

STORAGE NAME: h2123a.flc

DATE: April 5, 2000

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

BILL #: HB 2123

RELATING TO: Public Records/Child Support Services

SPONSOR(S): Representative Sanderson and others

TIED BILL(S):

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

- (1) FAMILY LAW AND CHILDREN YEAS 7 NAYS 0
 - (2) GOVERNMENTAL OPERATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The bill provides for a public records exemption pursuant to s. 119.07(1), Florida Statutes, for any information that would identify applicants for or recipients of child support services that is in the possession of a non-Title IV-D county child support enforcement agency. This information would include the name, address, and telephone number of such persons. The bill also provides limitations for the disclosure of such identifying information.

Pursuant to s. 24 of Article I of the State Constitution, the bill also contains a statement of public necessity for the exemption which finds that such identifying information for individuals seeking child support services from the Department of Revenue, the state's Title IV-D agency, would be exempt and therefore those individuals seeking services from non-Title IV-D county child support enforcement agency should have the same disclosure protections afforded to persons receiving services from the department.

The bill also provides similar protections for confidential information of clients served by non-IV-D county child support enforcement agencies as those served by the Title IV-D agency with regard to cases with evidence of domestic violence or abuse.

The bill has an effective date of July 1, 2000.

The bill may have a fiscal impact that is indeterminant at this time.

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 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.

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.

Child Support Related Records.

Section 409.2557(1), Florida Statutes, designates the Department of Revenue as the state agency responsible for the administration of the child support enforcement, or Title IV-D program. Section 409.2579, Florida Statutes, provides that information concerning applicants for or recipients of Title IV-D child support services is confidential and exempt from the provisions of s. 119.07(1) and also provides the circumstances under which such information may be used or disclosed.

Section 409.2577, Florida Statutes, requires the Department of Revenue to establish a parent locator service to assist in locating parents who have deserted their children and other individuals who have an obligation of support. The locator service is required to use all sources of information available, and may request and shall receive information from any person or the state or any of its political subdivisions or any officer thereof. Section 409.2577, Florida Statutes, also provides that the ability of the locator service to request and receive information expressly takes precedence over any other statutory provision of nondisclosure which limits the ability of an agency to disclose such information, with the exception of law enforcement information.

In addition, s.409.2577, Florida Statutes, provides that if the Department of Revenue has reasonable evidence of domestic violence or child abuse and the disclosure of information could be harmful to the custodial parent or the child of such parent, the child support program shall notify the Department of Children and Family Services and the U.S. Department of Health and Human Services of this evidence. Such evidence is sufficient grounds for the department to disapprove an application for location services.

Section 61.1825, Florida Statutes, requires the Department of Revenue to maintain a State Case Registry which must contain records for each case in which services are being provided by the Title IV-D agency and for each case where the support order was

established or modified in the state on or after October 1, 1998 where services are not being provided by the Title IV-D agency. The section also provides that a family violence indicator must be placed on a record when a party executes a sworn statement requesting that a family violence indicator be placed on that party's record which states that the party has reason to believe that release of information to the Federal Case Registry may result in the physical or emotional harm to the party or child.

There is currently no statutory definition or other provision for a "non-Title IV-D county child support enforcement agency".

C. EFFECT OF PROPOSED CHANGES:

The bill provides that the same exemptions afforded to the confidential information of individuals receiving child support services from the Title IV-D agency also be afforded to the confidential information of those individuals receiving child support services from a non-Title IV-D county child support enforcement agency.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides that the identifying information of individuals seeking or receiving child support services from a non-Title IV-D county child support enforcement agency be held confidential and exempt from public disclosure pursuant to s. 119.07(1), Florida Statutes and Section 24 (a) of Article I of the State Constitution. The section also limits the disclosure of this information to certain specified purposes.

The section provides that a county child support enforcement agency shall not disclose information that identifies an applicant for or recipient of child support services or the location of such an individual or child to any individual against whom a protective order has been entered if the county child support agency has reason to believe that the release of that information could result in physical or emotional harm to the individual or child.

The section provides for review and repeal of the exemption created by the bill under the Open Government Sunset Review Act of 1995.

Section 2. Provides for a statement of public necessity for the exemption of identifying information concerning applicants for and recipients of child support services which is in the possession of non-Title IV-D county child support enforcement agencies. The justification for the exemption is that individuals receiving child support services from the Title IV-D agency are afforded protections for personal identifying information and those same protections should be extended to those individuals receiving child support services from non-Title IV-D county child support enforcement agencies.

Section 3. Provides for an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

The bill may have a fiscal impact on the Department of Revenue but that impact is indeterminant at this time.

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 expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue 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:

STORAGE NAME: h2123a.flc

DATE: April 5, 2000

PAGE 6

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The Florida Statutes do not provide a definition of "non-Title IV-D county child support enforcement agency" and there are no statutory provisions for the creation or administration of such an agency.

It may be necessary to provide for an additional use for disclosure of identifying information held exempt by this bill to include the release of such information to the State Parent Locator Service, pursuant to s. 409.2577, Florida Statutes.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 4, 2000, the Committee on Family Law and Children adopted one amendment to the bill. The amendment provides one additional term of disclosure for the identifying information held exempt by this bill.

VII. SIGNATURES:

COMMITTEE ON FAMILY LAW AND CHILDREN:

Prepared by:

Staff Director:

Carol Preston

Carol Preston