

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 23 Pub. Rec./Reform School Abuse Victims

SPONSOR(S): State Affairs Committee, Judiciary Committee, Salzman, Michael, and others

TIED BILLS: CS/HB 21 **IDEN./SIM. BILLS:** CS/CS/SB 26

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Judiciary Committee	19 Y, 0 N, As CS	Mawn	Kramer
2) State Affairs Committee	16 Y, 0 N, As CS	Skinner	Williamson

SUMMARY ANALYSIS

The Arthur G. Dozier School for Boys (“Dozier School”), initially called the Florida State Reform School, opened in Marianna, Florida, in 1900. Children as young as five were sent to the Dozier School for various criminal and other offenses, ranging from theft and murder to “incorrigibility” and truancy, as well as orphaned and abandoned children. In 1955, the Florida School for Boys at Okeechobee (“Okeechobee School”) opened to address overcrowding at the Dozier School, with some Dozier School staff transferring to the new campus.

Allegations of abuse at the Dozier School began as early as 1901, with reports of children being chained to walls in irons, whippings, and peonage. Reports of sexual abuse, beatings, torture, and mysterious deaths at the Dozier School continued in the subsequent decades, and a succession of reports and commissions called for reforms at the school with little success. The same degrading policies and abusive practices that occurred at the Dozier School were implemented at the Okeechobee School. The United States Department of Justice reported in 2011 that it had found “harmful practices” that put the Dozier School’s residents at “serious risk of avoidable harm.” The state closed the Dozier School in 2011, citing budget constraints, and the Okeechobee School in 2020.

More than 400 men sent to the Dozier School or the Okeechobee School in the 1940s, 1950s, and 1960s have come forward to recount their experiences. Calling themselves the “White House Boys” after a white structure on Dozier School property where many beatings reportedly occurred, these men recounted brutal whippings, sexual abuse, disappearances, deaths, and other tortures they either witnessed or suffered personally. In recognition of their suffering, CS/HB 21 (2024) creates the Dozier School for Boys and Okeechobee School Victim Compensation Program (“Program”) within the Department of Legal Affairs (“DLA”) to compensate living persons who were confined to the Dozier School or the Okeechobee School at any time between 1940 and 1975 and who were subjected to mental, physical, or sexual abuse perpetrated by school personnel while they were so confined.

This bill creates a public record exemption to protect certain identifying information in an application submitted to DLA by a person seeking compensation through the Program. Under the bill, such information is confidential and exempt from public record requirements, with one exception. The bill provides that, in accordance with the Open Government Sunset Review Act, the exemption stands repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a statement of public necessity as required by the Florida Constitution.

The bill may have an insignificant fiscal impact on state government, but does not appear to affect local governments.

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly-created or expanded public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Reform School History

Arthur G. Dozier School for Boys

In 1900, the State opened the Florida State Reform School in Marianna, Florida.¹ In 1967, the name changed to the Arthur G. Dozier School for Boys (“Dozier School”). The Dozier School housed children as young as five years old who were committed for criminal and other offenses ranging from theft and murder to “incorrigibility” and truancy, as well as orphaned and abandoned children.²

Allegations of abuse at the Dozier School began as early as 1901, with reports of children being chained to walls in irons, whippings, and peonage.³ There were more than six state led investigations during the first 13 years of operation.⁴ Reports of inadequate medical care, sexual abuse, beatings, torture, and mysterious deaths at the Dozier School continued in the subsequent decades, and a succession of reports and commissions called for reforms at the schools with little success.⁵ However, the United States Department of Justice reported in 2011 that it had found “harmful practices” that put the reform school’s residents at “serious risk of avoidable harm.”⁶ The state closed the Dozier School in 2011, citing budget constraints.⁷

Florida School for Boys at Okeechobee

In 1955, the state opened a new reform school in south Florida, the Florida School for Boys at Okeechobee (“Okeechobee School”), to address overcrowding at the Dozier School.⁸ Staff members of the Dozier School were transferred to the Okeechobee School where they instituted the same degrading policies and abusive practices as those implemented at the Dozier School.⁹ The

¹ Erin H. Kimmerle, Richard W. Estabrook, E. Christian Wells, and Antoinette T. Jackson, *Documentation of the Boot Hill Cemetery (8JA1860), at the Former Arthur G. Dozier School for Boys, Marianna, Florida*, University of South Florida Department of Anthropology, (December 2012), <https://cloud.usf.edu/usf-news-archive/article/articlefiles/5042-boot-hill-cemetery-interim-report-12-12.pdf> (last visited Feb. 15, 2024).

