
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 20, 1998 Revised: _____

Subject: County Clerks Public Records Access Act

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Moody</u>	<u>Moody</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>WM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill:

- Creates the “Clerks of the Circuit Court Public Records Access”;
- Requires that the clerks of each circuit court, without additional charge or obligation to the public, make available on the Internet certain information no later than January 1, 2001;
- Requires the clerks to utilize appropriate Internet security measures to ensure that public records cannot be accessed directly or modified; and
- Requires that the “Uniform Traffic Citation Accounting System” be renamed as the “Uniform Civil Court and Traffic Citation Accounting System” and that the system be upgraded to include civil court case maintenance information, as well as an Internet means for providing public access.

This bill creates an undesignated section of the Florida Statutes, and amends section 318.18, Florida Statutes.

II. Present Situation:

Section 119.07(1), F.S., requires a person in custody of a public record to permit the record to be inspected and examined by any person at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian’s designee.

Chapter 28, F.S., sets out the responsibilities of the clerk of the court for maintaining certain public records. Section 28.24, F.S., authorizes the clerk to charge specified fees for copying these records.

Presently, no law requires clerks of the circuit courts to make information available to the public over the Internet. A search of the Internet reveals that many counties have developed web sites on

the Internet, some including sites for the clerk of the court. The Brevard County Clerk of the Court has a web site on the Internet that includes an index listing all 67 Florida counties with links to web sites for those counties where available. A sampling of these sites reveals a broad range of information regarding clerks' offices, but not access to actual public record documents. The service provided on the web sites reviewed, however, do *not* make the actual document available for viewing.

Section 318.18, F.S., provides penalties for noncriminal traffic violations. Under s. 318.18(8), F.S., any person who fails to comply with the court's requirements or who fails to pay the required penalty must pay an additional civil penalty of \$12. Of this amount, \$2.50 must be deposited into the General Revenue Fund and \$9.50 must be deposited in the Highway Safety Operating Trust Fund. There was appropriated for fiscal year 1996-1997 \$4 million. From this amount, the Florida Association of Court Clerks, Inc. was contracted with to design, establish, operate, upgrade, and maintain an automated statewide Uniform Traffic Citation Accounting System. The system is operated by the clerks of the court. The system includes, but is not limited to, accounting for traffic infractions by type, a record of the disposition of citations, and an accounting system for fines assessed and subsequent fine amounts paid to the clerks. On or before December 1, 1999, the clerks of the court must provide the information required by the chapter to be transmitted to the Department of Highway Safety and Motor Vehicles by electronic transmission.

III. Effect of Proposed Changes:

Section 1. The committee substitute creates the "Clerks of the Circuit Court Public Records Access Act."

No later than January 1, 2001, the clerks of the circuit court of each county are required to make available on the Internet, without additional charge or obligation to the public, the following information:

- At a minimum, a list of grantor/grantees or parties, the date the relevant document was created, and the book and page number of the Official Record Book or other public record location where the document is entered for the following types of documents: deeds; mortgages; tax deed applications; tax liens; marriage licenses; orders of dissolution of marriage; real property transactions; and final judgments. Such information is to be made available for records or other documents recorded since 1989, or longer, if such information is available.
- Adopted minutes of the board of county commission meetings convened within the past 4 years.
- Agendas of future county commission meetings if provided to the clerk in an electronic format.

- Information to assist domestic violence victims, including instructions and assistance in obtaining protective injunctions and any other information on domestic violence maintained by the clerk.
- Information assisting people in obtaining child support and alimony.
- Jury service information, such as time, place and date of reporting, and reimbursement procedures.
- A listing of all felony criminal sentences imposed during the preceding calendar year in the county in which the clerk serves. This listing must include the name of the criminal case, the original charges filed against the defendant, the charges of which the defendant was convicted, the sentence imposed by the court, the date the sentence was imposed and any vacation of the sentence.

The clerks of the circuit court are required to utilize appropriate Internet security measures to ensure that no person has the ability to directly access public records or to alter or to modify any public record. The committee substitute also provides that, unless otherwise provided by law, no information retrieved from the Internet is to be admissible in court as an authenticated document.

Section 2. This section provides that the Legislature finds that a proper and legitimate state purpose is served by providing the public with access to public records and information on the Internet and determines that the provisions of the act fulfill an important state interest.

Section 3. The committee substitute amends s. 318.18(8)(a), F.S., which relates to the statewide Uniform Traffic Citation Accounting System. This system is renamed the “Uniform Civil Court and Traffic Citation Accounting System.” The system is required to include civil court case maintenance information and an Internet means for providing public access to county and court information. The clerks of the court must provide Internet access on or before January 1, 2001.

Section 4. The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill affects each county and may require some or all local governments to spend money or to take actions which will require the expenditure of money. The bill, however, states that the Legislature finds that a proper and legitimate state purpose is served by providing the public with access to public records and information on the Internet and that the Legislature determines that the provisions of the act fulfill an important state interest. As well, the law applies to all similarly situated entities. Therefore, the bill does not appear to require a 2/3 vote of the membership of each house.

B. Public Records/Open Meetings Issues:

The bill requires only public records to be placed on the Internet. In addition, it provides minimums that may be placed on the Internet in lieu of entire documents. However, if a clerk of the court should choose to place entire documents on the Internet, great caution would have to be taken, and great care with each individual document, to avoid inadvertently making public information that is exempt from public records. For instance, a final judgment of dissolution of marriage often will include information about a party such as a home address, telephone number, place of employment, social security number, or name of the school or day care attended by the party's children. If the party is, for instance, active or former law enforcement personnel, a current or former assistant state attorney, a firefighter, or the spouse or child of someone who is such a person, the home address, telephone number, place of employment, social security number, or name of the school or day care attended by the party's children is all exempt from public records requirements pursuant to s. 119.07(3)(i)1., F.S. Section 119.02, F.S., provides that a public officer who knowingly makes public information that is exempt is subject to suspension and removal or impeachment and, in addition, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The cost of complying with the committee substitute will vary from county to county due to varying levels of automation within each affected circuit. One Leon County official estimated the cost of setting up the public records aspect of the web site was between \$15,000 and \$20,000. Additional costs will be incurred for security systems.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
