

# FLORIDA HOUSE OF REPRESENTATIVES

## FINAL BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

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| <b>BILL #:</b> <a href="#">CS/HB 1479</a>          | <b>COMPANION BILL:</b> <a href="#">CS/CS/SB 1640</a> (Grall) |
| <b>TITLE:</b> Pub. Rec./Lethality Assessment Forms | <b>LINKED BILLS:</b> None                                    |
| <b>SPONSOR(S):</b> Baker                           | <b>RELATED BILLS:</b> None                                   |
| <b>FINAL HOUSE FLOOR ACTION:</b> 114 Y's 0 N's     | <b>GOVERNOR'S ACTION:</b> Pending                            |

### SUMMARY

#### Effect of the Bill:

The bill creates a public record exemption to make a lethality assessment form completed on, before, or after January 1, 2025, that contains a domestic violence victim's information and responses to the lethality assessment confidential and exempt from public record requirements. The bill authorizes lethality assessment forms to be released to domestic violence centers and state attorneys' offices, but requires such centers and offices to maintain the forms and information contained within such forms in a specified manner. The bill provides for repeal of the exemption on October 2, 2030, unless reviewed and saved from repeal by the Legislature.

#### Fiscal or Economic Impact:

The bill may have an indeterminate negative fiscal impact on state and local governments holding lethality assessment forms as staff responsible for complying with public records requests may require training on the newly-created public record exemption for lethality assessment forms.

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### ANALYSIS

#### EFFECT OF THE BILL:

CS/HB 1479 passed as [CS/CS/SB 1640](#). (Please note that bill section parentheticals do not contain hyperlinks to bill sections for Senate bills)

The bill creates a [public record exemption](#) to make a [lethality assessment](#) form completed on, before, or after January 1, 2025, that contains a [domestic violence](#) victim's information and responses to a law enforcement officer administered lethality assessment [confidential and exempt](#) from public record requirements. (Section 1)

The bill authorizes a lethality assessment form to be disclosed to a domestic violence center, but requires any domestic violence center that receives such a form to keep the form and its contents confidential. (Section 1)

The bill authorizes a lethality assessment form to be disclosed to a state attorney's office. The bill further authorizes a state attorney who receives such a form to release the confidential information:

- In furtherance of his or her official duties and responsibilities.
- To the parties in a pending criminal prosecution as required by law. (Section 1)

Pursuant to the [Open Government Sunset Review Act](#), the exemption will be automatically repealed on October 2, 2030, unless reviewed and reenacted by the Legislature. (Section 1)

The bill includes the constitutionally required public necessity statement, in which the Legislature finds that it is necessary to make lethality assessment forms that contain a victim's information and responses to a lethality assessment confidential and exempt from public record requirements as the information included in such a form is sensitive in nature and the release of such information could subject victims of domestic violence to an increased risk of abuse. The Legislature further finds that victims are more likely to participate in a lethality assessment if the accompanying form is protected from public disclosure and that the harm that may result from the release of such information outweighs any public benefit that may be derived from the disclosure of the information. (Section 2)

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[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 public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

Subject to the Governor's veto powers, the effective date of this bill is upon becoming a law. (Section 3)

## **FISCAL OR ECONOMIC IMPACT:**

### **STATE GOVERNMENT:**

The bill may have an insignificant negative fiscal impact on state agencies holding lethality assessment forms as staff responsible for complying with public record requests may require training related to the public record exemption. However, these additional costs will likely be absorbed within existing resources.

### **LOCAL GOVERNMENT:**

The bill may have an insignificant negative fiscal impact on local agencies holding lethality assessment forms as staff responsible for complying with public record requests may require training related to the public record exemption. However, these additional costs will likely be absorbed within existing resources.

## **RELEVANT INFORMATION**

### **SUBJECT OVERVIEW:**

#### **[Public Records](#)**

[Article I, section 24\(a\)](#) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person the right to inspect or copy any public record of the legislative, executive, and judicial branches of government.<sup>1</sup> The Legislature, however, may provide by general law for [exemption](#)<sup>2</sup> from public record requirements provided that the exemption passes by a two-thirds vote of each chamber, states with specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.<sup>3</sup>

The Florida Statutes also address the public policy regarding access to government records. Section [119.01\(1\), F.S.](#), guarantees every person the right to inspect and copy any state, county, or municipal record, unless the record is exempt.<sup>4</sup> Furthermore, the Open Government Sunset Review Act<sup>5</sup> 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 of open government and cannot be accomplished without the exemption.<sup>6</sup> An identifiable public purpose is served if the exemption meets one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects 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
- Protects trade or business secrets.<sup>7</sup>

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<sup>1</sup> [Art. I, s. 24\(a\), Fla. Const.](#)