² *Id.* Note that until 1968, the Dozier School was segregated into two campuses, one for white students and one for African-American and other “non-white” students. University of South Florida, *Florida’s Industrial Reform School System: Arthur G. Dozier School for Boys 1900-Present*, <https://guides.lib.usf.edu/dozier> (last visited Feb. 15, 2024).

³ Digital Commons @University of South Florida, *Arthur G. Dozier School For Boys*, https://digitalcommons.usf.edu/dozier_school/ (last visited Feb. 15, 2024). A report from 1903 described the Dozier School not as a reform school but as a “prison for children,” with some children chained to the wall in irons, and others beaten like “common criminals.” Ben Montgomery and Waveny Ann Moore, *They Went to the Dozier School for Boys damaged. They came out destroyed*, Tampa Bay Times, Aug. 18, 2019, <https://www.tampabay.com/investigations/2019/08/18/they-went-to-the-dozier-school-for-boys-damaged-they-came-out-destroyed/#:~:text=In%20March%201958%2C%20a%20Miami,Eugene%20Byrd%20testified.> (last visited Feb. 15, 2024).

⁴ Digital Commons @University of South Florida, *Arthur G. Dozier School For Boys*, https://digitalcommons.usf.edu/dozier_school/ (last visited Feb. 15, 2024).

⁵ In its first two decades, investigators discovered that Dozier School administrators hired out the children to work with state convicts and brutally beat children with a leather strap attached to a wooden handle. In 1914, at least six children and two staff members died in a fire at the Dozier School while trapped on the top floor of their locked and burning dormitory; A grand jury learned that the superintendent and staff were in town for a “pleasure bent” when the fire began, and differing reports meant that the actual number of children lost could not be determined. *Id.* See also *Supra* Note 1.

⁶ U.S. Dept. of Justice, *Investigation of the Arthur G. Dozier School for Boys and the Jackson Juvenile Offender Center, Marianna, Florida*, Dec. 1, 2011, https://www.justice.gov/sites/default/files/crt/legacy/2011/12/02/dozier_findtr_12-1-11.pdf (last visited Feb. 16, 2024).

⁷ *Id.*

⁸ Erin H. Kimmerle, Ph.D., E. Christian Wells, Ph.D., and Antoinette Jackson, Ph.D.; Florida Institute for Forensic Anthropology & Applied Sciences, University of South Florida, *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida*, pg. 22 (January 18, 2016), <http://mediad.publicbroadcasting.net/p/wusf/files/201601/usf-final-dozier-summary-2016.pdf> (last visited Feb. 16, 2024).

⁹ *Id.*

Okeechobee School was privatized in 1982 amid allegations of abuse and deplorable living conditions and finally closed in December 2020 when the State declined to renew its service contract.¹⁰

Recent Events

In 2005, former students of the Dozier School began to publish accounts of the abuse they experienced at the school.¹¹ These stories prompted Governor Charlie Crist to direct the Florida Department of Law Enforcement to investigate the Dozier School and the deaths that were alleged to have occurred at the school.¹² More than 400 men confined to the Dozier School in the 1940s, 1950s, and 1960s have come forward to recount their experiences.¹³ Many victims became part of the White House Boys Survivors Organization (“White House Boys”) — named after a white structure on the Dozier School property where many abuses reportedly occurred — these men recounted brutal whippings, sexual batteries, disappearances, deaths, and other tortures they either witnessed or suffered personally while confined to the Dozier School.¹⁴

CS/HB 21 (2024)

CS/HB 21 creates the Dozier School for Boys and Okeechobee School Victim Compensation Program (“Program”) within the Department of Legal Affairs (“DLA”) to compensate living persons who were confined to the Dozier School or the Okeechobee School at any time between 1940 and 1975 and who were subjected to mental, physical, or sexual abuse perpetrated by school personnel while they were so confined. To accomplish this, CS/HB 21 creates a process whereby a victim of the Dozier School or the Okeechobee School can apply for compensation through the Program on a DLA-approved form.

Public Records

The Florida Constitution sets forth the state’s public policy regarding access to government records, guaranteeing every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.¹⁵ The Legislature, however, may provide by general law an exemption¹⁶ from public record requirements provided that the exemption passes by a two-thirds vote, states with specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.¹⁷

Current law also addresses the public policy regarding access to government records by guaranteeing every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt.¹⁸ Furthermore, the Open Government Sunset Review (OGSR) Act¹⁹ provides that a public record exemption may be created, revised, or maintained only if it serves an identifiable public purpose and the “Legislature finds that the purpose is sufficiently compelling to override the strong public policy

¹⁰ Richard Marion, *OYDC closure brings an end to troubled history*, South Central Florida Life, July 15, 2020, <https://www.southcentralfloralife.com/stories/oydc-closure-brings-an-end-to-troubled-history,9159> (last visited Feb. 16, 2024).

