

1 A bill to be entitled
 2 An act relating to public records; amending s. 400.0077,
 3 F.S.; providing an exemption from public records
 4 requirements for personal identifying and location
 5 information of any certified ombudsman or employee of the
 6 Office of State Long-Term Care Ombudsman within the
 7 Department of Elderly Affairs and the spouses and children
 8 of such ombudsmen or employees; correcting an obsolete
 9 reference; providing for future review and repeal of the
 10 exemption; providing a finding of public necessity;
 11 providing an effective date.

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 13 Be It Enacted by the Legislature of the State of Florida:

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 15 Section 1. Subsection (1) of section 400.0077, Florida
 16 Statutes, is amended to read:

17 400.0077 Confidentiality.—

18 (1) (a) The following are confidential and exempt from the
 19 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 20 Constitution:

21 ~~1.(a)~~ Resident records held by the ombudsman or by the
 22 state or a local ombudsman council.

23 ~~2.(b)~~ The names or identities of the complainants or
 24 residents involved in a complaint, including any problem
 25 identified by an ombudsman council as a result of an
 26 investigation, unless:

27 a.1. The complainant or resident, or the legal
 28 representative of the complainant or resident, consents to the
 29 disclosure in writing;

30 b.2. The complainant or resident consents orally and the
 31 consent is documented contemporaneously in writing by the
 32 ombudsman council requesting such consent; or

33 c.3. The disclosure is required by court order.

34 3.(e) Any other information about a complaint, including
 35 any problem identified by an ombudsman council as a result of an
 36 investigation, unless an ombudsman council determines that the
 37 information does not meet any of the criteria specified in s.
 38 119.15(6)(b) ~~119.14(4)(b)~~; or unless the information is to
 39 collect data for submission to those entities specified in s.
 40 712(c) of the federal Older Americans Act for the purpose of
 41 identifying and resolving significant problems.

42 4.a. The home addresses, telephone numbers, places of
 43 employment, if any, and photographs of any certified ombudsman
 44 or employee of the Office of State Long-Term Care Ombudsman; the
 45 home addresses, telephone numbers, and places of employment of
 46 the spouses and children of such ombudsmen or employees; and the
 47 names and locations of schools and day care facilities attended
 48 by the children of such ombudsmen or employees.

49 b. Any state or federal agency that is authorized to have
 50 access to the information in sub-subparagraph a. by any
 51 provision of law shall be granted such access in furtherance of
 52 the agency's statutory duties, notwithstanding the provisions of
 53 this subsection.

54 (b) Paragraph (a) is subject to the Open Government Sunset
55 Review Act in accordance with s. 119.15 and shall stand repealed
56 on October 2, 2015, unless reviewed and saved from repeal
57 through reenactment by the Legislature.

58 Section 2. The Legislature finds that it is a public
59 necessity that personal identifying and location information of
60 any certified ombudsman or employee of the Office of State Long-
61 Term Care Ombudsman within the Department of Elderly Affairs and
62 the spouses and children of such ombudsmen or employees be made
63 confidential and exempt from public records requirements. Under
64 the State Long-Term Care Ombudsman Program, a long-term care
65 ombudsman is a designated representative of the program who
66 helps to improve the lives of people who live in long-term care
67 settings such as nursing homes, assisted living facilities, and
68 adult family care homes by working to identify, explore, and
69 resolve the concerns of residents and their loved ones and
70 performing annual assessments of all long-term care facilities
71 in the state from a resident's perspective. Long-term care
72 ombudsmen explore thousands of complaints in long-term care
73 facilities each year. Because the personal information of long-
74 term care ombudsmen and employees of the Office of State Long-
75 Term Care Ombudsman is not currently exempt from disclosure, any
76 person who files a public records request can obtain the home
77 address, phone number, photograph, and place of employment of an
78 ombudsman or employee of the office. Additionally, the names,
79 home addresses, telephone numbers, and places of employment of
80 spouses and children of ombudsmen and employees of the office
81 and the names of schools and day care facilities attended by an

HB 529

2010

82 ombudsman's or employee's children are also not currently exempt
83 from disclosure. Much of this information can be found in the
84 ombudsman's or employee's program membership application, which
85 is a public record. This raises privacy and safety concerns
86 among ombudsmen and employees of the office, most of whom are
87 volunteers and many of whom are elders themselves. Exempting the
88 personal information of an ombudsman or employee of the office
89 and the personal identifying and location information of the
90 spouses and children of such ombudsmen or employees from
91 disclosure will provide the ombudsmen and employees with a sense
92 of security, eliminate fears of harassment and retaliation, and
93 allay concerns about identity theft. Making the information
94 exempt will also lead to increased volunteer retention without
95 negatively impacting citizens who request the program's
96 documents. Therefore, it is the finding of the Legislature that
97 the reasons set forth herein necessitate the exemption.

98 Section 3. This act shall take effect July 1, 2010.