the video recordings or images for at least 45 days.

The bill does not require active real-time monitoring of the safe exchange location, implying that the bill does not create a duty to actively monitor the exchanges that are taking place. In conformity with the intent that active monitoring is not required, the bill provides that a county, sheriff, law enforcement officer, or employee is not liable for any act or omission related to an incident related to an exchange at a safe exchange location.

The bill amends s. 741.30, F.S., a statute governing petitions for protection from domestic violence, to add provisions allowing the petitioner to ask for, and the court to order, the use of a public safe exchange location in conformance with the changes made by this bill. If the parties to a domestic violence injunction proceeding already have an existing parenting plan that requires that a safe exchange location be used, a court granting the petition for an injunction against domestic violence must order the use of a safe exchange location as a part of the injunction.

The bill is named the “Cassie Carli Law.”

The bill takes effect July 1, 2024.

¹³ Florida Supreme Court Approved Family Law Form 12,995(a), Parenting Plan (02/18), available at: https://www.flcourts.gov/content/download/686031/file_pdf/995a.pdf.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The county and municipality mandate provisions of Article VII, section 18 of the Florida Constitution may apply because the bill requires local governments to expend funds on sheriff offices designated as public safe exchange locations to:

- Install certain lighting and video surveillance equipment.
- Install a sign or light.
- Retain/store video or images for at least 45 days.

Article VII, section 18(a) of the Florida Constitution provides in part that a county or municipality is not bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. Article VII, section 18(d) provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. Laws having an “insignificant fiscal impact” are exempt from the mandate requirements, which for Fiscal Year 2024-2025 was forecast at approximately \$2.3 million. Whether this bill is exempt from the constitutional restrictions on mandates cannot be determined at this time due to a lack of reliable data. None of the other constitutional exceptions appear to apply.

If the bill does qualify as a mandate, in order to be binding upon cities and counties the bill must contain a finding of important state interest and be approved by a two-thirds vote of the membership of each house. The bill does not contain a finding of important state interest.

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 bill appears to have an indeterminate negative fiscal impact on sheriff's offices as they may be required to spend funds to install certain lighting, signs, and video surveillance equipment to comply with the bill's requirements. There will also be continuing costs for storage of recordings and for complying with requests to view and copy such recordings. It is possible that some sheriffs may not have sufficient usable space in their parking lot to accommodate the parents using the safe exchange procedure, thus requiring the acquisition of additional parking.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 61.13, 61.455, 125.01, and 741.30.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS by Judiciary on January 9, 2024:

The committee substitute removes an unnecessary reference to an appellate review standard and added the provision by which a sheriff and others are not liable in a civil action related to an incident that may occur as the result of the exchange of a child at a safe exchange location.

B. Amendments:

None.

By the Committee on Judiciary; and Senator Yarborough

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A bill to be entitled

An act relating to the safe exchange of minor children; providing a short title; amending s. 61.13, F.S.; providing requirements for a parenting plan relating to the exchange of a child; creating s. 61.455, F.S.; requiring the court to order the parties in a parenting plan to exchange their child at a neutral safe exchange location or at a location authorized by a supervised visitation program under certain circumstances; amending s. 125.01, F.S.; requiring sheriffs to designate certain areas as neutral safe exchange locations; providing requirements for such areas; providing immunity from civil liability; amending s. 741.30, F.S.; revising the form for an injunction for protection against domestic violence; requiring court-ordered injunctions for protection against domestic violence to designate certain locations for the exchange of a child of the parties under certain circumstances; providing an effective date.

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

Section 1. This act may be cited as the "Cassie Carli Law."

Section 2. Paragraph (b) of subsection (2) of section 61.13, Florida Statutes, is amended to read:

61.13 Support of children; parenting and time-sharing; powers of court.—

(2)

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

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(b) A parenting plan approved by the court must, at a minimum, do all of the following:

1. Describe in adequate detail how the parents will share and be responsible for the daily tasks associated with the upbringing of the child.~~+~~

2. Include the time-sharing schedule arrangements that specify the time that the minor child will spend with each parent.~~+~~

3. Designate who will be responsible for:

a. Any and all forms of health care. If the court orders shared parental responsibility over health care decisions, either parent may consent to mental health treatment for the child unless stated otherwise in the parenting plan.

b. School-related matters, including the address to be used for school-boundary determination and registration.

c. Other activities.~~+~~ ~~and~~

4. Describe in adequate detail the methods and technologies that the parents will use to communicate with the child.

5. Unless otherwise agreed to by both parents in writing, designate authorized locations for the exchange of the child. The court may require the parents to exchange the child at a neutral safe exchange location as provided in s. 125.01(8) or at a location authorized by a supervised visitation program as defined in s. 753.01 if the court finds that there is a risk or an imminent threat of harm to one party or the child during the exchange of the child, that such requirement is necessary to ensure the safety of a parent or the child, and that it is in the best interests of the child after consideration of all of the factors listed in subsection (3).

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

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Section 3. Section 61.455, Florida Statutes, is created to read:

61.455 Court-ordered parenting plan; neutral safe exchange location or a location authorized by a supervised visitation program.—In any proceeding in which the court enters a parenting plan and time-sharing schedule, including in a modification proceeding, if the court finds that there is a risk or an imminent threat of harm to one party or a child during the exchange of the child and that it is in the best interests of the child after consideration of all of the factors specified in s. 61.13(3), the court may require the parties to exchange custody of the child at a neutral safe exchange location as provided in s. 125.01(8) or at a location authorized by a supervised visitation program as defined in s. 753.01.

Section 4. Subsection (8) is added to section 125.01, Florida Statutes, to read:

125.01 Powers and duties.—

(8)(a) Each sheriff shall designate at least one parking lot at the sheriff's office, or a substation thereof, as a neutral safe exchange location at which parents who exercise time-sharing pursuant to a parenting plan or time-sharing schedule may meet to exchange the minor child.

(b) Each parking lot designated as a neutral safe exchange location must have a purple light or a sign on the parking lot premises to clearly identify the designated area as a neutral safe exchange location. The neutral safe exchange location must:

1. Be accessible 24 hours a day, 7 days a week;

2. Provide adequate lighting and an external video surveillance system that records continuously, 24 hours a day, 7

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days a week; and

3. Provide at least one camera that is fixed on the parking lot, is able to record the area in the vicinity of the purple light or sign during both day and night, records images that clearly and accurately display the time and date, and retains video surveillance recordings or images for at least 45 days.

(c) A county, a sheriff, a law enforcement officer, or an employee of the designated safe exchange location is not liable for civil damages for any act or omission relating to an incident arising from a meeting to exchange a minor child at a safe exchange location pursuant to this subsection.

Section 5. Paragraph (b) of subsection (3), paragraph (a) of subsection (5), and paragraphs (a) and (c) of subsection (6) of section 741.30, Florida Statutes, are amended to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement; public records exemption.—

(3)

(b) The sworn petition shall be in substantially the following form:

PETITION FOR
INJUNCTION FOR PROTECTION
AGAINST DOMESTIC VIOLENCE

Before me, the undersigned authority, personally appeared
Petitioner ... (Name) ..., who has been sworn and says that the
following statements are true:

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117 (a) Petitioner resides at: ...(address)...

118 (Petitioner may furnish address to the court in a separate

119 confidential filing if, for safety reasons, the petitioner

120 requires the location of the current residence to be

121 confidential.)

122 (b) Respondent resides at: ...(last known address)...

123 (c) Respondent's last known place of employment: ...(name

124 of business and address)...

125 (d) Physical description of respondent:.....

126 Race.....

127 Sex.....

128 Date of birth.....

129 Height.....

130 Weight.....

131 Eye color.....

132 Hair color.....

133 Distinguishing marks or scars.....

134 (e) Aliases of respondent:.....

135 (f) Respondent is the spouse or former spouse of the

136 petitioner or is any other person related by blood or marriage

137 to the petitioner or is any other person who is or was residing

138 within a single dwelling unit with the petitioner, as if a

139 family, or is a person with whom the petitioner has a child in

140 common, regardless of whether the petitioner and respondent are

141 or were married or residing together, as if a family.

142 (g) The following describes any other cause of action

143 currently pending between the petitioner and respondent:.....

144

145 The petitioner should also describe any previous or pending

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146 attempts by the petitioner to obtain an injunction for

147 protection against domestic violence in this or any other

148 circuit, and the results of that attempt:.....

149

150 Case numbers should be included if available.

151 (h) Petitioner is either a victim of domestic violence or

152 has reasonable cause to believe he or she is in imminent danger

153 of becoming a victim of domestic violence because respondent

154 has: ...(mark all sections that apply and describe in the spaces

155 below the incidents of violence or threats of violence,

156 specifying when and where they occurred, including, but not

157 limited to, locations such as a home, school, place of

158 employment, or visitation exchange)...

159

160

161committed or threatened to commit domestic violence

162 defined in s. 741.28, Florida Statutes, as any assault,

163 aggravated assault, battery, aggravated battery, sexual assault,

164 sexual battery, stalking, aggravated stalking, kidnapping, false

165 imprisonment, or any criminal offense resulting in physical

166 injury or death of one family or household member by another.

167 With the exception of persons who are parents of a child in

168 common, the family or household members must be currently

169 residing or have in the past resided together in the same single

170 dwelling unit.

171previously threatened, harassed, stalked, or physically

172 abused the petitioner.

173attempted to harm the petitioner or family members or

174 individuals closely associated with the petitioner.

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175 ...threatened to conceal, kidnap, or harm the petitioner's
 176 child or children.
 177 ...intentionally injured or killed a family pet.
 178 ...used, or has threatened to use, against the petitioner
 179 any weapons such as guns or knives.
 180 ...physically restrained the petitioner from leaving the
 181 home or calling law enforcement.
 182 ...a criminal history involving violence or the threat of
 183 violence (if known).
 184 ...another order of protection issued against him or her
 185 previously or from another jurisdiction (if known).
 186 ...destroyed personal property, including, but not limited
 187 to, telephones or other communication equipment, clothing, or
 188 other items belonging to the petitioner.
 189 ...engaged in a pattern of abusive, threatening,
 190 intimidating, or controlling behavior composed of a series of
 191 acts over a period of time, however short.
 192 ...engaged in any other behavior or conduct that leads the
 193 petitioner to have reasonable cause to believe he or she is in
 194 imminent danger of becoming a victim of domestic violence.
 195 (i) Petitioner alleges the following additional specific
 196 facts: ...(mark appropriate sections)...
 197 A minor child or minor children reside with the
 198 petitioner whose names and ages are as follows:
 199
 200 Petitioner needs the exclusive use and possession of
 201 the dwelling that the parties share.
 202 Petitioner is unable to obtain safe alternative housing
 203 because:

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204
 205 Petitioner genuinely fears that respondent imminently
 206 will abuse, remove, or hide the minor child or children from
 207 petitioner because:
 208
 209 (j) Petitioner genuinely fears imminent domestic violence
 210 by respondent.
 211 (k) Petitioner seeks an injunction: ...(mark appropriate
 212 section or sections)...
 213 Immediately restraining the respondent from committing
 214 any acts of domestic violence.
 215 Restraining the respondent from committing any acts of
 216 domestic violence.
 217 Awarding to the petitioner the temporary exclusive use
 218 and possession of the dwelling that the parties share or
 219 excluding the respondent from the residence of the petitioner.
 220 Providing a temporary parenting plan, including a
 221 temporary time-sharing schedule, with regard to the minor child
 222 or children of the parties which might involve prohibiting or
 223 limiting time-sharing or requiring that it be supervised by a
 224 third party.
 225 Designating that the exchange of the minor child or
 226 children of the parties must occur at a neutral safe exchange
 227 location as provided in s. 125.01(8) or at a location authorized
 228 by a supervised visitation program as defined in s. 753.01 if
 229 temporary time-sharing of the child is awarded to the
 230 respondent.
 231 Establishing temporary support for the minor child or
 232 children or the petitioner.

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233 ...Directing the respondent to participate in a batterers'
 234 intervention program.

235 ...Providing any terms the court deems necessary for the
 236 protection of a victim of domestic violence, or any minor
 237 children of the victim, including any injunctions or directives
 238 to law enforcement agencies.

239 (5) (a) If it appears to the court that an immediate and
 240 present danger of domestic violence exists, the court may grant
 241 a temporary injunction ex parte, pending a full hearing, and may
 242 grant such relief as the court deems proper, including an
 243 injunction:

244 1. Restraining the respondent from committing any acts of
 245 domestic violence.

246 2. Awarding to the petitioner the temporary exclusive use
 247 and possession of the dwelling that the parties share or
 248 excluding the respondent from the residence of the petitioner.

249 3. On the same basis as provided in s. 61.13, providing the
 250 petitioner a temporary parenting plan, including a time-sharing
 251 schedule, which may award the petitioner up to 100 percent of
 252 the time-sharing. If temporary time-sharing is awarded to the
 253 respondent, the exchange of the child must occur at a neutral
 254 safe exchange location as provided in s. 125.01(8) or at a
 255 location authorized by a supervised visitation program as
 256 defined in s. 753.01 if the court determines it is in the best
 257 interests of the child after consideration of all of the factors
 258 specified in s. 61.13(3). The temporary parenting plan remains
 259 in effect until the order expires or an order is entered by a
 260 court of competent jurisdiction in a pending or subsequent civil
 261 action or proceeding affecting the placement of, access to,

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262 parental time with, adoption of, or parental rights and
 263 responsibilities for the minor child.

264 4. If the petitioner and respondent have an existing
 265 parenting plan or time-sharing schedule under another court
 266 order, designating that the exchange of the minor child or
 267 children of the parties must occur at a neutral safe exchange
 268 location as provided in s. 125.01(8) or at a location authorized
 269 by a supervised visitation program as defined in s. 753.01 if
 270 the court determines it is in the best interests of the child
 271 after consideration of all of the factors specified in s.
 272 61.13(3).

273 5. Awarding to the petitioner the temporary exclusive care,
 274 possession, or control of an animal that is owned, possessed,
 275 harbored, kept, or held by the petitioner, the respondent, or a
 276 minor child residing in the residence or household of the
 277 petitioner or respondent. The court may order the respondent to
 278 temporarily have no contact with the animal and prohibit the
 279 respondent from taking, transferring, encumbering, concealing,
 280 harming, or otherwise disposing of the animal. This subparagraph
 281 does not apply to an animal owned primarily for a bona fide
 282 agricultural purpose, as defined under s. 193.461, or to a
 283 service animal, as defined under s. 413.08, if the respondent is
 284 the service animal's handler.

285 (6) (a) Upon notice and hearing, when it appears to the
 286 court that the petitioner is either the victim of domestic
 287 violence as defined by s. 741.28 or has reasonable cause to
 288 believe he or she is in imminent danger of becoming a victim of
 289 domestic violence, the court may grant such relief as the court
 290 deems proper, including an injunction:

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1. Restraining the respondent from committing any acts of domestic violence.

2. Awarding to the petitioner the exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

3. On the same basis as provided in chapter 61, providing the petitioner with 100 percent of the time-sharing in a temporary parenting plan that remains in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the minor child.

4. If the petitioner and respondent have an existing parenting plan or time-sharing schedule under another court order, designating that the exchange of the minor child or children of the parties must occur at a neutral safe exchange location as provided in s. 125.01(8) or at a location authorized by a supervised visitation program as defined in s. 753.01 if the court determines it is in the best interests of the child after consideration of all of the factors specified in s. 61.13(3).

5. On the same basis as provided in chapter 61, establishing temporary support for a minor child or children or the petitioner. An order of temporary support remains in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting child support.

~~6.5-~~ Ordering the respondent to participate in treatment,

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intervention, or counseling services to be paid for by the respondent. When the court orders the respondent to participate in a batterers' intervention program, the court, or any entity designated by the court, must provide the respondent with a list of batterers' intervention programs from which the respondent must choose a program in which to participate.

~~7.6-~~ Referring a petitioner to a certified domestic violence center. The court must provide the petitioner with a list of certified domestic violence centers in the circuit which the petitioner may contact.

~~8.7-~~ Awarding to the petitioner the exclusive care, possession, or control of an animal that is owned, possessed, harbored, kept, or held by the petitioner, the respondent, or a minor child residing in the residence or household of the petitioner or respondent. The court may order the respondent to have no contact with the animal and prohibit the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal. This subparagraph does not apply to an animal owned primarily for a bona fide agricultural purpose, as defined under s. 193.461, or to a service animal, as defined under s. 413.08, if the respondent is the service animal's handler.

~~9.8-~~ Ordering such other relief as the court deems necessary for the protection of a victim of domestic violence, including injunctions or directives to law enforcement agencies, as provided in this section.

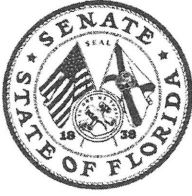
(c) The terms of an injunction restraining the respondent under subparagraph (a)1. or ordering other relief for the protection of the victim under subparagraph (a)9. ~~(a)8-~~ shall

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349 remain in effect until modified or dissolved. Either party may
350 move at any time to modify or dissolve the injunction. No
351 specific allegations are required. Such relief may be granted in
352 addition to other civil or criminal remedies.

353 Section 6. This act shall take effect July 1, 2024.



The Florida Senate

Committee Agenda Request


To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 11, 2024

I respectfully request that **Senate Bill #580**, relating to Safe Exchange of Minor Children, be placed on the:

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



Senator Clay Yarborough
Florida Senate, District 4

The Florida Senate
APPEARANCE RECORD

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

1/30/24

Meeting Date

Rules

Committee

SB 580

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Kirsty Sullivan

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850-218-9688

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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)

1/30/24

Meeting Date

RULES

Committee

The Florida Senate

APPEARANCE RECORD

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580

Bill Number or Topic

Amendment Barcode (if applicable)

Name

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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:

FAMILY LAW SECTION, FL BAR

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 Rules

BILL: SM 598

INTRODUCER: Senator Ingoglia

SUBJECT: Enforcement of Federal Immigration Laws

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Davis</u>	<u>Twogood</u>	<u>RC</u>	Favorable

I. Summary:

SM 598 expresses the will of the Legislature, on behalf of the State of Florida and its residents, that the Federal Government secure the southern border of the United States and repair the legal immigration system.

