

By the Committee on State Administration and
 Representative Brummer

1 A bill to be entitled
 2 An act relating to official records; creating
 3 the Study Commission on Official Records;
 4 providing for membership and organization of
 5 the commission; providing purpose, duties, and
 6 responsibilities of the commission; requiring a
 7 report; providing for expiration of the
 8 commission; amending s. 28.2221, F.S., relating
 9 to electronic access to official records;
 10 revising declared state purpose with respect to
 11 such access; providing limitations with respect
 12 to a specified Internet index of documents;
 13 providing that county recorders may not place
 14 images or copies of specified official records
 15 on a publicly available Internet website for
 16 general public display; requiring the removal
 17 of such records placed on the Internet prior to
 18 the effective date of the act; providing that
 19 affected persons may petition the court for an
 20 order of compliance; providing an effective
 21 date.

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 23 Be It Enacted by the Legislature of the State of Florida:

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 25 Section 1. Study Commission on Official Records;
 26 creation; membership; duties.--
 27 (1) There is created a Study Commission on Official
 28 Records. The commission shall be composed of 17 members, as
 29 follows:
 30 (a) The Speaker of the House of Representatives shall
 31 appoint three individuals, one of whom is a member of the

1 House of Representatives, one of whom represents a financial
2 institution or credit industry, and one of whom represents the
3 real property title industry.

4 (b) The President of the Senate shall appoint three
5 individuals, one of whom is a member of the Senate, one of
6 whom represents the broadcast, print, or electronic media, and
7 one of whom represents the First Amendment Foundation.

8 (c) The Governor shall appoint six individuals, as
9 follows:

10 1. Two at-large members who are residents of the
11 state.

12 2. One representative of the Department of Law
13 Enforcement.

14 3. Three attorneys who are members in good standing of
15 The Florida Bar, all of whom have extensive knowledge of
16 Florida's public records and privacy laws and the Florida
17 Constitution. At least one of the attorneys must have
18 additional expertise in the area of probate law, and at least
19 one of the attorneys must have additional expertise in the
20 area of family law.

21 (d) The Chief Justice of the Supreme Court shall
22 appoint three individuals, one of whom is a circuit court
23 judge, one of whom is a justice of the Supreme Court, and one
24 of whom is a representative from an office of trial court
25 administrators.

26 (e) The Florida Association of Circuit Court Clerks
27 and Comptrollers shall appoint two individuals, one of whom is
28 a circuit court clerk and one of whom is a deputy circuit
29 court clerk.

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1 (2) The Governor shall designate the chair of the
2 commission from among the attorney members appointed pursuant
3 to paragraph (1)(c).

4 (3) The Speaker of the House of Representatives and
5 the President of the Senate shall designate staff within the
6 Legislature to assist the commission and provide all necessary
7 data collection, analysis, research, and support services.

8 (4) Members must be appointed within 30 days after the
9 effective date of this act. No sooner than 40 days and no
10 later than 60 days after the effective date of this act, the
11 commission shall meet to establish procedures for the conduct
12 of its business and to elect a vice chair. The commission
13 shall meet at the call of the chair but no less frequently
14 than every 2 months. All meetings of the commission shall be
15 held in Tallahassee.

16 (5) Members of the commission shall serve without
17 compensation but are entitled to be reimbursed for per diem
18 and travel expenses as provided in s. 112.061, Florida
19 Statutes.

20 (6) The primary purpose of the commission shall be to
21 recommend any needed changes to laws governing privacy,
22 confidentiality, and access to official records.
23 Specifically, the commission shall address:

24 (a) The manner in which recent advances in remote
25 electronic access, including Internet access, have affected
26 the collection and dissemination of sensitive personal
27 information, and whether the collection and dissemination of
28 such information has affected fraudulent activity and the
29 public's concerns regarding privacy.

30 (b) The question of whether confidential or exempt
31 information contained in official records should continue to

1 be disclosed to the public in copies of records obtained at
2 the offices of the clerks of court within this state or
3 obtained through electronic means.

4 (c) The question of whether official records should
5 contain confidential or exempt information. With respect
6 thereto:

7 1. Who should be responsible for ensuring that such
8 information is kept exempt from public disclosure;

9 2. What logistical and practical impediments exist to
10 keeping such information exempt from public disclosure in
11 existing and future official records; and

12 3. What changes to the law and/or practices and
13 procedures need to be implemented in order to most effectively
14 and efficiently keep confidential or exempt information out of
15 official records.

