

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.)

BILL: CS/SB 2032

SPONSOR: Health, Aging and Long-Term Care Committee and Senator Clary

SUBJECT: Public Records

DATE: April 7, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill creates exemptions from chapter 119, Florida Statutes, relating to the Public Records Law, and Section 24(a), Article I of the State Constitution, to make all personally identifying information, bank account numbers and debit and credit card numbers contained in records relating to an individual's personal health or eligibility for health-related services maintained by the Department of Health or its authorized service providers confidential and exempt from the Public Records Law. The department or its authorized service providers may not release or make public such information, with specified exceptions. The bill makes the exemptions subject to a future review and repeal date of October 2, 2005, as required by s. 119.15, F.S., the Open Government Sunset Review Act of 1995. The bill provides findings and statements of public necessity to justify the creation of the exemptions.

This bill creates one undesignated section and amends s. 119.07, Florida Statutes.

II. Present Situation:

Public Records Law

The Public Records Law, ch. 119, F.S., and the Public Meetings Law, s. 286.011, F.S., specify the conditions under which public access must be provided to governmental records and meetings of the executive branch and other governmental agencies. While the state constitution provides that records and meetings of public bodies are to be open to the public, it also provides that the Legislature may create exemptions to these requirements by general law if a public need exists and certain procedural requirements are met. Article I, s. 24, Fla. Const. governs the creation and expansion of exemptions, to provide, in effect, that any legislation that creates a new exemption or that substantially amends an existing exemption must also contain a statement of the public necessity that justifies the exemption. Article I, s. 24, Fla. Const. provides that any bill that contains an exemption may not contain other substantive provisions, although it may contain multiple exemptions.

Chapter 95-217, Laws of Florida, repealed the Open Government Sunset Review Act, contained in s. 119.14, F. S., and enacted in its place s. 119.15, F.S., the Open Government Sunset Review Act of 1995. The Open Government Sunset Review Act of 1995 provides for the repeal and prior review of any public records or public meetings exemptions that are created or substantially amended in 1996 and subsequently. The next review cycle will begin in 2001. The chapter defines the term “substantial amendment” for purposes of triggering a repeal and prior review of an exemption to include an amendment that expands the scope of the exemption to include more records or information or to include meetings as well as records. The law clarifies that an exemption is not substantially amended if an amendment limits or narrows the scope of an existing exemption.

Department of Health

The Department of Health administers a variety of health-related programs and services, some of which are coordinated by designated service providers. Client services include medical care and case management. Services are provided to children and adults who live in Florida.

III. Effect of Proposed Changes:

Section 1. Amends s. 119.07, F.S., to make all personally identifying information, bank account numbers and debit and credit card numbers contained in records relating to an individual’s personal health or eligibility for health-related services maintained by the Department of Health or its authorized service providers confidential and exempt from the Public Records Law. The department or its authorized service providers may not release or make public such information, except: with the express written consent of the individual or the individual’s legally authorized guardian and if a request is made for specific records of an individual, such records may only be disclosed with the express written consent of the individual or the individual’s legally authorized representative; in a medical emergency, but only to the extent necessary to protect the health or life of the individual; or by an order of the court upon a showing of good cause. Such disclosed information is made confidential and exempt from the Public Records Law. The exemption is subject to the Open Government Sunset Review Act of 1995 and stands repealed on October 2, 2005, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Creates an undesignated section, to provide legislative findings and a statement of public necessity for the exemptions from the Public Records Law provided in the bill for personally identifying information, bank account numbers and debit and credit card numbers contained in records relating to an individual’s personal health or eligibility for health-related services maintained by the Department of Health or its authorized service providers. The section makes legislative findings that the exemptions are a public necessity. It provides legislative findings that the exemption is needed to protect information that is of sensitive personal nature that concerns individuals. Every person has an expectation of, and a right to, privacy in all matters concerning his or her personal health when medical services are provided by the Department of Health or its service providers. Matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. The private and confidential nature of personal health matters pervade both public and private health care sectors. The section also provides that an individual’s financial situation as it relates to eligibility for health care services is also of a sensitive personal nature and should be confidential and exempt.

Section 3. Provides that this act shall take effect July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The bill creates exemptions from chapter 119, Florida Statutes, relating to the Public Records Law, and Section 24(a), Article I of the State Constitution for specified records maintained by the Department of Health and provides findings of necessity to justify the creation of the exemptions.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

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.
