

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 1146

INTRODUCER: Senator Burgess

SUBJECT: Public Records/Hope Florida Program

DATE: March 31, 2025

REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|---------|----------------|-----------|--------------------|
| 1. | Harmsen | McVaney        | GO        | <b>Pre-meeting</b> |
| 2. |         |                | AHS       |                    |
| 3. |         |                | AP        |                    |

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**I. Summary:**

SB 1146 is a public records companion bill to SB 1144 (statutory codification of the Hope Florida program within the Executive Office of the Governor) to make confidential and exempt from public records copying and inspection requirements certain personal identifying information of Hope Florida participants.

This exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2030, unless saved by the Legislature from repeal.

The bill contains a statement of public necessity as required by the State Constitution. The bill creates a new public records exemption and, therefore, requires a two-thirds vote of the members present and voting for final passage.

This bill is not expected to impact state and local government revenues and expenditures.

This bill takes effect July 1, 2025.

**II. Present Situation:**

**Access to Public Records - Generally**

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

<sup>2</sup> *Id.* See also, *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.<sup>3</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

### **Executive Agency Records – The Public Records Act**

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.<sup>5</sup>

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”<sup>6</sup>

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.<sup>9</sup> The exemption must state

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<sup>3</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2022-2024).

<sup>4</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4<sup>th</sup> DCA 2018).

<sup>5</sup> Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>7</sup> Section 119.07(1)(a), F.S.

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST. art. I, s. 24(c).

with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>10</sup>

General exemptions from the public records requirements are contained in the Public Records Act.<sup>11</sup> Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.<sup>12</sup>

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.<sup>13</sup> Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.<sup>14</sup> Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>15</sup>

### **Open Government Sunset Review Act**

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act<sup>16</sup> (the Act), prescribe a legislative review process for newly created or substantially amended<sup>17</sup> public records or open meetings exemptions, with specified exceptions.<sup>18</sup> The Act requires the repeal of such exemption on October 2 of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>19</sup>

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>20</sup> An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption, and it meets one of the following purposes:

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<sup>10</sup> *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

<sup>11</sup> *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

<sup>12</sup> *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

<sup>13</sup> *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

<sup>14</sup> *Id.*

<sup>15</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

<sup>16</sup> Section 119.15, F.S.

<sup>17</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>18</sup> Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>19</sup> Section 119.15(3), F.S.

<sup>20</sup> Section 119.15(6)(b), F.S.

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;<sup>21</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>22</sup> or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>23</sup>

The Act also requires specified questions to be considered during the review process.<sup>24</sup> In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.<sup>25</sup> If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.<sup>26</sup>

### **Hope Florida Program**

SB 1144, which is linked to this bill, statutorily creates the Hope Florida program and codifies the creation of a Hope Florida Office within the Executive Office of the Governor (EOG). All state agencies are required to participate in Hope Florida if directed to do so by the Executive Office of the Governor. However, the Department of Children and Families, Agency for Persons with Disabilities, Department of Juvenile Justice, Statewide Guardian ad Litem Office, Department of Education, Agency for Health Care Administration, Department of Corrections, Division of Emergency Management, Department of Veterans' Affairs, Department of Commerce (Commerce), and the Department of Elderly Affairs are required to participate. An agency that is designated by the EOG to do so must perform the following duties under Hope Florida:

- Operate the Hope Line, a toll-free hotline for Hope Florida inquiries and referrals.
- Develop and maintain a website that allows individuals to connect with Hope Florida in order to request services, or volunteer their time or resources.

<sup>21</sup> Section 119.15(6)(b)1., F.S.

<sup>22</sup> Section 119.15(6)(b)2., F.S.

<sup>23</sup> Section 119.15(6)(b)3., F.S.

<sup>24</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>25</sup> See generally s. 119.15, F.S.

<sup>26</sup> Section 119.15(7), F.S.

- Develop and maintain a Hope Florida case management system that can at least conduct intake for Hope Florida inquiries and referrals. Only the agency that is responsible for care planning functionality, closed loop referrals, and tracking may develop and maintain the case management system.
- Work with the Commerce and CareerSource Florida to maintain a portal that integrates with Commerce’s one-stop delivery system to allow for the designation of employers as “Hope Florida Employers” and to provide clients access to employment and training services.

The bill allows public-private partners, including CareerSource Florida and Volunteer Florida, to participate in Hope Florida at the direction of the Executive Office of the Governor.

The Hope Florida program is intended to “streamline access to support and services to assist Floridians in need in reaching their full potential within their local communities by holistically coordinating care through hope navigators.” The program further strives to manage participant care more effectively through a centralized system that is composed of private businesses, nonprofit entities, state agencies, and faith-based organizations.

