

STORAGE NAME: h1575.cf

DATE: March 4, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CHILDREN & FAMILIES
ANALYSIS**

BILL #: HB 1575 (PCB CF 99-04)

RELATING TO: WAGES Public Records

SPONSOR(S): The Committee on Children & Families

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CHILDREN & FAMILIES YEAS 6 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

As part of the transfer of responsibility for establishing welfare programs from the federal government to the states, Section 205.50 of Title 45 was repealed. This section provided for confidentiality of records of recipients of public assistance. Much of the information obtained from applicants and recipients is also used to determine eligibility for Food Stamps and Medicaid, which continue to have federal confidentiality restrictions. In addition, decisions on WAGES benefits, exemptions and intervention programs often involve sensitive personal information in order to help recipients deal with problems such as illiteracy, substance abuse, and mental health. Accordingly, the WAGES Program State Board of Directors has recommended that this confidentiality be maintained.

This bill provides for exemptions to the public records provisions of s. 119.07(1) and s. 24(a), Art. I of the Florida Constitution and the public meeting requirements of s. 286.011, F. S. and 44 (b) part I of the Florida Constitution. The bill allows information sharing related to the administration of state programs.

The bill continues current practice and has no fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

As part of the transfer of responsibility for establishing welfare programs from the federal government to the states, Section 205.50 of Title 45 was repealed. This section provided for confidentiality of records of recipients of public assistance.

Consideration of decisions regarding eligibility for cash assistance, hardship exemption, extension of time limits and other provisions of the program may require information from many sources. Much of the information obtained from applicants and recipients is also used to determine eligibility for Food Stamps and Medicaid, which continue to have federal confidentiality restrictions.

In addition, decisions on WAGES benefits, exemptions and intervention programs often review sensitive personal information in order to help recipients deal with problems such as illiteracy, substance abuse, and mental health.

The fear of public disclosure of personal information by participants in temporary cash assistance programs and by their children may constitute a significant disincentive for their full participation in programs. The fear of public disclosure of personal information may make more difficult the development of a sense of self-worth that is essential to the process of moving towards independence. Children of families receiving cash assistance and participating in related intervention programs might be traumatized by public disclosure of personal, family information.

Based on these considerations, the WAGES Program State Board of Directors has recommended that confidentiality provisions be maintained in the WAGES program.

B. EFFECT OF PROPOSED CHANGES:

This bill provides for exemptions to the public records provisions of s. 119.07(1) and s. 24(a), Art. I of the Florida Constitution and the public meeting requirements of s. 286.011, F. S. and 44 (b) part I of the Florida Constitution.

Section 1 of the bill provides that records that contain any identifying information acquired by the Department of Children and Family Services, the Department of Labor and Employment Security, the Department of Health, the Department of Revenue, the WAGES State Board of Directors, local WAGES Coalitions, and service providers under contract to any of these entities pursuant to the implementation of the WAGES program are confidential and exempt from the public records provisions of s. 119.07(1) and s. 24(a), Art. I of the Florida Constitution. The bill also provides that any meeting or portion of meeting held by these agencies at which information restricted under the bill is discussed is made exempt from the requirements of s. 286.011, F. S., and 44 (b) part I of the Florida Constitution. This exemption is not subject to repeal under s. 119.15 F. S., since it is made in accordance with the requirements of federal law under sec. 402 of the Social Security Act, as amended (42 U.S.C. 602; TANF state plan requirements).

The bill provides that information may be released for purposes directly connected with:

1. The administration of the plan of the state approved under title IV-A of the Social Security Act, as amended (the TANF title, formerly AFDC), the plan or program of the state under title IV-B (child welfare), IV-D (Child Support Enforcement), or IV-E (Foster Care) of the Social Security Act, as amended or under title I (Old Age Assistance), X (Aid to the Blind), XIV (Aid to the Permanently Disabled), XVI (Supplemental Security Income-SSI), XIX (Medicaid), XX (Social Services), or XXI (State Child Health Insurance) of the Social Security Act, as amended. Such purposes include establishing eligibility, determining the amount of assistance, and providing services for applicants and recipients.
2. Any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such plans or programs. The department has authority to disclose the current address of a recipient to a federal, state or local law enforcement officer who provides the name of the recipient and satisfactorily demonstrates that criteria specified in the bill are met.

3. The administration of any other state, federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need.
4. Any audit or similar activity such as a review of expenditure reports or financial review, conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity.
5. The administration of the unemployment compensation program.
6. The reporting to the appropriate agency or official of information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under circumstances which indicate that the child's health or welfare is threatened.

The bill provides that any person who violates any provision of the bill is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

Subsection (4) of the bill provides conditions for the release of information. The bill provides that, except under court order, the release or use of information concerning individuals applying for or receiving temporary cash assistance is restricted to persons or agency representatives who are subject to standards of confidentiality which are comparable to those of the Department of Children and Family Services. The state agencies charged by law to implement the WAGES Program are authorized to receive the information.

In the event of the issuance of a subpoena for the case record or for any agency representative to testify concerning information on an applicant or recipient rendered confidential by this section, the court may make such provisions as it finds necessary to maintain appropriate confidentiality.

The bill provides that in the event that information is obtained through an integrated eligibility process that includes more than one state or federal program apply to the information, the requirements of the program which is the provider of the information shall prevail.

Section 2 is the statement of public necessity that the records and meetings held pursuant to the implementation of the WAGES program be held confidential and exempt from the public records and public meetings laws.

Section 3 provides that the act shall take effect upon becoming law.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

N/A

E. SECTION-BY-SECTION ANALYSIS:

See effect of proposed changes

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

The bill continues current practice and has no fiscal impact.

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IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON CHILDREN & FAMILIES:

Prepared by:

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