

FLORIDA HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

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BILL #: [HB 7019](#) [PCB GOS 26-11](#)

TITLE: OGSR/Department of Military Affairs

SPONSOR(S): Government Operations Subcommittee,
Greco

COMPANION BILL: [CS/SB 7002](#)

LINKED BILLS: None

RELATED BILLS: None

FINAL HOUSE FLOOR ACTION: 105 Y's 0 N's

GOVERNOR'S ACTION: Pending

SUMMARY

Effect of the Bill:

The bill extends the repeal date of the public record exemption for information held by the Department of Military Affairs related to the United States Department of Defense from October 2, 2026, to October 2, 2031. The public record exemption will repeal on October 2, 2026, if the bill does not become law.

Fiscal or Economic Impact:

None.

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ANALYSIS

EFFECT OF THE BILL:

HB 7019 passed as [CS/SB 7002](#).

The bill extends the repeal date, created pursuant to the [Open Government Sunset Review Act](#), for a public record exemption for certain information held by the [Department of Military Affairs](#) (DMA), from October 2, 2026, to October 2, 2031. The public record exemption protects information stored in a U.S. Department of Defense (DoD) system of records, transmitted using a DoD network or communications device, or that pertains to the DoD pursuant to 10 U.S.C. s. 394—a [federal law authorizing military cyber operations](#). The exemption will repeal on October 2, 2026, if the bill does not become law. (Section 1)

Subject to the Governor's veto powers, the bill is effective upon becoming a law. (Section 2)

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

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 administration would be significantly impaired without the exemption;

¹ [S. 119.15, F.S.](#)

² [S. 119.15\(3\), F.S.](#)

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- 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; or
- 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

Department of Military Affairs

The Florida Department of Military Affairs (DMA) is a state agency created to provide management oversight and administrative support to the Florida National Guard (FNG).⁵ The head of DMA is the Adjutant General.⁶ The Adjutant General must be a Federally recognized officer of the FNG, have served in the FNG for five of the last 10 years, and have attained the rank of colonel or higher. The Adjutant General is appointed by the Governor subject to Senate confirmation.⁷ DMA is responsible for:

- Combat readiness and emergency preparedness of the FNG.
- Responding to disasters and civil disturbances.
- Drug interdiction operations.
- Assisting Floridians at risk.⁸

As Commander in Chief,⁹ the Governor may order the FNG to active state duty in order to preserve the public peace, execute the laws of the state, enhance domestic security, respond to terrorist threats or attacks, respond to an emergency, or respond to any need for emergency aid to civil authorities.¹⁰ The FNG may also be activated by the Federal government.¹¹

U.S. Department of Defense Information Network

Employees of DMA, as part of their state government duties, use the U.S. Department of Defense information network (DoDIN). DoDIN is the DoD's "end-to-end set of electronic information capabilities and associated processes for collecting, processing, storing, disseminating, and managing digital information on-demand to warfighters, policy makers, and support personnel, including owned and leased communications and computing systems and services, software (including applications), data, security services, and other associated services, and National Security Systems."¹²

In 2018, the DoD determined information in the DoDIN system was exempt from public disclosure based on exemption three of the Freedom of Information Act (FOIA).¹³ Although DoDIN information is exempt pursuant to FOIA, FOIA does not apply to state agencies.¹⁴ Absent an exemption from public record requirements, DMA employees that use the DoDIN may create a state agency public record.

³ [S. 119.15\(6\)\(b\), F.S.](#)

⁴ [Art. I, s. 24\(c\), FLA. CONST.](#)

⁵ Florida National Guard, [Florida Department of Military Affairs](#) (last visited January 25, 2026).

⁶ [S. 250.05\(3\), F.S.](#)

⁷ [S. 250.10\(1\), F.S.](#)

⁸ Office of Program Policy Analysis and Government Accountability, Florida Legislature, [Government Program Summaries: Department of Military Affairs](#) (last visited January 25, 2026).

⁹ [S. 250.06, F.S.](#)

¹⁰ [S. 250.05\(4\), F.S.](#)

¹¹ 10 U.S.C. s. 12406.

¹² Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, [10 USC § 130e Decisions](#), Department of Defense Information Network (last visited January 25, 2026).

¹³ Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, [10 USC § 130e Decisions](#), Department of Defense Information Network (last visited January 25, 2026).

¹⁴ *Wallace v Guzman*, 687 So.2d 1351, 1353 (Fla. 3d DCA 1997); see also *Housing Authority of the City of Daytona Beach v. Gommillion*, 639 So. 2d 117, 118 (Fla. 5th DCA 1994).

