

# FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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**BILL #:** [HB 373](#)

**TITLE:** Pub. Rec/Appellate Court Clerks

**SPONSOR(S):** Gottlieb

**COMPANION BILL:** [SB 300](#) (Rouson)

**LINKED BILLS:** None

**RELATED BILLS:** None

## Committee References

[Civil Justice & Claims](#)

15 Y, 0 N



[Government Operations](#)



[Judiciary](#)

## SUMMARY

### Effect of the Bill:

HB 373 expands the current public record exemption exempting specified personal identifying and location information for current clerks of the circuit court, deputy clerks of the circuit court, circuit court clerk personnel, and their families to include an exemption for current clerks of the appellate courts, deputy clerks of the appellate courts, appellate court clerk personnel, and their families from public record requirements.

### Fiscal or Economic Impact:

The bill may have an indeterminate negative fiscal impact on state and local governments.

### 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:**

HB 373 expands the [public record exemption](#) for current [clerks of the circuit court](#), deputy clerks of the circuit court, clerk personnel, and their families to include current [clerks of the appellate courts](#), deputy clerks of the appellate courts, appellate court clerk personnel, and their families. Specifically, the following personal identifying and location information will be exempt from public record requirements under the bill:

- Home addresses, dates of birth, and telephone numbers of current clerks of the appellate court, deputy clerks of the appellate courts, and appellate court clerk personnel;
- Names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current clerks of the appellate court, deputy clerks of the appellate courts, and appellate court clerk personnel; and
- Names and locations of schools and day care facilities attended by the children of current clerks of the appellate court, deputy clerks of the appellate courts, and appellate court clerk personnel. (Section [1](#))

Under the bill, “appellate court” means the Florida Supreme Court or a district court of appeal. (Section [1](#))

Pursuant to the [Open Government Sunset Review Act](#), this expanded 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 the expanded exemption is necessary to protect current clerks of the appellate courts, deputy clerks of the appellate courts, appellate court clerk personnel, and their families from the ill will of litigants and their associates and families. The public necessity statement provides that the Legislature finds that current clerks of the appellate court, deputy clerks of the appellate courts, appellate court clerk personnel, and their families may be targets for

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**DATE:** 3/20/2025

acts of revenge, and if such personal identifying and location information is released, their safety could be seriously jeopardized. (Section [1](#))

The bill makes additional technical changes. (Sections [1](#) and [2](#))

The bill provides an effective date of July 1, 2025. (Section [4](#))

## **FISCAL OR ECONOMIC IMPACT:**

### **STATE GOVERNMENT:**

The bill may have an insignificant negative fiscal impact on state agencies holding records that contain the personal identifying and location information of current clerks of the appellate courts, deputy clerks of the appellate courts, appellate court clerk personnel, and their families, as staff responsible for complying with public record requests may require training related to the expanded public record exemption. 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 government entities holding records that contain the personal identifying and location information of current clerks of the appellate courts, deputy clerks of the appellate courts, appellate court clerk personnel, and their families, as staff responsible for complying with public record requests may require training related to the public record exemption. Additionally, local 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.

## **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 [119.071\(1\), 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

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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.](#)

- Protects trade or business secrets.<sup>7</sup>

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>

### Circuit Court Clerks and Clerk Personnel

The circuit court clerks are elected constitutional officers.<sup>10</sup> Circuit court clerks perform a wide range of record-keeping, information management, and financial administration services for Florida’s judicial system and county government.

In addition to serving as clerks of the circuit courts, most also as serve as the county treasurer, recorder, auditor, finance officer, and ex-officio clerk to the county commission. Florida’s clerks of court have hundreds of statutory responsibilities and provide critical public services to their communities.<sup>11</sup> The clerks’ responsibilities include:

- Facilitating the jury process;
- Maintaining court records;
- Providing forms and resources for legal actions;
- Maintaining court finances;
- Managing court appearances;
- Providing resources for pro se litigants;
- Auditing child support payments;
- Handling public record requests, which frequently requires redacting certain personal information of protected parties;
- Processing and assisting with paperwork for protective injunctions, including domestic violence injunctions and injunctions for vulnerable adults;
- Maintaining court evidence; and
- Other administrative functions.<sup>12</sup>

Circuit court clerks may appoint a deputy or deputies who may exercise the same powers as the clerk may exercise, except for the power to appoint deputies.<sup>13</sup>

### Public Record Exemption for Current Clerks of the Circuit Courts

Section [119.071\(4\), F.S.](#), provides a public record exemption for current clerks of the circuit court, deputy clerks of the circuit court, clerk personnel, and their families. Specifically, the following personal identifying and location information is exempt from public record requirements:

- Home addresses, telephone numbers, dates of birth, and photographs of current clerks of the circuit court, deputy clerks of the circuit court, and clerk personnel;

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

<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> [Art. VIII, s. 1\(d\), Fla. Const.](#)

<sup>11</sup> Florida Court Clerks & Comptrollers, *Role of the Clerk and Comptroller*, <https://www.flclerks.com/page/RoleoftheClerk?&hhsearchterms=%22role+of+the+clerk+and+comptroller%22> (last visited Mar. 18, 2025).