The memorial lays a predicate for this action by recounting that alien encounters at the southwest border have increased significantly in recent years. This surge in illegal border crossings has led to a corresponding increase in violent crimes, gang activity, human and drug trafficking, and an increasing threat of terrorism.

The memorial states that the policies of the Biden administration have increased the number of aliens seeking asylum and increased the number of aliens released into the interior of the country, regardless of their circumstances. The memorial also notes that illegal crossings at the southern border will likely increase because the construction of a border wall system has been suspended and the current administration has allowed Title 42 to expire. Title 42 was a public health order enacted during the COVID-19 health emergency which allowed border authorities to turn migrants away at the border.

In the concluding clauses, the memorial states that the collapse of order and security at the southern border has led several Texas counties to declare a state of emergency, has created a tremendous financial burden on the taxpaying public, and has compromised a general sense of safety and security among American citizens.

Finally, the memorial urges the Federal Government to secure the southern border and fix the legal immigration system.

II. Present Situation:

Memorials

A memorial is an official legislative document addressed to Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses but does not require the Governor's approval nor is it subject to a veto. Memorials often express the Legislature's desire that Congress take action on a certain matter or request that Congress propose an amendment to the United States Constitution.¹

Federal Government's Authority Over Immigration Law

The Federal Government's authority to regulate immigration law is established in the United States Constitution. This power is extensive. The Constitution grants Congress the power to "establish a uniform Rule of Naturalization,"² and to "regulate Commerce with foreign Nations."³ Additional authority is found in the Federal Government's broad powers over foreign affairs. The individual states are not granted similar powers under the Constitution, and they may not encroach upon exclusive federal authority in this area.

The Federal Government's Authority to Secure the Southern Border

The Federal Government's enforcement responsibility rests with the Department of Homeland Security's (DHS) U.S. Immigration and Customs Enforcement (ICE) and its Enforcement and Removal Operations (ERO). It is the mission of these organizations to "protect the homeland through the arrest and removal of those who undermine the safety of our communities and the integrity of our immigration laws."⁴

The National Magnitude of the Problem

The southwest land border, also referred to as the southern border in the memorial, is the border region of the country which stretches from San Diego, California, eastward to the southern tip of Texas.

U.S. Customs and Border Protection Data – Fiscal Years 2021 – 2024

The chart below records the number of "encounters" between Customs and Border Protection (CBP) and migrants at the southwest land border.⁵ An encounter occurs when an employee of CBP stops someone who is unauthorized or inadmissible from illegally entering the country.

¹ The Florida Senate, Office of Bill Drafting Services, *Manual for Drafting Legislation*, 137-138 (2009), <https://flsenate.sharepoint.com/sites/Secretary/Publications%20Library/Forms/AllItems.aspx?id=%2Fsites%2FSecretary%2FPublications%20Library%2FManual%20for%20Drafting%20Legislation%20%28Senate%29%2Epdf&parent=%2Fsites%2FSecretary%2FPublications%20Library>.

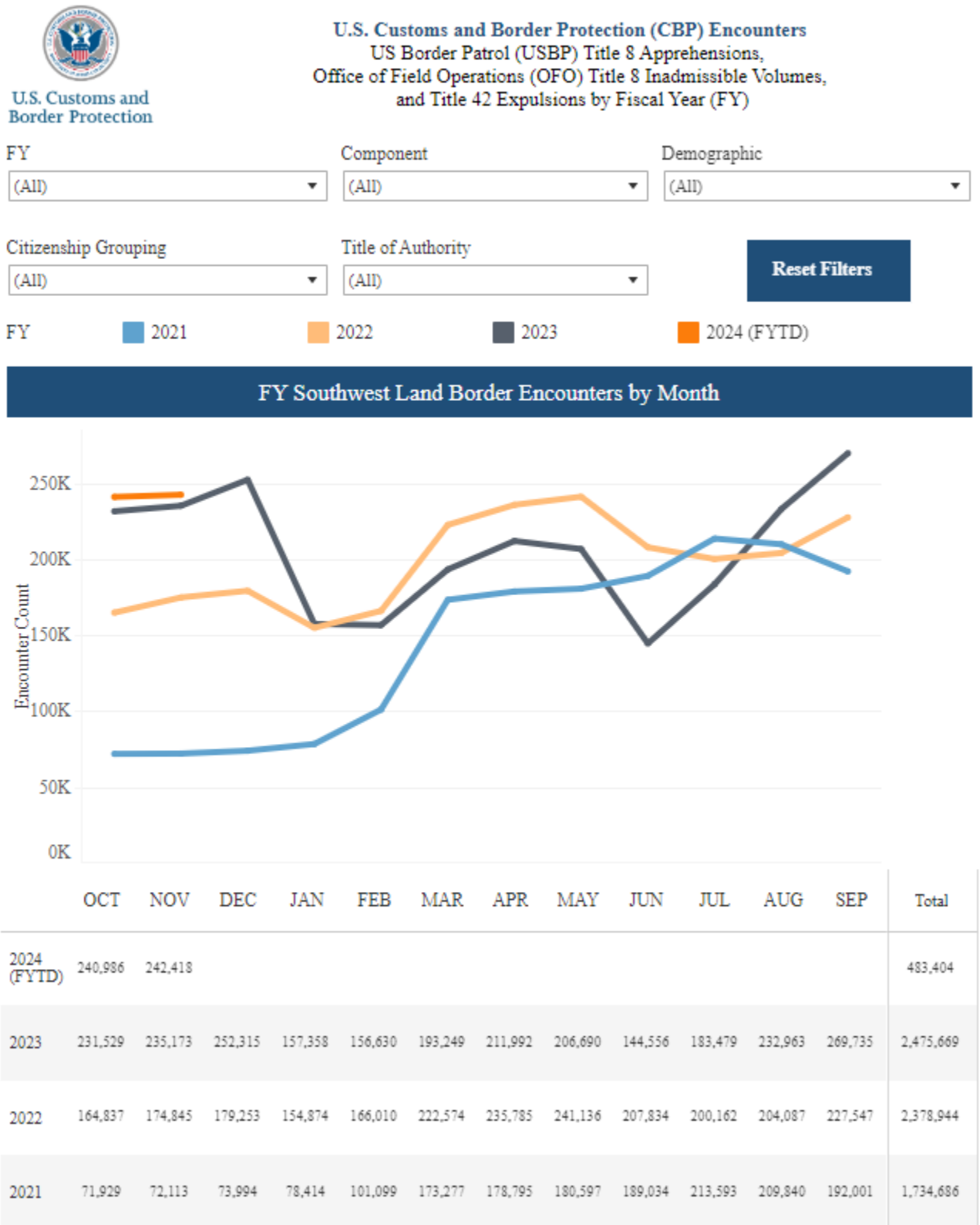
² U.S. CONST. art. 1, s. 8, cl. 4.

³ U.S. CONST. art. 1, s. 8, cl. 3.

⁴ U.S. Immigration and Customs Enforcement, *Enforcement and Removal Operations*, <https://www.ice.gov/about-ice/ero> (last visited Jan. 5, 2024).

⁵ U.S. Customs and Border Protection, *Southwest Land Border Encounters*, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (last visited Jan. 5, 2024).

According to the chart there have been 7,072,703 encounters between October 2021 and November 2023. Data from December 2023 will be available in mid-January 2024.



The CBP One™ Mobile Application

The CBP One Mobile Application is described “as a single portal to a variety of CBP services.” By providing a series of guided questions, the free app directs a user to the appropriate services they are seeking, including the ability to request an appointment at a land port of entry.⁶

According to one media report, a family recently entered the country in December by using the CBP One cellphone application to set up an appointment. The family was relocating to Tampa from Mexico. The family received a notice to appear and the immigration court hearing was set for 4 years later in 2027.⁷

Attempts to Locate Migrants Who Have Been Released into the Country

The Office of Inspector General (OIG) of DHS released a report in September 2023 entitled *DHS Does Not Have Assurance That All Migrants Can be Located Once Released into the United States*.⁸ The report was written as a memorandum to Mr. Alejandro Mayorkas, Secretary of DHS, and other officials. The report noted that, from March 2021 through August 2022, DHS released more than 1,000,000 migrants into the country. DHS is required to obtain an address for each migrant when possible. However, the inspector general’s office reviewed 981,671 migrant records and found that addresses for more than 177,000 records, or approximately 18 percent, were missing, were not valid for delivery purposes, or did not contain legitimate residential locations. Of the total number of addresses, 80 percent were reported to have been used at least twice during the 18 month period of the review. Over 780 residential addresses were listed more than 20 times. The report stated that 54,663 records did not contain an address. The report also noted that in an average month, DHS releases more than 60,000 migrants into the country and it is essential that the post-release addresses be accurate for ICE to be able to locate migrants once they are released.

The Inspector General made four recommendations for DHS to implement and thereby improve the ability to locate migrants who have been released. DHS responded to the recommendations by stating that it did not concur with the inspector general’s analysis. As a result, the OIG responded that it did not find DHS’ actions to be responsive to the recommendations.

The Immigration Court Backlog Exceeds 3 Million Pending Cases

According to the Transactional Records Access Clearinghouse at Syracuse University, the escalating backlog of immigration cases pending in the United States has reached a new high. In November 2023, the backlog of pending cases in the Immigration Court was 3,075,248. This represents an increase of 1 million cases more than the backlog of 2 million cases pending in November 2022.⁹

⁶ U.S. Customs and Border Protection, *CBP One™ Mobile Application*, <https://www.cbp.gov/about/mobile-apps-directory/cbpone> (last visited Jan. 5, 2024).

⁷ Lauren Villagran, USA TODAY, *As Migration Surges, Immigration Court Case Backlog Swells to Over 3 Million*, (Dec. 27, 2023) <https://www.usatoday.com/story/news/nation/2023/12/27/immigration-court-backlog-grows/72030952007/>.

⁸ Joseph V. Cuffari, Ph.D., Inspector General, Office of Inspector General, Department of Homeland Security, *DHS Does Not Have Assurance That All Migrants Can be Located Once Released into the United States*, (Sept. 6, 2023). <https://www.oig.dhs.gov/sites/default/files/assets/2023-09/OIG-23-47-Sep23-Redacted.pdf>.

⁹ Transactional Records Access Clearing House, Syracuse University, <https://trac.syr.edu/reports/734/>, (Dec. 18, 2023).

The report concludes that immigration judges are overwhelmed. On average, each immigration judge is in charge of 4,500 pending cases. To provide a comparison, the report stated that if each person who has a pending immigration case was assembled in one location, the gathering would exceed the population of Chicago, Illinois, which is the third largest city in the country.¹⁰

The Magnitude of the Problem in Florida

Federal District Court Case

While it is difficult to quantify the precise economic and social impact that illegal immigration has had on the state, there are some areas that are predictable and even measurable. In a recent 2023 federal court case in which the State of Florida sued the United States over a failure to enforce federal immigration policies, the court stated that

There is an immigration “crisis” at the Southwest Border. The Chief of the U.S. Border Patrol (USBP) candidly admitted it in his testimony and the overwhelming weight of the evidence confirms it. The crisis has been ongoing for over two years and shows no sign of abating.¹¹

The court also stated that it “has no trouble finding from this evidence that well over 100,000 aliens released at the Southwest Border under the challenged policies ended up in Florida.”¹²

The court found in favor of Florida, for the most part, because

[A]s detailed below, the evidence establishes that Defendants have effectively turned the Southwest Border into a meaningless line in the sand and little more than a speedbump for aliens flooding into the country by prioritizing “alternatives to detention” over actual detention and by releasing more than a million aliens into the country—on “parole” or pursuant to the exercise of “prosecutorial discretion” under a wholly inapplicable statute—without even initiating removal proceedings. The evidence further establishes that Florida is harmed by the challenged policies because well over 100,000 aliens have been released into Florida under the policies and the state has incurred substantial costs in providing public services to aliens, including those who should have been detained ... and would not have been in the state but for the challenged policies.¹³

The court concluded its opinion by vacating the DHS’ Parole Plus Alternative Detention Policy.¹⁴

¹⁰ *Id.*

¹¹ *Florida v. United States*, 660 F.Supp.3d 1239, 1247 (N.D. Fla. 2023).

¹² *Id.*, at 1262. The court stated that it used the term “alien” throughout the case because that is the term Congress used in the immigration laws.

¹³ *Id.* at 1249.

¹⁴ *Id.* at 1285.

Alien Inmate Prison Population and Costs

According to the Department of Corrections, an “alien inmate” is an inmate who does not possess U.S. citizenship. When these inmates are admitted to prison, they are referred to Immigration and Customs Enforcement agents who are responsible for identifying and investigating the people who might be aliens.¹⁵

As of November 30, 2023, the Florida Department of Corrections housed 4,635 inmates who were confirmed aliens. This represents a decrease of 47 inmates from June 30, 2023, when the population was 4,682.¹⁶

At a cost of \$84.61 per inmate per day,¹⁷ this equates to an expense of \$392,167 to house the alien inmate population in Florida for 1 day. The cost to house the alien inmate population for 1 year is \$143,141,082.

Of the 4,635 alien inmates, the Department of Corrections estimates that:

- 79.6 percent were imprisoned for violent crimes,
- 8.5 percent for property crimes,
- 7.3 percent for drug-related crimes, and
- 4.6 percent for other crimes.¹⁸

Immigrant Students Enrolled in Public Education

According to the Department of Education, the number of immigrant students enrolled in the public schools of the state has increased significantly each school year.¹⁹ The data shows:

School Year	Number of Immigrant Students
2020-2021	95,084
2021-2022	112,375
2022-2023	152,437

The state spends approximately \$8,000 per public school student each year.²⁰

¹⁵ Email from David Ensley, Bureau Chief, Bureau of Research and Data Analysis, Florida Department of Corrections, *Inmate Population*, (Dec. 22, 2023) (on file with the Senate Committee on Judiciary).

¹⁶ *Id.*

¹⁷ Email from David Ensley, Bureau Chief, Bureau of Research and Data Analysis, Florida Department of Corrections, *FY 2022-2023 Per Diems* (Jan. 3, 2024) (on file with the Senate Committee on Judiciary).

¹⁸ The five birth countries with the largest inmate populations are:

- Cuba – 1,301 inmates for 28.1 percent
- Mexico – 801 inmates for 17.3 percent
- Haiti – 471 inmates for 10.2 percent
- Jamaica – 357 inmates for 7.7 percent
- Honduras – 311 inmates for 6.7 percent
- All others – 1,394 inmates for 30.1 percent.

¹⁹ Email from Daniel Ellinger, Deputy Legislative Affairs Director, Florida Department of Education, *Enrollment by Immigration Status, 2019-20 through 2022-23* (Jan 4, 2024) (on file with the Senate Committee on Judiciary).

²⁰ *Florida*, 660 F.Supp.3d at 1263.

The Twenty-First Statewide Grand Jury

The “Presentments of the Twenty-First Statewide Grand Jury”²¹ provide an in-depth examination of illegal immigration in the State. The Florida Supreme Court ordered that a statewide grand jury be impaneled, at the request of the Governor, for 12 months, subject to a 6-month extension. The statewide grand jury began meeting in 2022 and continues to meet.

The grand jury was tasked with investigating the impact that illegal immigration has on the State of Florida.” In its Fifth Presentment, dated November 17, 2023, the statewide grand jury reported that it had met in session for approximately 450 hours and interviewed more than 100 witnesses, both local and from other countries, whose expertise ranged across multiple disciplines. The statewide grand jury noted that its mandate is “to explore whether there is criminal activity affecting our state, how it is made possible, and what, if anything might be done by our state leaders to address it.”²² The presentment concludes its summary by stating that the members have found the evidence to be “at varying times sobering, upsetting, depressing, and the cause of significant outrage.” The grand jury found that crimes were certainly being committed and the crimes are sometimes enabled by government agencies, and their policies and activities. The jurors stated:

We are convinced that, **because** the driving forces are largely federal policies, and political incentives seem to not prioritize solving the problems, it will be up to Florida and other states to help themselves, at least in the short term.²³

III. Effect of Proposed Changes:

The memorial enumerates in the “whereas” clauses that the failure of the Federal Government to enforce the immigration laws has led to a surge in unauthorized border crossings at the southwest border. After recounting statistics documented by U.S. Customs and Border Protection, the memorial notes that the failings of the current administration have led to an increase in violent crime, gang activity, and human and drug trafficking. These criminal activities caused by the flood of undocumented aliens have overwhelmed the resources of the CBP and increased the threat of terrorism.

The memorial states that the policies of the current administration have increased the number of aliens seeking asylum and have increased the number of aliens released into the interior of the country, regardless of their circumstances. The memorial also notes that illegal crossings at the southern border will likely increase because the construction of a border wall system has been suspended and the current administration has allowed Title 42 to expire. Title 42 was a policy enacted during the COVID-19 health emergency which allowed border authorities to turn migrants away at the border.

²¹ *Presentments of the Twenty-first Statewide Grand Jury*, Case No.: SC 2022-0796, <https://acis.flcourts.gov/portal/court/68f021c4-6a44-4735-9a76-5360b2e8af13/case/651d8f68-f322-4cd0-831f-74dc9b0d77a8>.

²² *Fifth Presentment of the Twenty-First Statewide Grand Jury*, Case No.: SC 2022-0796, 1, (Nov. 17, 2023), <https://acis-api.flcourts.gov/courts/68f021c4-6a44-4735-9a76-5360b2e8af13/cms/case/651d8f68-f322-4cd0-831f-74dc9b0d77a8/docketentrydocuments/57d791ab-196f-41df-8e1b-47e04a3468e1>.

²³ *Id.* at 2.

In the concluding clauses, the memorial states that the collapse of order and security at the southern border has led several Texas counties to declare a state of emergency, has created a tremendous financial burden on the taxpaying public, and has compromised a general sense of safety and security among American citizens.

The memorial then urges the Federal Government to secure the southern border and fix the legal immigration system.

The Secretary of State is directed to dispatch copies of the memorial to the President of the United States, the President of the U.S. Senate, the Speaker of the House of Representatives, the Secretary of the United States Department of Homeland Security, and to each member of the Florida delegation in Congress.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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 Ingoglia

11-00199B-24

2024598

Senate Memorial

A memorial urging the Federal Government to secure the southern border of the United States and fix the legal immigration system.

