

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:** SB 2826

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) Insurance	17 Y, 3 N	Tinney	Cooper
4) State Administration			
5)			

SUMMARY ANALYSIS

HB 1761 creates a public records exemption for records obtained by the Department of Revenue pursuant to newly created s. 409.25659, Florida Statutes, related to insurance claims information. (See HB 1759 by the Committee on the Future of Florida's Families.) The confidential records may be disclosed only for locating a parent who owes child support or for 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.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1761b.in.doc
DATE: March 25, 2004

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 s. 409.25659, F.S., 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, i.e., child support enforcement cases. This bill creates a public records exemption for the records obtained by the Department of Revenue from insurers. Specific conditions under which the confidential records may be shared are specified by the bill.

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, contingent upon the passage of related legislation during the 2004 regular legislative session or any extension of the 2004 session.

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 an 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. The fiscal impact relating to a single public records exemption likely is small because records custodians must locate and examine a requested record to determine whether the record is available to the public.

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, s. 24(c), Florida 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, HB 1761 requires a two-thirds vote for passage.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

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, however, may provide by general law for the exemption of records from the requirements of Article I, 24(a), Fla. Const. 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. HB 1651 includes various justifications for protecting the records made confidential by the bill.

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. The Open Government Sunset Review Act of 1995¹ specifies that a public records or public meetings exemption be created or maintained only if it serves an identifiable public purpose, and requires that the exemption be no broader than is necessary to meet one of the following public purposes:

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

¹ See s. 119.15, Florida Statutes.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.