<sup>12</sup> *Id.*

<sup>13</sup> S. [28.06, F.S.](#)

- Names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current clerks of the circuit court, deputy clerks of the circuit court, and clerk personnel; and
- Names and locations of schools and day care facilities attended by the children of current clerks of the circuit court, deputy clerks of the circuit court, and clerk personnel.<sup>14</sup>

### Appellate Court Clerks and Chief Deputy Clerks

The Florida Constitution requires the Florida Supreme Court and each district court of appeal in the state to appoint a clerk to hold office at the pleasure of the appointing court and perform such duties as the appointing court directs.<sup>15</sup> Additionally, each appointed clerk of court may appoint or employ a chief deputy clerk.<sup>16</sup> The chief deputy clerks discharge the duties of the clerk of court during his or her absence and regularly perform duties complementary to those of the clerk of court.<sup>17</sup>

Each clerk of court and his or her chief deputy clerk have administrative and clerical responsibilities, including maintaining all case files and tracking the progress of all cases.<sup>18</sup>

### Florida Supreme Court Chief Deputy Clerk Responsibilities

Additional duties of the chief deputy clerk of the Florida Supreme Court include the following:

- Reviewing filings;
- Determining whether active case files and their dockets are in compliance with court policies and procedures;
- Determining action on certain jurisdictional questions;
- Identifying cases requiring further action and initiating such action, including having the case dismissed or having orders issued to correct any deficiencies identified;
- Reviewing non-standard filings and pleadings;
- Giving direction on motions and other pleadings;
- Responding to written and verbal inquiries regarding court policies, procedures, and cases from the court's judges, attorneys, other courts, and self-represented litigants, including inmates;
- Interacting with and providing information to other court personnel, Florida Bar members, and the general public;
- Promulgating policies and procedures pertaining to the court's activities; and
- Performing other administrative functions.<sup>19</sup>

### District Courts of Appeal Chief Deputy Clerk Responsibilities

Additional duties of the chief deputy clerks of the district courts of appeal include the following:

- Screening new cases to identify untimely appeals and appeals taken from non-appealable orders;
- Making judgments on non-standard filings and pleadings;
- Identifying cases requiring further action, and initiating that action, including having the case dismissed or having orders issued to correct any deficiencies identified;
- Issuing orders on motions as directed by the court;
- Processing incoming mail;
- Responding to written and verbal inquiries regarding court policies, procedures, and cases from the court's judges, attorneys, other courts, and pro se litigants, including inmates;

<sup>14</sup> S. 119.071(4)(d)2.y., F.S.

<sup>15</sup> Art. V, ss. 3(c) and 4(c), Fla. Const.

<sup>16</sup> Ss. 25.201 and 35.22(1), F.S.

<sup>17</sup> Florida Courts, *Florida State Courts System Classification Specification, Classification Title: Chief Deputy Clerk – Supreme Court*, <https://www.flcourts.gov/content/download/751200/file/Chief-Deputy-Clerk-Supreme-Court.pdf> (last visited Mar. 18, 2025); Florida Courts, *Florida State Courts System Classification Specification, Classification Title: Chief Deputy Clerk – District Court*, <https://www.flcourts.gov/content/download/751199/file/Chief-Deputy-Clerk-District-Court.pdf> (last visited Mar. 18, 2025).

<sup>18</sup> Florida Supreme Court, *Clerk's Office*, <https://supremecourt.flcourts.gov/About-the-Court/Departments-of-the-Court/Clerk-s-Office> (last visited Mar. 18, 2025).

<sup>19</sup> Florida Courts, *Florida State Courts System Classification Specification, Classification Title: Chief Deputy Clerk – Supreme Court*, <https://www.flcourts.gov/content/download/751200/file/Chief-Deputy-Clerk-Supreme-Court.pdf> (last visited Mar. 18, 2025).

- Resolving problems regarding procedural questions from pro se litigants by telephone and in person; and
- Performing other administrative functions.<sup>20</sup>

Currently, neither the personal identifying nor location information of current appellate court clerks or chief deputy clerks is exempt from Florida’s public record requirements.

**RECENT LEGISLATION:**

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2024	<a href="#">CS/HB 983</a>	Daley, Harris	Yarborough	Took effect July 1, 2024.

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**BILL HISTORY**

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Civil Justice &amp; Claims Subcommittee</a>	15 Y, 0 N	3/20/2025	Jones	Leshko
<a href="#">Government Operations Subcommittee</a>				
<a href="#">Judiciary Committee</a>				

<sup>20</sup> Florida Courts, *Florida State Courts System Classification Specification, Classification Title: Chief Deputy Clerk – District Court*, <https://www.flcourts.gov/content/download/751199/file/Chief-Deputy-Clerk-District-Court.pdf> (last visited Mar. 18, 2025).