

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1761 (PCB FFF 04-08) Public Records Exemption  
**SPONSOR(S):** Future of Florida's Families and Fiorentino  
**TIED BILLS:** HB 1759 **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Children's Services (Sub)	5 Y, 0 N	Preston	Liem
2) Future of Florida's Families	13 Y, 0 N	Preston	Liem
3)			
4)			
5)			

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**SUMMARY ANALYSIS**

HB 1761 creates a public records exemption for records obtained by the Department of Revenue pursuant to newly created §409.25659, Florida Statutes, related to insurance claims information. Such records may only be disclosed for locating an obligor or establishing, enforcing, or modifying a child support obligation.

The bill will require a two-thirds vote of the members present and voting for passage.

The bill appears to have a minimal fiscal impact on state and 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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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:

#### B. EFFECT OF PROPOSED CHANGES:

HB 1761 sponsored by the Committee on the Future of Florida's Families creates §409.25659, Florida Statutes, to develop and establish an insurance claim data exchange to provide for the identification of settlement payments on insurance liability claims which can then be applied to child support arrearages in Title IV-D cases. This bill creates a public records exemption for the records obtained by the Department of Revenue from insurers.

#### C. SECTION DIRECTORY:

**Section 1.** Creates an exemption for records obtained by the Department of Revenue under an insurance claim data exchange system.

**Section 2.** Provides for review and future repeal of the exemption.

**Section 3.** Provides a statement of public necessity.

**Section 4.** Provides for an effective date.

### 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:

The public records law in general creates a significant, although unquantifiable, increase in government spending. Government employees must locate requested records, and must examine every requested record to determine if a public records exemption prohibits release of the record. There is likely no marginal fiscal impact to a single public records exemption; the location and examination process remains whether or not a particular public records exemption exists.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not affect county or municipal government.

2. Other:

Article I, §24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. Thus, the PCB will require a two-thirds vote for passage.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Article I, §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, §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), Florida Statutes, 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 1995<sup>1</sup> 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:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- 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,
- Protecting trade or business secrets.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

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<sup>1</sup> See §119.15, Florida Statutes.

