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.)

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

BILL:	SB 302
INTRODUCER:	Senator Rouson
SUBJECT:	Public Records/Judicial Qualifications Commission
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Cibula	JU	**Favorable**
2.	White	McVaney	GO	**Pre-meeting**
3.			RC	

I. Summary:

SB 302 exempts from public records copying and inspection requirements certain identifying information of current and former employees of the Judicial Qualifications Commission (Commission) and their spouses and children. The exemption restricts access to their information in the public records which may identify or locate them.

Specifically, the bill exempts from public disclosure the following information:

- The home addresses, telephone numbers, dates of birth, and photographs of current and former employees of the Commission.
- The names, home addresses, telephone numbers, dates of birth, photographs, and places of employment of the spouses and children of current and former employees of the Commission.
- The names and locations of schools and day care facilities attended by the children of current and former employees of the Commission.

This exemption applies to information held by an agency before, on, or after July 1, 2025. It is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2030, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides a statement of public necessity as required by the State Constitution. Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill may increase costs minimally for state and local government agencies.

The 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.[1] 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.[2]

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.[3] Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.[4] 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.[5]

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."[6]

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[1] FLA. CONST. art. I, s. 24(a).
[2] *Id*. *See also*, *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).
[3] *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).
[4] *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).
[5] 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."
[6] *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc*., 379 So. 2d 633, 640 (Fla. 1980).

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.[7] A violation of the Public Records Act may result in civil or criminal liability.[8]

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.[9] The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.[10]

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

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*.[13] 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.[14] Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.[15]

Public Records Exemptions for Specified Personnel and their Families (s. 119.071(4), F.S.)

Section 119.071(4), F.S., exempts from public record disclosure the personal information of specific government employees when held by government agencies. In paragraph (d), "home addresses" is defined as the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address. Additionally, "telephone numbers" is defined to include home telephone numbers, personal cellular telephone

[7] Section 119.07(1)(a), F.S.
[8] Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.
[9] FLA. CONST. art. I, s. 24(c).
[10] *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).
[11] *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).
[12] *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).
[13] *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).
[14] *Id.*
[15] *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

Section 119.071(4)(d)2., F.S., generally exempts from public disclosure the home addresses, dates of birth, photographs, and telephone numbers of specified public employees and their spouses and children. Additionally exempted, typically, are the spouse's place of work as well as the name and location of any schools or day care facilities of the public employee's children, if any.

Records that include exempt information about the above-specified personnel and their spouses and children (minor or adult) may be held by, among others, their employing agency, clerks of court and comptrollers, county tax collectors and property appraisers, school districts, and law enforcement agencies. County property appraisers[16] and county tax collectors[17] holding exempted information need only remove the name of an individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exemption status from all publicly available records. County property appraisers and county tax collectors may not remove the street address, legal description, or other information identifying real property so long as the name or personal information otherwise exempt is not associated with the property or otherwise displayed in the public records.[18]

The personnel, their spouses or children, or their employing agency claiming an exemption under s. 119.071(4)(d)2., F.S., must affirmatively assert the right to the exemption by submitting a written and notarized request to each non-employer agency that holds the employee's or their spouse or child's information. The individual or entity asserting the exemption must provide, under oath, the statutory basis for the individual's exemption and confirm the individual's status as a party eligible for exempt status.[19]

These exemptions under s. 119.071(4)(d)2., F.S., have retroactive application, applying to information held by an agency before, on, or after the effective date of the exemption.[20] Home addresses, however, are no longer exempt in the Official Records if the protected party no longer resides at the dwelling[21] or upon his or her death.[22]

[16] *See* s. 192.001(3), F.S.
[17] *See* s. 192.001(4), F.S.
[18] Section 119.071(4)(d)4., F.S.
[19] Section 119.071(4)(d)3., F.S.
[20] Section 119.071(4)(d)6., F.S.
[21] The protected individual must submit a notarized, written request to release the removed information. Section 119.071(4)(d)8., F.S.
[22] A certified copy of a death certificate or court order must be presented with a notarized request to release the information to remove the exemption. Section 119.071(4)(d)9., F.S. Note, the Clerk is also called the "county recorder." *See* s. 28.222(2), F.S.

