FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

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BILL #: HB 7015 PCB GOS 26-08 **TITLE:** OGSR/Social Media Platform and Antitrust Investigations **SPONSOR(S):** Government Operations Subcommittee, Greco	**COMPANION BILL:** CS/SB 7014 **LINKED BILLS:** None **RELATED BILLS:** None

Committee References

Orig. Comm.: Government Operations	➤	Industries & Professional Activities	➤	State Affairs
13 Y, 0 N		14 Y, 0 N		25 Y, 0 N

SUMMARY

Effect of the Bill:
The bill extends the repeal date for two public record exemptions related to investigations into social media platforms from October 2, 2026, to October 2, 2031. The public record exemptions protect information received by the Department of Legal Affairs or a law enforcement agency in an investigation into whether a social media platform has committed an antitrust violation or failed to meet certain transparency and notification requirements.

Fiscal or Economic Impact:
None.

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ANALYSIS

EFFECT OF THE BILL:

The bill extends the repeal date, created pursuant to the Open Government Sunset Review Act, for two public record exemptions related to investigations into social media platforms from October 2, 2026, to October 2, 2031. The public record exemptions protect all information received by the Department of Legal Affairs or a law enforcement agency in an investigation into whether a social media platform committed an antitrust violation based on a case brought by a governmental entity or committed an unlawful act or practice by failing to meet certain transparency and notice requirements. (Sections 1 and 2)

The bill is effective upon becoming a law. (Section 3)

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR Act)[1] sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[2]

[1] S. 119.15, F.S.
[2] S. 119.15(3), F.S.

The OGSR Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which would be significantly impaired without the exemption.
- Protect 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.
- Protect trade or business secrets.[3]

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required. If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created, then a public necessity statement and a two-thirds vote are not required.[4]

Antitrust Violations

Antitrust laws "prohibit anticompetitive conduct and mergers that deprive American consumers, taxpayers, and workers of the benefits of competition."[5] Federal antitrust laws include the Sherman Antitrust Act,[6] the Clayton Act,[7] and the Federal Trade Commission Act.[8] These laws are principally enforced by the United States Department of Justice (DOJ) and the Federal Trade Commission, but can also be enforced by state Attorneys General, and private plaintiffs.

In 1980, the Legislature passed the Florida Antitrust Act,[9] which, in large part, mirrors the federal Sherman Act.[10] The Florida Antitrust Act prohibits contracts, combinations, or conspiracies in restraint of trade or commerce[11] as well as monopolization or attempted monopolization of any part of trade or commerce.[12] A violation of the Florida Antitrust Act is punishable by up to three years imprisonment and fines up to $1 million for a corporation and $100,000 for any other person.[13] The act also contains a private right of action for any person injured by certain antitrust violations.[14]

Antitrust Violator Vendor List

If an entity that operates a social media platform[15] has been convicted of or held civilly liable for antitrust violations, the Department of Management Services must place the entity, or an affiliate of the entity, on the Antitrust Violator Vendor List (list).[16] The entity or affiliate placed on the list may not:

- Submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity;
- Submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work;
- Submit a bid, proposal, or reply on new leases of real property to a public entity;
- Be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; or

[3] S. 119.15(6)(b), F.S.
[4] Art. I, s. 24(c), FLA. CONST.
[5] U.S. Department of Justice, *The Antitrust Laws* (last visited Dec. 3, 2025).
[6] 5 U.S.C. ss. 1-7.
[7] 15 U.S.C. ss. 12-27; 29 U.S.C. ss. 52 and 53.
[8] 15 U.S.C. ss. 41-58.
[9] Ss. 542.15 – 542.36, F.S.
[10] *See* s. 542.16, F.S.
[11] S. 542.18, F.S.
[12] S. 542.19, F.S.
[13] S. 542.21, F.S.
[14] Ss. 542.21 and 542.23, F.S.
[15] Ss. 287.137(1)(f) and 501.2041(1)(g), F.S.
[16] S. 287.137(2), F.S.

