

**STORAGE NAME:** h0219a.lt

**DATE:** March 2, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
Elder Affairs & Long Term Care  
ANALYSIS**

**BILL #:** HB 219

**RELATING TO:** Public Record Exemption/Guardianship

**SPONSOR(S):** Rep. Crow

**COMPANION BILL(S):** SB 704

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

- (1) Elder Affairs & Long Term Care YEAS 10 NAYS 0
  - (2) Real Property & Probate
  - (3) Governmental Operations
  - (4)
  - (5)
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**I. SUMMARY:**

This bill provides for a public records exemption for any medical, financial or mental health records necessary to evaluate the public guardianship system, to assess the need for additional public guardianship offices or services, or to develop the annual report of the Statewide Public Guardianship Office. The bill provides a statement of public necessity.

The effective date of the bill is tied to the passage of HB 213, or similar legislation, creating the Statewide Public Guardianship Office.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Article I, s. 24, Florida Constitution, expresses Florida's public policy regarding access to government records. Generally, every person has the right to inspect or copy any public records made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf. An exception can occur only by specific legislative action, or when specifically made confidential by the Florida Constitution.

Public policy regarding access to government records is also addressed in section 119.07, Florida Statutes.

HB 213 creates the Statewide Public Guardianship Office. Currently each office of public guardian is administered by the chief judge of the circuit court. HB 213 requires the new statewide office to conduct research including but not limited to the need for public guardianship services, and to provide oversight of the state's public guardians. In order to meet the requirements specified for this new office, the Statewide Public Guardianship Office will need access to sensitive medical, financial, and mental health records of the states' vulnerable citizens who are elderly, disabled, who have a developmental disability or who have a mental illness.

B. EFFECT OF PROPOSED CHANGES:

This bill creates an exemption from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, in order to provide the executive director of the newly created Statewide Public Guardianship Office access to medical, financial, or mental health records necessary to evaluate the public guardianship system, to assess the need for additional public guardianship offices or services, or to develop the annual report as required.

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:

Creates s. 744.7081, F.S.

E. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

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:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

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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:

A technical amendment was added to designate HB 213 as the substantive bill to which this public records exemption bill (HB 219) is tied.

VII. SIGNATURES:

COMMITTEE ON Elder Affairs & Long Term Care:

Prepared by:

Staff Director:

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Melanie Meyer

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Tom Batchelor, Ph.D.