

By Senator Passidomo

28-00495-18

2018608__

1 A bill to be entitled
2 An act relating to public records; providing a short
3 title; amending s. 119.021, F.S.; requiring an agency
4 to review for information susceptible to use for
5 purposes of identity theft or fraud before making
6 postings to a publicly available website; prohibiting
7 an agency from posting to a publicly available website
8 an image or a copy of a public record containing
9 information susceptible to use for purposes of
10 identity theft or fraud; requiring the Division of
11 Library and Information Services of the Department of
12 State to adopt certain rules; requiring an agency to
13 establish a policy providing for requests to remove an
14 image or a copy of a public record containing
15 information susceptible to use for purposes of
16 identity theft and fraud; specifying requirements for
17 the policy; authorizing an agency to post images or
18 copies of records containing information which is not
19 otherwise exempt to portions of websites not
20 accessible to the general public; providing a finding
21 of an important state interest; providing an effective
22 date.

23
24 WHEREAS, according to the Federal Trade Commission, Florida
25 repeatedly has been ranked as one of the states with the highest
26 instances of reported identity theft and fraud complaints, and

27 WHEREAS, identity theft and fraud continues to be of great
28 concern to many Floridians, especially in light of many recent
29 security and data breaches that have compromised the security of

28-00495-18

2018608__

30 personal information, and

31 WHEREAS, while there is no general requirement that
32 agencies post public records on publicly available websites,
33 numerous agencies often post such records online for the
34 convenience to the agency and the public, and

35 WHEREAS, the Legislature acknowledges that the ease of
36 access to certain public records on websites can aid the public
37 and many business entities to obtain certain information quickly
38 and easily, but also recognizes that agencies should be required
39 to consider the impact of posting certain public records on
40 publicly available websites before taking such action, and

41 WHEREAS, in some cases, perpetrators of identity theft and
42 fraud have accessed information about individuals through public
43 records posted on the websites of agencies, and

44 WHEREAS, the Legislature finds that it is critical that it
45 take steps to protect information contained in public records
46 that is susceptible to use for purposes of identity theft and
47 fraud, while also respecting the state's strong public policy in
48 favor of open government, NOW, THEREFORE,

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. This act may be cited as the "Identity Theft and
53 Fraud Protection Act."

54 Section 2. Subsection (5) is added to section 119.021,
55 Florida Statutes, to read:

56 119.021 Custodial requirements; maintenance, preservation,
57 and retention of public records.—

58 (5) (a) Before posting any information on a publicly

28-00495-18

2018608__

59 available website, an agency must review the information to
60 determine if it is susceptible to use for purposes of identity
61 theft or fraud. An agency may not post an image or a copy of, or
62 information from, a public record on the agency's publicly
63 available website or another publicly available website used by
64 the agency if the public record contains information susceptible
65 to use for purposes of identity theft or fraud.

66 (b) The Division of Library and Information Services of the
67 Department of State shall adopt rules to establish uniform
68 standards for agencies in determining the types of information
69 which qualify as information that is susceptible to use for
70 purposes of identity theft or fraud.

71 (c) An agency must establish a policy that allows a person,
72 or his or her attorney or legal guardian, to request that the
73 agency remove an image or a copy of a public record containing
74 information that is susceptible to use for purposes of identity
75 theft or fraud which is posted on the agency's publicly
76 available website or another publicly available website used by
77 the agency to display such records. A request must specify which
78 record contains the information that is susceptible to identify
79 theft or fraud. Upon receipt of a valid request, the agency
80 shall remove the posting of the record containing such
81 information as expeditiously as possible. An agency may not
82 charge a fee to the person making such a request.

83 (d) This subsection does not prohibit an agency from
84 posting information or images or copies of records not otherwise
85 authorized under paragraph (a) to a limited access area of the
86 agency's website not made available to the general public. This
87 paragraph does not authorize the disclosure of information or

28-00495-18

2018608__

88 records that are otherwise exempted by law from public
89 disclosure.

90 Section 3. The Legislature finds that a proper and
91 legitimate state purpose is served when protecting the
92 identifying information of the residents of this state in order
93 to reduce the risk of identity theft and fraud. Therefore, the
94 Legislature determines and declares that this act fulfills an
95 important state interest.

96 Section 4. This act shall take effect July 1, 2018.