WHEREAS, the Federal Government has failed to effectively enforce existing immigration laws, which has led to a surge in the number of unauthorized border crossings along the southern border of the United States, and

WHEREAS, United States Customs and Border Protection (CBP) reported 183,503 alien encounters along the southwest border of the United States in July 2023, which represents a stunning 357 percent increase as compared to July 2018, and

WHEREAS, CBP reported 231,529 alien encounters along the southwest border of the United States in October of 2023, and

WHEREAS, CBP reported 7,047,387 alien encounters along the southwest border of the United States since January 2020, and

WHEREAS, with the surge of unauthorized border crossings, numerous states, including Florida, have been burdened with a corresponding increase in violent crime, gang activity, the trafficking of dangerous drugs, such as fentanyl, sex trafficking, human trafficking, and the threat of infectious diseases, and

WHEREAS, the astronomical increase in the number of aliens flooding in through the southwest border has overwhelmed the resources of CBP, greatly increasing the threat of terrorism, given that there are more than 1 million people on the Federal Bureau of Investigation's Terrorist Screening Database, and

WHEREAS, at the same time, Secretary of Homeland Security

Page 1 of 3

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

11-00199B-24

2024598

Alejandro Mayorkas has increased the number of aliens seeking asylum who may be admitted into the United States through the ill-conceived expansion of usage of the CBP One mobile application, and

WHEREAS, most of the aliens processed through the CBP One mobile application will be released into the interior of the United States, regardless of whether they are granted parole or are claiming asylum, and

WHEREAS, with the expiration of the Title 42 policy enacted during the COVID-19 public health emergency, which allowed authorities to turn away migrants at the United States border, and the suspension of border wall system construction by the Biden Administration, illegal crossings along the southern border are likely to continue to increase, and

WHEREAS, order at the southern border has deteriorated to such an extent that several counties in Texas along the border of the United States and Mexico have declared states of emergency in response to the invasion of illegal aliens, and

WHEREAS, the myriad threats to our nation that result from the collapse of order and security at the southern border not only impose a tremendous fiscal burden on the taxpaying public but also have an emotional cost, as Americans' sense of security and safety within their own communities is compromised, not only in this state, but in every corner of this nation, and

WHEREAS, the policies of the Biden Administration at our southern border threaten the very foundation of the American way of life, NOW, THEREFORE,

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

Page 2 of 3

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

11-00199B-24

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That the Federal Government is urged to secure the southern border of the United States and fix the legal immigration system.

BE IT FURTHER RESOLVED that the Secretary of State dispatch copies of this memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the United States Department of Homeland Security, and each member of the Florida delegation to the United States Congress.



THE FLORIDA SENATE

Tallahassee, Florida. 32399-1100

COMMITTEES:

Finance and Tax, *Chair*
Appropriations
Banking and Insurance
Criminal Justice
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Administrative Procedures
Committee, *Alternating Chair*

Senator Blaise Ingoglia
11th District

January 10, 2024

The Honorable Debbie Mayfield, Chair
Rules
400 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Re: SM 598 Enforcement of Federal Immigration Laws

Chair Mayfield,

SM 598 has been referred to the Rules as its final committee of reference. I respectfully request that it be placed on the agenda at your earliest convenience.

If I may answer questions or be of assistance, please do not hesitate to contact me.
Thank you for your leadership and consideration.

Regards,

A handwritten signature in dark ink, consisting of a series of loops and a long, sweeping horizontal stroke at the end.

Blaise Ingoglia
State Senator, District 11

Cc: Philip Twogood, Staff Director, Shasta W. Kruse, Deputy Staff Director, Cynthia Futch, Committee
Administration Assistant

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 Rules

BILL: CS/SB 712

INTRODUCER: Rules Committee and Senator Powell

SUBJECT: Public Records/County Attorneys and City Attorneys

DATE: January 31, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Hunter</u>	<u>Twogood</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 712 creates a public records exemption for specified personal information of current county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy 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, photographs and dates of birth;
- Names, home addresses, telephone numbers, photographs, places of employment, and dates of birth 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 county attorney, deputy county attorney, assistant county attorney, city attorney, deputy 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, 2029, 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, 2024.

II. Present Situation:

Access to Public Records - Generally

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

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.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ 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.⁵

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.”⁶

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ 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).

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

⁵ 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.”

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

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

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.⁹ 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.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

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

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ The Act requires the repeal of

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. 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).

¹¹ *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).

¹² *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).

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

¹⁴ *Id.*

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

¹⁶ Section 119.15, F.S.

¹⁷ 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.

¹⁸ 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.

such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

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.²⁰ 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;²¹
- 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;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ 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.²⁵ 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.²⁶

General Public Records Exemptions for State and Local Agency Personnel

There are three general public records exemptions that apply to all state and local agency²⁷ personnel: disclosure of an employee's social security number, medical information, and

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ 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?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ See *Supra* note 5.

personal identifying information of dependent children who are insured by an agency group insurance plan.²⁸

Social Security Numbers

Social security numbers of all prospective, current, and former agency personnel are confidential and exempt when held by the employing agency.²⁹ 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.³⁰

In addition, there is a general exemption for social security numbers which applies to the public that makes social security numbers confidential and exempt.³¹ 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.³²

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.³³

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.³⁴

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;³⁵

²⁸ Section 119.071(4)(a) and (b), F.S.

²⁹ Section 119.071(4)(a)1., F.S.

³⁰ Section 119.071(4)(a), F.S.

³¹ Section 119.071(5)(a)5., F.S.

³² Section 119.071(5)(a)6.f. and g., F.S.

³³ Section 119.071(4)(b)1., F.S.

³⁴ Section 119.071(4)(b)2., F.S.

³⁵ Section 119.071(4)(d)2.a., F.S.

- Certain current or former nonsworn investigative personnel of the Department of Financial Services;³⁶
- Certain current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations;³⁷
- Current or former certified firefighters;³⁸
- Current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges;³⁹
- Current or former state attorneys, assistant state attorneys, statewide prosecutors, and assistant statewide prosecutors;⁴⁰
- Current or former code enforcement officers;⁴¹
- Current or former guardians ad litem;⁴²
- Current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel;⁴³
- Current or former investigators or inspectors of the Department of Business and Professional Regulation;⁴⁴
- County tax collectors;⁴⁵
- Current or former certified emergency medical technicians and paramedics;⁴⁶
- Current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility;⁴⁷
- Current or former directors, managers, supervisors, and clinical employees of certain child advocacy centers;⁴⁸ and
- Current or former staff of domestic violence centers, including domestic violence advocates.⁴⁹

The specified exempt information for each profession provided in s. 119.071(4)(d), F.S., varies among the professions, however, generally, the home addresses,⁵⁰ telephone numbers,⁵¹ dates of birth of the specified personnel are exempt, and also identifying information of their spouse and children, including place of employment, school and/or daycare facility. For many of the

³⁶ Section 119.071(4)(d)2.b., F.S.

³⁷ Section 119.071(4)(d)2.c., F.S.

³⁸ Section 119.071(4)(d)2.d., F.S.

³⁹ Section 119.071(4)(d)2.e., F.S.

⁴⁰ Section 119.071(4)(d)2.f., F.S.

⁴¹ Section 119.071(4)(d)2.i., F.S.

⁴² Section 119.071(4)(d)2.j., F.S.

⁴³ Section 119.071(4)(d)2.l., F.S.

⁴⁴ Section 119.071(4)(d)2.m., F.S.

⁴⁵ Section 119.071(4)(d)2.n., F.S.

⁴⁶ Section 119.071(4)(d)2.q., F.S.

⁴⁷ Section 119.071(4)(d)2.s., F.S.

⁴⁸ Section 119.071(4)(d)2.t., F.S.

⁴⁹ Section 119.071(4)(d)2.u., F.S.

⁵⁰ 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."

⁵¹ 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."

professions photographs of the employee are exempt,⁵² and in some instances, the photographs of the employee's spouse and children are exempt as well.⁵³

The employing agency or the employee must assert the right to the exemption by submitting a written and notarized request to each non-employer agency that holds the employee's information.⁵⁴ Further, all of these exemptions have retroactive application, applying to information held by an agency before, on, or after the effective date of the exemption.⁵⁵

The exemptions for specified agency personnel in s. 119.071(4)(d), F.S., are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2029, unless reviewed and saved from repeal by the Legislature.

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.⁵⁶ 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.⁵⁷

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 defines the duties of its county attorney as follows:

- 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 of county commissioners 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 the 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.

⁵² See, e.g., s. 119.071(4)(d)2.1, F.S.

⁵³ See, e.g., s. 119.071(4)(d)2.a., F.S.

⁵⁴ Section 119.071(4)(d)3. and 4., F.S.

⁵⁵ Section 119.071(4)(d)6., F.S.

⁵⁶ Sections 60.05, 373.609, 381.0012, 409.2554, 499.002, 499.81, 509.285, and 705.106, F.S.

⁵⁷ Sections 60.05, 409.2554, 705.106, and 849.44, F.S.

- 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.⁵⁸

III. Effect of Proposed Changes:

CS/SB 712 creates a public records exemption from public records disclosure for specified personal information of current county attorneys, deputy county attorneys, assistant county attorneys, city attorneys, deputy 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, photographs, and dates of birth;
- Names, home addresses, telephone numbers, places of employment, photographs, and dates of birth 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 county attorney, deputy county attorney, assistant county attorney, city attorney, deputy 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 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, photographs, dates of birth, and places of employment of the spouses and children of current 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

⁵⁸ Sarasota County ordinance 2-63.

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, except in the case of a current county attorney, assistant county attorney, deputy county attorney, city attorney, assistant city attorney, or deputy city attorney who qualifies as a candidate for election to public office.

The bill is subject to the Open Government Sunset Review Act and is repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill is effective on July 1, 2024.

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 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.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 712 may cause cities and counties to incur costs associated with redacting the exempt information prior to releasing a record. However, the costs would likely be absorbed as they are part of the day-to-day responsibilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

IX. Additional Information:

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

CS by Rules on January 30, 2024:

The CS removes **former** county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys from the public records exemption, making the bill applicable to those who currently hold the relevant position.

- B. **Amendments:**

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
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	.	
	.	

The Committee on Rules (Powell) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (d) of subsection (4) of section
119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of
public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an



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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.

b. "Judicial assistant" means a court employee assigned to the following class codes: 8140, 8150, 8310, and 8320.

c. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.



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41 b. The home addresses, telephone numbers, dates of birth,
42 and photographs of current or former nonsworn investigative
43 personnel of the Department of Financial Services whose duties
44 include the investigation of fraud, theft, workers' compensation
45 coverage requirements and compliance, other related criminal
46 activities, or state regulatory requirement violations; the
47 names, home addresses, telephone numbers, dates of birth, and
48 places of employment of the spouses and children of such
49 personnel; and the names and locations of schools and day care
50 facilities attended by the children of such personnel are exempt
51 from s. 119.07(1) and s. 24(a), Art. I of the State
52 Constitution.

53 c. The home addresses, telephone numbers, dates of birth,
54 and photographs of current or former nonsworn investigative
55 personnel of the Office of Financial Regulation's Bureau of
56 Financial Investigations whose duties include the investigation
57 of fraud, theft, other related criminal activities, or state
58 regulatory requirement violations; the names, home addresses,
59 telephone numbers, dates of birth, and places of employment of
60 the spouses and children of such personnel; and the names and
61 locations of schools and day care facilities attended by the
62 children of such personnel are exempt from s. 119.07(1) and s.
63 24(a), Art. I of the State Constitution.

64 d. The home addresses, telephone numbers, dates of birth,
65 and photographs of current or former firefighters certified in
66 compliance with s. 633.408; the names, home addresses, telephone
67 numbers, photographs, dates of birth, and places of employment
68 of the spouses and children of such firefighters; and the names
69 and locations of schools and day care facilities attended by the



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

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges, and of current judicial assistants; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges and of current judicial assistants; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges and of current judicial assistants are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

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



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g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

i. The home addresses, telephone numbers, dates of birth,



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

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and



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day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses,



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telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State



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Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and



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locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s. 90.5036(1)(b), of domestic violence centers certified by the Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates



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

v. The home addresses, telephone numbers, dates of birth, and photographs of current or former inspectors or investigators of the Department of Agriculture and Consumer Services; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former inspectors or investigators; and the names and locations of schools and day care facilities attended by the children of current or former inspectors or investigators are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

w. The home addresses, telephone numbers, dates of birth, and photographs of current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys; and the names and locations of schools and day care facilities attended by the children of current county attorneys, assistant county attorneys, deputy county attorneys,



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city attorneys, assistant city attorneys, and deputy city attorneys are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption does not apply to a county attorney, assistant county attorney, deputy county attorney, city attorney, assistant city attorney, or deputy city attorney who qualifies as a candidate for election to public office. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

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

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s. 192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser



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or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section is not associated with the property or otherwise displayed in the public records of the agency.

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

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

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

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as defined in s. 626.841(1) or (2), respectively; or an attorney



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duly admitted to practice law in this state and in good standing with The Florida Bar.

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

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the



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information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. Except as otherwise expressly provided in this paragraph, this paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that the home addresses, telephone numbers, dates of birth, and photographs of current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy 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, photographs, dates of birth, and places of employment of the spouses and children of current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys, and the names and locations of schools and day care facilities attended by such children, 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, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys regularly involve legal enforcement proceedings 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



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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
attorneys and their spouses and children in danger of being
stalked or physically and emotionally harmed by a defendant or
other 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, except in the
case of a current county attorney, assistant county attorney,
deputy county attorney, city attorney, assistant city attorney,
or deputy city attorney who qualifies as a candidate for
election to public office.

Section 3. This act shall take effect July 1, 2024.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public records; amending s.
119.071, F.S.; providing an exemption from public
records requirements for the personal identifying and
location information of current county attorneys,
assistant county attorneys, deputy county attorneys,
city attorneys, assistant city attorneys, and deputy
city attorneys and the names and personal identifying



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447 and location information of the spouses and children
448 of such attorneys; providing an exception; providing
449 for future legislative review and repeal of the
450 exemption; providing a statement of public necessity;
451 providing an effective date.

By Senator Powell

24-01772-24

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A bill to be entitled

An act relating to public records; amending s.

119.071, F.S.; providing an exemption from public records requirements for the personal identifying and location information of current or former county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys and the names and personal identifying and location information of the spouses and children of such attorneys; providing an exception; providing for future legislative review and repeal of the exemption; providing for retroactive application; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means 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.

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

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b. "Judicial assistant" means a court employee assigned to the following class codes: 8140, 8150, 8310, and 8320.

c. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal

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

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activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

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

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and

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county court judges, and of current judicial assistants; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges and of current judicial assistants; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges and of current judicial assistants are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

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

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers,

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117 dates of birth, and places of employment of the spouses and
 118 children of general magistrates, special magistrates, judges of
 119 compensation claims, administrative law judges of the Division
 120 of Administrative Hearings, and child support enforcement
 121 hearing officers; and the names and locations of schools and day
 122 care facilities attended by the children of general magistrates,
 123 special magistrates, judges of compensation claims,
 124 administrative law judges of the Division of Administrative
 125 Hearings, and child support enforcement hearing officers are
 126 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 127 Constitution.

128 h. The home addresses, telephone numbers, dates of birth,
 129 and photographs of current or former human resource, labor
 130 relations, or employee relations directors, assistant directors,
 131 managers, or assistant managers of any local government agency
 132 or water management district whose duties include hiring and
 133 firing employees, labor contract negotiation, administration, or
 134 other personnel-related duties; the names, home addresses,
 135 telephone numbers, dates of birth, and places of employment of
 136 the spouses and children of such personnel; and the names and
 137 locations of schools and day care facilities attended by the
 138 children of such personnel are exempt from s. 119.07(1) and s.
 139 24(a), Art. I of the State Constitution.

140 i. The home addresses, telephone numbers, dates of birth,
 141 and photographs of current or former code enforcement officers;
 142 the names, home addresses, telephone numbers, dates of birth,
 143 and places of employment of the spouses and children of such
 144 personnel; and the names and locations of schools and day care
 145 facilities attended by the children of such personnel are exempt

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146 from s. 119.07(1) and s. 24(a), Art. I of the State
 147 Constitution.

148 j. The home addresses, telephone numbers, places of
 149 employment, dates of birth, and photographs of current or former
 150 guardians ad litem, as defined in s. 39.820; the names, home
 151 addresses, telephone numbers, dates of birth, and places of
 152 employment of the spouses and children of such persons; and the
 153 names and locations of schools and day care facilities attended
 154 by the children of such persons are exempt from s. 119.07(1) and
 155 s. 24(a), Art. I of the State Constitution.

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

173 l. The home addresses, telephone numbers, dates of birth,
 174 and photographs of current or former public defenders, assistant

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public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and

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places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed

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pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

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291 v. The home addresses, telephone numbers, dates of birth,
 292 and photographs of current or former inspectors or investigators
 293 of the Department of Agriculture and Consumer Services; the
 294 names, home addresses, telephone numbers, dates of birth, and
 295 places of employment of the spouses and children of current or
 296 former inspectors or investigators; and the names and locations
 297 of schools and day care facilities attended by the children of
 298 current or former inspectors or investigators are exempt from s.
 299 119.07(1) and s. 24(a), Art. I of the State Constitution. This
 300 sub-subparagraph is subject to the Open Government Sunset Review
 301 Act in accordance with s. 119.15 and shall stand repealed on
 302 October 2, 2028, unless reviewed and saved from repeal through
 303 reenactment by the Legislature.

304 w. The home addresses, telephone numbers, dates of birth,
 305 and photographs of current or former county attorneys, assistant
 306 county attorneys, deputy county attorneys, city attorneys,
 307 assistant city attorneys, and deputy city attorneys; the names,
 308 home addresses, telephone numbers, photographs, dates of birth,
 309 and places of employment of the spouses and children of current
 310 or former county attorneys, assistant county attorneys, deputy
 311 county attorneys, city attorneys, assistant city attorneys, and
 312 deputy city attorneys; and the names and locations of schools
 313 and day care facilities attended by the children of current or
 314 former county attorneys, assistant county attorneys, deputy
 315 county attorneys, city attorneys, assistant city attorneys, and
 316 deputy city attorneys are exempt from s. 119.07(1) and s. 24(a),
 317 Art. I of the State Constitution. This exemption does not apply
 318 to a current county attorney, assistant county attorney, deputy
 319 county attorney, city attorney, assistant city attorney, or

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320 deputy city attorney who qualifies as a candidate for election
 321 to public office. This sub-subparagraph is subject to the Open
 322 Government Sunset Review Act in accordance with s. 119.15 and
 323 shall stand repealed on October 2, 2029, unless reviewed and
 324 saved from repeal through reenactment by the Legislature.

