Florida Senate - 2007

CS for SB 1468

By the Committee on Governmental Operations

585-2675-07

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1	A bill to be entitled
2	An act relating to a review under the Open
3	Government Sunset Review Act regarding social
4	security numbers and financial account numbers;
5	amending s. 119.071, F.S., which provides a
6	general exemption from inspection or copying of
7	public records for social security numbers and
8	bank account, debit, charge, and credit card
9	numbers; reorganizing the exemption for social
10	security numbers; providing definitions;
11	revising reporting requirements; clarifying
12	penalty provisions; making editorial changes;
13	removing the scheduled repeal of the exemption
14	under the Open Government Sunset Review Act;
15	creating s. 119.0714, F.S., and renumbering and
16	amending s. 119.07(6), F.S.; consolidating and
17	revising current public-records exemptions
18	applicable to court files, court records, and
19	official records; revising the date on which
20	automatic redaction of social security numbers
21	and financial account numbers by court clerks
22	is required; amending s. 215.322, F.S.;
23	eliminating a public-records exemption for
24	credit card account numbers in the possession
25	of a state agency, a unit of local government,
26	or the judicial branch; amending s. 119.07,
27	F.S., to conform; providing an 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. Paragraph (a) of subsection (4) and 2 paragraphs (a) and (b) of subsection (5) of section 119.071, Florida Statutes, are amended to read: 3 119.071 General exemptions from inspection or copying 4 of public records. --5 б (4) 7 (a)1. The social security numbers of all current and 8 former agency employees which numbers are contained in agency employment records are exempt from s. 119.07(1) and s. 24(a), 9 10 Art. I of the State Constitution. 2. An agency that is the custodian of a social 11 12 security number specified in subparagraph 1. and that is not 13 the employing agency shall maintain the exempt status of the social security number only if the employee or the employing 14 agency of the employee submits a written request for 15 confidentiality to the custodial agency. However, upon a 16 17 request by a commercial entity as provided in subparagraph 18 (5)(a)7.b.(5)(a)5., the custodial agency shall release the last four digits of the exempt social security number, except 19 that a social security number provided in a lien filed with 20 21 the Department of State shall be released in its entirety. 22 This subparagraph is subject to the Open Government Sunset 23 Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from 2.4 repeal through reenactment by the Legislature. 25 (5) OTHER PERSONAL INFORMATION. --26 (a)1.<u>a.</u> The Legislature acknowledges that the social 27 2.8 security number was never intended to be used for business purposes but was intended to be used solely for the 29 administration of the federal Social Security System. The 30 Legislature is further aware that over time this unique 31 2

1 numeric identifier has been used extensively for identity 2 verification purposes and other legitimate consensual 3 purposes. 4 b. The Legislature recognizes is also cognizant of the fact that the social security number can be used as a tool to 5 6 perpetuate fraud against an individual a person and to acquire 7 sensitive personal, financial, medical, and familial 8 information, the release of which could cause great financial 9 or personal harm to an individual. 10 c. The Legislature intends to monitor the commercial use of social security numbers held by state agencies in order 11 12 to maintain a balanced public policy. 13 2.<u>a.</u> An agency may not collect an individual's social security number unless the agency has stated in writing the 14 purpose for its collection and unless it is: 15 (I) Specifically authorized by law to do so; or 16 17 (II) unless the collection of the social security 18 number is otherwise Imperative for the performance of that agency's duties and responsibilities as prescribed by law. 19 Social security numbers collected by an agency must be 20 21 relevant to the purpose for which collected and may not be 2.2 collected until and unless the need for social security 23 numbers has been clearly documented. b. Social security numbers collected by an agency may 2.4 not be used by that agency for any purpose other than the 25 purpose provided in the written statement. 26 27 3. An agency that collects social security numbers 2.8 shall also segregate that number on a separate page from the 29 rest of the record, or as otherwise appropriate, in order that social security number be more easily redacted, if 30 31 required, pursuant to a public records request. An agency