### III. Effect of Proposed Changes:

**Section 1** designates Hope Florida participants’ personal identifying information as confidential and exempt from public records disclosure requirements.

The confidential and exempt personal identifying information may be disclosed to the following entities so long as the recipient maintains the confidential and exempt status of the information:

- An Office of Hope Florida or agency employee for the purposes of maintaining a registry or periodic reporting or disclosure of information that has been redacted to exclude personal identifying information.
- The program’s designated public-private partners including, but not limited to, CareerSource Florida, Inc., and Volunteer Florida, Inc.
- An Office of Hope Florida or agency employee for the purpose of approving or disapproving a request for additional assistance within the purview of the program.

The willful and knowing disclosure of information made confidential and exempt by this bill constitutes a third-degree felony.

Consistent with s. 119.15, F.S., the new exemptions will expire on October 2, 2030, unless reviewed and saved from repeal by the Legislature.

**Section 2** provides the constitutionally required public necessity statement, which states the Hope Florida program collects personal identifying information of its participants in order to fulfill its mission. These individuals are often in vulnerable situations and subject to abuse and exploitation. Allowing the public unfettered access to participant data could impair the effective and efficient administration of the program and otherwise discourage individuals and families from seeking support through Hope Florida’s resources.

**Section 3** provides that the bill takes effect upon SB 1144 or similar legislation becoming law.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

##### B. Public Records/Open Meetings Issues:

###### **Vote Requirement**

Article I, section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records disclosure requirements. This bill enacts a new exemption for the personal identifying information for participants in the Hope Florida program and, thus, the bill requires a two-thirds vote to be enacted.

###### **Public Necessity Statement**

Article I, section 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records disclosure requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption which provides that allowing the public unfettered access to participant data could impair the effective and efficient administration of the Hope Florida program and otherwise discourage individuals and families from seeking support through Hope Florida's resources.

###### **Breadth of Exemption**

Article I, section 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the proposed law is to protect participants in the Hope Florida program and further the mission of the program.

This bill exempts the personal identifying information for participants in the Hope Florida program from the public records disclosure requirements. What personal identifying information means, however, is unclear.<sup>27</sup> Thus, the exemption may be broader than necessary to accomplish the purpose of the law.

The Legislature therefore may wish to clarify what personal identifying information is to ensure that the constitutional breadth of exemption requirement is met.

Additionally, this bill may grant greater protections for individuals who sign up for government services through, or with the assistance of, the Hope Florida program than

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<sup>27</sup> See *infra* VI. Technical Deficiencies.

for those who seek the services independently. This broad application of confidential and exempt status to the same information that, when held in another fashion is not confidential and exempt, may make the breadth of this exemption suspect. Lastly, this distinction may be difficult for agencies to track.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

None identified.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

This bill may cause a minimal increase in workload on agencies holding records that contain personal identifying information of participants in the Hope Florida program because staff responsible for complying with public record requests may require training related to the new public record exemption. Additionally, agencies may incur costs associated with redacting the exempt information prior to releasing a record. However, the workload will likely be absorbed within current resources.

**VI. Technical Deficiencies:**

The bill does not define the term "personal identifying information." As the term is not universally used throughout the Florida Statutes, it is unclear what specific information is exempted from public records disclosure and inspection requirements. The lack of clarity as to what personal identifying information means could also raise a constitutional question regarding the breadth of the exemption.<sup>28</sup> The Legislature may wish to clarify what specific information is encompassed by the term personal identifying information for this purpose.

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<sup>28</sup> See *supra* IV. Constitutional Issue.

Additionally, the bill does not define the term “public-private partners.” The bill allows the Office to release confidential and exempt information to a “public-private partner,” but what entities qualify as one is unclear.

## **VII. Related Issues:**

The bill allows the Hope Florida program to release the confidential and exempt information to specific entities, including the program’s designated public-private partners, as long as the recipient maintains the information’s confidential and exempt status. The bill penalizes as a third-degree felony any person’s willful and knowing disclosure of the confidential and exempt information. This may deter non-profit entities’ participation in the program because of the high legal burden of holding the information, which they may not have the training or programs to ensure is held in the proper manner. For example, if a church secretary were to receive the information from the Hope Florida program, and then share that information with a family who might be able to help the participant, the secretary could be subject to a third-degree felony. In conclusion, the confidential and exempt status of the information may actually impede the aim of the program to establish a “seamless network of supports.” Additionally, state agencies may not be able to perform their function without permission to release the participant’s personal identifying information in furtherance of their duties.

The bill may grant greater protections for individuals who sign up for government services through, or with the assistance of, the Hope Florida program than for those who seek the services independently.

## **VIII. Statutes Affected:**

This bill creates section 14.37 of the Florida Statutes:

## **IX. Additional Information:**

A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.