¹¹ *Id.*

¹² *Id.*

¹³ James Call, *Dozier School for Boys survivors want state to pay*, Tallahassee Democrat, August 1, 2017, <https://www.tallahassee.com/story/news/2017/08/01/dozier-school-boys-survivors-want-state-pay/529991001/> (last visited Feb. 16, 2024).

¹⁴ Ben Montgomery and Waveny Ann Moore, *They Went to the Dozier School for Boys damaged. They came out destroyed*, Tampa Bay Times, Aug. 18, 2019, <https://www.tampabay.com/investigations/2019/08/18/they-went-to-the-dozier-school-for-boys-damaged-they-came-out-destroyed/#:~:text=In%20March%201958%2C%20a%20Miami,Eugene%20Byrd%20testified.> (last visited Feb. 15, 2024).

¹⁵ Art. I, s. 24(a), FLA. CONST.

¹⁶ A “public record exemption” means a provision of general law which provides that a specified record, or portion thereof, is not subject to the access requirements of s. 119.07(1), F.S., or s. 24, Art. I of the Florida Constitution. See s. 119.011(8), F.S.

¹⁷ Art. I, s. 24(c), FLA. CONST.

¹⁸ See s. 119.01, F.S.

¹⁹ S. 119.15, F.S.

of open government and cannot be accomplished without the exemption.”²⁰ An identifiable public purpose is served if the exemption meets one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual’s safety; however, only the identity of an individual may be exempted under this provision; or
- Protect trade or business secrets.²¹

Pursuant to the OGSR Act, a new public record exemption, or the substantial amendment of an existing public record exemption, is repealed on October 2nd of the fifth year following enactment, unless the Legislature reenacts the exemption.²²

Effect of Proposed Changes

The bill creates a public record exemption for the names, dates of birth, driver license numbers, home and mailing addresses, telephone numbers, or electronic mail addresses in an application submitted to DLA by a person seeking compensation through the Program. Under the bill, such information is confidential and exempt²³ from public record requirements.

The bill also:

- Authorizes the release of the confidential and exempt information to the Department of Education to facilitate the award of standard high school diplomas to persons compensated through the Program.
- Specifies that, in accordance with the OGSR Act, the exemption stands repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.
- Provides a statement of public necessity as required by the Florida Constitution.
- Provides an effective date that is contingent upon the passage of CS/HB 21 or similar legislation.

B. SECTION DIRECTORY:

Section 1: Creates s. 16.64, F.S., relating to applications for compensation through the Program; public records exemption.

Section 2: Provides a statement of public necessity.

Section 3: Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

²⁰ S. 119.15(6)(b), F.S.

²¹ *Id.*

²² S. 119.15(3), F.S.

²³ There is a difference between records the Legislature designates *exempt* from public record requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Op. Att’y Gen. Fla. 04- 09 (2004).

2. Expenditures:

The bill may have an insignificant negative fiscal impact on DLA for workload related to the redaction of confidential and exempt information in responding to public record requests. However, these additional costs will likely be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

Vote Requirement

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly-created or expanded public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, section 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record exemption. The bill creates a public record exemption and includes a public necessity statement.

Breadth of Exemption

Article I, section 24(c) of the Florida Constitution requires a newly created or expanded public record exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill intends to shield from public disclosure the personal identifying information of victims of the Dozier School for Boys or the Okeechobee School who apply for compensation through the Program. The bill creates a public record exemption for specified personal identifying information in an application submitted to DLA by, or on behalf of, a person seeking compensation through the Program, and provides an exception. As such, the exemption does not appear broader than necessary to accomplish the bill's purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 7, 2024, the Judiciary Committee adopted a Proposed Committee Substitute (“PCS”) and an amendment to the PCS and reported the bill favorably. The PCS, as amended, differed from the underlying bill in that it:

- Specified the types of personal identifying information that would be made confidential and exempt;
- Created an exception to allow the release of the protected information to the Department of Education for the purpose of facilitating the award of standard high school diplomas to persons compensated through the Program, or upon court order;
- Corrected the date on which the bill would stand repealed pursuant to the Open Government Sunset Review Act unless reviewed and saved from repeal through reenactment by the Legislature; and
- Conformed the public records exemption and the accompanying public necessity statement to changes made to CS/HB 21, the bill to which this public record exemption is linked.

On February 21, 2024, the State Affairs Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed social security numbers from the public record exemption and removed the authorization to release the confidential and exempt information upon a court order because such authorization is unnecessary.

This analysis is drafted to the committee substitute as approved by the State Affairs Committee.