

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 635 Public Records Exemption

SPONSOR(S): Vana & Others

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Children's Services	7 Y, 0 N	Walsh	Liem
2) Future of Florida's Families		Walsh	Liem
3) State Administration			
4)			
5)			

SUMMARY ANALYSIS

HB 635 provides an exemption from public records requirements for certain information relating to children who participate in government-sponsored recreation programs or camps.

HB 635 requires a two-thirds vote of the members present and voting for passage.

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.

Government-sponsored camps and recreation programs for children collect personally identifying information about their participants as part of their routine operations. Besides the child participant's name, the information includes their home addresses, phone numbers, social security numbers, photographs, and schools of attendance, and the names and contact information for their parents or guardians. This information is a matter of public record, open for inspection and copying by any person so interested.

HB 635 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 for stalking, harassment, abduction, or abuse of children participating in these programs. The bill also provides for future review and repeal of the exemptions.

¹ Section 119.15, F.S.

C. SECTION DIRECTORY:

Section 1: Creates s. 119.07(3)(hh), F.S., adding an exemption from public records requirements for the names, home addresses, telephone numbers social security numbers, and photographs of; and names and locations of schools attended by, children who participate in government-sponsored recreation programs or camps, as well as the names, home addresses, telephone numbers social security numbers of the parents or guardians of those children.

Section 2: Provides for an Open Government Sunset Review of the newly created exemption and repeals same on October 2, 2009, unless reenacted.

Section 3: Provides a public necessity statement for the exemption.

Section 4: Provides that the act is effective upon becoming law.

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:

Unknown and likely minimal. See Fiscal Comments below.

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 resulting from a single public records exemption; the location and examination process remains whether or not a particular public records exemption exists.

A representative of the Florida Parks and Recreation Association advised that there will be no fiscal impact resulting from this bill on government-sponsored recreation and camp programs around the state.

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. Thus, HB 635 requires a two-thirds vote for passage.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

At its March 15, 2005, meeting the Subcommittee on Children's Services adopted HB 635 without amendment.