325 3. An agency that is the custodian of the information
 326 specified in subparagraph 2. and that is not the employer of the
 327 officer, employee, justice, judge, or other person specified in
 328 subparagraph 2. must maintain the exempt status of that
 329 information only if the officer, employee, justice, judge, other
 330 person, or employing agency of the designated employee submits a
 331 written and notarized request for maintenance of the exemption
 332 to the custodial agency. The request must state under oath the
 333 statutory basis for the individual's exemption request and
 334 confirm the individual's status as a party eligible for exempt
 335 status.

336 4.a. A county property appraiser, as defined in s.
 337 192.001(3), or a county tax collector, as defined in s.
 338 192.001(4), who receives a written and notarized request for
 339 maintenance of the exemption pursuant to subparagraph 3. must
 340 comply by removing the name of the individual with exempt status
 341 and the instrument number or Official Records book and page
 342 number identifying the property with the exempt status from all
 343 publicly available records maintained by the property appraiser
 344 or tax collector. For written requests received on or before
 345 July 1, 2021, a county property appraiser or county tax
 346 collector must comply with this sub-subparagraph by October 1,
 347 2021. A county property appraiser or county tax collector may
 348 not remove the street address, legal description, or other

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information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section is not associated with the property or otherwise displayed in the public records of the agency.

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

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

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

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

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon

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conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

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

10. Except as otherwise expressly provided in this paragraph, this paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand

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repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. 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, deputy county attorneys, city attorneys, assistant city attorneys, and deputy 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, photographs, dates of birth, and places of employment of the spouses and children, and the names and locations of schools and day care facilities attended by such children, of current or former county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city 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, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys regularly 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

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information could place such attorneys and their spouses and children in danger of being stalked or physically and emotionally harmed by a defendant or other 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, except in the case of a current county attorney, assistant county attorney, deputy county attorney, city attorney, assistant city attorney, or deputy city attorney who qualifies as a candidate for election to public office.

Section 3. This act shall take effect July 1, 2024.

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The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 10, 2024

I respectfully request that **Senate Bill #712**, relating to **712 Public Records County Attorneys/City Attorneys**, be placed on the:

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

A handwritten signature in dark ink, appearing to read "Bobby Powell", is written over a horizontal line.

Senator Bobby Powell
Florida Senate, District 24

The Florida Senate

APPEARANCE RECORD

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

3:30

Meeting Date

RULES

Committee

SB 712

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Courtney Maoney

Phone

772-201-0831

Address

100 S Monroe

Street

Email

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:

FL Association
of Counties

☐

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

APPEARANCE RECORD

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

1/30/24

Meeting Date

Rules

Committee

SB 712

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Martha Edenfield

Phone

850.214-5100

Address

106 E. College Ave #1200

Email

medenfield@joneswalker.com

Street

Tallahassee

City

FL

State

32301

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)

The Florida Senate

APPEARANCE RECORD

SB 712

1/30/24

Meeting Date

Rules

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Anita Berry**

Phone **301-524-0172**

Address **101 E. College Avenue, Suite 502**

Email **anita@johnstonstewart.com**

Street

Tallahassee

FL

32313

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:

Palm Beach 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)

The Florida Senate

APPEARANCE RECORD

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

Jan 30, 2024

Meeting Date

Rules

Committee

712

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Lauren Bulte

Phone

727 212 7408

Address

317 E. Park Ave

Street

Email

laurenb@floridafaf.org

Tallahassee

City

FL

State

32304

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: First

Amendment foundation

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 Rules

BILL: SM 800

INTRODUCER: Senator Rodriguez

SUBJECT: Foreign Polluters

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Barriero</u>	<u>Twogood</u>	<u>RC</u>	Favorable

I. Summary:

SM 800 is a memorial to Congress urging its members to support solutions that examine the pollution differential between United States production and that of other countries and that hold foreign polluters accountable for their pollution.

The memorial requires the Florida Secretary of State to dispatch copies to the President of the United States, President of the United States Senate, Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

II. Present Situation:

Florida's Environmental Investments

Florida has recently made significant investments to protect the state's environment and natural resources, including:

- \$3.3 billion for Everglades restoration and protection of the state's water resources;
- \$1.6 billion in water quality improvements and creation of the Water Quality Improvement Grant Program and dedicated historic funding to increase alternative water supply and restore and protect Florida's springs;
- \$1.1 billion in resilience projects;
- Dedicated funding to enhance the state's water quality monitoring and identify new and innovative ways to treat, predict, and respond to blue-green algal blooms, including more than \$45 million to the Innovative Technology Grant Program;
- Establishing the Florida Wildlife Corridor, committing more than \$600 million to the Florida Forever Program, and acquiring more than 170,000 acres for conservation; and
- \$100 million annually for projects to improve water quality in the Indian River Lagoon.¹

¹ Office of the Governor, *Executive Order 23-06*, 1-2 (2023), available at <https://www.flgov.com/wp-content/uploads/2023/01/EO-23-06.pdf>.

Greenhouse Gases (GHGs)

GHGs trap heat in the atmosphere and warm the surface of the earth. A warmer climate could worsen a variety of natural disasters and lead to reduced access to clean drinking water, more acidic oceans, droughts, floods, heat waves, storms, and dust storms, among other things.² More intense rain events could lead to the contamination of drinking water and increase in mold infestation, which in turn may lead to a variety of related diseases. Moreover, GHGs may directly contribute to respiratory diseases due to air pollution.³

The primary GHGs include:

- Carbon dioxide: Fossil fuel use is the primary source of carbon dioxide but is also emitted through land use practices, such as deforestation, land clearing for agriculture, and degradation of soils. Carbon dioxide is removed from the atmosphere when it is absorbed by plants as part of the biological carbon cycle.
- Methane: Methane is emitted during the production and transport of coal, natural gas, and oil. Methane emissions also result from livestock and other agricultural practices, land use, and by the decay of organic waste in municipal solid waste landfills.
- Nitrous oxide: Nitrous oxide is emitted during agricultural, land use, and industrial activities; combustion of fossil fuels and solid waste; as well as during treatment of wastewater.
- Fluorinated gases: Industrial processes, refrigeration, and the use of a variety of consumer products contribute to emissions of fluorinated gases, which include hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.⁴

GHGs remain in the atmosphere for different periods of time, ranging from a few years to thousands of years.⁵

GHG Emissions

GHG from human activities are the most significant driver of observed climate change since the mid-20th century.⁶ Worldwide, net emissions of GHGs from human activities increased by 43 percent from 1990 to 2015.⁷ Carbon dioxide emissions, which account for about three-fourths of total GHG emissions, increased by 51 percent over this period.⁸ The majority of the world's emissions result from transportation, electricity generation, and other forms of energy production and use.⁹

² Levent Kutlu, *Greenhouse Gas Emission Efficiencies of World Countries*, 1 (2020), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7728308/pdf/ijerph-17-08771.pdf>.

³ *Id.*

⁴ U.S. Environmental Protection Agency (EPA), *Global Greenhouse Gas Emissions Data*, <https://www.epa.gov/ghgemissions/global-greenhouse-gas-emissions-data> (last visited Jan. 13, 2024).

⁵ EPA, *Overview of Greenhouse Gases*, <https://www.epa.gov/ghgemissions/overview-greenhouse-gases> (last visited Jan. 13, 2024).

⁶ Intergovernmental Panel on Climate Change, *Climate Change 2021: The Physical Science Basis*, 5 (2021), available at <https://www.ipcc.ch/report/ar6/wg1/>.

⁷ EPA, *Climate Change Indicators: Greenhouse Gases*, <https://www.epa.gov/climate-indicators/greenhouse-gases> (last visited Jan. 13, 2024).

⁸ *Id.*

⁹ *Id.*

GHG emission levels are closely related to the production of countries, which may be measured by their gross domestic products.¹⁰ In 2022, the largest contributions to global carbon dioxide emissions were from China (31 percent), the U.S. (14 percent), India (8 percent), and Europe (7 percent).¹¹ However, in areas such as the U.S. and Europe, forestry and land management practices have the net effect of absorbing carbon dioxide, partially offsetting the emissions from deforestation in other regions.¹² Carbon dioxide emissions in the U.S. decreased by 2 percent between 1990 and 2021.¹³ Projections for 2023 show a decrease of 3 percent in the U.S. from 2022 levels.¹⁴ Emissions are also expected to decrease in Europe by 7.4 percent but increase by 4 percent in China and 8.2 percent in India.¹⁵

The U.S. is also above the world average for GHG emission efficiency.¹⁶ GHG emission efficiency is a measure of how successful countries are in terms of keeping their GHG emission levels low relative to their production levels.¹⁷

U.S. Policy on GHGs

The U.S. has made the reduction of GHG emissions a priority. In 2021, the U.S. government announced its plan to transition to a clean energy economy with net-zero emissions by 2050, including a goal to produce at least 80 percent of the U.S.'s electricity from emissions-free sources by 2030.¹⁸ However, achieving the goals under the climate agenda will require cooperation from U.S. states and cities, Congress, the judicial branch, other countries—particularly the European Union and China—as well as the private sector.¹⁹

Historically, the U.S. has favored incentivizing emission reductions rather than imposing compulsory measures.²⁰ One of the major concerns regarding the implementation of mandatory limits on GHG emissions in the U.S. is the impact such limits would have on the international

¹⁰ Levent Kutlu, *Greenhouse Gas Emission Efficiencies of World Countries*, 2 (2020), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7728308/pdf/ijerph-17-08771.pdf>.

¹¹ Pierre Friedlingstein et al., *Global Carbon Budget 2023*, 20 (2023), available at <https://essd.copernicus.org/articles/15/5301/2023/essd-15-5301-2023.pdf>.

¹² EPA, *Global Greenhouse Gas Emissions Data*, <https://www.epa.gov/ghgemissions/global-greenhouse-gas-emissions-data> (last visited Jan. 13, 2024).

¹³ EPA, *Overview of Greenhouse Gases*, <https://www.epa.gov/ghgemissions/overview-greenhouse-gases> (last visited Jan. 13, 2024).

¹⁴ Pierre Friedlingstein et al., *Global Carbon Budget 2023*, 4 (2023), available at <https://essd.copernicus.org/articles/15/5301/2023/essd-15-5301-2023.pdf>.

¹⁵ *Id.*

¹⁶ Levent Kutlu, *Greenhouse Gas Emission Efficiencies of World Countries*, 2, 7 (2020), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7728308/pdf/ijerph-17-08771.pdf>.

¹⁷ *Id.* at 2.

¹⁸ Office of the White House, *Executive Order on Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability* (2021), available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/12/08/executive-order-on-catalyzing-clean-energy-industries-and-jobs-through-federal-sustainability/>.

¹⁹ William Reinsch and Emily Benson, *U.S. Views on the Trade and Climate Policy Nexus*, 17 (2021), available at https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/210729_Reinsch_Trade_Climate.pdf?VersionId=ed3gBvB18Jvmtf51lkoDsYiWHCFHPJ1y.

²⁰ *See id.* at 1.

competitiveness of U.S. firms.²¹ Limits on GHG emissions may lead to extra costs on U.S. industries. Where foreign firms do not bear similar costs, U.S. firms may lose their competitive edge because goods from countries without mandatory carbon restrictions may gain a price advantage over domestic goods.²²

However, incentive-based policies also pose challenges, as they often encounter budget and spending challenges, which can hinder their progress and acceptance in Congress.²³ Moreover, trade incentives largely entail subsidies, both removing harmful ones and implementing good ones, both of which could raise legal issues within the World Trade Organization.²⁴

Differences in countries' short-term climate commitments could significantly harm U.S. producers of carbon-intensive goods over the next decade and facilitate a race to the bottom in international trade.²⁵ Two of the U.S.'s top five import sources—Mexico and China—have not announced strict short-term emissions reductions targets.²⁶ The potential asymmetry between these major trading partners' regulatory regimes for carbon emissions could not only disadvantage U.S. producers, but also lead to carbon leakage, in which businesses facing strict emissions regulations move their carbon-intensive production processes to countries with less strict rules, causing emissions to “leak” across borders.²⁷ Carbon leakage could have significant economic and political consequences, particularly the loss of U.S. manufacturing jobs, if U.S. firms move their carbon-intensive manufacturing processes abroad.²⁸ Additionally, less carbon-intensive U.S. products would be relatively more expensive than imports from countries with less strict regulatory regimes.²⁹

Senate Memorial

Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject. A memorial is an official legislative document addressed to Congress, the President of the United States, or some other governmental entity that

²¹ Joost Pauwelyn, Duke University, *U.S. Federal Climate Policy and Competitiveness Concerns: The Limits and Options of International Trade Law*, 2 (2007), available at <https://nicholasinstitute.duke.edu/sites/default/files/publications/u.s.-federal-climate-policy-and-competitiveness-concerns-the-limits-and-options-of-international-trade-law-paper.pdf>.

²² *Id.*

²³ William Reinsch and Emily Benson, *U.S. Views on the Trade and Climate Policy Nexus*, 2 (2021), available at https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/210729_Reinsch_Trade_Climate.pdf?VersionId=ed3gBvB18Jvmtf51lkoDsYiWHCFHPJ1y.

²⁴ *Id.* As a member of the World Trade Organization (WTO), the U.S. may be prohibited from implementing certain subsidies. There are two categories of prohibited subsidies: The first category consists of subsidies contingent, in law or in fact, whether wholly or as one of several conditions, on export performance (export subsidies). The second category consists of subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods (local content subsidies). These types of subsidies are prohibited because they are designed to directly affect trade and thus are most likely to have adverse effects on the interests of other WTO members. WTO, *Agreement on Subsidies and Countervailing Measures* (“SCM Agreement”), https://www.wto.org/english/tratop_e/scm_e/subs_e.htm (last visited Jan. 15, 2024).

²⁵ William Reinsch and Emily Benson, *U.S. Views on the Trade and Climate Policy Nexus*, 9 (2021), available at https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/210729_Reinsch_Trade_Climate.pdf?VersionId=ed3gBvB18Jvmtf51lkoDsYiWHCFHPJ1y.

²⁶ *Id.* at 8.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses, but does not require the governor's approval, nor is it subject to a veto.

III. Effect of Proposed Changes:

The memorial contains 10 whereas clauses discussing Florida's recent investments to protect the state's natural resources and environment. The memorial also discusses China's role as a major polluter and emitter of greenhouse gas emissions and the U.S.'s efforts to reduce emissions and increase carbon efficiency. The memorial advocates for trade policies that reward U.S. firms for their strong environmental performance to bolster domestic manufacturing and reduce dependence on imports from high-emitting producers like China and Russia.

The memorial urges Congress to support solutions that examine the pollution differential between U.S. production and that of other countries and that hold foreign polluters accountable for their pollution.

The memorial requires Florida's Secretary of State to dispatch copies of the memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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.

By Senator Rodriguez

40-00962-24

2024800__

Senate Memorial

A memorial to the Congress of the United States, urging Congress to support solutions that examine the pollution differential between United States production and that of other countries and that hold foreign polluters accountable for their pollution.

WHEREAS, Florida's natural resources and environment are essential to the state's character, economy, and way of life, and

WHEREAS, Florida, under Governor Ron DeSantis' leadership, has recently delivered investments to protect the state's natural resources and environment, including Everglades restoration, waterway rehabilitation, and water quality infrastructure, and

WHEREAS, China, by far the world's largest polluter, accounts for over 30 percent of global carbon dioxide emissions and subsidizes its exports by not imposing or enforcing reasonable environmental and labor standards, and

WHEREAS, Chinese government-owned industry is an arm of the Chinese Communist Party and strives to increase its influence over the global economy by pursuing predatory trade practices such as stealing intellectual property from the United States, and

WHEREAS, the United States has reduced more carbon emissions than any other country in the last 15 years and has an economy that is 44 percent more carbon efficient than the world average, and

WHEREAS, manufacturers in the United States are more

Page 1 of 2

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

40-00962-24

2024800__

efficient in nearly every industry and yet are forced to compete with companies in China and other countries that face few limits on how much they pollute, and

WHEREAS, goods produced in China and Russia generate 300 percent and 400 percent on average, respectively, more in carbon emissions compared to equivalent goods produced in the United States, and

WHEREAS, United States trade policy has not taken into account carbon emissions, and as a result, afforded foreign polluters with loose carbon standards an advantage over the United States for the past several decades, and

WHEREAS, China benefits from the current federal trade policy, and

WHEREAS, rewarding United States firms for their environmental performance would bolster domestic manufacturing, generate good-paying jobs, and reduce dependence on imports from high-emitting producers like China and Russia, NOW, THEREFORE,

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

That the Congress of the United States is urged to support solutions that examine the pollution differential between United States production and that of other countries and that hold foreign polluters accountable for their pollution.

BE IT FURTHER RESOLVED that the Secretary of State dispatch copies of this memorial to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 17, 2024

I respectfully request that **Senate Memorial #800**, relating to Foreign Polluters, be placed on the:

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

Summary:

A memorial to the Congress of the United States, urging Congress to support solutions that examine the pollution differential between United States production and that of other countries and that hold foreign polluters accountable for their pollution.

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez".

