

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:

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 and meetings from the requirements of Article I, s. 24, 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 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.

Section 119.07(3)(i), F.S. exempts certain information for sworn law enforcement officers, corrections officers, correctional probation officers, Department of Children and Families child abuse investigators, Department of Health child abuse investigators, Department of revenue employees who enforce child support orders and collect revenue, firefighters, judges, prosecutors, and others from being public record. Information such as the home addresses, telephone numbers, social security numbers, and photographs of these individuals are exempt from public records requests. The statute also exempts the same above information plus places of employment of the spouses and children, plus the names and locations of day care facilities and schools that the personnel’s children might attend.

Current law does not exempt civilian personnel who work in a law enforcement agency crime lab or medical examiners office from public records requests. Their names, addresses, photographs, social security numbers, etc. are readily available. Today, many law enforcement agencies are hiring civilians to work as evidence technicians and laboratory personnel. These civilians later are often times called on to testify as expert witnesses in many criminal trials. If this information were not exempt, a defendant or a friend or family member could harm or threaten to harm the employee or one of their family

¹ Section 119.15, F.S.

members in an effort to illicit certain testimony at trial or in retaliation. According to the Florida Medical Examiner's Association, there have been no known threats against these individuals. This bill is trying to minimize any possibility of there being any in the future.

HB 1925 allows the same public records exemption for the personnel who work in a crime lab or medical examiners office whose primary duties or responsibilities include performing laboratory and analytical work in criminal identification and investigation; photographing crime scenes; classifying, evaluating, and identifying fingerprints; or supervising one or more persons who have those duties or responsibilities.

HB 1925 provides an exemption from the requirements of the public records law for this information, finding that it is a public necessity to hold it confidential because revealing such information could create the opportunity to harm or threaten to harm the employee or one of their family members by the criminal defendant or by a friend or family member of the defendant. The bill requires a two-thirds vote of the members present and voting for passage. The bill also provides for future review and repeal of the exemptions.

C. SECTION DIRECTORY:

Section 1: Amends S. 119.07(3)(i) relating to public records exemptions.

Section 2: Relates to a Legislative finding for this public records exemption.

Section 3: Provides 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:

There does not appear to be any fiscal impact to this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable.

2. Other:

Article I, s. 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. The bill then requires a two-thirds vote of the members in the House for passage.

B. RULE-MAKING AUTHORITY:

No rule making authority is necessary to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.