

By Senator Clary

4-905A-04

See HB 1041

1 A bill to be entitled
2 An act relating to public records exemptions;
3 creating s. 717.1171, F.S.; exempting from
4 public records requirements certain financial
5 records held by the Department of Financial
6 Services; providing exceptions; creating s.
7 717.12401, F.S.; exempting from public records
8 requirements certain personal photographic
9 information held by the department; providing
10 exceptions; creating s. 717.12402, F.S.;
11 exempting from public records requirements
12 certain databases subscribed to by the
13 department under certain circumstances;
14 amending s. 717.1301, F.S.; deleting an
15 exemption from certain public records
16 requirements for materials compiled by the
17 department under an investigation or
18 examination; creating s. 717.1302, F.S.;
19 exempting from public records requirements
20 certain materials compiled by the department
21 relating to investigations or examinations;
22 providing exceptions; creating s. 717.1342,
23 F.S.; providing criminal penalties for
24 disclosure of confidential records; providing
25 findings of public necessity; providing for
26 future legislative review and repeal; providing
27 a contingent effective date.

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29 Be It Enacted by the Legislature of the State of Florida:

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1 Section 1. Section 717.1171, Florida Statutes, is
2 created to read:

3 717.1171 Public records exemption for social security
4 numbers, unclaimed property account dollar amounts, the number
5 of reported shares of stock, and financial account numbers.--

6 (1) Social security numbers, unclaimed property
7 account dollar amounts, the number of reported shares of
8 stock, and financial account numbers held by the department
9 are confidential and exempt from s. 119.07(1) and s. 24(a),
10 Art. I of the State Constitution. Notwithstanding this
11 exemption, unclaimed property account dollar amounts and the
12 number of reported shares of stock shall be released to an
13 attorney licensed to practice law in this state, a licensed
14 Florida-certified public accountant, or a private investigator
15 licensed under chapter 493, and registered with the department
16 under this chapter. Notwithstanding this exemption, social
17 security numbers, unclaimed property account dollar amounts,
18 the number of reported shares of stock, and financial account
19 numbers held by the department may be provided to another
20 agency in the furtherance of that agency's duties and
21 responsibilities, or an employee of such agency. The receiving
22 person or agency, other than the person entitled to the
23 unclaimed property, must maintain the confidential and exempt
24 status of such information. This exemption applies to social
25 security numbers, unclaimed property account dollar amounts,
26 the number of reported shares of stock, and financial account
27 numbers held by the department before, on, or after October 1,
28 2004.

29 (2) If information made confidential and exempt under
30 this section is offered as evidence in any administrative,
31 civil, or criminal proceeding, or is otherwise subject to such

1 proceeding, the presiding officer, in her or his discretion,
2 may prevent the disclosure of information which is
3 confidential and exempt pursuant to this section.

4 (3) An attorney licensed to practice law in this
5 state, a licensed Florida-certified public accountant, or a
6 private investigator licensed under chapter 493, and
7 registered with the department under this chapter, or an
8 employee thereof, may disclose in good faith unclaimed
9 property account dollar amounts and the number of reported
10 shares of stock to a person who is believed by the attorney,
11 accountant, or investigator, or an employee thereof, to be
12 entitled to the unclaimed property.

13 (4) The department, or an employee of the department,
14 may disclose in good faith unclaimed property account dollar
15 amounts and the number of reported shares of stock to a person
16 who is believed by the department, or an employee of the
17 department, to be entitled to the unclaimed property.

18 (5) This section does not supersede the licensing
19 requirements of chapter 493.

20 Section 2. Section 717.12401, Florida Statutes, is
21 created to read:

22 717.12401 Public records exemption for personal
23 photographic identification.--

24 (1) Personal photographic identification held by the
25 department pursuant to this chapter is confidential and exempt
26 from s. 119.07(1) and s. 24(a), Art. I of the State
27 Constitution. This exemption applies to personal photographic
28 identification held by the department before, on, or after
29 October 1, 2004.

30 (2) Nothing in this section shall be construed to
31 prohibit the department from providing the personal

1 photographic identification to any law enforcement or
2 administrative agency or regulatory organization.

3 (3) If information made confidential and exempt under
4 this section is offered as evidence in any administrative,
5 civil, or criminal proceeding, or is otherwise subject to such
6 proceeding, the presiding officer, in her or his discretion,
7 may prevent the disclosure of information which is
8 confidential and exempt pursuant to this section.

9 (4) The person receiving information which would be
10 confidential and exempt pursuant to this section must maintain
11 the confidentiality of the information so long as the
12 information would otherwise be confidential.

13 Section 3. Section 717.12402, Florida Statutes, is
14 created to read:

15 717.12402 Public records exemption for database
16 subscription required to be confidential by the database
17 vendor. A database subscribed to by the department is
18 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
19 of the State Constitution if the database vendor requires
20 confidentiality.

