



754018

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2010	.	
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The Committee on Children, Families, and Elder Affairs (Wise) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

400.0077 Confidentiality.—

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

1.(a) Resident records held by the ombudsman or by the



754018

13 state or a local ombudsman council.

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

18 a.1.~~1.~~ The complainant or resident, or the legal
19 representative of the complainant or resident, consents to the
20 disclosure in writing;

21 b.2.~~2.~~ The complainant or resident consents orally and the
22 consent is documented contemporaneously in writing by the
23 ombudsman council requesting such consent; or

24 c.3.~~3.~~ The disclosure is required by court order.

25 3.~~(e)~~ Any other information about a complaint, including
26 any problem identified by an ombudsman council as a result of an
27 investigation, unless the ~~an~~ ombudsman council determines that
28 the information does not meet any of the criteria specified in
29 s. 119.15(6)(b) ~~119.14(4)(b)~~; or unless the information is to
30 collect data for submission to those entities specified in s.
31 712(c) of the federal Older Americans Act for the purpose of
32 identifying and resolving significant problems.

33 4.a. The home addresses, telephone numbers, places of
34 employment, if any, and photographs of certified ombudsmen or
35 employees of the Office of State Long-Term Care Ombudsman; the
36 home addresses, telephone numbers, and places of employment of
37 the spouses and children of such ombudsmen or employees; and the
38 names and locations of schools and day care facilities attended
39 by the children of such ombudsmen or employees.

40 b. A state or federal agency that is authorized to have
41 access to the information in sub-subparagraph a. under any



754018

42 provision of law shall be granted such access in furtherance of
43 the agency's statutory duties, notwithstanding the provisions of
44 this subsection.

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

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



754018

71 children of ombudsmen and employees and the names of schools and
72 day care facilities attended by an ombudsman's or employee's
73 children are not exempt from disclosure. Much of this
74 information can be found in the ombudsman's or employee's
75 program membership application, which is a public record. This
76 raises privacy and safety concerns among ombudsmen and
77 employees, most of whom are volunteers and many of whom are
78 themselves elders. Exempting the personal information of
79 ombudsmen or employees and the personal identifying and location
80 information of the spouses and children of such ombudsmen or
81 employees from disclosure will provide the ombudsmen and
82 employees with a sense of security, eliminate fears of
83 harassment and retaliation, and allay concerns about identity
84 theft. Making the information exempt will also lead to increased
85 volunteer retention without negatively impacting the
86 individual's who request the program's documents. Therefore, it
87 is the finding of the Legislature that the reasons set forth
88 herein necessitate the exemption.

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

90
91 ===== T I T L E A M E N D M E N T =====

92 And the title is amended as follows:

93 Delete everything before the enacting clause
94 and insert:

95 A bill to be entitled
96 An act relating to public records; amending s.
97 400.0077, F.S.; providing an exemption from public-
98 records requirements for personal identifying and
99 location information of any certified ombudsman or



754018

100 employee of the Office of State Long-Term Care
101 Ombudsman within the Department of Elderly Affairs and
102 the spouses and children of such ombudsmen or
103 employees; correcting an obsolete reference; providing
104 for future review and repeal of the exemption;
105 providing a finding of public necessity; providing an
106 effective date.