

By the Committees on Governmental Operations; Community Affairs

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1 A bill to be entitled

2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 119.011, F.S.; defining the
4 term "paratransit" for purposes of the public records law;
5 amending s. 119.071, F.S.; expanding an exemption from
6 public-records requirements which is provided for
7 information identifying an applicant for or a recipient of
8 paratransit services so that the exemption applies to all
9 agencies; providing for future legislative review of the
10 exemption under the Open Government Sunset Review Act;
11 repealing s. 119.0713(2), F.S., relating to the prior
12 exemption provided for such information; providing a
13 statement of public necessity; repealing s. 2 of chapter
14 2003-110, Laws of Florida; deleting provisions providing
15 for repeal of the exemption; amending ss. 257.34 and
16 257.35, F.S.; conforming cross-references; providing an
17 effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Present subsections (10), (11), (12), and (13)
22 of section 119.011, Florida Statutes, are renumbered as
23 subsections (11), (12), (13), and (14), respectively, and a new
24 subsection (10) is added to that section. to read:

25 119.011 Definitions.--As used in this chapter, the term:
26 (10) "Paratransit" has the same meaning as provided in s.
27 427.011.

28 Section 2. Paragraph (h) is added to subsection (5) of
29 section 119.071, Florida Statutes, to read:

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30 119.071 General exemptions from inspection or copying of
31 public records.--

32 (5) OTHER PERSONAL INFORMATION.--

33 (h)1. Personal identifying information of an applicant for
34 or a recipient of paratransit services which is held by an agency
35 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
36 of the State Constitution.

37 2. This exemption applies to personal identifying
38 information of an applicant for or a recipient of paratransit
39 services which is held by an agency before, on, or after the
40 effective date of this exemption.

41 3. Confidential and exempt personal identifying information
42 shall be disclosed:

43 a. With the express written consent of the individual or
44 the individual's legally authorized representative;

45 b. In a medical emergency, but only to the extent that is
46 necessary to protect the health or life of the individual;

47 c. By court order upon a showing of good cause; or

48 d. To another agency in the performance of its duties and
49 responsibilities.

50 4. This paragraph is subject to the Open Government Sunset
51 Review Act in accordance with s. 119.15, and shall stand repealed
52 on October 2, 2013, unless reviewed and saved from repeal through
53 reenactment by the Legislature.

54 Section 3. Subsection (2) of section 119.0713, Florida
55 Statutes, is repealed.

56 Section 4. The Legislature finds that it is a public
57 necessity that personal identifying information of an applicant
58 for or recipient of paratransit services be made confidential and

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59 exempt from public-records requirements. Paratransit services
60 include transportation services for persons who, because of
61 physical or mental disability, income status, or age, are unable
62 to transport themselves and are, therefore, dependent upon others
63 to obtain access to health care, employment, education, shopping,
64 social activities, or other life-sustaining activities.
65 Paratransit services also include transportation services for
66 children who are handicapped, such as the developmentally
67 disabled, and children who are at high-risk or at-risk, such as
68 children who are victims of child abuse or neglect. As such,
69 information provided to an agency would be personal, sensitive
70 information related to a person's physical or mental health or
71 income status. Matters of personal health are traditionally
72 private and confidential concerns between a patient and a health
73 care provider. The private and confidential nature of personal
74 health matters pervades both the public and private health care
75 sectors. For this reason, a person's expectation of a right to
76 privacy in all matters regarding his or her personal health
77 necessitates the exemption. Furthermore, the exemption ensures
78 the protection of the identity of an applicant for or recipient
79 of paratransit services. If the identifying information was not
80 protected, the administration of paratransit services would be
81 significantly impaired because applicants would be less inclined
82 to apply for those services due to the fact that the identifying
83 information would be made available to the public, which would
84 cause an unwarranted invasion into the life and privacy of
85 applicants for and recipients of the services. Thus, the number
86 of recipients would significantly decrease. As a result, the
87 effective administration of paratransit services would be

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88 impaired.

89 Section 5. Section 2 of chapter 2003-110, Laws of Florida
90 is repealed.

91 Section 6. Subsection (1) of section 257.34, Florida
92 Statutes, is amended to read:

93 257.34 Florida International Archive and Repository.--

94 (1) There is created within the Division of Library and
95 Information Services of the Department of State the Florida
96 International Archive and Repository for the preservation of
97 those public records, as defined in s. 119.011 ~~s. 119.011(11)~~,
98 manuscripts, international judgments involving disputes between
99 domestic and foreign businesses, and all other public matters
100 that the department or the Florida Council of International
101 Development deems relevant to international issues. It is the
102 duty and responsibility of the division to:

103 (a) Organize and administer the Florida International
104 Archive and Repository.