Authorities Concerning Military Cyber Operations

Federal law authorizes the Secretary of Defense, in certain circumstances, to conduct military cyber activities or operations in cyberspace, including clandestine military activities or operations in cyberspace, to defend the United States and its allies, including in response to malicious cyber activity carried out against the United States.¹⁵ Cyberspace operations are categorized as Offensive Cyberspace Operations, Defensive Cyberspace Operations, and DoDIN Operations. DoDIN operations include “operational actions taken to secure, configure, operate, extend, maintain, and sustain DOD cyberspace and to create and preserve the confidentiality, availability, and integrity of DoDIN.”¹⁶

The Freedom of Information Act

FOIA¹⁷ primarily governs the public’s access to Federal agency records. Under FOIA, an agency must promptly provide copies of government records to the public upon receiving a request.¹⁸ The request for such records must reasonably describe the records and be made in accordance with the agency’s established procedural rules for the request.¹⁹ Federal agencies are exempt from disclosing records that are categorized into one of the following nine exemptions:

- Information authorized by Executive order to be considered secret for national security or defense purposes.
- Information related solely to internal personnel rules and practices of an agency.
- Information exempted by another Federal statute.
- Trade secrets or financial information obtained from a person and privileged or confidential.
- Inter-agency or intra-agency communication that would not be available by law to a party other than an agency in litigation with the agency, provided the privilege does not apply to records created 25 years or more before the date on which the records were requested.
- Personnel and medical files of an individual which would be an invasion of personal privacy.
- Certain information compiled by law enforcement.
- Information pertaining to examination, operating, or condition reports on behalf of or for the use of an agency responsible for regulation of financial institutions.
- Geological and geophysical information and data, including maps, concerning wells.²⁰

Information from a Federal agency that is publicly available may be accessed by searching FOIA.gov.²¹ If information is not available, an individual may submit a FOIA request to an agency’s FOIA Office.²²

The Privacy Act of 1974 (Privacy Act)

The Privacy Act governs how personal identifying information held by Federal agencies must be stored, may be accessed, and when the government may use or disclose such information.²³ A record is defined in the Privacy Act as “any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.”²⁴ A Federal agency that maintains a system of records²⁵

¹⁵ 10 U.S.C. s. 394.

¹⁶ Joint Chiefs of Staff, Joint Publication 3-12, [Cyberspace Operations](#) (last visited January 25, 2026).

¹⁷ 5 U.S.C. s. 552.

¹⁸ 5 U.S.C. s. 552(a)(3)(A).

¹⁹ 5 U.S.C. s. 552(a)(3)(A)(i) and (ii).

²⁰ 5 U.S.C. s. 552(b).

²¹ FOIA.gov, [Search Government Websites](#) (last visited January 25, 2026).

²² FOIA.gov, [How do I make a FOIA Request](#) (last visited January 25, 2026).

²³ Meghan M. Stuessy, Congress.gov, [The Privacy Act of 1974: Overview and Issues for Congress, CRS Report Number R47863](#), (last visited January 25, 2026).

²⁴ 5 U.S.C s. 552a(a)(4).

may not disclose such record without prior written consent of the individual or by written request of the individual to whom the record pertains.²⁶ There are 12 exemptions for certain records and system of records²⁷ and 12 exceptions to the written consent requirement.²⁸ The Privacy Act authorizes disclosure in the following instances:

- To the officers and employees of the agency that maintains the record, who need the record in the performance of their duties;
- When the disclosure is made under FOIA;
- For an established routine use;
- To the Census Bureau to carry out a census or survey;
- For statistical research or reporting without release of individually identifying data, provided that adequate notice is given;
- To the National Archives and Records Administration as a record of historical value;
- To another agency or an instrumentality of the government for a civil or criminal law enforcement activity;
- To an individual under a compelling circumstance affecting health or safety, and the person whose health or safety is affected is sent a notification of the disclosure;
- To either House of Congress, or one of its committees or subcommittees;
- To the Comptroller General in the course of duties of the General Accountability Office;
- Pursuant to the order of a court of competent jurisdiction; or
- To a consumer reporting agency.²⁹

Public Record Exemption under Review

In 2021, the Legislature created a public record exemption for information held by DMA that is stored in a U.S. DoD system of records, transmitted using a DoD network or communications device, or pertaining to the DoD pursuant to federal law.³⁰ The public necessity statement³¹ provided that the release of sensitive military information could pose a national security risk or “adversely affect military members.”³² Pursuant to the OGSR Act, the public record exemption will repeal on October 2, 2026, unless reviewed and saved from repeal by the Legislature.³³

During the 2025 interim, House and Senate committee staff met with staff from DMA to discuss the public record exemption under review. DMA staff reported they had no issues interpreting or applying the exemption. DMA staff reported that since December 2022, DMA received 58 public records requests, 12 of which were, in whole or in part, exempt from public record requirements. DMA staff were unaware of any other exemptions that protected the information or any method by which a person could obtain information in the records by alternative means other than through FOIA requests. DMA staff recommended the exemption be reenacted as is.

²⁵ “System of records” means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. 5 U.S.C. s. 552a(a)(5).

²⁶ 5 U.S.C. s. 552a(b).

²⁷ 5 U.S.C. § 552a(d)(5); 5 U.S.C. s. 552a(j); 5 U.S.C. s 552a(k).

²⁸ 5 U.S.C. s. 552a(b).

²⁹ United States Department of Legal Affairs, [Privacy Reminders, Privacy Act “Exceptions.”](#) (last visited January 25, 2026).

³⁰ [S. 119.0712\(4\), F.S.](#)

³¹ [Article I, s. 24\(c\), FLA. CONST.](#), requires each public record exemption to “state with specificity the public necessity justifying exemption.”

³² [Ch. 2021-86, L.O.F.](#)

³³ [S. 119.0712\(4\), F.S.](#)