- Transact new business with a public entity.[17]

Public entities are prohibited from accepting a bid, proposal, or reply from, awarding a new contract to, or transacting new business with any entity or affiliate on the list.[18]

The Attorney General may temporarily place any entity charged or accused of violating a state or federal antitrust law in a civil or criminal proceeding brought by the Attorney General, a state attorney, the Federal Trade Commission, or the DOJ on the list until the proceeding has concluded.[19] However, before the entity may be temporarily placed on the list, the Attorney General must make a finding of probable cause that the entity has likely violated the underlying antitrust laws.[20]

If probable cause exists, the Attorney General must notify the entity in writing of its intent to temporarily place the entity's name on the list and of the entity's right to a hearing, the procedure that must be followed, and the applicable time requirements.[21] If the entity does not request a hearing, the Attorney General must enter a final order temporarily placing the entity's name on the list. If the entity does request a hearing, the burden is on the Attorney General to prove that it is in the public interest to place the entity on the list.[22]

Unlawful Acts and Practices by Social Media Platforms

Current law requires social media platforms to meet certain transparency and notification requirements and authorizes the Department of Legal Affairs (DLA)[23] to bring an action against the platform under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA) for failing to do so.[24] Social media platforms are prohibited by law from:

- Censoring or shadow banning a user's content or material or deplatforming a user from the social media platform in a way that would otherwise violate FDUTPA, or without notifying the user who posted or attempted to post the content or material.
- Applying or using post-prioritization or shadow banning algorithms for content and material posted by or about a user who is known by the social media platform to be a candidate for office in Florida, beginning on the date of qualification and ending on the date of the election or the date the candidate ceases to be a candidate.
- Taking any action to censor, deplatform, or shadow ban a journalistic enterprise based on the content of its publication or broadcast.[25]

If a social media platform fails to comply with those legal requirements, it commits an unfair or deceptive act or practice in violation of FDUTPA.[26] If DLA, by its own inquiry or as a result of a complaint, suspects that such a violation is imminent, occurring, or has occurred, DLA may investigate the suspected violation in accordance with FDUTPA.[27] In an investigation by DLA into alleged violations, DLA's investigative powers include the ability to subpoena any algorithm used by a social media platform related to any alleged violation.[28]

NetChoice v. Moody

In June 2021, trade associations representing social media companies sued the State of Florida in the U.S. District Court for the Northern District of Florida challenging the provision of law created in SB 7072 (2021) that made

[17] *Id.*
[18] S. 287.137(2)(b), F.S.
[19] S. 287.137(3)(d)1., F.S.
[20] *Id.*
[21] S. 287.137(3)(d)2., F.S. A person may not be placed on the list without receiving a notice of intent from the Attorney General.
[22] S. 287.137(3)(d)3-5., F.S.
[23] The DLA is headed by the Attorney General. S. 20.11, F.S.
[24] S. 501.2041(2), F.S.
[25] *Id.*
[26] *Id.*
[27] S. 501.2041(5), F.S.
[28] S. 501.2041(8), F.S.

certain practices by social media platforms a violation of FDUTPA alleging violations of the plaintiffs' free speech under the First and Fourteenth Amendments. Thereafter, the court issued a preliminary injunction, enjoining the state from enforcing those provisions.[29] The trade associations also brought a similar claim against a bill in Texas, HB 20 (2021), that established restrictions on certain activities by social media platforms and the district court in Texas issued a preliminary injunction.[30] Both states appealed the preliminary injunctions. The U.S. Court of Appeals for the Eleventh Circuit upheld the lower court's preliminary injunction; however, the U.S. Court of Appeals for the Fifth Circuit reversed its lower court's preliminary injunction.[31] Both cases were then appealed to the U.S. Supreme Court, which agreed to hear them as one case. The U.S. Supreme Court found that the lower courts had not conducted a proper analysis of the First Amendment challenges in either case and vacated and remanded the cases to the district courts.[32]