105 (b) Preserve and administer records that are transferred to
106 its custody; accept, arrange, and preserve them, according to
107 approved archival and repository practices; and permit them, at
108 reasonable times and under the supervision of the division, to be
109 inspected and copied. All public records transferred to the
110 custody of the division are subject to the provisions of s.
111 119.07(1).

112 (c) Assist the records and information management program
113 in the determination of retention values for records.

114 (d) Cooperate with and assist, insofar as practicable,
115 state institutions, departments, agencies, counties,

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116 municipalities, and individuals engaged in internationally
117 related activities.

118 (e) Provide a public research room where, under rules
119 established by the division, the materials in the international
120 archive and repository may be studied.

121 (f) Conduct, promote, and encourage research in
122 international trade, government, and culture and maintain a
123 program of information, assistance, coordination, and guidance
124 for public officials, educational institutions, libraries, the
125 scholarly community, and the general public engaged in such
126 research.

127 (g) Cooperate with and, insofar as practicable, assist
128 agencies, libraries, institutions, and individuals in projects
129 concerned with internationally related issues and preserve
130 original materials relating to internationally related issues.

131 (h) Assist and cooperate with the records and information
132 management program in the training and information program
133 described in s. 257.36(1)(g).

134 Section 7. Subsection (1) of section 257.35, Florida
135 Statutes, is amended to read:

136 257.35 Florida State Archives.--

137 (1) There is created within the Division of Library and
138 Information Services of the Department of State the Florida State
139 Archives for the preservation of those public records, as defined
140 in s. 119.011 ~~s. 119.011(11)~~, manuscripts, and other archival
141 material that have been determined by the division to have
142 sufficient historical or other value to warrant their continued
143 preservation and have been accepted by the division for deposit

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144 in its custody. It is the duty and responsibility of the division
145 to:

146 (a) Organize and administer the Florida State Archives.

147 (b) Preserve and administer such records as shall be
148 transferred to its custody; accept, arrange, and preserve them,
149 according to approved archival practices; and permit them, at
150 reasonable times and under the supervision of the division, to be
151 inspected and copied. All public records transferred to the
152 custody of the division shall be subject to the provisions of s.
153 119.07(1), except that any public record or other record provided
154 by law to be confidential or prohibited from inspection by the
155 public shall be made accessible only after a period of 50 years
156 from the date of the creation of the record. Any nonpublic
157 manuscript or other archival material which is placed in the
158 keeping of the division under special terms and conditions, shall
159 be made accessible only in accordance with such law terms and
160 conditions and shall be exempt from the provisions of s.
161 119.07(1) to the extent necessary to meet the terms and
162 conditions for a nonpublic manuscript or other archival material.

163 (c) Assist the records and information management program
164 in the determination of retention values for records.

165 (d) Cooperate with and assist insofar as practicable state
166 institutions, departments, agencies, counties, municipalities,
167 and individuals engaged in activities in the field of state
168 archives, manuscripts, and history and accept from any person any
169 paper, book, record, or similar material which in the judgment of
170 the division warrants preservation in the state archives.

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171 (e) Provide a public research room where, under rules
172 established by the division, the materials in the state archives
173 may be studied.

174 (f) Conduct, promote, and encourage research in Florida
175 history, government, and culture and maintain a program of
176 information, assistance, coordination, and guidance for public
177 officials, educational institutions, libraries, the scholarly
178 community, and the general public engaged in such research.

179 (g) Cooperate with and, insofar as practicable, assist
180 agencies, libraries, institutions, and individuals in projects
181 designed to preserve original source materials relating to
182 Florida history, government, and culture and prepare and publish
183 handbooks, guides, indexes, and other literature directed toward
184 encouraging the preservation and use of the state's documentary
185 resources.

186 (h) Encourage and initiate efforts to preserve, collect,
187 process, transcribe, index, and research the oral history of
188 Florida government.

189 (i) Assist and cooperate with the records and information
190 management program in the training and information program
191 described in s. 257.36(1)(g).

192 Section 8. This act shall take effect October 1, 2008.