1	collecting <u>an individual's</u> a person's social security number
2	shall, upon that person's request, at the time of or prior to
3	the actual collection of the social security number by that
4	agency, provide that <u>individual</u> person with a <u>copy of the</u>
5	<u>written</u> statement <u>required in subparagraph 2.</u> of the purpose
б	or purposes for which the social security number is being
7	collected and used. Social security numbers collected by an
8	agency may not be used by that agency for any purpose other
9	than the purpose stated.
10	<u>4.a.</u> Each social security numbers collected by an
11	agency before May 13, 2002, shall <u>review whether its</u>
12	collection of social security numbers is in be reviewed for
13	compliance with <u>subparagraph 2.</u> this subparagraph. If the
14	agency determines that collection of a social security number
15	before May 13, 2002, is not in compliance with subparagraph 2.
16	found to be unwarranted, the agency shall immediately
17	discontinue the collection of social security numbers for that
18	purpose.
19	b. Each agency shall certify to the President of the
20	Senate and the Speaker of the House of Representatives its
21	compliance with this subparagraph no later than January 31,
22	2008.
23	5.3. Effective October 1, 2002, all Social security
24	numbers held by an agency are confidential and exempt from s.
25	119.07(1) and s. 24(a), Art. I of the State Constitution. This
26	exemption applies to all social security numbers held by an
27	agency before, on, or after the effective date of this
28	exemption.
29	<u>6.4.</u> Social security numbers may be disclosed to
30	another <u>agency or</u> governmental entity or its agents,
31	employees, or contractors if disclosure is necessary for the
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1 receiving agency or entity to perform its duties and 2 responsibilities. The receiving governmental entity and its 3 agents, employees, and contractors shall maintain the 4 confidential and exempt status of the numbers. 5 7.a. For purposes of this subsection, the term: б (I) "Commercial activity" means the provision of a 7 lawful product or service by a commercial entity. Commercial 8 activity includes verification of the accuracy of personal information received by a commercial entity in the normal 9 10 course of its business; use for insurance purposes; use in identifying and preventing fraud; use in matching, verifying, 11 12 or retrieving information; and use in research activities. It 13 does not include the display or bulk sale of social security numbers to the public or the distribution of such numbers to 14 any customer that is not identifiable by the commercial 15 16 entity. 17 (II) "Commercial entity" means any corporation, 18 partnership, limited partnership, proprietorship, sole proprietorship, firm, enterprise, franchise, or association 19 that performs a commercial activity in this state. 2.0 21 b.5. An agency may not deny a commercial entity 22 engaged in the performance of a commercial activity, which, 23 for purposes of this paragraph, means an activity that provides a product or service that is available from a private 2.4 25 source, or its agents, employees, or contractors access to 26 social security numbers, provided the social security numbers 27 will be used only in the performance of a commercial activity 2.8 normal course of business for legitimate business purposes, 29 and provided the commercial entity makes a written request for the social security numbers. The written request must: -30 (I) Be verified as provided in s. 92.525;-31

1 (II) Be legibly signed by an authorized officer, 2 employee, or agent of the commercial entity i. 3 (III) The verified written request must Contain the 4 commercial entity's name, business mailing and location addresses, and business telephone number; - and 5 б (IV) Contain a statement of the specific purposes for 7 which it needs the social security numbers and how the social 8 security numbers will be used in the performance of a 9 <u>commercial activity</u> normal course of business for legitimate business purposes. The aggregate of these requests shall serve 10 as the basis for the agency report required in subparagraph 11 12 9.8. 13 c. An agency may request any other information reasonably necessary to verify the identity of <u>a commercial</u> 14 the entity requesting the social security numbers and the 15 specific purposes for which the numbers will be used. \div 16 17 however, An agency has no duty to inquire beyond the 18 information contained in the verified written request. A legitimate business purpose includes verification of the 19 accuracy of personal information received by a commercial 20 21 entity in the normal course of its business; use in a civil, 22 criminal, or administrative proceeding; use for insurance 23 purposes; use in law enforcement and investigation of crimes; 2.4 in identifying and preventing fraud; use in matching, 25 verifying, or retrieving information; and use in research 26 activities. A legitimate business purpose does not include the 27 display or bulk sale of social security numbers to the general 2.8 public or the distribution of such numbers to any customer that is not identifiable by the distributor. 29 30 8.a.6. Any person who makes a false representation in order to obtain a social security number pursuant to this 31

