

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 983 w/CS Public Records Exemption for Putative Father Registry
SPONSOR(S): Mahon
TIED BILLS: HB 835 **IDEN./SIM. BILLS:** SB 2526

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary	11 Y, 0 N w/CS	Birtman	Havlicak
2) State Administration	6 Y, 0 N w/CS	Williamson	Everhart
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 835, the tied bill, creates a putative father registry (registry) within the Office of Vital Statistics of the Department of Health (office). The registry requires an unmarried biological father to register in order to preserve the right to notice and consent to an adoption.

HB 983 creates a public records exemption for all information contained in the registry and the registry database. It also provides exceptions to the exemption: an adoption entity may have access to such information under certain circumstances; the unmarried biological father may have access to his information; and the court may have access to the registry information upon issuance of a court order.

The bill provides for future review and repeal, and provides a statement of public necessity.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain: Not applicable.

B. EFFECT OF PROPOSED CHANGES:

Background

HB 835, the tied bill, creates the Florida Putative Father Registry (registry) within the Office of Vital Statistics of the Department of Health. The registry requires an unmarried biological father (registrant) to register in order to preserve the right to notice and consent to an adoption. The claim of paternity form must be signed by the registrant and must include his name, address, date of birth, and physical description. If known, the registrant must also provide: the name, address, date of birth, and physical description of the mother; the date, place, and location of conception of the child; and the name, date, and place of birth of the child or estimated date of birth of the expected minor child. Such form must be signed under oath by the registrant.

Effect of Bill

HB 983 creates a public records exemption for all information contained in the registry and the registry database. The bill does, however, provide for exceptions to the exemption. An adoption entity may have access to such information upon the filing of a request for a diligent search of the registry in connection with the planned adoption of a child. The unmarried biological father may have access to his information upon the office's receipt of notarized request for a copy of such information. Finally, the court may have access to the registry information upon issuance of a court order concerning a petitioner acting pro se in an action under chapter 63, F.S.

The bill provides for future review and repeal, and provides a statement of public necessity.

C. SECTION DIRECTORY:

Section 1. Creates s. 63.0541, F.S., creating a public records exemption for all information contained in the putative father registry created by s. 63.054, F.S., and the registry database.

Section 2. Provides a statement of public necessity.

Section 3. Provides an effective date contingent upon the passage of HB 835 or similar legislation.

II. 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.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not affect municipal or county government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Public Records Law

Article I, s. 24(a), Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature may, however, provide by general law for the exemption of records from the requirements of Article I, s. 24(a), Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07(1), F.S., also guarantees every person a right to inspect, examine, and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act of 1995¹ provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes: 1. Allowing the state or its political subdivisions to effectively and efficiently administer

¹ Section 119.15, F.S.

a governmental program, which administration would be significantly impaired without the exemption; 2. Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or, 3. Protecting trade or business secrets.

Other Comments

The Department of Health, Office of Vital Statistics fears that information contained in the forms that unmarried biological fathers fill out in order to register with the Putative Father Registry, may not be confidential and exempt from public records requirements. It should be noted that the Department of Health, Office of Vital Statistics does have rule-making authority to implement the provisions relating to the Putative Father Registry, pursuant to HB 835.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Committee on Judiciary

The Judiciary Committee adopted a strike-all amendment at its meeting on March 26, 2003, which conforms this bill with the amendment to HB 835. This analysis is drafted to HB 983 as amended.

Committee on State Administration

On April 8, 2003, the Committee on State Administration adopted an amendment to HB 983 with CS by the Committee on Judiciary, and reported the bill favorably with CS.

The bill with CS from the Committee on Judiciary cross-references s. 63.054(13), F.S., which is created by HB 835. This cross-reference contains the exceptions to the public records exemption. Placement of the exceptions in HB 835 (the tied bill) raised concerns, because the exceptions should be contained in the public records exemption bill. As such, the amendment adopted by the Committee on State Administration placed those exceptions to the exemption in this public records exemption bill. In addition, the amendment adopted by the Committee on State Administration clarified that the information contained in the registry database is also confidential and exempt from public disclosure.