<sup>2</sup> 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.](#)

<sup>3</sup> [Art. I, s. 24\(c\), Fla. Const.](#)

<sup>4</sup> See [s. 119.01, F.S.](#)

<sup>5</sup> S. [119.15, F.S.](#)

<sup>6</sup> S. [119.15\(6\)\(b\), F.S.](#)

<sup>7</sup> *Id.*

Pursuant to the [Open Government Sunset Review Act](#), a new public record exemption or substantial amendment of an existing public record exemption is repealed on October 2<sup>nd</sup> of the fifth year following enactment, unless the Legislature reenacts the exemption.<sup>8</sup>

Furthermore, there is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. However, 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.<sup>9</sup>

### [Domestic Violence](#)

Domestic violence is any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.<sup>10</sup>

“Family or household member” means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.<sup>11</sup>

In 2020,<sup>12</sup> Florida law enforcement agencies received 106,615 domestic violence reports,<sup>13</sup> resulting in 63,345 arrests.<sup>14</sup> Of those 106,615 reports, 20,735 involved a spouse, 29,663 involved a cohabitant, and 20,142 involved a person with an undefined relationship with the victim.<sup>15</sup> Additionally, in 2020, 15 percent of all murders in Florida were related to domestic violence.<sup>16,17</sup> Florida’s Computerized Criminal History recorded 71,431 domestic violence offenses in 2023.<sup>18</sup>

Furthermore, during fiscal year 2023-2024, Florida’s 41 certified domestic violence centers:<sup>19</sup>

- Provided emergency shelter to 12,543 individuals;
- Provided outreach services to 30,723 individuals;

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<sup>8</sup> S. [119.15\(3\), F.S.](#)

<sup>9</sup> See *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So. 2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So. 2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991); See Attorney General Opinion 85-62 (August 1, 1985).

<sup>10</sup> S. [741.28\(2\), F.S.](#)

<sup>11</sup> S. [741.28\(3\), F.S.](#)

<sup>12</sup> The Florida Department of Law Enforcement (FDLE) has not issued an updated report specifically detailing domestic violence offenses since 2020.

<sup>13</sup> The reports include offenses of murder, manslaughter, rape, fondling, aggravated assault, aggravated stalking, simple assault, threats or intimidation, and stalking.

<sup>14</sup> FDLE, *Reported Domestic Violence Offenses: Relationship of Victim to Offender for Florida, 1992-2020*, [https://www.fdle.state.fl.us/CJAB/UCR/Annual-Reports/UCR-Domestic-Violence/03/DV\\_Victim\\_Totals\\_by\\_Relationship.aspx](https://www.fdle.state.fl.us/CJAB/UCR/Annual-Reports/UCR-Domestic-Violence/03/DV_Victim_Totals_by_Relationship.aspx) (last visited Apr. 10, 2025).

<sup>15</sup> *Id.*

<sup>16</sup> FDLE, *Florida Statewide Reported Violent Crime, by Offense and Year, 1971-2020*, [https://www.fdle.state.fl.us/CJAB/UCR/Annual-Reports/UCR-Offense-Data/05/Total\\_Violent\\_Crime.aspx](https://www.fdle.state.fl.us/CJAB/UCR/Annual-Reports/UCR-Offense-Data/05/Total_Violent_Crime.aspx) (last visited Apr. 10, 2025).

<sup>17</sup> FDLE, *Reported Domestic Violence in Florida: Victim Totals by Offense, 1992-2020*, [https://www.fdle.state.fl.us/CJAB/UCR/Annual-Reports/UCR-Domestic-Violence/04/DV\\_Victim\\_Totals\\_by\\_Offense.aspx](https://www.fdle.state.fl.us/CJAB/UCR/Annual-Reports/UCR-Domestic-Violence/04/DV_Victim_Totals_by_Offense.aspx) (last visited Apr. 10, 2025).

<sup>18</sup> Florida Department of Health, *Domestic Violence Offenses, Rate per 100,000 Population, 2022*, <https://www.flhealthcharts.gov/ChartsDashboards/rdPage.aspx?rdReport=NonVitalIndNoGrp.TenYrsRpt&cid=312> (last visited Apr. 10, 2025). (Florida’s Computerized Criminal History is fingerprint-based, and unless prints were taken at a later stage in the criminal justice process, does not include reports involving a notice to appear, direct files, or sworn complaints where no physical arrest was made.)

<sup>19</sup> Section [39.902\(2\), F.S.](#), defines “domestic violence center” as an agency that provides services to victims of domestic violence as its primary mission.