1 paragraph, or any person who willfully and knowingly violates 2 this paragraph, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. 3 4 b. Any public officer who violates this paragraph commits is quilty of a noncriminal infraction, punishable by a 5 б fine not exceeding \$500 per violation. A commercial entity 7 that provides access to public records containing social 8 security numbers in accordance with this paragraph is not 9 subject to the penalty provisions of this subparagraph. 10 7.a. On or after October 1, 2002, a person preparing or filing a document to be recorded in the official records by 11 12 the county recorder as provided for in chapter 28 may not 13 include any person's social security number in that document, unless otherwise expressly required by law. If a social 14 security number is or has been included in a document 15 16 presented to the county recorder for recording in the official 17 records of the county before, on, or after October 1, 2002, it 18 may be made available as part of the official record available 19 for public inspection and copying. 20 b. Any person, or his or her attorney or legal 21 guardian, has the right to request that a county recorder 2.2 remove, from an image or copy of an official record placed on 23 a county recorder's publicly available Internet website or a publicly available Internet website used by a county recorder 2.4 25 to display public records or otherwise made electronically available to the general public by such recorder, his or her 26 27 social security number contained in that official record. The 2.8 request must be made in writing, legibly signed by the requester and delivered by mail, facsimile, or electronic 29 30 transmission, or delivered in person, to the county recorder. The request must specify the identification page number that 31

1 contains the social security number to be redacted. The county 2 recorder has no duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee 3 may not be charged for the redaction of a social security 4 5 number pursuant to such request. б c. A county recorder shall immediately and 7 conspicuously post signs throughout his or her offices for 8 public viewing and shall immediately and conspicuously post, 9 on any Internet website or remote electronic site made 10 available by the county recorder and used for the ordering or display of official records or images or copies of official 11 12 records, a notice stating, in substantially similar form, the 13 following: (I) On or after October 1, 2002, Any person preparing 14 or filing a document for recordation in the official records 15 may not include a social security number in such document, 16 17 unless required by law. 18 (II) Any person has a right to request a county 19 recorder to remove, from an image or copy of an official record placed on a county recorder's publicly available 2.0 21 Internet website or on a publicly available Internet website 2.2 used by a county recorder to display public records or 23 otherwise made electronically available to the general public, any social security number contained in an official record. 2.4 Such request must be made in writing and delivered by mail, 25 facsimile, or electronic transmission, or delivered in person, 26 27 to the county recorder. The request must specify the 2.8 identification page number that contains the social security number to be redacted. A fee may not be charged for the 29 30 redaction of a social security number pursuant to such a 31 request.

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1	d. Until January 1, 2008, if a social security number,
2	made confidential and exempt pursuant to this paragraph, or a
3	complete bank account, debit, charge, or credit card number
4	made exempt pursuant to paragraph (b) is or has been included
5	in a court file, such number may be included as part of the
6	court record available for public inspection and copying
7	unless redaction is requested by the holder of such number, or
8	by the holder's attorney or legal guardian, in a signed,
9	legibly written request specifying the case name, case number,
10	document heading, and page number. The request must be
11	delivered by mail, facsimile, electronic transmission, or in
12	person to the clerk of the circuit court. The clerk of the
13	circuit court does not have a duty to inquire beyond the
14	written request to verify the identity of a person requesting
15	redaction. A fee may not be charged for the redaction of a
16	social security number or a bank account, debit, charge, or
17	credit card number pursuant to such request. The clerk of the
18	circuit court has no liability for the inadvertent release of
19	confidential and exempt social security numbers or exempt bank
20	account, debit, charge, or credit card numbers, unknown to the
21	clerk of the circuit court in court records filed with the
22	clerk of the circuit court on or before January 1, 2008.
23	e. Any person who prepares or files a document to be
24	recorded in the official records by the county recorder as
25	provided in chapter 28 may not include a person's social
26	security number or complete bank account, debit, charge, or
27	credit card number in that document unless otherwise expressly
28	required by law. Until January 1, 2008, if a social security
29	number or a complete bank account, debit, charge, or credit
30	card number is or has been included in a document presented to
31	the county recorder for recording in the official records of

