

Bill No. CS for CS for SB 668

Amendment No. Barcode 251112

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
---------------	----------------	--------------

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
.
.
.
.

Senator Burt moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

Section 1. Study Committee on Public Records; creation; membership; duties.--

(1) There is created a Study Committee on Public Records. The committee shall be composed of twenty-two members, nine of whom will serve in an advisory, nonvoting capacity, as follows:

(a) The Governor shall appoint one at-large member who is a resident of the state, one attorney with expertise in Florida's public records and privacy laws, a representative from the First Amendment Foundation, and a representative of the data aggregation industry. To serve in an advisory capacity, the Governor shall appoint a representative from the Florida Department of Law Enforcement, a representative from the Department of Children and Family Services, a representative from the Department of Juvenile Justice, and a representative from the Department of Education.

(b) The President of the Senate shall appoint a member

Bill No. CS for CS for SB 668

Amendment No. ____ Barcode 251112

1 of the Senate interested in and knowledgeable in the areas of
2 public records law, judicial records, and real property and
3 probate issues; one attorney with expertise in family law; and
4 a representative of the real property title industry. To serve
5 in an advisory capacity, the President of the Senate shall
6 appoint one domestic violence advocate and one child and
7 family advocate.

8 (c) The Speaker of the House of Representatives shall
9 appoint a member of the House of Representatives interested in
10 and knowledgeable in the areas of public records law, judicial
11 records, and family law issues; one attorney with expertise in
12 real property and probate law; and a representative from a
13 financial institution or from the credit industry. To serve in
14 an advisory capacity, the Speaker of the House of
15 Representatives shall appoint two representatives from among
16 local or community service providers.

17 (d) The Chief Justice of the Supreme Court shall
18 appoint two judges or justices who are interested in and
19 knowledgeable regarding public records law and who are
20 familiar with the variety and types of judicial records. To
21 serve in an advisory capacity, the Chief Justice of the
22 Supreme Court shall appoint a representative from the judicial
23 branch.

24 (e) The Florida Association of Circuit Court Clerks
25 and Comptrollers shall appoint one Clerk of the Circuit Court.

26 (2) The Speaker of the House of Representatives and
27 the President of the Senate shall designate legislative staff
28 knowledgeable in the areas of public records and privacy laws
29 to assist the committee and provide all necessary data
30 collection, analysis, research, and support services.

31 (3) The attorney appointed by the Governor shall serve

Bill No. CS for CS for SB 668
Amendment No. Barcode 251112

1 as chair of the committee. Members must be appointed within
2 30 days after the effective date of this act. No sooner than
3 40 days and no later than 60 days after the effective date of
4 this act, the committee shall meet to establish procedures for
5 the conduct of its business and to elect a vice chair. The
6 committee shall meet at the call of the chair but no less
7 frequently than every 2 months. A majority of the members of
8 the committee constitutes a quorum, and a quorum is necessary
9 for the purpose of voting on any action or recommendation of
10 the committee. All meetings shall be held in Tallahassee,
11 unless otherwise decided by the committee. No more than two
12 meetings held in locations other than Tallahassee may be held
13 for the purpose of taking public testimony regarding the
14 issues set forth in subsection (4).

15 (4) The committee shall address:

16 (a) The issues of privacy and public access as they
17 relate to the collection and dissemination of information
18 contained in court records. With respect to such issues, the
19 committee shall specifically address:

20 1. How the collection, storage, retrieval,
21 dissemination, and accessibility of court records through
22 advanced technologies such as remote electronic access,
23 including Internet access, has affected:

24 a. The expectation of privacy to sensitive, personal,
25 or other evidentiary information contained in court records;

26 b. The role and effectiveness of the court and the
27 clerks of the court as custodians of these records;

28 c. The operations of other governmental entities that
29 use information in court records;

30 d. The security and safety of citizens; and

31 e. The interests of business, research, and media

Bill No. CS for CS for SB 668

Amendment No. ____ Barcode 251112

1 industries in these records.

2 2. How best to balance the positive and negative
3 effects of electronic access to court records.

4 3. Whether the courts and participants in the judicial
5 process require or provide excessive and unnecessary
6 information, and if so, the best manner in which to address
7 such issues.

8 4. Whether categories of cases or information such as
9 financial affidavits, names and addresses of children,
10 psychological evaluations, testimony and reports of therapists
11 and counselors, and other evidentiary information found in
12 court records should be made confidential or exempt from
13 public disclosure in part or in totality.

14 5.a. What information is and should be accessible, the
15 circumstances warranting accessibility, and the need for
16 restrictions with respect thereto; and

17 b. Whether levels of accessibility should be
18 established based on the nature of the information and the
19 user of the information, circumstances warranting the
20 establishment of levels of accessibility, and the need for
21 restrictions with respect thereto.

22 6. How to ensure the privacy, security, and full
23 participation of children and families within the judicial
24 system without undermining the fairness of the judicial
25 process.

26 7. What changes, if any, in law, rule, policy, or
27 practice related to the collection, filing, and dissemination
28 of information contained in court records are necessary to
29 facilitate information sharing, admissibility of evidence, and
30 public access to court records, yet at the same time balance
31 security and privacy needs.

