

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Governmental Oversight and Productivity Committee

BILL: CS/SB 1628

SPONSOR: Criminal Justice Committee and Senator Crist

SUBJECT: Public Records/Juvenile Probation and Detention Workers

DATE: April 22, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.	Rhea	Wilson	GO	Favorable
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The Committee Substitute for Senate Bill 1628 amends s. 119.07(6), F.S., to create a public records exemption for personal identifying information contained in records for current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, senior juvenile detention officers, juvenile detention officer supervisors, and juvenile detention officers of the Department of Juvenile Justice (DJJ). The information exempted from public disclosure includes the home addresses, telephone numbers, and photographs of such DJJ personnel. The exemption is repealed effective October 2, 2010, unless reviewed and reenacted by the Legislature.

This bill substantially amends section 119.07, Florida Statutes.

II. Present Situation:

Section 24 of Article I of the Florida Constitution provides the right of access to public records by stating that every person has the right to inspect or copy any public records made or received in connection with official state business. This right of access to public records applies to the legislative, executive, and judicial branches of government; counties, municipalities, and districts; and each constitutional officer, board, commission, or entity created pursuant to law or by the Constitution. Exemptions may be provided by general law based on an expressed statement of public necessity which justifies the exemption that can be no broader than necessary to accomplish the purpose of the law.

The corresponding general law is found in ch. 119, F.S., which requires the custodian of a public record to permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under the supervision of the custodian of the

public record or the custodian's designee under s. 119.07(1), F.S. Chapter 119, F.S., also provides additional requirements for the establishment of a public records exemption. There must be an identifiable public purpose, and it must be no broader than necessary to meet the public purpose it serves. s. 119.15(4)(b), F.S. The public purpose must be sufficiently compelling to override the strong public policy of open government such that the public purpose cannot be accomplished without the exemption and satisfies one of the following three criteria relating to the sensitivity and confidentiality of the information:

1. Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
2. Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this subparagraph, only information that would identify the individuals may be exempted; or
3. Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

The Open Government Sunset Review Act of 1995 provides for the automatic five-year review and repeal of an exemption under the Public Records Act, unless the Legislature acts upon it to re-enact the exemption under s. 119.15(3)(a), F.S.

Currently, s. 119.07(6), F.S., provides an exemption for personal identifying information contained in records about numerous personnel and their families, including, in part, active or former law enforcement personnel (covers correctional officers), Department of Children and Family Services child abuse investigators, Department of Revenue child support enforcement personnel, firefighters, judges, and prosecutors. Personal identifying information about the DJJ probation officers and supervisors, juvenile detention officers, and their families are not currently exempted under this section.

III. Effect of Proposed Changes:

The Committee Substitute for Senate Bill 1628 amends s. 119.07(6), F.S., to create a public records exemption for personal identifying information contained in records for current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, senior juvenile detention officers, juvenile detention officer supervisors, and juvenile detention officers of the Department of Juvenile Justice (DJJ). The information exempted from public disclosure includes the home addresses, telephone numbers, and photographs of such DJJ personnel.

The exemption is repealed effective October 2, 2010, unless reviewed and reenacted by the Legislature. The bill also contains a public necessity statement providing that if this personal

identifying information is not made confidential, these persons could be harmed or threatened with harm by a juvenile defendant or by a friend or family member of a juvenile.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

It appears that the criteria necessary to create, modify, or maintain a public records exemption under the Florida Constitution and Florida Statutes have been met by the bill.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