- Answered 75,746 crisis hotline calls;
- Completed 224,384 safety plans with victims; and
- Provided 398,829 direct service information and referrals to victims, family members, and individuals seeking services.<sup>20</sup>

### Lethality Assessments in Domestic Violence Investigations

Section [741.29, F.S.](#), requires a law enforcement officer who investigates an alleged incident of domestic violence to:

- Assist the victim in obtaining medical treatment if such treatment is required as a result of the alleged incident to which the officer responds;
- Advise the victim that there is a domestic violence center where the victim may receive services;
- Administer a lethality assessment if the allegation of domestic violence is against an intimate partner, regardless of whether an arrest is made;
- Give the victim immediate notice of her or his available legal rights and remedies;<sup>21</sup> and
- Obtain a written statement from the victim and any witnesses, if possible.<sup>22</sup>

To administer a lethality assessment,<sup>23</sup> a law enforcement officer must ask the victim, in the same or similar wording and in the same order, all of the following questions:

1. Did the aggressor ever use a weapon against you or threaten you with a weapon?
2. Did the aggressor ever threaten to kill you or your children?
3. Do you believe the aggressor will try to kill you?
4. Has the aggressor ever choked you or attempted to choke you?
5. Does the aggressor have a gun or could the aggressor easily obtain a gun?
6. Is the aggressor violent or constantly jealous, or does the aggressor control most of your daily activities?
7. Did you leave or separate from the aggressor after you were living together or married?
8. Is the aggressor unemployed?
9. To the best of your knowledge, has the aggressor ever attempted suicide?
10. Do you have a child whom the aggressor believes is not the aggressor's biological child?
11. Has the aggressor ever followed, spied on, or left threatening messages for you?
12. Is there anything else that worries you about your safety and, if so, what worries you?<sup>24</sup>

A law enforcement officer must advise a victim of the results of the assessment and refer the victim to the nearest locally certified domestic violence center if:

- The victim answers affirmatively to any of the first four questions;
- The victim answers negatively to the first four questions, but answers affirmatively to at least four of the next seven questions; or
- As a result of the victim's response to the 12th question, the law enforcement officer believes the victim is in a potentially lethal situation.<sup>25</sup>

If a victim refuses, or is unable, to provide sufficient information to complete the lethality assessment, the officer must document the lack of such an assessment in his or her written police report and refer the victim to the nearest locally certified domestic violence center.<sup>26</sup> However, an officer may not include any information regarding the domestic violence center to which the victim was referred in a probable cause statement, written police report, or incident report.<sup>27</sup>

<sup>20</sup> Florida Department of Children and Families (DCF), Office of Domestic Violence, *Domestic Violence Annual Report January 2025*, <https://www.myflfamilies.com/sites/default/files/2024-12/Domestic%20Violence%20Annual%20Report%202024.pdf> (last visited Apr. 10, 2025).

<sup>21</sup> S. [741.29\(1\), F.S.](#)

<sup>22</sup> S. [741.29\(3\), F.S.](#)

<sup>23</sup> FDLE was required to adopt a statewide lethality assessment instrument and form by January 1, 2025. s. [741.29\(2\), F.S.](#)

<sup>24</sup> S. [741.29\(2\)\(e\), F.S.](#)

<sup>25</sup> S. [741.29\(2\)\(f\), F.S.](#)

<sup>26</sup> S. [741.29\(2\)\(g\), F.S.](#)

<sup>27</sup> S. [741.29\(2\)\(h\), F.S.](#)

Additionally, an officer investigating a domestic violence incident is required to make a written police report, regardless of whether an arrest is made.<sup>28</sup> The report must include:

- A description of physical injuries observed, if any;
- The grounds for not arresting anyone or for arresting two or more parties, if applicable;
- A statement which indicates that a copy of the legal rights and remedies notice was given to the victim; and
- A notation of the score of a lethality assessment, if one was administered.<sup>29</sup>

The officer’s agency must provide the written report, along with a narrative description of the domestic violence incident, to the nearest locally certified domestic violence center within 24 hours after the agency’s receipt of the report.<sup>30</sup>

**RECENT LEGISLATION:**

| YEAR | BILL #                           | HOUSE SPONSOR(S) | SENATE SPONSOR | OTHER INFORMATION         |
|------|----------------------------------|------------------|----------------|---------------------------|
| 2024 | <a href="#">CS/CS/CS/SB 1224</a> | Trabulsy         | Burton         | Took effect July 1, 2024. |

**OTHER RESOURCES:**

[State of Florida Lethality Assessment Form](#)

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<sup>28</sup> The report must be given to the officer’s supervisor and filed with the law enforcement agency in a manner that will permit data on domestic violence cases to be compiled. *Id.*

<sup>29</sup> S. [741.29\(3\)\(a\)-\(d\), F.S.](#)

<sup>30</sup> S. [741.29\(3\)\(d\), F.S.](#)