Senator Ana Maria Rodriguez
Florida Senate, District 40

The Florida Senate

APPEARANCE RECORD

5800

1-30-24

Meeting Date

Rules

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Terry Gibson

Phone

772-285-7683

Address

4394 NE Skyline Dr.

Email

tgibson@deployus.org

Street

Jensen Beach, FL

City

State

34957

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:

DEPLOY/US

☐

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

APPEARANCE RECORD

SM 800

1-30-24

Meeting Date

Rules

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

John Psareas

Phone

561-886-7924

Address

21946 Pine Tree

Email

Psareas97@gmail.com

Street

Boca Raton FL

33428

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:

Young Conservatives
for Carbon Dividends

☐ 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 Rules

BILL: CS/SB 7006

INTRODUCER: Governmental Oversight and Accountability Committee; and Regulated Industries Committee

SUBJECT: OGSR/Utility Owned or Operated by a Unit of Local Government

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Schrader</u>	<u>Imhof</u>		RI Submitted as Comm. Bill/Fav
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
2.	<u>Schrader</u>	<u>Twogood</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7006 saves from repeal the current public records exemptions making exempt from public inspection and copying requirements the following information held by a utility owned or operated by a unit of local government (municipal utility):

- Information related to the security of the technology, processes, or practices that are designed to protect the utility's networks, computers, programs, and data from attack, damage, or unauthorized access, which information, if disclosed, would facilitate the alteration, disclosure, or destruction of such data or information technology resources.
- Information related to the security of existing or proposed information technology systems or industrial control technology systems, which, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.
- Customer meter-derived data and billing information in increments less than one billing cycle.

The bill also saves from repeal the current public meetings exemption for any portion of a meeting that would reveal the information described above.

The exemptions are necessary to protect the security of business and residential municipal utility customers, and to protect sensitive information regarding security measures in place to protect

technologies, processes, and practices designed to secure data, information technology systems, and industrial control technology systems.

Unless saved from repeal by the Legislature, these exemptions are scheduled to repeal on October 2, 2024. The bill removes the scheduled repeals to continue the exempt status of the information and relevant portions of the meetings. However, the public records and public meetings exemptions relating to cybersecurity will be subject to a new repeal date of October 2, 2027.

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

The bill takes effect October 1, 2024.

II. Present Situation:

Access to Public Records - Generally

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

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.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 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.⁵

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

¹ FLA. CONST. art. I, s. 24(a).

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

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2022-2024).

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

⁵ 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.”

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.”⁶

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

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.⁹ 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.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released

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

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. 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).

¹¹ *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).

¹² *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).

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

under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Meetings Laws

The State Constitution provides that the public has a right to access governmental meetings.¹⁶ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁷ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.¹⁸

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law”¹⁹ or the “Sunshine Law,”²⁰ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.²¹ The board or commission must provide the public reasonable notice of such meetings.²² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.²³ Minutes of a public meeting must be promptly recorded and open to public inspection.²⁴ Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.²⁵ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁶

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.²⁷ The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.²⁸ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.²⁹

¹⁴ *Id.*

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

¹⁶ FLA. CONST., art. I, s. 24(b).

¹⁷ *Id.*

¹⁸ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

¹⁹ *Times Pub. Co. v. Williams*, 222 So.2d 470, 472 (Fla. 2d DCA 1969).

²⁰ *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 695 (Fla. 1969).

²¹ Section 286.011(1)-(2), F.S.

²² *Id.*

²³ Section 286.011(6), F.S.

²⁴ Section 286.011(2), F.S.

²⁵ Section 286.011(1), F.S.

²⁶ Section 286.011(3), F.S.

²⁷ FLA. CONST., art. I, s. 24(c).

²⁸ *Id.*

²⁹ See *supra* note 10.

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act³⁰ (the Act), prescribe a legislative review process for newly created or substantially amended³¹ public records or open meetings exemptions, with specified exceptions.³² The Act requires the repeal of such exemption on October 2 of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.³³

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.³⁴ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;³⁵
- 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;³⁶ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.³⁷

The Act also requires specified questions to be considered during the review process.³⁸ 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 again required.³⁹ 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

³⁰ Section 119.15, F.S.

³¹ 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.

³² 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.

³³ Section 119.15(3), F.S.

³⁴ Section 119.15(6)(b), F.S.

³⁵ Section 119.15(6)(b)1., F.S.

³⁶ Section 119.15(6)(b)2., F.S.

³⁷ Section 119.15(6)(b)3., F.S.

³⁸ 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?

³⁹ See generally s. 119.15, F.S.

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.⁴⁰

Security and Privacy Concerns with Customer Consumption Data and Smart Meters

Smart meters are digital devices that measure and transmit data on electricity, water, and gas usage to utility companies.⁴¹ These devices generally eliminate the need for traditional manual reading of utility consumer meters. Smart meters can provide much more granular data regarding customer consumption patterns and usage. While these devices do offer significant benefits in increasing utility reliability,⁴² the information they produce can raise some privacy and security concerns. These may include:

- The data generated may provide insight into a particular customer's daily routine, habits, and lifestyle which could be used for criminal activity or unwanted marketing.
- Unauthorized sale of consumption data to third parties.
- Risk of hacking and cyberattacks to either the meter itself or utilizing a compromised meter as a pathway to attack other devices connected to the smart meter.⁴³

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.⁴⁴ The role of the PSC is to ensure that Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, affordable, and reliable manner.⁴⁵ In order to do so, the PSC exercises authority over public utilities⁴⁶ in one or more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.⁴⁷ PSC authority over municipal utilities is more limited, however.

⁴⁰ Section 119.15(7), F.S.

⁴¹ IBM, *What are smart meters?* <https://www.ibm.com/topics/smart-meter#:~:text=A%20key%20component%20of%20advanced,the%20information%20to%20utility%20companies>. (last visited Jan. 17, 2024).

⁴² United States Department of Energy, *Electric Meters*, <https://www.energy.gov/energysaver/electric-meters> (last visited Jan. 17, 2024).

⁴³ Shradda Tupe, *Mitigating Smart Meter Security Risk: A Privacy-Preserving Approach*, EE POWER, Mar 23, 2023, <https://eepower.com/technical-articles/mitigating-smart-meter-security-risk-a-privacy-preserving-approach/#> (last visited Jan. 17, 2024).

⁴⁴ Section 350.001, F.S.

⁴⁵ See Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Jan. 17, 2024).

⁴⁶ Under s. 366.02, F.S., a "public utility" is defined "as every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state." There are, however, several exceptions to this definition, which include, "a cooperative now or hereafter organized and existing under the Rural Electric Cooperative Law of the state; a municipality or any agency thereof; [and] any dependent or independent special natural gas district." Generally, "public utility" means investor-owned utilities.

⁴⁷ Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited Jan. 17, 2024).

Electric and Gas Utilities

The PSC monitors the safety and reliability of the electric power grid⁴⁸ and may order the addition or repair of infrastructure as necessary.⁴⁹ The PSC has broad jurisdiction over the rates and service of investor-owned electric and gas utilities.⁵⁰ However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC has jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, bulk power supply operations, and planning.⁵¹ Rates and revenues of a municipally-owned or operated utility are regulated by its governing body of the local government or a local utility board. Rates and revenues for a cooperative utility are regulated by the governing body elected by the cooperative's membership.

Water and Wastewater Utilities

Florida's Water and Wastewater System Regulatory Law, ch. 367, F.S., regulates water and wastewater systems in the state. Section 367.011, F.S., grants the PSC exclusive jurisdiction over each utility with respect to its authority, service, and rates. For the chapter, a "utility" is defined as "a water or wastewater utility and, except as provided in s. 367.022, F.S., includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation." In 2022, the PSC had jurisdiction over 149 investor-owned water and/or waste-water utilities in 38 of Florida's 67 counties.⁵²

Section 367.022, F.S., exempts certain types of water and wastewater operations from PSC jurisdiction and the provisions of ch. 367, F.S. (except as expressly provided). Such exempt operations include: municipal water and wastewater systems, public lodging systems that only provide service to their guests, systems with a 100-person or less capacity, landlords that include service to their tenants without specific compensation for such service, and mobile home parks operating both as a mobile home park and a mobile home subdivision that provide "service within the park and subdivision to a combination of both tenants and lot owners, provided that the service to tenants is without specific compensation."⁵³ The PSC also does not regulate utilities in counties exempt from PSC regulation pursuant to s. 367.171, F.S. However, under s. 367.171(7), F.S., the PSC retains exclusive jurisdiction over all utility systems whose service crosses county boundaries, except for utility systems that are subject to interlocal utility agreements.

According to a 2017 research report from the University of North Carolina there were 1,647 community water systems in Florida. Of those, 973 are privately owned. Florida had 371 publicly-owned treatment works facilities. The privately-owned community water systems

⁴⁸ Section 366.04(5) and (6), F.S.

⁴⁹ Section 366.05(1) and (8), F.S.

⁵⁰ Section 366.05, F.S.

⁵¹ Florida Public Service Commission, *About the PSC*, *supra* note 47.

⁵² Florida Public Service Commission, *2023 Facts and Figures of the Florida Utility Industry*, 28 (Apr. 2023) <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202023.pdf> (last visited Jan. 17, 2024).

⁵³ Section 367.022(2), F.S.

served almost 1.4 million people, the government-owned community water systems served more than 18.4 million people, and the publicly-owned treatment works facilities served just over 13 million people.⁵⁴

Municipal Water and Sewer Utilities in Florida

A municipality⁵⁵ may establish a utility by resolution or ordinance under s. 180.03, F.S. A municipality may establish a service area within its municipal boundary or within five miles of its corporate limits of the municipality.⁵⁶

Under s. 180.19, F.S., a municipality may permit another municipality and the owners or association of owners of lands outside of its corporate limits or within another municipality's corporate limits to connect to its utilities upon such terms and conditions as may be agreed upon.

Municipal Electric and Gas Utilities, and Special Gas Districts, in Florida

A municipal electric or gas utility is an electric or gas utility owned and operated by a unit of local government. Chapter 366, F.S., provides the majority of electric and gas utility regulations for Florida. While ch. 366, F.S., does not provide a definition, *per se*, for a “municipal utility,” variations of this terminology and the concept of these types of utilities appear throughout the chapter. Currently, Florida has 33 municipal electric utilities that serve over 14 percent of the state's electric utility customers.⁵⁷ Florida also has 27 municipally-owned gas utilities and four special gas districts.⁵⁸

Municipal Utility Public Records and Public Meetings

Proprietary Confidential Business Information

Section 119.0713(4), F.S., makes proprietary confidential business information held by a municipal utility in conjunction with a due diligence review of an electric project as defined in s. 163.01(3)(d), F.S., or a project to improve the delivery, cost, or diversification of fuel or renewable energy resources, confidential and exempt from public disclosure. Proprietary confidential business information would include:

- Trade secrets, as defined in s. 688.002, F.S.;
- Internal auditing controls and reports of internal auditors;
- Security measures, systems, or procedures;

⁵⁴ University of North Carolina Environmental Finance Center, *Navigating Legal Pathways to Rate-Funded Customer Assistance Programs, A Guide for Water and Wastewater Utilities* (2017), available at <https://efc.sog.unc.edu/wp-content/uploads/sites/1172/2021/06/Nagivating-Pathways-to-Rate-Funded-CAPs.pdf> (last visited Jan. 17, 2024).

⁵⁵ Defined by s. 180.01, F.S. “as any city, town, or village duly incorporated under the laws of the state.”

⁵⁶ Section 180.02, F.S.

⁵⁷ Florida Municipal Electric Association, *About Us*, <https://www.flpublicpower.com/about-us> (last visited Jan. 17, 2024).

⁵⁸ Florida Public Service Commission, *2023 Facts and Figures of the Florida Utility Industry*, pg. 13, Apr. 2023 (available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202023.pdf>) (last visited Jan. 17, 2024). A “special gas district” is a dependent or independent special district, setup pursuant to ch. 189, F.S., to provide natural gas service. Section 189.012(6), F.S., defines a “special district” as “a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.”

- Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the electric utility to contract for goods or services on favorable terms; and
- Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Records Used Directly or Solely to Prepare and Submit Bids

Section 119.0713(3), F.S., provides that any data, record, or document used directly or solely by a municipally-owned utility to prepare and submit a bid relative to the sale, distribution, or use of any service, commodity, or tangible personal property to any customer or prospective customer is exempt from public disclosure. This exemption is limited in scope to the period under which such bids are under consideration and terminates upon the execution of the contract for sale.

PSC Public Disclosure Protections

Section 350.121, F.S., protects from public disclosure records, documents, papers, maps, books, tapes, photographs, files, sound recordings, or other business material, regardless of form or characteristics obtained by the PSC through an inquiry. In addition, ss. 366.093, 367.156, and 368.108, F.S., provide processes for public utilities, water and wastewater utilities, and gas transmission and distribution companies, respectively, to protect proprietary confidential business information from public disclosure, provided pursuant to discovery in a PSC docket or proceeding.

However, as municipally-owned or operated utility rates and revenues are primarily regulated by their respective local governments or local utility boards, these PSC protections would not apply to those utility records, local meetings, or local regulatory proceedings (except such records maintained by the PSC or obtained through discovery in a PSC docket or proceeding).

Agency Security and Fire Safety Plans

Section 119.071(3)(a), F.S., makes state agency property security and fire safety plans confidential and exempt from public disclosure. The term “security or firesafety system plan” means:

- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security or firesafety of the facility or revealing security or firesafety systems;
- Threat assessments conducted by any agency or any private entity;
- Threat response plans;
- Emergency evacuation plans;
- Sheltering arrangements; or
- Manuals for security or firesafety personnel, emergency equipment, or security or firesafety training.

Relatedly, s. 286.0113(1), F.S., exempts from public meeting requirements, portions of meetings that would reveal such information specified in s. 119.071(3)(a), F.S.

Water Treatment Facilities

Section 119.071(3)(b), F.S., makes building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency exempt from public disclosure. However, such may be disclosed:

- To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities;
- To a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or
- Upon a showing of good cause before a court of competent jurisdiction.

Specific Exceptions to Utility Public Records and Public Meetings for Municipal Utilities

In 2016, the Legislature created public record exemptions in s. 119.0713(5), F.S.,⁵⁹ which subsection was further amended in 2019,⁶⁰ for the following information held by a utility owned or operated by a unit of local government:

- Information related to the security of the technology, processes, or practices that are designed to protect the utility's networks, computers, programs, and data from attack, damage, or unauthorized access, which information, if disclosed, would facilitate the alteration, disclosure, or destruction of such data or information technology resources.
- Information related to the security of existing or proposed information technology systems or industrial control technology systems, which, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.
- Customer meter-derived data and billing information in increments less than one billing cycle.

In 2019, the Legislature also created a public meeting exemption in s. 286.0113(3), F.S., for any portion of a meeting that would reveal the above information, as well as a public record exemption for any recordings or transcripts of the exempt portions of meetings.⁶¹

In expressing the need for the above public records and public meetings exemptions, the bills' public necessity statements cite to:

- The finding that as utility system infrastructure becomes more connected and integrated through information and communications technology, the exposure to damage from attacks through such technology grows.⁶²
- The risk of releasing customer meter derived data and billing information in increments of less than one billing cycle to third parties. Such data could be used to specifically identify minute-by-minute usage patterns, including the exact appliance or service being used. Such a

⁵⁹ Chapter 2016-95, s. 1-3, Laws of Fla.

⁶⁰ Chapter 2019-38, s. 1-2, Laws of Fla.

⁶¹ Chapter 2019-37, s. 1-2, Laws of Fla.

⁶² Chapter 2016-95, s. 3, Laws of Fla., Chapter 2019-38, s. 2, Laws of Fla., and Chapter 2019-37, s. 2, Laws of Fla.

release of information raises significant security issues for both businesses and homeowners.⁶³

- The risk of releasing sensitive information regarding security measures in place to protect technologies, processes, and practices designed to secure data, information technology systems, and industrial control technology systems. Such protection helps to ensure that municipal utilities have greater safeguards to protect against security threats and will bolster efforts to develop more resilient information technology systems and industrial control technology systems.⁶⁴

The public record and public meeting exemptions stand repealed on October 2, 2024, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act.

Cybersecurity Public Record and Public Meeting Exemptions

In 2022, the Legislature enacted s. 119.0725(3), F.S., to create a new public records exemption, applicable to all agencies,⁶⁵ for certain information relating to cybersecurity. Specifically, the following information is made confidential and exempt from public inspection and copying requirements:

- Coverage limits and deductible or self-insurance amounts of insurance or other risk mitigation coverages acquired for the protection of information technology systems, operational technology systems, or data of an agency.
- Information related to critical infrastructure.⁶⁶
- Cybersecurity incident information contained in certain reports.
- Network schematics, hardware and software configurations, or encryption information or information that identifies detection, investigation, or response practices for suspected or confirmed cybersecurity incidents, including suspected or confirmed breaches, if the disclosure of such information would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of:
 - Data or information, whether physical or virtual; or
 - Information technology resources, which include an agency's existing or proposed information technology systems.

Section 119.0725(3), F.S., also creates a public meeting exemption for any portion of a meeting that would reveal the information made confidential and exempt pursuant to s. 119.0725(2), F.S.; however, any portion of an exempt meeting must be recorded and transcribed. The recording and transcript are confidential and exempt from public record inspection and copying requirements.

The exemptions codified in s. 119.0725, F.S., stand repealed on October 2, 2027.

⁶³ Chapter 2019-38, s. 2, Laws of Fla.

⁶⁴ Chapter 2016-95, s. 3, Laws of Fla.

⁶⁵ "Agency" means 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 purposes of ch. 119, F.S., 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. Section 119.011(2), F.S.

⁶⁶ "Critical infrastructure" means existing and proposed information technology and operation technology systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety. Section 119.0725(1)(b), F.S.

Open Government Sunset Review Findings and Recommendations

Staff of the Senate Committee on Regulated Industries and the House of Representatives Ethics, Elections & Open Government Subcommittee jointly developed a survey requesting that operators review and provide feedback on the public records exemption in s. 119.0713(5), F.S., and the public meetings exemption in s. 286.0113(3), F.S. These surveys were provided to the Florida Municipal Electric Association and the Florida League of Cities for distribution to their members.

Staff of the Senate Committee on Regulated Industries received a total of 33 responses to this survey. Of the 29 respondents providing feedback regarding the public records exemption in s. 119.0713(5), F.S., all responded that the subsection be reenacted “as is.” Similarly, of the 23 respondents providing feedback regarding public meetings exemption in s. 286.0113(3), F.S., all responded that the subsection be reenacted “as is.”

