

STORAGE NAME: h0131.sgc.doc
DATE: January 10, 2002

HOUSE OF REPRESENTATIVES
SMARTER GOVERNMENT COUNCIL
ANALYSIS

BILL #: HB 131
RELATING TO: Library Records/Confidentiality
SPONSOR(S): Representative(s) Lynn
TIED BILL(S): None

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

- (1) STATE ADMINISTRATION YEAS 4 NAYS 0
 - (2) SMARTER GOVERNMENT COUNCIL YEAS 12 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

In 1978, the Florida Legislature enacted Chapter 78-81, L.O.F. (the act). The act created a public records exemption for library registration records and circulation records. The only exception to the exemption was for judicial orders. Additionally, the act made it a second degree misdemeanor for any person to violate the act. In 1996, the Florida Legislature amended the public records exemption to include additional exceptions.

Currently, a municipal or county law enforcement official or a judicial official may have access to such records for the purpose of recovering overdue books, documents, films, or other items or materials owned or otherwise belonging to the library; or collecting fines or overdue books, documents, films, or other items or materials. Any confidential and exempt information regarding a library patron under the age of 16 may not be released. A public library may only release information relating to the parent or guardian of such patron.

This bill amends that public records exemption to allow the parent or guardian of a public library patron, under the age of 16, to have access to that patron's library records for the purpose of collecting fines or recovering overdue books, documents, films, or other items or materials belonging to the library. This bill does not allow a parent or guardian of such patron to have access to that patron's library records for any other reason than those previously listed. This bill does not grant a parent or guardian access to his or her child's library records for the purpose of monitoring or discovering what books the child checks out at the library.

This bill does not appear to have a fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

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

B. PRESENT SITUATION:

In 1978, the Florida Legislature enacted Chapter 78-81, L.O.F. (the act), which created section 257.261, F.S.¹ The act created a public records exemption for library registration records² and circulation records.³ The only exception to the exemption was for judicial orders. Additionally, the act made it a second degree misdemeanor for any person to violate the act.

In 1996, the Florida Legislature amended section 257.261, F.S., to include additional exceptions to the exemption. Chapter 96-220, L.O.F.,⁴ made library registration records and circulation records available to any business, municipal or county law enforcement officials or to judicial officials for the purpose of "recovering overdue books, documents, films, or other items or materials owned or otherwise belonging to the library." In addition, such officials are permitted access to such records for the purpose of "collecting fines or overdue books, documents, films, or other items or materials." If a patron is under the age of 16, the public library can only release confidential information relating to the patron's parent or guardian.

Any person who violates section 257.261, F.S., is guilty of a misdemeanor of the second degree, as punishable in sections 775.082 and 775.083, F.S. Section 775.082(3)(b), F.S., provides for a prison term not exceeding 60 days. Section 775.083(1)(e), F.S., provides for a \$500 fine.

C. EFFECT OF PROPOSED CHANGES:

Currently, section 257.261, F.S., only allows municipal or county law enforcement officials, judicial officials, or any business to have access to such patrons information for the purpose of collecting fines or recovering overdue books, documents, films, or other items or materials belonging to the library. This bill amends that section to allow the parent or guardian of a public library patron, under the age of 16, to have access to that patron's library records for the purpose of collecting fines or recovering overdue books, documents, films, or other items or materials belonging to the library. This bill does not allow a parent or guardian of such patron to have access to that patron's library

¹ Senate Bill 770.

² Chapter 78-81, L.O.F., defines "registration records" as "any information which a library requires a patron to provide in order to become eligible to borrow books and other materials."

³ Chapter 78-81, L.O.F., defines "circulation records" as "all information which identifies the patrons borrowing particular books and other materials."

⁴ Senate Bill 606.

records for any other reason than those previously listed. This bill does not grant a parent or guardian access to his or her child's library records for the purpose of monitoring or discovering what books their child checks out at the library.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

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 to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities 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 a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

A constituent contacted Representative Lynn's office during the summer to voice a concern regarding access to her child's library records. The constituent had returned some books to the library. While at the library, the librarian informed the constituent that the constituent's minor daughter had overdue library books. The constituent then asked for the titles of the overdue books in order to search for the books at home. The librarian did not release the information citing the public records exemption.⁵

The Florida Department of State (DOS) notes that section 257.261, F.S., is interpreted differently among local communities.⁶ DOS states that currently some libraries allow parental access to their children's records and some prohibit this access. The General Counsel for DOS interprets this section as prohibiting libraries from providing parents with information about their child's borrowing records. According to DOS, this bill clarifies parental access and provides "a 'common sense' solution to a variously interpreted provision meant to protect the privacy rights of individuals who use publicly supported libraries."⁷ Additionally, the Florida Library Association has voiced its support of this bill.⁸

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

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Staff Director:

J. Marleen Ahearn, Ph.D., J.D.

AS REVISED BY THE SMARTER GOVERNMENT COUNCIL:

Prepared by:

Heather A. Williamson, M.S.W.

Staff Director:

Don Rubottom

⁵ Telephone conversation with Linda Walker, Representative Lynn's legislative assistant, October 22, 2001.

⁶ Department of State, House Bill 131 – Relating to Library Records / Confidentiality.

⁷ *Id.*

⁸ Telephone conversation with Jody Fitzgerald, Lobbyist for the Florida Library Association, October 30, 2001.

STORAGE NAME: h0131.sgc.doc

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PAGE: 5