

STORAGE NAME: h1869z.flc
DATE: May 19, 2000

****FAILED TO PASS THE LEGISLATURE****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FAMILY LAW AND CHILDREN
FINAL ANALYSIS**

BILL #: HB 1869
RELATING TO: Public Records/Supervised Visitation
SPONSOR(S): Committee on Family Law and Children
TIED BILL(S): HB 1871

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

- (1) FAMILY LAW AND CHILDREN YEAS 7 NAYS 0
 - (2) GOVERNMENTAL OPERATIONS
 - (3) GOVERNMENTAL RULES AND REGULATIONS
 - (4) HEALTH AND HUMAN SERVICES APPROPRIATIONS
 - (5)
-

I. SUMMARY:

This bill, which relates to exemptions from the public records laws, is tied to HB 1871, regarding the certifying and monitoring of supervised visitation programs. This bill provides an exemption from the public records requirements for personal information relating to employees, volunteers, and their families, of supervised visitation centers, held by the centers and the Clearinghouse on Supervised Visitation. The information that would be exempted from disclosure includes home addresses, telephone numbers, social security numbers, photographs, places of employment of spouses and children, and the names and locations of day care programs or schools attended by the children of the employees and volunteers. The bill provides that any governmental agency that is authorized to have access to this information by provision of law shall be granted access, but shall retain the confidentiality of the information.

Pursuant to s. 24 of Article I of the State Constitution, this bill provides a statement of public necessity for the exemption which finds that disclosure of sensitive and personal information would compromise the health, safety, and welfare of the employees, volunteers, and their families, and would impede the effective and efficient administration of supervised visitation programs. This statutory exemption from disclosure is subject to the Open Government Sunset Review Act of 1995, and will be repealed on October 2, 2005, unless reviewed and saved from repeal through reenactment by the Legislature. This bill would take effect on the same date as HB 1871, or similar legislation, if adopted by the legislature.

The bill has no fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Public Records and Public Meeting Laws.

Article I, s. 24, Florida Constitution, expresses Florida's public policy regarding access to government records in providing that:

(a) 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, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

Article I, s. 24, Florida Constitution, does, however, permit the Legislature to provide by general law for the exemption of records from the requirements of s. 24. The general law exempting the records must state with specificity the public necessity justifying the exemption and can be no broader than necessary to accomplish the stated purpose of the law.

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07, F.S., provides:

Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at a reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee.

Access to government meetings is addressed in the Florida Statutes as well. Section 286.011, F.S., states:

All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

Section 119.15, F.S., provides that an exemption to the public records and meeting requirements may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of the following purposes and the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption:

1. Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
2. Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this subparagraph, only information that would identify the individuals may be exempted; or
3. Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

Supervised Visitation Centers

Currently, there are more than 25 supervised visitation centers in Florida. Almost all cases referred to supervised visitation centers involve some kind of violence, abuse, or neglect. Clients in these situations may become angry, upset, or violent, because of the circumstances surrounding the need for supervised visitation. Presently, personal information regarding the employees, volunteers, and their families, is easily obtainable. Such information could be used to threaten, harass, intimidate, or injure the employees, volunteers, and their families.

In 1998, Florida visitation programs received over 40 threats. Nine programs reported receiving threats from clients away from the center. Centers have received bomb threats, and cars belonging to staff have been vandalized.

House Bill 1871

HB 1871 by the Committee on Family Law and Children, relates to the certifying and monitoring of supervised visitation programs. HB 1871 creates the Office for Certification and Monitoring of Supervised Visitation Programs under the Clearinghouse on Supervised Visitation. The Clearinghouse would be responsible for certifying and monitoring all

supervised visitation programs that receive court referral. The duties of the Clearinghouse will include promulgating minimum standards to govern the purpose, policies, standards of practice, program content, security measures, qualifications of providers, and training and credentials of staff. An advisory board, consisting of representatives of key players in the supervised visitation arena, will be created to assist the Clearinghouse in developing the minimum standards. The Clearinghouse, with the assistance of the Advisory board, will also be responsible for creating a formula for distribution of funds available for supervised visitation programs. The bill also provides that the Clearinghouse continue to provide informational materials, competency-based training materials, and a newsletter to the programs. HB 1871, if passed, would have an effective date of October 1, 2000.

C. EFFECT OF PROPOSED CHANGES:

Personal information relating to employees, volunteers, and their families, of supervised visitation centers, held by the centers and the Clearinghouse on Supervised Visitation, would be exempt from the public records requirements. The information that would be exempted from disclosure includes home addresses, telephone numbers, social security numbers, photographs, places of employment of spouses and children, and the names and locations of day care programs or schools attended by the children of the employees and volunteers.

Any governmental agency authorized to have access to this information by provision of law will still be granted access, but shall retain the confidentiality of the information.

This statutory exemption from disclosure is subject to the Open Government Sunset Review Act of 1995, and will be repealed on October 2, 2005, unless reviewed and saved from repeal through reenactment by the Legislature.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 753.06, F.S., creating an exemption from public disclosure of certain personal information of supervised visitation center employees, volunteers, and their families. This section does provide for disclosure to authorized government agencies. This section provides for repeal of this section on October 2, 2005, unless reviewed and saved from repeal through reenactment.

Section 2. Provides legislative findings as to the public necessity for this public records exemption. The Legislature finds that due to the circumstances surrounding the need for supervised visitation, and the fact that clients utilizing supervised visitation program services may be upset, angry, or violent, the personal information of the employees, volunteers, and their families, should be exempt from disclosure to protect the health, safety, and welfare of those employees, volunteers, and their families. Also, if such personal information is not protected, supervised visitation programs may be unable to obtain qualified employees or volunteers due to safety concerns. This would impede the effective and efficient administration of these programs.

Section 3. Provides an effective date contingent upon passage of HB 1871 or similar legislation.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring expenditures of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of state sales tax shared with municipalities.

V. COMMENTS:

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A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON FAMILY LAW AND CHILDREN:

Prepared by:

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Maggie Geraci

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON FAMILY LAW AND CHILDREN:

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