

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 Health Policy

BILL: SB 268

INTRODUCER: Senator Rodriguez

SUBJECT: Public Records/Emergency Physicians

DATE: January 30, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Brown	HP	Pre-meeting
2.			GO	
3.			RC	

I. Summary:

SB 268 exempts from public records disclosure requirements certain identifying and location information of current or former emergency physicians (defined in the bill as allopathic and osteopathic physicians who perform duties in a hospital emergency department), along with their spouses and children. The bill exempts from public disclosure the home addresses, telephone numbers, dates of birth, and places of employment of the physician and the physician's spouse and children. The bill also exempts the emergency physician's photographs. In addition, the exemption applies to the names and locations of the schools and day care facilities attended by the physician's children.

This exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2031, unless saved by the Legislature from repeal.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 in each house of the Legislature.

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

This bill provides an effective date of July 1, 2026.

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

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

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ The Act requires the repeal of

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).

¹⁶ Section 119.15, F.S.

¹⁷ 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.

¹⁸ 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.

such exemption on October 2 of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

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.²⁰ 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;²¹
- 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;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ 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.²⁵ 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.²⁶

III. Effect of Proposed Changes:

Section 1 creates a public records exemption for specified personal identifying and location information of current or former emergency physicians and the spouses and children of such emergency physicians. For purposes of the exemption, an “emergency physician” is a physician

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ 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?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

licensed under ch. 458 or ch. 459, F.S., whose duties are performed in a hospital emergency department licensed under ch. 395, F.S. The following information will be exempt from public disclosure:

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

Pursuant to s. 119.071(4)(d)6., F.S., the new exemption applies to information held by an agency before, on, or after July 1, 2026 (the effective date of the exemption).²⁷

Consistent with s. 119.15, F.S., the new exemptions will expire on October 2, 2031, unless reviewed and saved from repeal by the Legislature.

Section 2 provides the constitutionally required public necessity statement, citing emergency physicians' heightened vulnerability to violence, harassment, intimidation, stalking, and related harms arising from the nature of emergency department encounters, and finding that the potential harm from disclosure outweighs any public benefit.

Section 3 provides that the bill takes effect on July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 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 certain addresses, phone numbers, and other details of current and former emergency physicians and their spouses and children and, thus, the bill requires a two-thirds vote of each house of the Legislature to be enacted.

²⁷ See s. 119.071(4)(d)6., F.S.

Public Necessity Statement

Article I, s. 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 emergency physicians and their families may be subject to threats, harassment, intimidation, stalking, and other acts of violence arising from the physicians' work in hospital emergency departments. The statement further provides that disclosure of the exempt information could increase the risk of such harm and that protecting this information is necessary because the potential danger to emergency physicians and their families outweighs the public benefit of disclosure.

Breadth of Exemption

Article I, section 24(c) of the State Constitution requires an exemption to the public records disclosure requirements to be no broader than necessary to accomplish the stated purpose of the law.

The Open Government Sunset Review Act, in pertinent part, requires the review to consider (a) what specific records are affected by the exemption and (b) what is the identifiable public purpose or goal of the exemption.²⁸ The Act further allows an exemption to be created, revised, or maintained only if it serves an identifiable public purpose, and the exemption is no broader than necessary to meet the public purpose it serves.²⁹

The "identifiable public purpose" for the public records disclosure exemption in this bill is noted in the public necessity statement: "the release of identifying and location information of emergency physicians, or of the spouses and children of such emergency physicians, could place them in danger of being physically or emotionally harmed or stalked by a person who has a hostile reaction to his or her encounter with such physicians."

Based on the public necessity statement, it appears the intent of the Legislature is to protect identifying and location information that could compromise the safety of emergency physicians and their families.

The statutory language authorizing the exemption identifies the specific records affected. In this instance, the exemption applies to "The home addresses, telephone numbers, dates of birth, places of employment, and photographs of current *or former* emergency physicians; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency physicians; and the names and locations of schools and day care facilities attended by the children of such emergency physicians." This statutory language appears to exempt all personal

²⁸ Section 119.15((6)(a)1. and 3., F.S.

²⁹ Section 119.15(6)(b), F.S.

identifying and location information, including information that a person posing a threat may already have, for instance the place of a current emergency physician's employment, work telephone number, and his or her photograph. Additionally, the exemption would apply to any physician who has ever worked in a hospital emergency department. As written, this public records exemption may be overbroad in meeting the public purpose of protecting current and former emergency physicians and their families.

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:

The Department of Health has indicated that it would communicate the new exemption to physicians through multiple media platforms and notes that it is unknown how many licensees would request this exemption.

This bill may cause a minimal increase in workload on agencies³⁰ holding records that contain personal identifying information of public officers as well as their spouses and children 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:

None identified.

³⁰ Department of Health, *Senate Bill 268 Legislative Bill Analysis* (Jan. 9, 2026) (on file with the Senate Committee on Health Policy).

VII. Related Issues:

The state does not specifically track the identities of physicians who work in hospital emergency departments, nor does it track a physician's employment history to gauge whether he or she has ever worked in a hospital emergency department. Therefore, in order for the bill to be effectuated for any particular physician's information, the person seeking the exemption would need to contact the agency or agencies that he or she wishes to protect such information and request the agency or agencies to do so.

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.