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1 the county, such number may be made available as part of the 2 official record available for public inspection and copying. Any person, or his or her attorney or legal guardian, may 3 4 request that a county recorder remove from an image or copy of 5 an official record placed on a county recorder's publicly 6 available Internet website, or a publicly available Internet 7 website used by a county recorder to display public records outside the office or otherwise made electronically available 8 outside the county recorder's office to the general public, 9 10 his or her social security number or complete account, debit, charge, or credit card number contained in that official 11 12 record. Such request must be legibly written, signed by the 13 requester, and delivered by mail, facsimile, electronic transmission, or in person to the county recorder. The request 14 must specify the identification page number of the document 15 that contains the number to be redacted. The county recorder 16 17 does not have a duty to inquire beyond the written request to 18 verify the identity of a person requesting redaction. A fee may not be charged for redacting such numbers. If the county 19 recorder accepts or stores official records in an electronic 2.0 21 format, the county recorder must use his or her best efforts 2.2 to redact all social security numbers and complete bank 23 account, debit, charge, or credit card numbers from electronic copies of the official record. The use of an automated program 2.4 for redaction shall be deemed the best effort and complies 25 with the requirements of this sub subparagraph. The county 26 27 recorder is not liable for the inadvertent release of 2.8 confidential and exempt social security numbers, or exempt 29 bank account, debit, charge, or credit card numbers, filed 30 with the county recorder on or before January 1, 2008. 31

1 f. Subparagraphs 5. and 6. do not apply to the clerks 2 of the court or the county recorder with respect to circuit court records and official records. 3 4 g. On January 1, 2008, and thereafter, the clerk of 5 the circuit court and the county recorder must keep complete б bank account, debit, charge, and credit card numbers exempt as 7 provided for in paragraph (b), and must keep social security 8 numbers confidential and exempt as provided for in 9 subparagraph 3., without any person having to request 10 redaction. 9.a.8. Beginning January 31, 2004, and each January 31 11 12 thereafter, Every agency shall must file a report with the 13 Executive Office of the Governor Secretary of State, the President of the Senate, and the Speaker of the House of 14 Representatives by January 31 of each year. 15 The report required under sub-subparagraph a. shall 16 b. 17 list: (I) listing The identity of all commercial entities 18 that have requested social security numbers during the 19 preceding calendar year; and 2.0 21 (II) The specific purpose or purposes stated by each 2.2 commercial entity regarding its need for social security 23 numbers. c. If no disclosure requests were made, the agency 2.4 shall so indicate. 25 26 10.9. Any affected person may petition the circuit 27 court for an order directing compliance with this paragraph. 28 11.10. This paragraph does not supersede any other 29 applicable public records exemptions existing prior to May 13, 30 2002, or created thereafter. 31