21 Section 4. Subsections (5) and (6) of section
22 717.1301, Florida Statutes, are amended to read:

23 717.1301 Investigations; examinations; subpoenas.--

24 ~~(5) The material compiled by the department in an~~
25 ~~investigation or examination under this chapter is~~
26 ~~confidential until the investigation or examination is~~
27 ~~complete. The material compiled by the department in an~~
28 ~~investigation or examination under this chapter remains~~
29 ~~confidential after the department's investigation or~~
30 ~~examination is complete if the department has submitted the~~
31 ~~material or any part of it to any law enforcement agency or~~

1 ~~other administrative agency for further investigation or for~~
2 ~~the filing of a criminal or civil prosecution and such~~
3 ~~investigation has not been completed or become inactive.~~

4 (5)~~(6)~~ If an investigation or an examination of the
5 records of any person results in the disclosure of property
6 reportable and deliverable under this chapter, the department
7 may assess the cost of investigation or the examination
8 against the holder at the rate of \$100 per day per
9 investigator or examiner.

10 Section 5. Section 717.1302, Florida Statutes, is
11 created to read:

12 717.1302 Confidentiality of information relating to
13 investigations and examinations.--

14 (1)(a) Except as otherwise provided by this section,
15 information relating to an investigation or examination by the
16 department, or an agent of the department, pursuant to this
17 chapter, including any list of holders under investigation or
18 examination or to be investigated or examined, is confidential
19 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
20 Constitution until the investigation or examination is
21 completed or ceases to be active. The information compiled by
22 the department in such an investigation or examination shall
23 remain confidential and exempt from s. 119.07(1) and s. 24(a),
24 Art. I of the State Constitution after the department's
25 investigation or examination is completed or ceases to be
26 active if the department submits the information to any law
27 enforcement or administrative agency for further
28 investigation. Such information shall remain confidential and
29 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
30 Constitution until that agency's investigation is completed or
31 ceases to be active. This section shall not be construed to

1 prohibit disclosure of information which is required by law to
2 be filed with the department and which, but for the
3 investigation or examination, would be subject to s.
4 119.07(1)and s. 24(a), Art. I of the State Constitution.

5 (b) Except as necessary for the department to enforce
6 the provisions of this chapter, a consumer complaint and other
7 information relative to an investigation or examination shall
8 remain confidential and exempt from s. 119.07(1) and s. 24(a),
9 Art. I of the State Constitution after the investigation or
10 examination is completed or ceases to be active to the extent
11 disclosure would:

12 1. Jeopardize the integrity of another active
13 investigation or examination.

14 2. Reveal the name, address, telephone number, social
15 security number, or any other identifying number or
16 information of any complainant, customer, or account holder.

17 3. Disclose the identity of a confidential source.

18 4. Disclose investigative techniques or procedures.

19 5. Reveal a trade secret as defined in s. 688.002.

20 (c) If department personnel are or have been involved
21 in an investigation or examination of such nature as to
22 endanger their lives or physical safety or that of their
23 families, the home addresses, telephone numbers, places of
24 employment, and photographs of such personnel, together with
25 the home addresses, telephone numbers, photographs, and places
26 of employment of spouses and children of such personnel and
27 the names and locations of schools and day care facilities
28 attended by the children of such personnel are confidential
29 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
30 Constitution.

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1 (d) Nothing in this section shall be construed to
2 prohibit the department from providing information to any law
3 enforcement or administrative agency. Any law enforcement or
4 administrative agency receiving confidential information in
5 connection with its official duties shall maintain the
6 confidentiality of the information so long as it would
7 otherwise be confidential.

8 (e) All information obtained by the department from
9 any law enforcement or administrative agency which is only
10 made available to the department on a confidential or
11 similarly restricted basis shall be confidential and exempt
12 from s. 119.07(1) and s. 24(a), Art. I of the State
13 Constitution. This exemption shall not be construed to
14 prohibit disclosure of information which is required by law to
15 be filed with the department or which is otherwise subject to
16 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

17 (2) If information subject to subsection (1) is
18 offered in evidence in any administrative, civil, or criminal
19 proceeding, the presiding officer, in his or her discretion,
20 may prevent the disclosure of information which would be
21 confidential pursuant to paragraph (1)(b).

22 (3) A privilege against civil liability is granted to
23 a person who furnishes information or evidence to the
24 department, unless such person acts in bad faith or with
25 malice in providing such information or evidence.

26 Section 6. Section 717.1342, Florida Statutes, is
27 created to read:

28 717.1342 Criminal penalties for disclosure of
29 confidential records.--Any person who willfully and knowingly
30 violates s. 717.1171 or s. 717.12401 commits a felony of the
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1 third degree, punishable as provided in s. 775.082 or s.
2 775.083.