Bill No. CS for CS for SB 668

Amendment No. Barcode 251112

1 8.a. What impediments exist with regard to preventing
2 the unauthorized or inadvertent disclosure of confidential or
3 exempt information in current and future court records;

4 b. Who should be responsible for ensuring that such
5 information is kept exempt from public disclosure; and

6 c. What, if any, penalties should be in place if such
7 disclosure occurs.

8 (b) The issues of privacy and public access as they
9 relate to the collection and dissemination of information
10 contained in all official records. With respect to such
11 issues, the committee shall specifically address:

12 1. How the storage, retrieval, dissemination, and
13 accessibility of official records through advanced
14 technologies such as remote electronic access, including
15 Internet access, has affected:

16 a. The expectation of privacy with respect to
17 sensitive or personal information contained in official
18 records;

19 b. The role and effectiveness of the county recorder;

20 c. The operations of other governmental entities who
21 use official records;

22 d. The security and safety of citizens; and

23 e. The interests of business, research, and media
24 industries.

25 2. How best to balance the positive and negative
26 effects of access to official records, regardless of the
27 medium.

28 3. The question of whether confidential or exempt
29 information contained in official records should continue to
30 be disclosed to the public in copies of records disclosed at
31 the county recorder's office or obtained through electronic

Bill No. CS for CS for SB 668

Amendment No. ____ Barcode 251112

1 means.

2 4.a. Who should be responsible for ensuring that
3 confidential or exempt information is identified, kept out of
4 official records, and kept exempt from public disclosure; and

5 b. What changes to the law, practices, and procedures
6 need to occur in order to most effectively and efficiently
7 keep confidential or exempt information out of official
8 records.

9 5. How the public and the legal and business
10 communities can be educated with regard to limiting the types
11 of personal information included in official records.

12 6. How to promote greater communication between all
13 branches of government regarding the collection and disclosure
14 of sensitive personal information.

15 7. What procedural safeguards, enforcement practices,
16 and underlying policies used by public records custodians
17 currently exist or could be implemented to protect the
18 disclosure of confidential or exempt information.

19 8. The question of whether sanctions should be created
20 with regard to what is placed in official records as well as
21 for disclosing confidential or exempt information.

22 (5) Committee members serving in an advisory capacity
23 shall provide information to the committee, as requested.
24 Advisory members are, in part, responsible for reporting to
25 the committee any recommendations regarding the following
26 issues:

27 (a) What information contained in agency records
28 pertaining to minors and family issues of a sensitive nature
29 should be exempt from public disclosure, and what is the best
30 method of protecting against the unlawful dissemination of
31 such information when these records are used for court

Bill No. CS for CS for SB 668

Amendment No. ____ Barcode 251112

1 proceedings.

2 (b) What changes to agency policies and procedures are
3 necessary in order to ensure that sensitive personal
4 information relating to minors and family issues of a
5 sensitive nature is most effectively and efficiently
6 disseminated to the judiciary when such information is
7 pertinent to court proceedings.

8 (6) The committee, as it deems appropriate, may
9 examine and recommend changes to laws, rules, and policies
10 governing all public records.

11 (7) The committee shall review, at a minimum,
12 documents compiled by the legislative, executive, and judicial
13 branches; the clerks of court; and the Florida Bar, relating
14 to the topics of privacy, technology, and public records,
15 including official records and court records.

16 (8) The committee shall submit a final report to the
17 Governor, the Chief Justice of the Supreme Court, the
18 President of the Senate, and the Speaker of the House of
19 Representatives, by January 1, 2003. The final report shall
20 include specific recommendations regarding the privacy and
21 public records issues identified in this act. To the extent
22 possible, the report shall include proposed legislation or
23 rule change recommendations. The report shall identify any
24 necessary support services, additional training, and fiscal
25 impact resulting from its recommendations.

26 (9) Members of the committee shall serve without
27 compensation but are entitled to be reimbursed for per diem
28 and travel expenses as provided in s. 112.061. Per diem travel
29 and expenses for committee members who are employees of the
30 state shall be provided from the budgets of the employing
31 agencies.

Bill No. CS for CS for SB 668

Amendment No. ____ Barcode 251112

1 (10) The committee is terminated June 30, 2003.

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

4 28.2221 Electronic access to official records.--

5 (1) The Legislature finds that a proper and legitimate
6 state purpose is served by providing the public with access to
7 public records and information on the Internet. The
8 Legislature further finds that a proper and legitimate state
9 purpose is also served by preventing disclosure of records and
10 information made exempt by law from public disclosure and
11 ~~hereby determines that the provisions of this section fulfill~~
12 ~~and further an important state interest.~~

13 (2) No later than January 1, 2002, the county recorder
14 in each county shall provide a current index of documents
15 recorded in the official records of the county for the period
16 beginning no later than January 1, 1990, on a publicly
17 available Internet website which shall also contain a document
18 requisition point for obtaining images or copies of the
19 documents reflected in the index and which has the capability
20 of electronically providing the index data to a central
21 statewide search site. The index shall be limited to grantor
22 and grantee names, party names, date, book and page number,
23 comments, and type of record.