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1	11. This paragraph is subject to the Open Government
2	Sunset Review Act in accordance with s. 119.15 and shall stand
3	repealed October 2, 2007, unless reviewed and saved from
4	repeal through reenactment by the Legislature.
5	(b) Bank account numbers and debit, charge, and credit
6	card numbers held by an agency are exempt from s. 119.07(1)
7	and s. 24(a), Art. I of the State Constitution. This exemption
8	applies to bank account numbers and debit, charge, and credit
9	card numbers held by an agency before, on, or after the
10	effective date of this exemption. This paragraph is subject to
11	the Open Government Sunset Review Act in accordance with s.
12	119.15 and shall stand repealed on October 2, 2007, unless
13	reviewed and saved from repeal through reenactment by the
14	Legislature.
15	Section 2. Section 119.0714, Florida Statutes, is
16	created, and subsection (6) of section 119.07, Florida
17	Statutes, is renumbered as subsection (1) of that section and
18	amended, to read:
19	119.0714 Court files; court records; official
20	records
21	(1)(6) COURT FILESNothing in this chapter shall be
22	construed to exempt from <u>s. 119.07(1)</u> subsection (1) a public
23	record that was made a part of a court file and that is not
24	specifically closed by order of court, except:
25	(a) A public record that was prepared by an agency
26	attorney or prepared at the attorney's express direction as
27	provided in s. 119.071(1)(d) <u>.</u>
28	(b) Data processing software as provided in s.
29	<u>119.071(1)(f).</u>
30	(c) Any information revealing surveillance techniques
31	or procedures or personnel as provided in s. 119.071(2)(d).
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1	(d) Any comprehensive inventory of state and local law
2	enforcement resources, and any comprehensive policies or plans
3	compiled by a criminal justice agency, as provided in s.
4	<u>119.071(2)(d).</u>
5	(e) Any information revealing the substance of a
б	confession of a person arrested as provided in s.
7	<u>119.071(2)(e).</u>
8	(f) Any information revealing the identity of a
9	confidential informant or confidential source as provided in
10	<u>s. 119.071(2)(f).</u>
11	(q) Any information revealing undercover personnel of
12	any criminal justice agency as provided in s. 119.071(4)(c).
13	(h) and (f) , $(2)(d)$, (e) , and (f) , and $(4)(c)$ and
14	except Information or records that may reveal the identity of
15	a person who is a victim of a sexual offense as provided in s.
16	119.071(2)(h).
17	(i) Social security numbers as provided in s.
18	<u>119.071(5)(a).</u>
19	(j) Bank account numbers and debit, charge, and credit
20	card numbers as provided in s. 119.071(5)(b).
21	(2) COURT RECORDS
22	<u>(a) Until January 1, 2011, if a social security number</u>
23	or a bank account, debit, charge, or credit card number is
24	included in a court file, such number may be included as part
25	of the court record available for public inspection and
26	copying unless redaction is requested by the holder of such
27	number or by the holder's attorney or legal guardian.
28	(b) A request for redaction must be a signed, legibly
29	written request specifying the case name, case number,
30	document heading, and page number. The request must be
31	delivered by mail, facsimile, electronic transmission, or in

1	person to the clerk of the court. The clerk of the court does
2	not have a duty to inquire beyond the written request to
3	verify the identity of a person requesting redaction.
4	(c) A fee may not be charged for the redaction of a
5	social security number or a bank account, debit, charge, or
6	credit card number pursuant to such request.
7	(d) The clerk of the court has no liability for the
8	<u>inadvertent release of social security numbers, or bank</u>
9	account, debit, charge, or credit card numbers, unknown to the
10	clerk of the court in court records filed on or before January
11	<u>1, 2011.</u>
12	(e)1. On January 1, 2011, and thereafter, the clerk of
13	the court must keep social security numbers confidential and
14	exempt as provided for in s. 119.071(5)(a), and bank account,
15	debit, charge, and credit card numbers exempt as provided for
16	in s. 119.071(5)(b), without any person having to request
17	redaction.
18	2. Section 119.071(5)(a)7. and 8. does not apply to
19	the clerks of the court with respect to court records.
20	(3) OFFICIAL RECORDS
21	(a) Any person who prepares or files a record for
22	recording in the official records as provided in chapter 28
23	may not include in that record a social security number or a
24	<u>bank account, debit, charge, or credit card number unless</u>
25	otherwise expressly required by law.
26	(b)1. If a social security number or a bank account,
27	<u>debit, charge, or credit card number is included in an</u>
28	official record, such number may be made available as part of
29	the official records available for public inspection and
30	copying unless redaction is requested by the holder of such
31	number or by the holder's attorney or legal guardian.