Legislative staff requested that respondents consider the public records exemption for cybersecurity in s. 119.0725, F.S., to determine if there is any overlap between those provisions and the exemption under review. Some respondents noted that s. 119.0725, F.S., did have some overlap with s. 119.0713(5), F.S.; however, those that gave such feedback noted that s. 119.0725, F.S., did not include the full breadth of the information protected by s. 119.0713, F.S. Further, many respondents noted that, unless several provisions of s. 119.0713(5), F.S., were imported verbatim into s. 119.0725, F.S., there would be a loss in information currently protected if s. 119.0713(5), F.S., were not to be reenacted.

Respondents also noted some additional areas of potential overlap of protection with s. 119.0713(5), F.S., which include:

- Sections 815.045 and 119.0715, F.S., which prohibit public agencies from releasing trade secret information and create a public records exemption for such trade secret information.
- Federal rule 18 C.F.R. s. 388.113(c)(2), which protects Critical Energy Infrastructure Information (CEII) submitted to or generated by the Federal Energy Regulatory Commission.
- Sections 366.093 and 367.156, F.S., which provide processes to protect confidential proprietary business information provided to the PSC from public disclosure.
- Section 119.0713(3), F.S., which provides a public records exemption for any data, record, or document used directly or solely by a municipally-owned utility to prepare and submit a bid relative to the sale, distribution, or use of any service, commodity, or tangible personal property to any customer or prospective customer.
- Section 119.0713(4), F.S., which provides a public records exemption for proprietary confidential business information, held by a municipal electric utility that is subject to this chapter in conjunction with a due diligence review of an electric project as defined in s. 163.01(3)(d), F.S., or a project to improve the delivery, cost, or diversification of fuel or renewable energy resources.

However, the respondents appear to believe these complement the exemptions under review.

III. Effect of Proposed Changes:

Section 1 amends s. 119.0713(5), F.S., to remove the scheduled repeal date of the public record exemption for the following information held by a utility owned or operated by a unit of local government (municipal utility):

- Information related to the security of the technology, processes, or practices that are designed to protect the utility's networks, computers, programs, and data from attack, damage, or unauthorized access, which information, if disclosed, would facilitate the alteration, disclosure, or destruction of such data or information technology resources.
- Information related to the security of existing or proposed information technology systems or industrial control technology systems, which, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.
- Customer meter-derived data and billing information in increments less than one billing cycle.

Thus, the public record exemption established in s. 119.0713(5), F.S., will continue. However, the public records exemptions relating to cybersecurity will be subject to a repeal date of October 2, 2027. This will correspond with the repeal date for the review and repeal date for the general cybersecurity exemptions under chapter 119.

Section 2 amends s. 286.0113(3), F.S., to remove the scheduled repeal date of the exemption from public meeting requirements for any portion of a meeting that would reveal the protected information specified in Section 1. Recordings or transcripts of the exempt portions of meetings will also remain protected pursuant to that subsection. These exemptions will be subject to a repeal date of October 1, 2027.

Section 3 provides that the bill is effective October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

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

Public Necessity Statement

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

Breadth of Exemption

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

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 119.0713 and 286.0113 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS by Governmental Oversight and Accountability on January 22, 2024:

The CS subjects the public records and public meetings exemptions relating to cybersecurity information to a repeal date of October 2, 2027. This will correspond with the repeal date for the review and repeal date for the general cybersecurity exemptions under chapter 119.

B. Amendments:

None.

By the Committees on Governmental Oversight and Accountability;
and Regulated Industries

585-02356-24

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A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 119.0713, F.S., which provides exemptions from public record requirements for information related to the security of certain technology, processes, practices, information technology systems, industrial control technology systems, and customer meter-derived data and billing information held by a utility owned or operated by a unit of local government; extending the date of scheduled repeal of public record exemptions relating to the security of certain technology, processes, practices, information technology systems, and industrial control technology systems; removing the scheduled repeal of the public record exemption related to customer meter-derived data and billing information; amending s. 286.0113, F.S., which provides an exemption from public meeting requirements for meetings held by a utility owned or operated by a unit of local government which would reveal certain information; extending the date of scheduled repeal of the exemption; providing an effective date.

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

Section 1. Subsection (5) of section 119.0713, Florida Statutes, is amended to read:
119.0713 Local government agency exemptions from inspection or copying of public records.—

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

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(5) (a) The following information held by a utility owned or operated by a unit of local government is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Information related to the security of the technology, processes, or practices of a utility owned or operated by a unit of local government that are designed to protect the utility's networks, computers, programs, and data from attack, damage, or unauthorized access, which information, if disclosed, would facilitate the alteration, disclosure, or destruction of such data or information technology resources.

2. Information related to the security of existing or proposed information technology systems or industrial control technology systems of a utility owned or operated by a unit of local government, which, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.

3. Customer meter-derived data and billing information in increments less than one billing cycle.

(b) This exemption applies to such information held by a utility owned or operated by a unit of local government before, on, or after the effective date of this exemption.

(c) Subparagraphs (a)1. and 2. are ~~This subsection is~~ subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2027 ~~2024~~, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Subsection (3) of section 286.0113, Florida Statutes, is amended to read:

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286.0113 General exemptions from public meetings.—

(3) (a) That portion of a meeting held by a utility owned or operated by a unit of local government which would reveal information that is exempt under s. 119.0713(5) is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. All exempt portions of such a meeting must be recorded and transcribed. The recording and transcript of the meeting are exempt from disclosure under s. 119.07(1) and s. 24(a), Art. I of the State Constitution unless a court of competent jurisdiction, following an in camera review, determines that the meeting was not restricted to the discussion of data and information made exempt by this section. In the event of such a judicial determination, only the portion of the recording or transcript which reveals nonexempt data and information may be disclosed to a third party.

(b) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2027 ~~2024~~, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. This act shall take effect October 1, 2024.

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 Rules

BILL: CS/SB 7008

INTRODUCER: Governmental Oversight and Accountability Committee; and Regulated Industries Committee

SUBJECT: OGSR/Department of the Lottery

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Kraemer	Imhof		RI Submitted as Comm. Bill/Fav
1.	McVaney	McVaney	GO	Fav/CS
2.	Kraemer	Twogood	RC	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7008 saves from repeal the current public records exemption in s. 24.1051, F.S., making confidential and exempt from public inspection and copying requirements certain information held by the Florida Department of the Lottery (department). Specifically, the bill continues the exemption from public disclosure those records held by the department related to the operations and processes of the department. The exemptions are necessary to protect the security and integrity of lottery operations and to allow the department to participate in multistate lottery games. Information held by the department is designated as confidential and exempt but may be disclosed to other governmental entities in the performance of their duties.

The exemptions are subject to the Open Government Sunset Review Act (OGSR) and will stand repealed on October 2, 2024, unless reenacted by the Legislature. The bill removes the scheduled repeal of the exemption to continue the confidential and exempt status of the information. However, public records exemptions relating to the Lottery cybersecurity will be subject to a new repeal date of October 2, 2027. This will correspond with the repeal date for the review and repeal date for the general cybersecurity exemptions under chapter 119.

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

The bill takes effect October 1, 2024.

II. Present Situation:

Access to Public Records - Generally

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

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.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 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.⁵

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.”⁶

¹ FLA. CONST. art. I, s. 24(a).

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

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2022-2024).

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

⁵ 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.”

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

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

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.⁹ 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.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

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

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ The Act requires the repeal of

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. 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).

¹¹ *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).

¹² *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).

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

¹⁴ *Id.*

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

¹⁶ Section 119.15, F.S.

¹⁷ 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.

¹⁸ 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.

such exemption on October 2 of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

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.²⁰ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- 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;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ 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 again required.²⁵ 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.²⁶

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ 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?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

Department of the Lottery

In general, lotteries are illegal in Florida.²⁷ However, article X, section 15 of the State Constitution allows lotteries to be operated by the state. Section 24.102(2), F.S., provides the intent of the Legislature that:

- The net proceeds of lottery games shall be used to support improvements in public education;
- Lottery operations shall be undertaken as an entrepreneurial business enterprise; and
- The department shall be accountable through audits, financial disclosure, open meetings, and public records laws.

The department operates the Florida Lottery to maximize revenues “consonant with the dignity of the state and the welfare of its citizens”²⁸ for the benefit of public education.²⁹

Prior to 2019, s. 24.105(12), F.S., authorized the department to determine by rule the information relating to the operation of the lottery to be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, if necessary to the security and integrity of the lottery. Such information included trade secrets; security measures and reports; bid and contractual information that, if disclosed, would impair the department to contract for goods or services on favorable terms; and personnel information unrelated to compensation, duties, qualifications, or responsibilities. Confidential information was authorized to be released to other governmental entities as needed in connection with the performance of their duties, but the recipient was required to retain the confidentiality of the information provided.

Section 24.1051, F.S., enacted in 2019,³⁰ codified, clarified, and exempted the following information held by the department from inspection or copying of public records:

- Information that, if released, could harm the security or integrity of the department, including information:
 - Relating to the security of the department’s technologies, processes, and practices to protect networks, computers, data processing, software, data, and data systems from attack, damage, or unauthorized access;
 - Relating to security information and measures of the department, whether physical or virtual;
 - About lottery games, promotions, tickets, and ticket stocks, such as description, design, production, printing, packaging, shipping, delivery, storage, and validation processes; and
 - Concerning terminals, machines, and devices that issue tickets;
- Information required to be maintained as confidential in order for the department to participate in multistate lottery associations or games;
- Personal identifying information obtained by the department when processing background investigations of current or potential retailers or vendors; and

²⁷ See FLA. CONST. art. X, s. 7, and s. 849.09, F.S.

²⁸ See s. 24.104, F.S.

²⁹ See s. 24.121(2), F.S.

³⁰ See ch. 2019-41, Laws of Fla.

- Financial information about a vendor or lottery ticket retailer which is not publicly available and is provided for review of the entity's financial responsibility,³¹ provided that the entity marks such information as confidential. However, financial information related to any contract, agreement, or addendum with the department, including the amount of money paid, any payment structure or plan, expenditures, incentives, bonuses, fees, and penalties, is public record.

Penalties for the improper disclosure of lottery information that is designated as confidential and exempt are addressed in s. 24.1051(5), F.S. A person who, with intent to defraud or to provide a financial or other advantage to himself, herself, or another, knowingly and willfully discloses such confidential and exempt information, commits a felony of the first degree.³²

Cybersecurity Public Record and Public Meeting Exemptions

In 2022, the Legislature enacted s. 119.0725(3), F.S., to create a new public records exemption, applicable to all agencies,³³ for certain information relating to cybersecurity. Specifically, the following information is made confidential and exempt from public inspection and copying requirements:

- Coverage limits and deductible or self-insurance amounts of insurance or other risk mitigation coverages acquired for the protection of information technology systems, operational technology systems, or data of an agency.
- Information related to critical infrastructure.³⁴
- Cybersecurity incident information contained in certain reports.
- Network schematics, hardware and software configurations, or encryption information or information that identifies detection, investigation, or response practices for suspected or confirmed cybersecurity incidents, including suspected or confirmed breaches, if the disclosure of such information would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of:
 - Data or information, whether physical or virtual; or
 - Information technology resources, which include an agency's existing or proposed information technology systems.

Section 119.0725(3), F.S., also creates a public meeting exemption for any portion of a meeting that would reveal the information made confidential and exempt pursuant to s. 119.0725(2), F.S.; however, any portion of an exempt meeting must be recorded and transcribed. The recording and transcript are confidential and exempt from public record inspection and copying requirements.

³¹ See s. 24.111, F.S., relating to vendors that contract with the department, and s. 24.112, F.S., relating to lottery ticket retailers.

³² Section 775.082, F.S., provides a felony of the first degree is punishable by a term of imprisonment not to exceed thirty years. Section 775.083, F.S., provides a felony of the first degree is punishable by a fine not to exceed \$10,000.

³³ "Agency" means 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 purposes of ch. 119, F.S., 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. Section 119.011(2), F.S.

³⁴ "Critical infrastructure" means existing and proposed information technology and operation technology systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety. Section 119.0725(1)(b), F.S.

The exemptions codified in s. 119.0725, F.S., stand repealed on October 2, 2027.

Open Government Sunset Review Findings and Recommendations

Staff of the Senate Committee on Regulated Industries and the House of Representatives Ethics, Elections & Open Government Subcommittee met jointly with staff from the Department of the Lottery in August 2023 to discuss the public records exemption under review. The department staff noted the continued necessity for the exemption and recommended that the exemption be reenacted without any changes.

Legislative staff requested the department staff review the public records exemption for cybersecurity in s. 119.0725, F.S., to determine if there was any overlap between those provisions and the exemption under review. The department staff indicated that the exemption in s. 119.0725, F.S., covers different categories of information and that the exemption in s. 24.1051, F.S., be saved from repeal.³⁵

III. Effect of Proposed Changes:

The bill saves from repeal the public records exemption in s. 24.1051, F.S., for certain information held by the Florida Department of the Lottery (department). Specifically, the bill continues the exemption for the following:

- Information that, if released, could harm the security or integrity of the department, including:
 - Information relating to the security of the department's technologies, processes, and practices designed to protect networks, computers, data processing software, data, and data systems from attack, damage, or unauthorized access.
 - Security information or information that would reveal security measures of the department, whether physical or virtual.
 - Information about lottery games, promotions, tickets, and ticket stock, including information concerning the description, design, production, printing, packaging, shipping, delivery, storage, and validation of such games, promotions, tickets, and stock.
 - Information concerning terminals, machines, and devices that issue tickets.
- Information that must be maintained as confidential in order for the department to participate in a multistate lottery association or game.
- Personal identifying information obtained by the department when processing background investigations of current or potential retailers or vendors.
- Financial information about an entity which is not publicly available and is provided to the department in connection with its review of the financial responsibility of the entity pursuant to s. 24.111 or s. 24.112, provided that the entity marks such information as confidential. However, financial information related to any contract or agreement, or an addendum thereto, with the department, including the amount of money paid, any payment structure or plan, expenditures, incentives, bonuses, fees, and penalties, shall be public record.

³⁵ Memorandum from Reginald D. Dixon, Chief of Staff, Florida Lottery to Patrick L. "Booter" Imhof, Staff Director, Senate Committee on Regulated Industries, September 26, 2023 (on file with the Senate Regulated Industries Committee).

The exemptions are necessary to protect the security and integrity of lottery operations, and to allow the department to participate in multistate lottery games. Information held by the department is designated as confidential and exempt but may be disclosed under certain circumstances.

The exemptions are subject to the Open Government Sunset Review Act (OGSR) and will stand repealed on October 2, 2024, unless reviewed and reenacted by the Legislature. The bill removes the scheduled repeal of the exemption to continue the confidential and exempt status of the information. The public records exemptions relating to the Lottery cybersecurity will be subject to a new repeal date of October 2, 2027. This will correspond with the repeal date for the review and repeal date for the general cybersecurity exemptions under chapter 119.

The bill takes effect October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues current open meeting exemption and a public records exemption beyond the current dates of repeal. The bill does not create or expand an exemption. Thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current a public records exemption without expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purposes of the law are to protect information held by the Department of the Lottery, protect the security and integrity of Lottery operations, and to allow the Lottery to participate in the multistate lottery games. The exemptions do not appear to be broader than necessary to accomplish the purposes of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 24.1051 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Governmental Oversight and Accountability on January 22, 2024:

The CS subjects the public records exemptions relating to the Lottery cybersecurity to a new repeal date of October 2, 2027. This will correspond with the repeal date for the review and repeal date for the general cybersecurity exemptions under chapter 119.

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 the Committees on Governmental Oversight and Accountability;
and Regulated Industries

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A bill to be entitled

An act relating to review under the Open Government Sunset Review Act; amending s. 24.1051, F.S., relating to an exemption from public records requirements for certain information held by the Department of the Lottery, information about lottery games, personal identifying information of retailers and vendors for purposes of background checks, and certain financial information held by the department; providing for future legislative review and repeal of an exemption from public records requirements for information relating to the security of certain technologies, processes, and practices; removing the scheduled repeal of an exemption; providing an effective date.

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

Section 1. Subsection (1) of section 24.1051, Florida Statutes, is amended to read:

24.1051 Exemptions from inspection or copying of public records.—

(1) (a) The following information held by the department is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Information that, if released, could harm the security or integrity of the department, including:

a. Information relating to the security of the department's technologies, processes, and practices designed to protect networks, computers, data processing software, data, and data

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systems from attack, damage, or unauthorized access. This sub-paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2027, unless reviewed and saved from repeal through reenactment by the Legislature.

b. Security information or information that would reveal security measures of the department, whether physical or virtual.

c. Information about lottery games, promotions, tickets, and ticket stock, including information concerning the description, design, production, printing, packaging, shipping, delivery, storage, and validation of such games, promotions, tickets, and stock.

d. Information concerning terminals, machines, and devices that issue tickets.

2. Information that must be maintained as confidential in order for the department to participate in a multistate lottery association or game.

3. Personal identifying information obtained by the department when processing background investigations of current or potential retailers or vendors.

4. Financial information about an entity which is not publicly available and is provided to the department in connection with its review of the financial responsibility of the entity pursuant to s. 24.111 or s. 24.112, provided that the entity marks such information as confidential. However, financial information related to any contract or agreement, or an addendum thereto, with the department, including the amount of money paid, any payment structure or plan, expenditures,

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incentives, bonuses, fees, and penalties, shall be public record.

(b) This exemption is remedial in nature, and it is the intent of the Legislature that this exemption apply to information held by the department before, on, or after May 14, 2019.

(c) Information made confidential and exempt under this subsection may be released to other governmental entities as needed in connection with the performance of their duties. The receiving governmental entity shall maintain the confidential and exempt status of such information.

~~(d) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2024.

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 Rules

BILL: SB 7022

INTRODUCER: Education Postsecondary Committee

SUBJECT: OGSR/Campus Emergency Response

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Brick	Bouck		HE Submitted as Comm. Bill/Fav
1.	McVaney	McVaney	GO	Favorable
2.	Brick	Twogood	RC	Favorable

I. Summary:

SB 7022 saves from repeal the public records exemption making exempt from public inspection and copying requirements any portion of a campus emergency response held by a public postsecondary institution, a state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management. Likewise, the bill saves from repeal the exemption to public meetings requirements for that portion of a public meeting which would reveal information related to the campus emergency response.

