FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

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

BILL #: CS/CS/HB 1569	**COMPANION BILL:** CS/SB 1652 (Grall)
TITLE: Pub. Rec./Stricken Matters	**LINKED BILLS:** None
SPONSOR(S): Johnson	**RELATED BILLS:** None

Committee References

Civil Justice & Claims	➤	Government Operations	➤	Judiciary
13 Y, 0 N, As CS		14 Y, 0 N		18 Y, 0 N, As CS

SUMMARY

Effect of the Bill:

CS/CS/HB 1569 amends s. 119.0714, F.S., creating a public records exemption for certain immaterial, impertinent, or sham material stricken from noncriminal court records, and which would defame, cause reputational harm to, or jeopardize the safety of a person.

The bill has an effective date of July 1, 2025.

Fiscal or Economic Impact:

The bill may have an insignificant negative fiscal impact on state and local governments due to any costs associated with training staff on and making redactions as required by the newly created public record exemption for immaterial, impertinent, or sham material stricken from the record.

Extraordinary Vote Required for Passage:

The bill requires a two-thirds vote of the members present and voting in both houses of the Legislature for final passage.

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ANALYSIS

EFFECT OF THE BILL:

CS/CS/HB 1569 amends s. 119.0714, F.S., creating a public records exemption for material stricken from noncriminal cases. As such, if the court finds that the stricken matter is immaterial, impertinent, or sham, and would be defamatory, cause unwarranted damage to a person's good name or reputation, or jeopardize safety, such stricken information will be exempt from disclosure under Florida's public records laws.[1] (Section 1).

The bill provides a statement of Legislative finding that such exemption from public records is a public necessity. Thus, under the bill, the Legislature finds that the protection of such stricken information concerning an individual serves an identifiable public purpose justifying the creation of the exemption. Further, the bill provides that the harm that may result from the release of such stricken matter outweighs any public benefit that may be derived from the disclosure of the stricken matter. (Section 2).

The bill has an effective date of July 1, 2025. (Section 3).

[1] If the bill passes, an amendment to the Florida Rule of General Practice and Judicial Administration 2.420(d)(1)(B) may be required to incorporate the provisions of the proposed public records exemption.

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill may have an insignificant negative fiscal impact on state agencies holding records that contain confidential material as staff responsible for complying with public record requests may require training related to the public record exemption under the bill. Additionally, state agencies could incur costs associated with redacting the exempt information prior to releasing records. However, these additional costs will likely be absorbed within existing resources.

LOCAL GOVERNMENT:

The bill may have an insignificant negative fiscal impact on local governments holding records that contain confidential material as staff responsible for complying with public record requests may require training related to the public record exemption under the bill. Additionally, local governments could incur costs associated with redacting the exempt information prior to releasing records. 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.[2] The Legislature, however, may provide by general law for an exemption[3] 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.[4]

The Florida Statutes also address the public policy regarding access to government records. Section 119.071(1), F.S., guarantees every person the right to inspect and copy any state, county, or municipal record, unless the record is exempt.[5] Furthermore, the Open Government Sunset Review Act[6] 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.[7] 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.[8]

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 2nd of the fifth year following enactment, unless the

[2] Art. I, s. 24(a), Fla. Const.
[3] 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.
[4] Art. I, s. 24(c), Fla. Const.
[5] *See* s. 119.01, F.S.
[6] S. 119.15, F.S.
[7] S. 119.15(6)(b), F.S.
[8] *Id.*

Legislature reenacts the exemption.[9] However, the Open Government Sunset Review Act does not apply to a public records exemption which applies solely to the judicial branch.[10]

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.[11]

Motions to Strike

Motion to Strike Redundant, Immaterial, Impertinent, or Scandalous Matter

Motions to strike pleadings are used in legal proceedings to remove redundant, immaterial, impertinent, or scandalous allegations from a court filing. Pursuant to Rule 1.140(f) of the Florida Rules of Civil Procedure, a party or the court may move to strike redundant, immaterial, impertinent, or scandalous matter from any pleading at any time.[12] The motion is available to both claimants and defendants and applies to "any proceeding," with respect to all manners of complaints, answers, and replies.[13]

When a court strikes a pleading or a portion thereof, the stricken matter is disregarded and treated as if it never existed. Striking the pleadings is a severe sanction, reserved for extreme situations. Although the stricken matter is removed from consideration by the judge and jury, it remains accessible as a public record in the court file.