Currently in Florida, the case remains in the discovery phase and a trial date is set for July 13, 2026.[33]

Public Record Exemptions under Review

In 2021, the Legislature created a public record exemption for all information received by DLA or a law enforcement agency in an investigation into whether a social media platform committed an antitrust violation (based on a case brought by a governmental entity)[34] or failed to meet certain transparency and notification requirements.[35]

All information received by DLA pursuant to an investigation by DLA or a law enforcement agency is confidential and exempt from public record requirements,[36] until such time as the investigation is completed or ceases to be active. During an active investigation, the confidential information may be disclosed by DLA in the performance of its official duties and responsibilities or to another governmental entity in the performance of its duties and responsibilities.[37]

Once an investigation is completed or ceases to be active, the following information received by DLA remains confidential and exempt from public record requirements:

- All information to which another public records exemption applies.
- Personal identifying information.
- A computer forensic report.
- Information that would otherwise reveal weaknesses in a business's data security.
- Proprietary business information.[38]

The 2021 public necessity statement[39] provided several reasons for the public record exemptions under review. Among those reasons, the Legislature stated that the premature release of the protected information "could

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[29] *Netchoice, LLC v. Moody*, 546 F. Supp. 3d 1082 (N.D. Fla. 2021).
[30] *Netchoice, LLC v. Paxton*, 573 F. Supp. 3d 1092 (W.D. Tex. 2021).
[31] *Netchoice, LLC v. Atty. Gen., Fla.*, 34 F.4th 1196 (11th Cir. 2022); *Netchoice, LLC v. Paxton*, 49 F.4th 439 (5th Cir. 2022).
[32] *Moody v. Netchoice, LLC*, 603 U.S. 707 (2024).
[33] *Netchoice, LLC v. Uthmeier*, No. 4:21cv220-RH-MAF, 2025 WL 3534514, (N.D. Fla. May 22, 2025).
[34] S. 287.137(8), F.S.
[35] S. 501.2041(10), F.S.
[36] There is a difference between records the Legislature designates 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. *See WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla. 2004); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). 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. *See* Op. Att'y Gen. Fla. (1985).
[37] Ss. 287.137(8)(b) and 501.2041(10)(b), F.S.
[38] Ss. 287.137(8)(c) and 501.2041(10)(c), F.S.
[39] Article I, s. 24(c), FLA. CONST., requires each public record exemption to "state with specificity the public necessity justifying exemption."

frustrate or thwart the investigation and impair the ability of the Attorney General and the Department of Legal Affairs to effectively and efficiently administer" the relevant provisions of law.[40] Further, the exemptions exist to "continue to protect from public disclosure all information to which another public record exemption applies once an investigation is completed or ceases to be active."[41]

Pursuant to the OGSR Act, the public record exemptions will repeal on October 2, 2026, unless reviewed and saved from repeal by the Legislature.[42]

During the 2025 interim, House and Senate committee staff met with staff from DLA to discuss the public record exemptions under review. DLA staff stated that they have not received any public records requests since the exemptions were enacted. DLA staff noted that because a portion of the substantive law is currently enjoined, DLA has not been able to conduct any investigations into whether a social media platform has engaged in an unfair or deceptive practice under the law passed in 2021. Due to the injunction, DLA had not utilized the related public record exemption. DLA staff were not aware of any other exemptions that protected the information or any method by which a person could obtain information in the records by alternative means. DLA staff recommended that the exemption be reenacted as is to preserve the integrity of their investigations if the injunction is lifted by the courts.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Orig. Comm.: Government Operations Subcommittee	13 Y, 0 N	12/10/2025	Toliver	Lines
Industries & Professional Activities Subcommittee	14 Y, 0 N	1/20/2026	Anstead	Ray
State Affairs Committee	25 Y, 0 N	1/27/2026	Williamson	Lines

[40] Ch. 2021-33, L.O.F.
[41] *Id.*
[42] Ss. 287.137(8)(e) and 501.2041(10)(e), F.S.