The current exemptions from public records disclosure requirements and public meetings requirements stand repealed on October 2, 2024, unless reenacted by the Legislature. This bill removes the scheduled repeal of the exemptions, thereby continuing the exempt status of the information and portions of the meetings.

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

The bill takes effect October 1, 2024.

II. Present Situation:

Access to Public Records – Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three

¹ FLA. CONST., art. I, s. 24(a).

branches of state government, local governmental entities, and any person acting on behalf of the government.²

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 the statutory provisions are adopted in the rules of each house of the Legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

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

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

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

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.¹⁰ The exemption must state

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate* (2022-2024), and Rule 14.1, *Rules of the Florida House of Representatives* (2022-2024).

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

⁵ 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.”

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

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

⁸ Section 119.07(1)(a), F.S.

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

¹⁰ FLA. CONST., art. I, s. 24(c).

with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

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

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

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the Act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2 of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

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.²⁰ An exemption serves an identifiable public 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;²¹

¹¹ *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).

¹² *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).

¹³ *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).

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

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

¹⁶ Section 119.15, F.S.

¹⁷ 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.

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

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

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

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

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

Comprehensive Emergency Management Plans

The Florida Division of Emergency Management (FDEM) is required to prepare a state comprehensive emergency management plan (CEMP). The CEMP serves as the master operations document for Florida and is the framework through which the state handles emergencies and disasters.²⁷

In addition, each state agency and facility, such as a prison, office building, or university, is required to have a disaster preparedness plan that is coordinated with the applicable local emergency management agency and approved by the FDEM.²⁸ This plan is known as a continuity of operations plan (COOP).²⁹ A COOP must outline a comprehensive and effective program to ensure the continuity of essential state functions under all circumstances.³⁰

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ 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?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ Section 252.35(2), F.S.

²⁸ Section 252.365(3), F.S.

²⁹ Florida Division of Emergency Management, *2022 Comprehensive Emergency Management Plan*, available at <https://portal.floridadisaster.org/preparedness/External/CEMP/2022%20State%20CEMP%20Base%20Plan.pdf>, at 26-27, (last visited Jan. 19, 2024).

³⁰ Section 252.365(3)(a), F.S.

Campus Emergency Response

The exemptions from public records disclosure requirements and public meetings requirements for the campus emergency response of a public postsecondary educational institution were enacted in 2017.³¹ The law provides a public records exemption from public inspection and copying for any portion of a campus emergency response held by a public postsecondary educational institution, state or local law enforcement agency, county or municipal emergency management agency, the Executive Office of the Governor (EOG), the Department of Education (DOE), the Board of Governors (BOG), or the Division of Emergency Management (DEM).³² The law also provides a public meetings exemption for any portion of a public meeting which would reveal information related to a campus emergency response.³³

A campus emergency response is a public postsecondary educational institution's response to or plan for responding to an act of terrorism³⁴ or other public safety crisis or emergency.³⁵ The law provides that a campus emergency response includes information relating to:³⁶

- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof.
- Threat assessments conducted by any agency or private entity.
- Threat response plans.
- Emergency evacuation plans.
- Sheltering arrangements.
- Manuals for security personnel, emergency equipment, or security training.
- Security systems or plans.
- Vulnerability analyses.
- Postdisaster activities, including provisions for emergency power, communications, food, and water.
- Postdisaster transportation.
- Supplies, including drug caches.
- Identification of staff involved in emergency preparedness, response, and recovery activities.
- Emergency equipment.
- Individual identification of affected or at-risk students, faculty, and staff before, during, or after an emergency; the transfer of records concerning affected or at-risk students, faculty, and staff; and methods of responding to family inquiries.

A public postsecondary educational institution, state or local law enforcement agency, county or municipal emergency management agency, EOG, DOE, BOG, or DEM is authorized to disclose information made exempt to another governmental entity if disclosure is necessary for the receiving entity to perform its duties or responsibilities, or upon a showing of good cause before

³¹ Chapter 2017-184, Laws of Fla.

³² Section 1004.0962(2), F.S.

³³ Section 1004.0962(5), F.S.

³⁴ "Terrorism" means an activity that involves a "violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States;" or a violation of s. 815.06, F.S., intended to "intimidate, injure, or coerce a civilian population; influence the policy of a government by intimidation or coercion; or affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy." Section 775.30(1), F.S.

³⁵ Section 1004.0962(1), F.S.

³⁶ *Id.*

a court of competent jurisdiction.³⁷ This authorization appears unnecessary, however, because if records are exempt from the Public Records Act but not confidential, the exemption does not prohibit the showing of the information.³⁸

In 2022, the Legislature reviewed the public record and public meeting exemptions and extended the repeal date from October 2, 2022, to October 2, 2024. The public record exemption was narrowed to exempt only the identification of staff involved in emergency preparedness, response, and recovery activities, instead of staffing information generally. The public record exemption was also narrowed to provide that the individual identification of students, faculty, and staff applies only to those persons affected or at risk before, during, or after an emergency. Lastly, the provision of the exemption protecting the transfer of records was narrowed to apply to only affected or at-risk students, faculty, and staff.³⁹

The exemptions from public records disclosure requirements and public meetings requirements are subject to the requirements of the Act and are repealed on October 2, 2024, unless reviewed and reenacted by the Legislature.⁴⁰

Chapter 2017-184, Laws of Florida, which established the exemption from public records disclosure requirements for specified portions of campus emergency responses for public postsecondary educational institutions, included a public necessity statement that provided a rationale for the exemption. This rationale recognized that campus emergency responses made publicly available for inspection or copying could be used to hamper or disable a public postsecondary education institution's response to an act of terrorism or other crisis or emergency. Furthermore, providing terrorists and other criminals the capabilities to plot, plan, and coordinate complicated acts of terror and violence on university and college campuses would lead to an increase in the number of Floridians subjected to fatal injury if a public postsecondary educational institution's response to these events were hampered or disabled.⁴¹

Open Government Sunset Review Findings and Recommendations

In August 2023, the Senate Education Postsecondary Committee and the House Ethics, Elections & Open Government Subcommittee jointly sent an Open Government Sunset Review questionnaire to the 12 institutions of the State University System and the 28 institutions of the Florida College System. The survey sought information regarding the need to maintain the exemption related to a campus emergency response of a public postsecondary institution for responding to an act of terrorism or other public safety crisis or emergency.

All of the respondents recommended that the exemption remain in effect to ensure institutional security in the case of an emergency and to protect the safety of institutional constituents.

³⁷ Section 1004.0962(4), F.S.

³⁸ *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla.1991), appeal after remand, 619 So.2d 983 (Fla. 5th DCA 1993). *See also* s. 119.011(8), F.S.

³⁹ Chapter 2022-133, Laws of Fla.

⁴⁰ Section 1004.0962(6), F.S.

⁴¹ Chapter 2017-184, s. 2, Laws of Fla.

III. Effect of Proposed Changes:

SB 7022 saves from repeal the current public records exemption making exempt from public inspection and copying requirements any portion of a campus emergency response held by a public postsecondary institution, a state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management. Likewise, the bill saves from repeal the current public meetings exemption relating to that portion of a public meeting which would reveal information related to a campus emergency response.

The bill also removes a superfluous provision of the exemption that authorizes entities to disclose the exempt information in specified circumstances, as entities are not prohibited under public records and meeting requirements from disclosing the information.

The bill takes effect October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records and public meetings exemption beyond its current date of repeal. The bill does not create or expand an exemption. Thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records and public meetings exemption without expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect portions of a public postsecondary educational institution's campus emergency response to protect the health and safety of students,

faculty, staff, and the public at large. The bill exempts only information relating to a public postsecondary educational institution's response to or plan for responding to an act of terrorism or other public safety crisis or emergency. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1004.0962 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 the Committee on Education Postsecondary

589-01992-24

20247022__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 1004.0962, F.S., which provides exemptions from public records and public meetings requirements for those portions of a campus emergency response which address the response of a public postsecondary educational institution to an act of terrorism or other public safety crisis or emergency; removing a provision allowing disclosure of certain information to certain entities; removing the scheduled repeal of the exemptions; providing an effective date.

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

Section 1. Subsections (4) and (6) of section 1004.0962, Florida Statutes, are amended to read:

1004.0962 Campus emergency response of a public postsecondary educational institution; public records exemption; public meetings exemption.—

~~(4) Information made exempt by this section may be disclosed;~~

~~(a) To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; or~~

~~(b) Upon a showing of good cause before a court of competent jurisdiction.~~

~~(6) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed~~

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

589-01992-24

20247022__

~~on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2024.

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



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 25, 2024

I respectfully request that **Senate Bill #7022**, relating to OGSR/Campus Emergency Response, be placed on the:

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

Erin K. Grall

Senator Erin Grall
Florida Senate, District 29

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 Rules

BILL: SB 7036

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: OGSR/Identifying Information of Persons Reporting Child Abuse, Abandonment, or Neglect

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Rao</u>	<u>Tuszynski</u>		CF Submitted as Comm. Bill/Fav
1.	<u>Rao</u>	<u>Twogood</u>	<u>RC</u>	Favorable

I. Summary:

The Open Government Sunset Review Act requires the Legislature to review each public record exemption and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The Department of Children and Families (DCF) operates the Florida central abuse hotline (hotline), which accepts reports of child abuse, abandonment, or neglect 24 hours a day, seven days a week. Any person who knows or suspects that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare must report such information or suspicion to the hotline. Current law provides a public record exemption for the name of any person reporting child abuse, abandonment, or neglect, as well as other identifying information of such reporter.

SB 7036 saves from repeal the public record exemption concerning all identifying information of a person —other than a person's name, which is already protected by law— reporting child abuse, abandonment, or neglect.

The bill takes effect October 1, 2024.

II. Present Situation:

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR Act)¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It

¹ Section 119.15, F.S.

requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

The OGSR Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created, then a public necessity statement and a two-thirds vote for passage are not required.

Florida Central Abuse Hotline

The Department of Children and Families (DCF) operates the Florida central abuse hotline (hotline), which accepts reports 24 hours a day, seven days a week of known or suspected child abuse, abandonment, or neglect.⁵ Reports may be made to the hotline in writing, through a call to the statewide toll-free number, or through electronic reporting.⁶

Current law requires any person to immediately report to the hotline if the person knows or suspects that a child:⁷

- Has been abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare;
- Is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care;
- Has been abused by an adult other than a parent, legal custodian, caregiver or other person responsible for the child's welfare; or
- Is the victim of sexual abuse or juvenile sexual abuse.⁸

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Article I, s. 24(c), FLA. CONST.

⁵ Section 39.101(1)(a), F.S.

⁶ Sections 39.201(1)(a) and 39.101(1)(a), F.S.

⁷ Sections 39.201(1)(a)1 F.S., and 39.201(1)(a)2., F.S.

⁸ "Juvenile sexual abuse" means any sexual behavior by a child which occurs without consent, without equality, or as a result of coercion. Section 39.01(38), F.S. For definitions of "coercion," "consent," and "equality," see s. 39.01(38), F.S.

Generally, reports from the general public to the hotline may be made anonymously;⁹ however, certain reporters must provide their names to the hotline because of their occupation.¹⁰ These occupational categories include:

- Physicians, osteopathic physicians, medical examiners, chiropractic physicians, nurses, hospital personnel engaged in the admission, examination, care, or treatment of persons or any other health care or mental health professional.
- Practitioners who rely solely on spiritual means for healing.
- School teachers or other school officials or personnel.
- Social workers, day care center workers, or other professional child care, foster care, residential, or institutional workers.
- Law enforcement officers.
- Judges.
- Animal control officers.¹¹

If a reporter provides his or her name, the name is entered into the record of the report but is confidential and exempt from public record requirements and may not be disclosed except as specifically authorized by law.¹²

DCF uses electronic equipment that automatically provides the telephone number or the Internet protocol address from which the report is received.¹³ This information becomes part of the report but is confidential and exempt from public record requirements.¹⁴

Failure to report known or suspected child abuse, abandonment, or neglect is a crime.¹⁵ A person who knowingly and willfully fails to make a report of abuse, abandonment, or neglect, or who knowingly and willfully prevents another person from making a report, is guilty of a third-degree felony.¹⁶ Any person who makes a child abuse, abandonment, or neglect report in good faith is immune from criminal or civil liability that might otherwise result from reporting.¹⁷

Child Protective Investigations

Once the hotline receives a report, if the allegations of the report meet the statutory criteria for child abuse, abandonment, or neglect, the report must be accepted as a child protective investigation.¹⁸ If the allegations meet such criteria, an investigation must commence either

⁹ Section 39.201(1)(b)1., F.S.

¹⁰ Section 39.201(1)(b)2., F.S.

¹¹ *Id.*

¹² Sections 39.201(1)(c) and 39.202(1), F.S.

¹³ Section 39.101(3)(b)1. and 2., F.S.

¹⁴ Section 39.101(3)(b)3., F.S.

¹⁵ Section 39.205(1), F.S.

¹⁶ A third-degree felony is punishable by up to five years in prison, or a fine of up to \$5,000. See s. 775.082(3)(e) and 775.083(1)(c), F.S.

¹⁷ Section 39.203(1)(a), F.S.

¹⁸ Section 39.201(4)(a), F.S.

immediately or within 24 hours after the report is received, depending on the nature of the allegation.¹⁹ Such investigations must be performed by DCF or its agent.²⁰

The child protective investigation assesses the safety and perceived needs of the child and family.²¹ It includes a face-to-face interview with the child, other siblings, parents, and other adults in the household, as well as an onsite assessment of the child's residence.²² Based upon the information received by the hotline, interviews with each family member, and a review of the family's history, the investigator must determine which collateral sources, including neighbors, teachers, friends, and professional sources, are likely to have relevant and reliable information about the child's situation.²³ The investigator interviews the collateral sources and, under DCF operating procedure, must protect their identities to the extent possible when discussing information shared by collateral sources with the child's family.²⁴

Confidentiality of Records

Current law provides that all records concerning child abuse, abandonment, or neglect, including hotline reports and all records generated as a result of such reports, are confidential and exempt²⁵ from public record requirements.²⁶ Access to records concerning child abuse, abandonment, or neglect —*excluding the name, or other identifying information of the reporter*— is granted to:

- Certain employees, authorized agents, or contract providers of DCF, the Department of Juvenile Justice, the Department of Health, the Agency for Persons with Disabilities, the Agency for Health Care Administration, the Department of Education, and county agencies responsible for carrying out specific duties related to these agencies, and agencies with comparable jurisdictions in other states.
- Criminal justice agencies and the state attorney of the judicial circuit where the child resides or the alleged abuse or neglect occurred.
- The parent or legal custodian of any child who is alleged to have been abused, abandoned, or neglected, and the child and their attorneys.
- Any person alleged to have caused the abuse, abandonment, or neglect of a child. If that person is not a parent, the record will be limited to information about the protective investigation and will not include any information about the subsequent dependency proceedings.

¹⁹ Section 39.101(2), F.S.

²⁰ Section 39.301(8), F.S.

²¹ Section 39.301(7), F.S.

²² *Id.*

²³ Department of Children and Families Operating Procedure CFOP 170-5, Interviewing Collateral Contacts, (Sept. 20, 2023), <https://www.myflfamilies.com/sites/default/files/2023-09/CFOP%20170-05%20Child%20Protective%20Investigations.pdf> (last visited Jan. 9, 2023)

²⁴ *Id.*

²⁵ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Op. Att'y Gen. Fla. 04- 09 (2004).

²⁶ Section 39.202(1), F.S.

- A court, if access to such records is necessary for the determination of an issue before it, and a grand jury, if access is necessary for its official business.
- Any appropriate official of DCF, the Agency for Health Care Administration, or the Agency for Persons with Disabilities who is responsible for administering or supervising the agency's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect; for taking administrative action concerning agency employees who are alleged to have committed such acts; or for employing and continuing employment of agency personnel.
- Any person authorized by DCF who uses information of child abuse, abandonment, or neglect for research, statistical, or audit purposes. Information identifying the subjects of such records or information must be treated as confidential by the researcher and may not be released in any form.
- The Division of Administrative Hearings for purposes of any administrative challenge.
- An official of a Florida advocacy council investigating a report of known or suspected child abuse, abandonment, or neglect.
- An official of the Auditor General or the Office of Program Policy Analysis and Government Accountability for the purpose of conducting audits or examinations pursuant to law.
- The Guardian ad Litem for the child.
- The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed under s. 447.207, F.S.
- Employees or agents of the Department of Revenue responsible for child support enforcement activities.
- Any person in the event that the death of a child is the result of abuse, abandonment, or neglect.
- An employee of a local school district who is the designated liaison between the school district and DCF and the principal of a public school, private school, or charter school where the child is a student.
- An employee or agent of the Department of Education who is responsible for the investigation or prosecution of misconduct by a certified educator.
- Staff of a children's advocacy center that is established and operated under s. 39.3035, F.S.
- A physician, psychologist, or mental health professional licensed in Florida and engaged in the care or treatment of the child.
- Persons with whom DCF is seeking to place the child or to whom placement has been granted, including foster parents, the designee of a licensed child-caring agency as defined in s. 39.523, an approved relative or nonrelative with whom a child is placed, preadoptive parents, adoptive parents, or an adoptive entity acting on behalf of preadoptive or adoptive parents.

A reporter may, however, provide written consent to release his or her name or other identifying information to these entities.²⁷ A reporter's name or other identifying information may be released without that person's written consent to DCF employees responsible for child protective

²⁷ Section 39.202(5), F.S.

services, the hotline, law enforcement, child protection teams,²⁸ or the appropriate state attorney.²⁹

An individual who knowingly or willfully discloses any confidential information contained in the hotline or in the records of any child abuse, abandonment, or neglect case to anyone other than an authorized person commits a second-degree misdemeanor.³⁰

Public Record Exemption under Review

In 2019, the Legislature created the public record exemption for other identifying information (as the name was already protected) with respect to any person reporting child abuse, abandonment, or neglect.³¹ Such information is confidential and exempt³² from public record requirements.³³

The 2019 public necessity statement³⁴ noted that prior to the existence of the public record exemption under review, the statute only protected the name of the reporter.³⁵ The public necessity statement asserted that:

By protecting only the name of the reporter of child abuse, abandonment, or neglect, the identity of the individual may be discerned by other identifying information, thus rendering the protection ineffective. Providing robust protections to reporters of child abuse, abandonment, or neglect improves the mandatory reporting scheme by ensuring that instances of suspected child abuse, abandonment, or neglect are reported to the Department of Children and Families. Therefore, it is necessary that individuals who are considered reporters under the current statutory scheme have their identifying information protected.³⁶

Pursuant to the OGSR Act, the exemption will repeal on October 2, 2024, unless reenacted by the Legislature.³⁷ If the expansion of the exemption to include other identifying information with respect to any person reporting child abuse, abandonment, or neglect is not reenacted by the Legislature, the public record exemption will revert back to protecting only the name of such reporter.³⁸

²⁸ “Child Protection Team” means a team of professionals established by the Department of Health to receive referrals from the protective investigators and protective supervision staff of DCF and to provide specialized and supportive services to the program in processing child abuse, abandonment, or neglect cases. Child protection teams must provide consultation to other programs of DCF and other persons regarding child abuse, abandonment, or neglect cases. Section 39.01(12), F.S.