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act[23] (the Act), prescribe a legislative review process for newly created or substantially amended[24] public records or open meetings exemptions, with specified exceptions.[25] 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.[26]

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.[27] 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:

- 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;[28]
- 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;[29] or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.[30]

The Act also requires specified questions to be considered during the review process.[31] 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.[32] 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

[23] Section 119.15, F.S.
[24] 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.
[25] 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.
[26] Section 119.15(3), F.S.
[27] Section 119.15(6)(b), F.S.
[28] Section 119.15(6)(b)1., F.S.
[29] Section 119.15(6)(b)2., F.S.
[30] Section 119.15(6)(b)3., F.S.
[31] 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?

[32] *See generally* s. 119.15, F.S.

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.[33]

Judicial Qualifications Commission

The Judicial Qualifications Commission is an independent state agency[34] created by the State Constitution.[35] It is charged with investigating allegations of judicial misconduct and disability against state judges.[36] It has jurisdiction to review complaints about judges of county and circuit courts and district courts of appeal, as well as justices of the State Supreme Court.[37]

In 1990, the Commission was divided into an investigative panel and a hearing panel.[38] The investigative panel functions much like a grand jury and investigates allegations of judicial misconduct. If probable cause is found and formal charges are filed, then the hearing panel serves as a special master making findings of fact and recommendations to the State Supreme Court as to the appropriate discipline.[39]

The Commission is comprised of 6 judges, 4 members of The Florida Bar, and 5 laypersons selected by the Governor.[40] The chair of the Commission selects 9 members to serve on the investigative panel and 6 members to serve on the hearing panel.[41] The Commission also employs a staff of 3 people, including an executive director, a general counsel, and an assistant general counsel.[42]

Doxing

"Doxing" (sometimes spelled doxxing), short for "dropping documents,"[43] is a type of cyber-harassment where the victim—or "target's"—personal identifiable information is maliciously published and made readily and widely available without the victim's consent.[44] To constitute doxing, the person doxing the target's information—referred to as a doxer—must intend for the target to experience some level of harassment.[45]

While the definition of doxing—specifically in relation to the type of information released (personal identifiable information)—is intentionally broad because "each instance [of doxing]

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[33] Section 119.15(7), F.S.
[34] Florida Judicial Qualifications Commission (FJQC), *Home*, https://floridajqc.com/ (last visited Feb. 10, 2025).
[35] FLA. CONST. art. V, s. 12(a).
[36] FJQC, *Home*, https://floridajqc.com/ (last visited Feb. 10, 2025).
[37] FJQC, *Frequently Asked Questions*, https://floridajqc.com/faq/ (last visited Feb. 10, 2025).
[38] FLA. CONST. art. V, s. 12(b); *see also* FJQC, *About*, https://floridajqc.com/about/ (last visited Feb. 10, 2025).
[39] *Id.*
[40] FLA. CONST. art. V, s. 12(a)(1); *see also* FJQC, *About*, https://floridajqc.com/about/ (last visited Feb. 10, 2025).
[41] FLA. CONST. art. V, s. 12(f)(2); *see also* FJQC, *About*, https://floridajqc.com/about/ (last visited Feb. 10, 2025).
[42] FJQC, *Commission Staff*, https://floridajqc.com/commission-staff/ (last visited Feb. 10, 2025).
[43] *Vangheluwe v. Got News, LLC*, 365 F. Supp. 3d 850, 858 (E.D. Mich. 2019).
[44] Hannah Shankman, *How to Close Pandora's Dox: A Case for the Federal Regulation of Doxing*, 33 UNI. FLA. J.L. & PUB. POL'Y 273, 273, 276, 279-281 (2023); David Cremins, *Defending the Public Quad: Doxxing, Campus Speech Policies, and the First Amendment*, 76 STAN. L. REV. 1813, 1813 (2024); Wolsters Kluwer, CHH Incorp., *Technology/Internet News: Icann Urged To Reject Display of Website Owner Addresses*, 2015 WEST LAW 4082814, July 7, 2025.
[45] Shankman, *supra* note 44 at 279; *see Vangheluwe*, 365 F. Supp. at 859 ("The goal of doxxing is typically retribution, harassment or humiliation." (internal quotation marks and citation omitted)).