1	2. If such record is in electronic format, on January
2	1, 2011, and thereafter, the county recorder must use his or
3	<u>her best effort, as provided in paragraph (h), to keep social</u>
4	security numbers confidential and exempt as provided for in s.
5	119.071(5)(a), and to keep complete bank account, debit,
6	charge, and credit card numbers exempt as provided for in s.
7	119.071(5)(b), without any person having to request redaction.
8	3. Section 119.071(5)(a)7. and 8. does not apply to
9	the county recorder with respect to official records.
10	(c) The holder of a social security number or a bank
11	account, debit, charge, or credit card number, or the holder's
12	attorney or legal quardian, may request that a county recorder
13	redact from an image or copy of an official record placed on a
14	county recorder's publicly available Internet website or on a
15	publicly available Internet website used by a county recorder
16	to display public records, or otherwise made electronically
17	available to the public, his or her social security number or
18	bank account, debit, charge, or credit card number contained
19	in that official record.
20	(d) A request for redaction must be a signed, legibly
21	written request and must be delivered by mail, facsimile,
22	electronic transmission, or in person to the county recorder.
23	The request must specify the identification page number of the
24	record that contains the number to be redacted.
25	(e) The county recorder does not have a duty to
26	inquire beyond the written request to verify the identity of a
27	person requesting redaction.
28	(f) A fee may not be charged for redacting a social
29	security number or a bank account, debit, charge, or credit
30	card number.
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1	(q) A county recorder shall immediately and
2	conspicuously post signs throughout his or her offices for
3	public viewing, and shall immediately and conspicuously post
4	on any Internet website or remote electronic site made
5	available by the county recorder and used for the ordering or
б	display of official records or images or copies of official
7	records, a notice stating, in substantially similar form, the
8	<u>following:</u>
9	1. On or after October 1, 2002, any person preparing
10	or filing a record for recordation in the official records may
11	not include a social security number or a bank account, debit,
12	charge, or credit card number in such document unless required
13	by law.
14	2. Any person has a right to request a county recorder
15	to remove from an image or copy of an official record placed
16	on a county recorder's publicly available Internet website or
17	on a publicly available Internet website used by a county
18	recorder to display public records, or otherwise made
19	electronically available to the general public, any social
20	security number contained in an official record. Such request
21	must be made in writing and delivered by mail, facsimile, or
22	electronic transmission, or delivered in person, to the county
23	recorder. The request must specify the identification page
24	number that contains the social security number to be
25	redacted. A fee may not be charged for the redaction of a
26	social security number pursuant to such a request.
27	(h) If the county recorder accepts or stores official
28	records in an electronic format, the county recorder must use
29	his or her best efforts to redact all social security numbers
30	and bank account, debit, charge, or credit card numbers from
31	electronic copies of the official record. The use of an
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automated program for redaction shall be deemed to be the best 1 2 effort in performing the redaction and shall be deemed in compliance with the requirements of this subsection. 3 4 (i) The county recorder is not liable for the 5 inadvertent release of social security numbers, or bank 6 account, debit, charge, or credit card numbers, filed with the 7 county recorder. Section 3. Subsection (6) of section 215.322, Florida 8 Statutes, is amended, and subsections (7) and (8) of that 9 10 section are renumbered as subsections (6) and (7), respectively, to read: 11 12 215.322 Acceptance of credit cards, charge cards, or 13 debit cards by state agencies, units of local government, and the judicial branch .--14 15 (6) Credit card account numbers in the possession of a state agency, a unit of local government, or the judicial 16 17 branch are confidential and exempt from the provisions of s. 119.07(1).18 Subsections (7), (8), and (9) of section 19 Section 4. 119.07, Florida Statutes, are renumbered as subsections (6), 20 21 (7), and (8), respectively. 22 Section 5. This act shall take effect October 1, 2007. 23 2.4 25 26 27 28 29 30 31

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1	STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR
2	<u>Senate Bill 1468</u>
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4	Repeals a redundant exemption for credit card numbers contained in s. 215.322, F.S.
5 6	Reorganizes and standardizes the social security number exemption to provide more clarity regarding applicable standards.
7 8	Defines "commercial entity" and "commercial activity."
o 9	Transfers portions related to court files and official records to a new section of law.
10	Extends to 2011 the date for automatic redaction in court files and official records.
11 12	Requires agencies to report to the Legislature regarding their compliance with the section.
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