

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 635 Public Records Exemption
SPONSOR(S): Vana & Others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2082

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Children's Services (Sub)	7 Y, 0 N	Walsh	Liem
2) Future of Florida's Families	15 Y, 0 N	Walsh	Liem
3) State Administration		Williamson	Everhart
4)			
5)			

SUMMARY ANALYSIS

This bill creates a public records exemption for the name, home address, telephone number, and social security number of a child participant in a government-sponsored recreation program or camp, along with the name and location of the school attended by such participant. It also creates a public records exemption for the name, home address, telephone number, and social security number of the parent or guardian of such participant.

This bill provides for future review and repeal of the exemption and provides a statement of public necessity.

This bill appears to have a minimal fiscal impact on state and local governments. See "FISCAL COMMENTS" section.

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

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

STORAGE NAME: h0635c.sa.doc
DATE: March 23, 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:

Not applicable.

B. EFFECT OF PROPOSED CHANGES:

Background

Government-sponsored camps and recreation programs for children collect personal identifying information regarding participants as part of such camp's or program's 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.

Effect of Bill

This bill creates a public records exemption for a child participant's name, home address, telephone number, and social security number. It exempts the name and location of the school attended by such participant. It also creates a public records exemption for the name, home address, telephone number, and social security number of the parent or guardian of such participant. The release of such information could create the opportunity for stalking, harassment, abduction, or abuse of children participating in these programs.

This bill provides for future review and repeal of the exemption on October 2, 2009, pursuant to the Open Government Sunset Review Act of 1995. It also provides a statement of public necessity.

C. SECTION DIRECTORY:

Section 1 amends s. 119.07(3), F.S., creating an exemption for certain information regarding child participants in government-sponsored recreation programs or camps and certain information regarding the parents and guardians of such participants.

Section 2 provides for future review and repeal of the exemption.

Section 3 provides a statement of public necessity.

Section 4 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None. This bill does not create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

Unknown and likely minimal. See "FISCAL COMMENTS".

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. This bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

Unknown and likely minimal. See "FISCAL COMMENTS".

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. This bill does not require local governments to spend 1.7 million or more dollars.

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.

This exemption could raise constitutional concerns, because the exemption could be considered overly broad in that the only justification for the exemption is that release of certain information regarding child participants and their parents or guardians could create the opportunity for "stalking, harassment, abduction, or abuse of such children." Thus, the exemption assumes that all such participants are at risk. Current law already provides a public records exemption for certain information regarding victims of crimes. If such participants were a victim of a crime, their information would already be protected from public disclosure.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Public Records Law

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 from the requirements of Article I, s. 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), 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.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

¹ Section 119.15, F.S.