does not necessarily involve the same release of information,"[46] at a minimum, the doxed information includes the target's full name.[47] Other information released usually includes the victim's home address and telephone number. Releasing this information may lead to "a wide range of crowdsourced harassment and intimidation."[48] Harassment ranges from relatively innocuous harassment, such as unwanted pizza deliveries, to "barrages of rape and death threats," unrelenting phone calls, stalking, job loss, and becoming "'radioactive' on the job market and unhirable down the line."[49] Depending on the information released, the victim's employers and associates may also suffer a barrage of communications "urg[ing] them to take punitive actions against the target."[50]

III. Effect of Proposed Changes:

Section 1 amends s. 119.071(4)(d)2., F.S., to exempt certain information relating to current and former employees of the Judicial Qualifications Commission (Commission) from public records disclosure requirements.[51] The following information will be exempt from public records disclosure:

- The home addresses, telephone numbers, dates of birth, and photographs of current and former employees of the Commission.
- The names, home addresses, telephone numbers, dates of birth, photographs, and places of employment of the spouses and children of current and former employees of the Commission.
- The names and locations of schools and day care facilities attended by the children of current and former employees of the Commission.

Pursuant to s. 119.071(4)(d)6., F.S., the exemption applies to information held by an agency before, on, or after July 1, 2025.

Consistent with s. 119.15, F.S., the new exemption is subject to the Open Government Sunset Review Act[52] and will be repealed on October 2, 2030, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 provides the public necessity statement, as required by the State Constitution. The public necessity statement provides that the responsibilities of the Judicial Qualifications Commission include the investigation of allegations of judicial misconduct which are routinely received from criminal and civil litigants who are dissatisfied with adverse results in judicial proceedings. When the Commission, after review and investigation of complaints, does not discipline a judge or does not take the complainant's preferred course of action against a judge, dissatisfied litigants sometimes turn their ire toward Commission employees as part of their campaign against the actions of the judge in the underlying litigation. Employees of the

[46] Shankman, *supra* note 44 at 279.
[47] *Id.*
[48] Wolsters Kluwer, CHH Incorp., *supra* note 44.
[49] *Id.*; Shankman, *supra* note 44 at 276-277, 301.
[50] 1 RIGHTS OF PUBLICITY AND PRIVACY 2D s. 5:78, *Disclosure of private facts form of privacy—Disclosure privacy rights and the First Amendment—Identifying individuals and naming names* (2024).
[51] Section 119.07(1), F.S.; FLA. CONST. art. I, s. 24(a).
[52] *See* s. 119.15, F.S.

Commission have been subject to acts of intimidation by such dissatisfied litigants, including online doxing of staff members, posting of false and defamatory statements concerning employees on social media, threatening e-mails and telephone calls, and inappropriate contact regarding Commission affairs at the personal residences of employees and employees' family members. These acts of intimidation have placed Commission employees in fear of harm by disgruntled litigants who seek punishment of judges by the Commission for unfavorable litigation results. The release of personal identifying and location information of current or former employees of the Commission and their family members may place them at risk of physical harm and harassment. The risk of harm and harassment outweighs any public benefit that may be derived from the public disclosure of such information.

Section 3 provides that the bill takes effect on July 1, 2025.

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 current and former employees of the Judicial Qualifications Commission and their spouses and children; 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, as a result of their responsibilities and duties to the Commission, current and former employees of the Commission and their families may be subject to physical harm and harassment.

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 law is to protect current and former Judicial Qualifications Commission employees and their spouses and children from physical harm and harassment that may result from their responsibilities to the Commission. This bill

exempts only current and former Commission employees and their spouses and children from the public records disclosure requirements. The records to a large degree mirror existing exemptions for other sensitive public officers and employees in s. 119.071(4)(d), F.S. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

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 identified.

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 increase costs minimally for agencies holding records that contain personal identifying information of current and former Judicial Qualifications Commission employees and their spouses and children, because staff responsible for complying with public records 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 costs should be absorbed as part of the day-to-day responsibilities.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends section 119.071 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.