24 (3) Each county recorder shall use appropriate
25 Internet security measures to ensure that no person has the
26 ability to alter or to modify records placed on the Internet
27 by the county recorder ~~any public record.~~

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

31 (5)(a) No county recorder or clerk of the court may

Bill No. CS for CS for SB 668

Amendment No. ____ Barcode 251112

1 place an image or copy of a public record, including an
2 official record, on a publicly available Internet website for
3 general public display if that image or copy is of a military
4 discharge; death certificate; or a court file, record, or
5 paper relating to matters or cases governed by the Florida
6 Rules of Family Law, the Florida Rules of Juvenile Procedure,
7 or the Florida Probate Rules.

8 (b) Any records specified in this subsection made
9 available by the county recorder or clerk of the court on a
10 publicly available Internet website for general public display
11 prior to the effective date of this act must be removed if the
12 affected party identifies the record and requests that it be
13 removed. Such request must be in writing and delivered by
14 mail, facsimile, or electronic transmission, or in person to
15 the county recorder or clerk of the court. The request must
16 specify the identification page number of the document to be
17 removed. No fee may be charged for the removal of a document
18 pursuant to such request.

19 (c) No later than 30 days after the effective date of
20 this act, notice of the right of any affected party to request
21 removal of records pursuant to this subsection shall be
22 conspicuously and clearly displayed by the county recorder or
23 clerk of the court on the publicly available Internet website
24 on which images or copies of the county's public records are
25 placed and in the office of each county recorder or clerk of
26 the court. In addition, no later than 30 days after the
27 effective date of this act, the county recorder or the clerk
28 of the court must have published, on two separate dates, a
29 notice of such right in a newspaper of general circulation in
30 the county where the county recorder's office is located as
31 provided for in chapter 50. Such notice must contain

Bill No. CS for CS for SB 668

Amendment No. ____ Barcode 251112

1 appropriate instructions for making the removal request in
2 person, by mail, by facsimile, or by electronic transmission.
3 The notice shall state, in substantially similar form, that
4 any person has a right to request that a county recorder or
5 clerk of the court remove an image or copy of a public record,
6 including an official record, from a publicly available
7 Internet website if that image or copy is of a military
8 discharge; death certificate; or a court file, record, or
9 paper relating to matters or cases governed by the Florida
10 Rules of Family Law, the Florida Rules of Juvenile Procedure,
11 or the Florida Probate Rules. Such request must be made in
12 writing and delivered by mail, facsimile, or electronic
13 transmission, or in person to the county recorder or clerk of
14 the court. The request must identify the document
15 identification page number of the document to be removed. No
16 fee will be charged for the removal of a document pursuant to
17 such request.

18 (d) Any affected person may petition the circuit court
19 for an order directing compliance with this subsection.

20 (e) By January 1, 2006, each county recorder or clerk
21 of the court shall provide for electronic retrieval, at a
22 minimum, of images of documents referenced as the index
23 required to be maintained on the county's official records
24 website by this section.

25 Section 3. There is hereby appropriated from the
26 General Revenue Fund to the Executive Office of the Governor
27 the sum of \$25,000 for the purpose of reimbursement for per
28 diem and travel expenses as authorized by this act.

29 Section 4. This act shall take effect upon becoming a
30 law. For purposes of codifying the Florida Statutes 2002, the
31 Division of Statutory Revision of the Office of Legislative

Bill No. CS for CS for SB 668

Amendment No. ____ Barcode 251112

1 Services is directed to substitute the effective date of CS
2 for CS for Senate Bill 668, or similar legislation, for the
3 language "the effective date of this act" as used in section
4 28.2221(5)(b) and (c), Florida Statutes, as created by this
5 act.

6
7 and insert:

8
9
10 ===== T I T L E A M E N D M E N T =====

11 And the title is amended as follows:

12 Delete everything before the enacting clause

13
14 and insert:

15 A bill to be entitled
16 An act relating to public records; creating the
17 Study Committee on Public Records; providing
18 for membership and organization of the
19 committee; providing purpose, duties, and
20 responsibilities of the committee; requiring a
21 report; providing for expiration of the
22 committee; amending s. 28.2221, F.S., relating
23 to electronic access to official records;
24 revising declared state purpose with respect to
25 such access; providing limitations with respect
26 to a specified Internet index of documents;
27 providing that county recorders may not place
28 images or copies of specified public records on
29 a publicly available Internet website for
30 general public display; requiring that such
31 records placed on the Internet prior to the

Bill No. CS for CS for SB 668

Amendment No. ____ Barcode 251112

1 effective date of the act be removed upon
2 request; providing certain notice requirements
3 and requiring publication of notice by county
4 recorders and clerks of the court; providing
5 that affected persons may petition the court
6 for an order of compliance; requiring clerks of
7 court to provide for electronic retrieval of
8 images of certain documents by a specified
9 date; providing an appropriation; providing an
10 effective date.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31