

must be sufficiently compelling to override the strong public policy of open government such that the public purpose can not be accomplished without the exemption and satisfies one of three other criteria relating to the sensitivity and confidentiality of the information. The custodian of a public record must permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee, s. 119.07(1), F.S.

The Open Government Sunset Review Act of 1995 provides for the automatic 5-year review and repeal of an exemption under the Public Records Act, unless the Legislature acts upon it to re-enact the exemption, s.119.15, F.S.

Child Support Enforcement

The Department of Revenue is the state agency responsible for the administration of the child support enforcement program as required by Title IV-D of the Social Security Act, s. 409.2557, F.S. The services of the department's child support enforcement program include establishment of paternity and child support orders, enforcement of support orders, and distribution of child support collection for all recipients of public assistance, as well as for individuals who are not recipients of public assistance but request the services of the program. The Department of Revenue, through the Title IV-D requirements for the child enforcement program, is also responsible for some of the state systems established to facilitate the collection and disbursement of child support payments, including the parent locator service, State Case Registry and State Disbursement Unit.

Section 409.2577, F.S., requires the Department of Revenue to establish a parent locator service to assist in locating parents who have deserted their children and to assist in locating other individuals who have an obligation of support. The locator service is required to use all sources of information available, and may request and is to receive information from any person or the state or any of its political subdivisions or any officer thereof. Section 409.2577, F.S., 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. The department can disapprove an application for location services if there is reasonable evidence of domestic violence or child abuse and the disclosure of the information could be harmful to the custodial parent or child.

A State Case Registry contains records for each case in which services are being provided by the Title IV-D agency and for each non-Title IV-D case where the support order was established or modified in the state on or after October 1, 1998. The section also provides a mechanism to protect families where domestic violence or child abuse may result if the information on the family is disclosed.

Section 61.1824, F.S., creates the State Disbursement Unit to provide one central address for the collection and disbursement of child support payments made in all Title IV-D cases and in non-Title IV-D cases in which the initial support order was issued in this state on or after January 1, 1994.

Information concerning parents receiving services through the Department of Revenue's Title IV-D child support enforcement program is provided confidentiality and exemption from disclosure as required by s. 119.07(1), F.S., pursuant to s. 409.2579, F.S. Use or disclosure of the information is provided for and limited to the administration of the plans and programs provided under certain sections of the Social Security Act, any investigation or proceeding connected with the administration of these plans or programs, the administration of other federal or federally assisted programs which provide services on the basis of need, reporting abuse or neglect to the appropriate agency, and identifying and location information for the State Case Registry. The Department of Revenue's child support enforcement program is prohibited from disclosing any information that identifies the parents to federal, state or local legislative bodies or committees if a protective order has been entered or if there is reason to believe that the release of the information will result in harm to the parents or child.

In some counties, the Clerks of the Courts or the county government have established child support enforcement programs to assist non-Title IV-D parents with enforcement of their child support orders. These county child support enforcement programs are not defined or provided for in statute. The services of these county programs mirror many of the enforcement services offered by the Department of Revenue and offer non-Title IV-D parents with another option for assistance when enforcement of the child support order is needed. As a result of the services provided through these county child support enforcement programs, sensitive information is on file which is not protected by the Department of Revenue's public records exemption. In addition, information on some of the non-Title IV-D parents served through these programs is required to be maintained or accessible to the parent locator service, State Case Registry, and State Disbursement Unit.

III. Effect of Proposed Changes:

SB 2386 provides confidentiality and exemption from public records disclosure for non-Title IV-D cases served by county child support enforcement programs.

Section 1. provides that the identifying information of individuals seeking or receiving child support services held by a non-Title IV-D county child support enforcement agency is confidential and exempt from public disclosure pursuant to s. 119.07(1), F.S. and s. 24(a) of Article 1 of the State Constitution. The section limits the disclosure of this information to the following two purposes: any investigation, prosecution, or criminal or civil proceeding connected with the administration of the non-Title IV-D county child support enforcement program; and mandatory disclosure of certain identifying and location information required for the State Case Registry.

The bill prohibits a county child support enforcement agency from disclosing information that identifies an applicant or recipient of child support services or the location of such individual or child to a person against whom a protective order has been entered if the county child support enforcement agency has reason to believe that the release of that information could result in physical or emotional harm to the individual or child.

The bill provides for the 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 an effective date for the bill of July 1, 2000.

SB 2386 provides individuals receiving child support services through the non-Title IV-D child support enforcement agencies with basically the same confidentiality and exemption from disclosure as individuals receiving child support services through the Department of Revenue's child support enforcement program.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

SB 2386 exempts from disclosure under statutory and constitutional law any information that reveals the identity of applicants for or recipients of child support services in the possession of non-Title IV-D county child support enforcement agencies.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 24 of Article I of the State Constitution establishes a constitutional right of access to any public record 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 those records exempted otherwise by law or specifically made confidential by the 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:

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.

The bill does not provide for the release of information for the state parent locator services, pursuant to s. 409.2577, F.S.; for the State Disbursement Unit, pursuant to s. 61.181, F.S.; between the local depositories and the state case registry system and State Disbursement Unit, pursuant to s. 61.1826, F.S.; and for the State Case Registry that was not provided for in s. 61.13(9), F.S., pursuant to s. 61.1825, F.S.

VII. Related Issues:

None.

VIII. Amendments:**# 1 by Children and Families:**

Provides for the release of information for the parent locator services (s. 409.2577, F.S.), for the State Disbursement Unit (s. 61.181, F.S.), between the local depositories and the state case registry system and State Disbursement Unit (s. 61.1826, F.S.), for the State Case Registry (s. 61.1825, F.S.), and as required by Title IV-D of the Social Security Act.

2 by Children and Families:

Corrects the term “identify,” replacing it with “identity.” (WITH TITLE AMENDMENT)

3 by Children and Families:

Provides a definition for “county child support enforcement agency” which is a department, division, or other agency of a county government that is operated by such county to provide child support enforcement services to county residents.

4 by Children and Families:

Adds social security number to the information regarding an applicant or recipient of child support services that may not be released.