Generally, a motion to strike as redundant, immaterial, impertinent, or scandalous should only be granted if the material is:

- Wholly irrelevant,
- Can have no bearing on the equities, and
- Has no influence on the decision.[14]

Motion to Strike Sham Pleading

Sham pleadings are demonstrably false such that the movant can show the pleading-party knows of the pleading's falsity.[15] A motion to strike a sham pleading is governed by Rule 1.150, Fla. R. Civ. P., which provides that "if a party deems any pleading or part thereof filed by another party to be a sham, that party may move to strike the pleading or part thereof before the cause is set for trial and the court shall hear the motion, taking evidence of the respective parties, and if the motion is sustained, the pleading to which the motion is directed shall be stricken." Under Rule 1.150, a motion to strike a sham pleading must be verified by the movant and must set forth fully the facts upon which the movant relies.[16]

2024 Workgroup and Report on Vexatious Litigants

The Workgroup on Vexatious Litigants ("Workgroup") was established by Administrative Order No. AOSC24-19 to "enhance the effectiveness of Florida's Vexatious Litigant Law and to address issues related to the public disclosure

[9] S. 119.15(3), F.S.
[10] S. 119.15(2)(b), F.S.
[11] *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).
[12] Fla. R. Civ. P. 1.140(f).
[13] Joshua Byrne Spector, *A Walk Through the Strike Zone*, 91 No. 5, Fla. Bar Journal, 18 (May 2017), https://www.floridabar.org/the-florida-bar-journal/a-walk-through-the-strike-zone/ (last visited March 24, 2025).
[14] *Id*.
[15] *Id*.
[16] *Id*.

and harmful and defamatory content in noncriminal court filings."[17] The Workgroup sought to quantify the impact of vexatious litigation on the Florida Court System and surveyed DCA judges, trial court judges, trial court administrators, DCA clerks, and trial court clerks regarding improper litigation.[18]

The Workgroup consisted of two appellate judges, one circuit court judge, and two private attorneys, all of who are members of the Judicial Management Council.[19] The Workgroup met over a period of five months to conduct research and compose its Final Report and Recommendation.

Under current law, allegations that have been stricken by the court remain in the public record. The 2024 Workgroup explained that "false allegations are immune from defamation liability if they are relevant and material to the litigation. The litigation privilege, combined with the ineffective deterrent of sanctions for many pro se litigants, leaves the door open for litigants to file patently false and defamatory allegations in court."[20]

While the court has the authority to seal records, such authority is limited by Rule 2.420(c)(9) of General Practice and Judicial Administration, which authorizes the court to seal records when confidentiality is required to avoid substantial injury to various parties. With respect to injury to a party, only such matters that are peripheral to the litigation may be subject to the court's authority to seal. As such, the 2024 Workgroup stated that, under current rules, it does not "appear that sham, scandalous, or other improper matter that is generally inherent in the litigation can be sealed by the court under current law."[21]

The 2024 Workgroup further explained that "a public records exemption enacted by the Legislature is the only tool available to prevent the ongoing publication of this information in a court record."[22]

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Civil Justice & Claims Subcommittee	13 Y, 0 N, As CS	3/27/2025	Jones	Mathews
THE CHANGES ADOPTED BY THE COMMITTEE:	• Removed the reference to the Open Government Sunset Review Act. • Made clarifying technical changes.			
Government Operations Subcommittee	14 Y, 0 N	4/1/2025	Toliver	Toliver
Judiciary Committee	18 Y, 0 N, As CS	4/8/2025	Kramer	Mathews
THE CHANGES ADOPTED BY THE COMMITTEE:	Made technical changes to clarify that any matter in a pleading, any matter in a request for relief, or any matter in any other document that has been stricken by the court in a noncriminal matter is exempt from public record disclosures.			

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.

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[17] *Id*. at 4.
[18] *Id*. at 11.
[19] *Id*. at 6.
[20] 2024 Workgroup on Vexatious Litigants, *Final Report and Recommendation*, 42, Sept. 6, 2024.
[21] *Id*. at 43.
[22] *Id*.