3 Section 7. (1) The Legislature finds that it is a
4 public necessity that social security numbers and financial
5 account numbers of apparent owners of unclaimed property which
6 are in the custody of the Department of Financial Services be
7 made confidential and exempt in order to prevent identity
8 theft and related crimes. The Legislature further finds that
9 this exemption is a public necessity in order to prevent the
10 use of such information in forged documents demonstrating
11 entitlement to unclaimed property and thereby defrauding the
12 rightful property owner or the State School Fund.

13 Additionally, the social security number is the only
14 nationwide, unique numeric form of identification. Release of
15 a person's social security number is of concern due to the
16 amount of information such number can provide on an
17 individual. A social security number is often the link to an
18 individual's personal records, whether such records are
19 financial, educational, medical, or familial in nature.

20 (2) The Legislature finds that it is a public
21 necessity that unclaimed property account dollar amounts and
22 the number of reported shares of stock which are in the
23 custody of the Department of Financial Services be made
24 confidential and exempt in order to prevent unclaimed property
25 fraud and related crimes. The Legislature further finds that
26 this exemption is a public necessity in order to prevent
27 criminal elements from using such information to identify
28 which accounts to claim by using forged documents
29 demonstrating entitlement to unclaimed property, thereby
30 defrauding the rightful property owner or the State School
31 Fund. It is necessary, however, to provide access to unclaimed

1 property account dollar amounts and the number of reported
2 shares of stock to an attorney licensed to practice law in
3 this state, a licensed Florida-certified public accountant, a
4 private investigator licensed under chapter 493, Florida
5 Statutes, or private investigative agencies that are licensed
6 under chapter 493, Florida Statutes, and registered with the
7 department. The Legislature further finds that attorneys
8 licensed to practice law in this state, Florida-certified
9 public accountants, and private investigators and private
10 investigative agencies licensed under chapter 493, Florida
11 Statutes, and registered with the Department of Financial
12 Services, are subject to more stringent regulation and
13 oversight than the public as a whole. In addition, such
14 professionals are the only persons authorized to file claims
15 on behalf of apparent owners of unclaimed property pursuant to
16 chapter 717, Florida Statutes.

17 (3) The Legislature finds that it is a public
18 necessity that drivers' licenses and other personal
19 photographic identification which are in the custody of the
20 Department of Financial Services be made confidential and
21 exempt in order to prevent identity theft and related crimes.
22 The Legislature further finds that this exemption is a public
23 necessity in order to prevent the use of such information in
24 forged documents demonstrating entitlement to abandoned or
25 unclaimed property and thereby defrauding the rightful
26 property owner or the State School Fund. Additionally, a
27 driver license is the only nationwide, unique form of
28 identification. Release of a person's driver license is of
29 concern due to the ability to use the driver license to obtain
30 access to an individual's personal records, whether such

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1 records are financial, educational, medical, or familial in
2 nature.

3 (4) The Legislature finds that it is a public
4 necessity that the Department of Financial Services use the
5 most up-to-date database resources to verify whether claimants
6 are entitled to unclaimed property and in order to prevent
7 unclaimed property fraud and related crimes. The Legislature
8 further finds that this exemption is a public necessity in
9 order to help prevent criminal elements from successfully
10 using forged documents or erroneous information demonstrating
11 entitlement to abandoned or unclaimed property, thereby
12 defrauding the rightful property owner or the State School
13 Fund. The Legislature finds that it is a public necessity that
14 the department use the most current and efficient database
15 resources in order to determine the validity of claims in a
16 cost-effective manner.

17 (5) The Legislature finds that it is a public
18 necessity that information related to an open investigation or
19 examination by the Department of Financial Services be made
20 confidential and exempt until the completion of the
21 investigation or examination in order to protect the integrity
22 of the investigation or examination. The Legislature further
23 finds that it is a public necessity that information related
24 to an investigation or examination by the department be made
25 confidential and exempt if the department submits the
26 information to any law enforcement or administrative agency
27 for further investigation in order to protect the integrity of
28 the law enforcement or administrative agency investigation or
29 examination. The Legislature further finds that it is a public
30 necessity that sensitive information related to another active
31 investigation or examination, a complainant, a confidential

1 source, investigative techniques or procedures, trade secrets,
2 and at-risk department personnel and their families be made
3 confidential and exempt in order to protect the sensitive
4 nature of the information.

5 Section 8. Sections 717.1171, 717.12401, 717.12402,
6 717.1301, and 717.1302, Florida Statutes, are subject to the
7 Open Government Sunset Review Act of 1995 in accordance with
8 s. 119.15, Florida Statutes, and shall stand repealed on
9 October 2, 2009, unless reviewed and saved from repeal through
10 reenactment by the Legislature.

11 Section 9. This act shall take effect October 1, 2004,
12 if HB 1039 or substantially similar legislation is adopted in
13 the same legislative session or an extension thereof.

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