²⁹ Section 39.202(5), F.S.

³⁰ Section 39.205(6), F.S. A second-degree misdemeanor is punishable by up to 60 days imprisonment, or a fine of up to \$500. See ss. 775.082(4)(b) and 775.083(1)(e), F.S.

³¹ Chapter 2019-49, Laws of Fla., codified as s. 39.202(2) and (5), F.S.

³² *Supra* note 25.

³³ Section 39.202(1), F.S.

³⁴ Article I, s. 24(c), FLA. CONST., requires each public record exemption to “state with specificity the public necessity justifying the exemption.”

³⁵ Chapter 2019-49, Laws of Fla.

³⁶ Chapter 2019-49, s. 2, Laws of Fla.

³⁷ Section 39.202(10), F.S.

³⁸ Chapter 2019-49, s. 9, Laws of Fla., codified as s. 39.202(10), F.S.

During the 2023 interim, House and Senate staff met with staff from DCF. DCF stated that the agency has not had any issues interpreting or applying the exemption and has not been a party to any litigation regarding the agency's interpretation of the exemption. DCF recommended the exemption be reenacted as is.

III. Effect of Proposed Changes:

Section 1 of the bill removes the scheduled repeal of the exemption, thereby maintaining the public record exemption for certain identifying information of a reporter to the hotline held by an agency.

Section 2 of the bill provides an effective date of October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records and public meetings exemption beyond its current date of repeal. The bill does not create or expand an exemption. Thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records and public meetings exemption without expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

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

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantively amends s. 39.202, 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.

By the Committee on Children, Families, and Elder Affairs

586-02178-24

20247036__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 39.202, F.S., which provides a public records exemption for identifying information of persons reporting child abuse, abandonment, or neglect; abrogating the scheduled repeal of the exemption and the reversion of specified statutory text; providing an effective date.

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

Section 1. Section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect; exception.—

(1) In order to protect the rights of the child and the child's parents or other persons responsible for the child's welfare, all records held by the department concerning reports of child abandonment, abuse, or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed except as specifically authorized by this chapter. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this section.

(2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which shall be released only as provided in subsection (5), shall be granted only to the

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following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, the Agency for Persons with Disabilities, the Agency for Health Care Administration, the Department of Education, or county agencies responsible for carrying out:

1. Child or adult protective investigations;
2. Ongoing child or adult protective services;
3. Early intervention and prevention services;
4. Healthy Start services;

5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapters 393 and 394, family day care homes, providers who receive school readiness funding under part VI of chapter 1002, or other homes used to provide for the care and welfare of children;

6. Employment screening for caregivers in residential group homes and facilities licensed under chapters 393, 394, and 409; or

7. Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to chapters 984 and 985.

(b) Criminal justice agencies of appropriate jurisdiction.

(c) The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

(d) The parent or legal custodian of any child who is

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alleged to have been abused, abandoned, or neglected, and the child, and their attorneys, including any attorney representing a child in civil or criminal proceedings. This access shall be made available no later than 60 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(e) Any person alleged in the report as having caused the abuse, abandonment, or neglect of a child. This access shall be made available no later than 60 days after the department receives the initial report of abuse, abandonment, or neglect and, when the alleged perpetrator is not a parent, shall be limited to information involving the protective investigation only and shall not include any information relating to subsequent dependency proceedings. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(f) A court upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

(g) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(h) Any appropriate official of the department, the Agency for Health Care Administration, or the Agency for Persons with Disabilities who is responsible for:

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1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult, when carrying out his or her official function;

2. Taking appropriate administrative action concerning an employee of the department or the agency who is alleged to have perpetrated child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult; or

3. Employing and continuing employment of personnel of the department or the agency.

(i) Any person authorized by the department who is engaged in the use of such records or information for bona fide research, statistical, or audit purposes. Such individual or entity shall enter into a privacy and security agreement with the department and shall comply with all laws and rules governing the use of such records and information for research and statistical purposes. Information identifying the subjects of such records or information shall be treated as confidential by the researcher and shall not be released in any form.

(j) The Division of Administrative Hearings for purposes of any administrative challenge.

(k) Any appropriate official of a Florida advocacy council investigating a report of known or suspected child abuse, abandonment, or neglect; the Auditor General or the Office of Program Policy Analysis and Government Accountability for the purpose of conducting audits or examinations pursuant to law; or the guardian ad litem for the child.

(l) Employees or agents of an agency of another state that

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

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117 has comparable jurisdiction to the jurisdiction described in
118 paragraph (a).

119 (m) The Public Employees Relations Commission for the sole
120 purpose of obtaining evidence for appeals filed pursuant to s.
121 447.207. Records may be released only after deletion of all
122 information which specifically identifies persons other than the
123 employee.

124 (n) Employees or agents of the Department of Revenue
125 responsible for child support enforcement activities.

126 (o) Any person in the event of the death of a child
127 determined to be a result of abuse, abandonment, or neglect.
128 Information identifying the person reporting abuse, abandonment,
129 or neglect shall not be released. Any information otherwise made
130 confidential or exempt by law shall not be released pursuant to
131 this paragraph.

132 (p) An employee of the local school district who is
133 designated as a liaison between the school district and the
134 department pursuant to an interagency agreement required under
135 s. 39.0016 and the principal of a public school, private school,
136 or charter school where the child is a student. Information
137 contained in the records which the liaison or the principal
138 determines are necessary for a school employee to effectively
139 provide a student with educational services may be released to
140 that employee.

141 (q) An employee or agent of the Department of Education who
142 is responsible for the investigation or prosecution of
143 misconduct by a certified educator.

144 (r) Staff of a children's advocacy center that is
145 established and operated under s. 39.3035.

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146 (s) A physician licensed under chapter 458 or chapter 459,
147 a psychologist licensed under chapter 490, or a mental health
148 professional licensed under chapter 491 engaged in the care or
149 treatment of the child.

150 (t) Persons with whom the department is seeking to place
151 the child or to whom placement has been granted, including
152 foster parents for whom an approved home study has been
153 conducted, the designee of a licensed child-caring agency as
154 defined in s. 39.01(41), an approved relative or nonrelative
155 with whom a child is placed pursuant to s. 39.402, preadoptive
156 parents for whom a favorable preliminary adoptive home study has
157 been conducted, adoptive parents, or an adoption entity acting
158 on behalf of preadoptive or adoptive parents.

159 (3) The department may release to professional persons such
160 information as is necessary for the diagnosis and treatment of
161 the child or the person perpetrating the abuse or neglect.

162 (4) Notwithstanding any other provision of law, when a
163 child under investigation or supervision of the department or
164 its contracted service providers is determined to be missing,
165 the following shall apply:

166 (a) The department may release the following information to
167 the public when it believes the release of the information is
168 likely to assist efforts in locating the child or to promote the
169 safety or well-being of the child:

- 170 1. The name of the child and the child's date of birth;
- 171 2. A physical description of the child, including at a
172 minimum the height, weight, hair color, eye color, gender, and
173 any identifying physical characteristics of the child; and
- 174 3. A photograph of the child.

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(b) With the concurrence of the law enforcement agency primarily responsible for investigating the incident, the department may release any additional information it believes likely to assist efforts in locating the child or to promote the safety or well-being of the child.

(c) The law enforcement agency primarily responsible for investigating the incident may release any information received from the department regarding the investigation, if it believes the release of the information is likely to assist efforts in locating the child or to promote the safety or well-being of the child.

The good faith publication or release of this information by the department, a law enforcement agency, or any recipient of the information as specifically authorized by this subsection shall not subject the person, agency or entity releasing the information to any civil or criminal penalty. This subsection does not authorize the release of the name of the reporter, which may be released only as provided in subsection (5).

(5) The department may not release the name of, or other identifying information with respect to, any person reporting child abuse, abandonment, or neglect to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, the Child Protection Team, or the appropriate state attorney, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person

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made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. Any person specifically listed in s. 39.201(1) who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation. The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

(6) All records and reports of the Child Protection Team of the Department of Health are confidential and exempt from the provisions of ss. 119.07(1) and 456.057, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child, by order of the court, or to health plan payors, limited to that information used for insurance reimbursement purposes.

(7) Custodians of records made confidential and exempt under this section must grant access to such records within 7 business days after such records are requested by a legislative committee under s. 11.143, if requested within that timeframe.

(8) The department shall make and keep reports and records of all cases under this chapter and shall preserve the records pertaining to a child and family until the child who is the subject of the record is 30 years of age, and may then destroy the records. Within 90 days after the child leaves the department's custody, the department shall give a notice to the person having legal custody of the child, or to the young adult

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233 who was in the department's custody, which specifies how the
234 records may be obtained.

235 (9) A person who knowingly or willfully makes public or
236 discloses to any unauthorized person any confidential
237 information contained in the central abuse hotline is subject to
238 the penalty provisions of s. 39.205. This notice shall be
239 prominently displayed on the first sheet of any documents
240 released pursuant to this section.

241 ~~(10) The expansion of the public records exemption under~~
242 ~~this section to include other identifying information with~~
243 ~~respect to any person reporting child abuse, abandonment, or~~
244 ~~neglect is subject to the Open Government Sunset Review Act in~~
245 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~
246 ~~2024, unless reviewed and saved from repeal through reenactment~~
247 ~~by the Legislature. If the expansion of the exemption is not~~
248 ~~saved from repeal, this section shall revert to that in~~
249 ~~existence on June 30, 2019, except that any other amendments~~
250 ~~made to this section, other than by this act, are preserved and~~
251 ~~continue to operate to the extent that such amendments are not~~
252 ~~dependent upon the portions of text that expire under this~~
253 ~~subsection.~~

254 Section 2. This act shall take effect October 1, 2024.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 18, 2024

I respectfully request that **Senate Bill #7036**, relating to Identifying Information of Persons Reporting Child Abuse, Abandonment, or Neglect, be placed on the:

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

Senator Ileana Garcia
Florida Senate, District 36



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs, Space, and Domestic
Security, *Vice Chair*
Appropriations Committee on Criminal and Civil Justice
Banking and Insurance
Commerce and Tourism
Fiscal Policy
Rules
Transportation

JOINT COMMITTEES:

Joint Select Committee on Collective Bargaining

SENATOR VICTOR M. TORRES, JR.
25th District

A handwritten signature in blue ink, likely belonging to Senator Victor M. Torres, Jr., is written over the printed name and district information.

January 30, 2024

Senator Debbie Mayfield, Chair
Rules Committee
404 South Monroe Street
Tallahassee, Florida 32399

Dear Chair Mayfield,

Please accept this letter of excusal for my January 30th absence of the Rules Committee due to a previously scheduled event. Please let me know if you have any questions or concerns.

With respect,

A handwritten signature in black ink, likely belonging to Senator Victor M. Torres, Jr., is written below the "With respect," text.

Senator Torres – District 25

REPLY TO:

- ☐ 101 Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (850) 410-4817
- ☐ 214 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Rules Committee

Judge:

Started: 1/30/2024 3:30:44 PM

Ends: 1/30/2024 4:20:17 PM

Length: 00:49:34

3:30:43 PM Chair Mayfield calls the meeting to order
3:30:53 PM Roll Call
3:31:20 PM Quorum present
3:31:24 PM Pledge of Allegiance
3:31:43 PM Chair Mayfield
3:31:50 PM SB 158
3:32:19 PM Senator Polsky explains the bill
3:33:09 PM Senator Polsky waives close
3:33:11 PM Roll call
3:33:47 PM SB 158 Reported Favorably
3:33:54 PM CS/SB 224
3:34:05 PM Senator Wright explains the bill
3:35:15 PM Amendment #719536
3:35:17 PM Senator Wright explains the amendment
3:35:48 PM Senator Wright waives close on amendment
3:35:53 PM Amendment adopted
3:36:02 PM Debate
3:36:03 PM Senator Boyd
3:36:26 PM Senator Wright closes on the bill
3:36:31 PM Roll call
3:37:06 PM CS/CS/SB 224 Reported Favorably
3:37:16 PM SM 370 by Senator Wright
3:37:23 PM Senator Wright explains the memorial
3:39:16 PM Lindsay Pierce, Space Florida, waives
3:39:25 PM Senator Wright waives close
3:39:29 PM Roll call
3:40:10 PM SM 370 Reported Favorably
3:40:15 PM CS/SB 346
3:40:25 PM Senator Ingoglia explains the bill
3:41:01 PM Bill Helmich, VFW/American Legion, waives
3:41:10 PM Karen Murillo, AARP, waives
3:41:25 PM Senator Ingoglia waives close
3:41:27 PM Roll call
3:42:01 PM CS/SB 346 Reported Favorably
3:42:14 PM Senator Jones - Acknowledgment
3:42:51 PM SM 598
3:43:05 PM Senator Ingoglia explains the memorial
3:44:07 PM Debate
3:44:08 PM Senator Rouson
3:46:14 PM Senator Book
3:47:03 PM Senator Ingoglia waives close
3:47:07 PM Roll call
3:47:43 PM SM 598 Reported Favorably
3:47:52 PM CS/CS/SB 462
3:48:08 PM Senator Grall explains the bill
3:48:32 PM Senator Jones
3:48:36 PM Senator Grall
3:49:13 PM Morgan Parrish, Florida Court Clerks and Comptrollers, waives
3:49:29 PM Senator Grall waives close
3:49:31 PM Roll call
3:50:06 PM CS/CS/SB 462 Reported Favorably
3:50:15 PM CS/SB 474

3:50:22 PM	Senator Grall explains the bill
3:50:58 PM	Senator Grall waives close
3:51:03 PM	Roll call
3:51:32 PM	CS/SB 474 Reported Favorably
3:51:39 PM	SB 7022
3:51:52 PM	Senator Grall explains the bill
3:52:37 PM	Senator Grall waives close
3:52:39 PM	Roll call
3:53:14 PM	SB 7022 Reported Favorably
3:53:17 PM	SB 548
3:53:30 PM	Senator Collins explains the bill
3:54:20 PM	Lauren Buete, First Amendment Foundation, waives
3:54:30 PM	Bill Helmich, VFW/American Legion, waives
3:54:43 PM	Senator Collins waives close
3:54:46 PM	Roll call
3:55:21 PM	SB 548 Reported Favorably
3:55:23 PM	SB 712
3:55:39 PM	Senator Powell explains the bill
3:56:13 PM	Amendment #921980
3:56:24 PM	Senator Powell explains the amendment
3:56:58 PM	Senator Powell closes on amendment
3:57:05 PM	Amendment is adopted
3:57:15 PM	Courtney Mooney, Florida Association of Counties, waives
3:57:24 PM	Martha Edenfield, Charlotte County, waives
3:57:28 PM	Anita Berry, Palm Beach County, waives
3:57:33 PM	Lauren Buete, waives
3:57:51 PM	Senator Powell closes on the bill
3:58:33 PM	Roll call
3:59:09 PM	CS/SB 712 Reported Favorably
3:59:27 PM	SB 446 by Senator Simon
3:59:35 PM	Senator Simon explains the bill
4:01:34 PM	Dina Justice, The Arc of Florida, waives
4:01:42 PM	Karen Murillo - AARP, waives
4:01:46 PM	Laura Lee Minutello, Disability Rights FL, waives
4:02:05 PM	Senator Simon waives close
4:02:07 PM	Roll call
4:02:51 PM	SB 446 Reported Favorably
4:02:53 PM	CS/SB 580
4:03:04 PM	Senator Yarborough explains the bill
4:04:27 PM	Questions
4:04:28 PM	Senator Book
4:04:42 PM	Senator Yarborough
4:05:15 PM	Kirsty Sullivan, speaks
4:06:57 PM	Lisa Hurley, Family Law Section, FL Bar, waives
4:07:06 PM	Debate
4:07:11 PM	Senator Broxson
4:08:00 PM	Chair Mayfield
4:08:25 PM	Senator Yarborough closes on the bill
4:08:37 PM	Roll call
4:09:11 PM	CS/SB 580 Reported Favorably
4:09:16 PM	SM 800
4:09:25 PM	Senator Rodriguez explains the memorial
4:10:14 PM	Terry Gibson, Deploy/US, waives
4:10:26 PM	John P., Young Conservatives for Carbon Dividends, waives
4:10:50 PM	Senator Rodriguez waives close
4:10:52 PM	Roll call
4:11:26 PM	SM 800 Reported Favorably
4:11:30 PM	CS/SB 7006
4:11:46 PM	Senator Hooper explains the bill
4:13:16 PM	Senator Hooper waives close
4:13:17 PM	Roll call
4:13:53 PM	CS/SB 7006 Reported Favorably

4:13:59 PM	CS/SB 7008
4:14:15 PM	Senator Hooper explains the bill
4:15:34 PM	Senator Hooper waives close
4:15:36 PM	Roll call
4:16:09 PM	CS/SB 7008 Reported Favorably
4:16:19 PM	SB 7036
4:16:33 PM	Senator Garcia explains the bill
4:17:43 PM	Senator Garcia closes on the bill
4:17:56 PM	Roll call
4:18:32 PM	SB 7036 Reported Favorably
4:18:38 PM	VA Motion Senator Jones
4:18:49 PM	Senator Burgess with introduction and vote after motion
4:19:41 PM	VA Motion Senator DiCeglie
4:19:56 PM	President Baxley moves we adjourn
4:19:58 PM	Without objection, the meeting is adjourned