16 (d) The question of how to eliminate the inclusion of
17 confidential or exempt information in records of the judicial
18 branch that are either recorded or are otherwise made publicly
19 available if it is determined that confidential or exempt
20 information should not be disclosed in official records.

21 (e) The best method of educating the public and the
22 legal and business communities with regard to limiting the
23 types of personal information that are included in official
24 records.

25 (f) The best method of promoting greater communication
26 between all branches of government regarding the collection
27 and disclosure of sensitive personal information.

28 (g) The question of whether sanctions should be
29 created with regard to the types of information to be placed
30 in official records and the disclosure of confidential or
31 exempt information.

1 (7) The commission, as it deems appropriate, may
2 examine and recommend changes to other laws, rules, and
3 policies governing all public records.

4 (8) The commission shall review, at a minimum,
5 documents compiled by legislative, executive, or judicial
6 branches relating to the topics of privacy, technology, and
7 public records.

8 (9) The commission shall submit a final report to the
9 Governor, the Chief Justice of the Supreme Court, the
10 President of the Senate, and the Speaker of the House of
11 Representatives by January 1, 2003. The final report shall
12 include all recommendations and elements required by this
13 section, a draft of appropriate legislation or rules of
14 procedure, and any other recommendations regarding privacy and
15 official records.

16 (10) The commission shall identify any necessary
17 support services, additional training, and fiscal impact
18 resulting from its recommendations.

19 (11) The commission is terminated June 30, 2003.

20 Section 2. Section 28.2221, Florida Statutes, is
21 amended to read:

22 28.2221 Electronic access to official records.--

23 (1) The Legislature finds that a proper and legitimate
24 state purpose is served by providing the public with access to
25 public records and information on the Internet. The
26 Legislature further finds that a proper and legitimate state
27 purpose is also served by preventing disclosure of records and
28 information made exempt by law from public disclosure ~~and~~
29 ~~hereby determines that the provisions of this section fulfill~~
30 ~~and further an important state interest.~~

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1 (2) No later than January 1, 2002, the county recorder
2 in each county shall provide a current index of documents
3 recorded in the official records of the county for the period
4 beginning no later than January 1, 1990, on a publicly
5 available Internet website which shall also contain a document
6 requisition point for obtaining images or copies of the
7 documents reflected in the index and which has the capability
8 of electronically providing the index data to a central
9 statewide search site. The index shall be limited to grantor
10 and grantee names, party names, date, book and page number,
11 and type of record.

12 (3) Each county recorder shall use appropriate
13 Internet security measures to ensure that no person has the
14 ability to alter or to modify records placed on the Internet
15 by the Clerks of Court ~~any public record.~~

16 (4) Unless otherwise provided by law, no information
17 retrieved electronically pursuant to this section shall be
18 admissible in court as an authenticated document.

19 (5) No county recorder may place an image or copy of
20 an official record on a publicly available Internet website
21 for general public display if that image or copy is of a
22 military discharge; death certificate; any document filed
23 under chapter 61 or the Family Law Rules of Procedure,
24 including pleadings, discovery, psychological evaluations,
25 financial affidavits, and any orders or judgments entered by
26 the court; and any document filed under the laws of Florida or
27 the Florida Probate Rules related to probate and guardianship
28 proceedings. Any such records on the Internet for general
29 public display prior to the effective date of this act must be
30 removed. Any affected person may petition the circuit court
31 for an order directing compliance with this provision. ~~By~~

1 ~~January 1, 2006, each county recorder shall provide for~~
2 ~~electronic retrieval, at a minimum, of images of documents~~
3 ~~referenced as the index required to be maintained on the~~
4 ~~county's official records website by this section.~~

5 Section 3. This act shall take effect upon becoming a
6 law.

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9 HOUSE SUMMARY

10 Creates the Study Commission on Official Records for the
11 purpose of recommending any needed changes to laws
12 currently governing privacy, confidentiality, and access
13 to official records. Provides for membership and
14 organization of the commission. Provides duties and
15 responsibilities of the commission. Requires the
16 commission to submit a final report of its findings and
17 recommendations by January 1, 2003. Provides for
18 expiration of the commission on June 30, 2003.

19 Revises current provisions of law relating to electronic
20 access to official records. Revises the declared purpose
21 of the state with respect to such access. Provides
22 limitations with respect to a specified Internet index of
23 documents. Provides that county recorders may not place
24 images or copies of specified official records on a
25 publicly available Internet website for general public
26 display and requires the removal of such records placed
27 on the Internet prior to the effective date of the act.
28 Provides that affected persons may petition the court for
29 an order of compliance.
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