



2015 LEGISLATIVE REPORT

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- Current action
 - CS** Committee Substitute
 - P** Passed both Chambers
 - W** Withdrawn from further consideration
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For Period Ending April 17

CONTRACTORS

CS/HB 163 Public Records/Public Agency Contracts: Amends s. 119.0701, F.S., which requires all public agency contracts for services include a provision requiring contractors to comply with Florida's public records law, including access, maintenance, and retention requirements. CS/HB 163 requires the inclusion of a statement in all contracts for services instructing contractors with questions regarding application of the public records law to contact the agency's custodian of public records. Requires that all requests for records related to the contract be made to the contracting agency; if the agency does not possess the requested records, the agency must immediately notify the contractor of the request, who must then produce the requested records within a reasonable period of time. Stipulates that if a court determines there was a violation of the public records law, the court must award attorney fees and court costs against the agency or contractor *if* the requestor provided written notice to the agency's custodian of public records by certified mail of the request and failure to comply at least three business days before filing the action. Finally, stipulates that such notice must be provided to the contractor if the contractor is a named party in the lawsuit. Amends s. 119.0701, F.S. Companion to SB 224. *Rep. Halsey Beshears (R-Perry)*

- H. State Affairs Committee: A strike-all amendment is adopted; reported favorably as a committee substitute. As amended, CS/HB 163 amends s 119.07, F.S., to (1) require all agency heads to designate a "custodian of public records" and to display the custodian's contact information on the agency's website if the agency has a website, and (2) stipulate that a requestor will not be eligible for attorney fees unless the request for public records was made directly to the custodian of the public records, a member of the agency's governing body, or the head of the agency. Also amends s. 119.0701, requiring the (1) inclusion of a statement in all contracts for services instructing contractors with questions regarding application of the public records law to contact the agency's custodian of public records; (2) contractor to keep and maintain public records related to the contract or transfer those records to the contracting agency upon completion of the contract; (3) stipulating that a contractor retaining the public records must comply with the requirements of the public records law; and (4) stipulating that a contractor will be subject to attorney fees for a violation of the public records law only if a public record request was made to the contractor's registered agent or to any employee or agent who acts in a management or supervisory capacity. Now on the House Calendar.

COURT RECORDS

HB 7 Exemption/Minor Claim Settlements: Creates an exemption for court records relating to the settlement of a claim relating to guardianship on behalf of a minor or ward. Allows access to such records by a guardian ad litem, the minor if over 14, and the minor's attorney. Amends s. 744.3701, F.S. Similar to SB 360. *Rep. Kathleen Passidomo (R-Naples)*

- House: Passed the House unanimously. Now in Senate Messages.

CRIMINAL JUSTICE

CS/HB 57 Law Enforcement Body Cameras: Defines the terms "body camera" and "law enforcement agency," requiring that a law enforcement agency that allows its officers to wear body cameras establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by the cameras. Stipulates that such policies and procedures include limitations on which officers are permitted to wear body cameras and when such cameras should be used. Finally, requires that audio and video data recorded by body cameras be retained in accordance with s. 119.021, F.S. Creates s. 943.1718, F.S. Companion to SB 7080. *Rep. Shervin Jones (D-Broward)* WATCH

- H. Judiciary Committee: Two minor amendments are adopted; reported favorably as a committee substitute. Now on House Calendar.

CS/SB 248 Body Cameras/Recording of Law Enforcement Activities: Creates a public record exemption for body camera recordings taken (1) within the interior of a private residence; (2) at a health care, mental health care, or social services facility; (3) at the scene of a medical emergency involving death or an injury requiring transport; and (4) in a place where a person recorded or depicted in the recording has a reasonable expectation of privacy. Allows disclosure of the recording in furtherance of the law enforcement agency's official duties and responsibilities; to other governmental entities in furtherance of official duties and responsibilities; and pursuant to a court order under certain specified conditions. Allows disclosure of certain portions of the recording to anyone recorded or to his/her personal representative. Finally, requires that body camera recordings be retained for a minimum of 90 days. Applies retroactively. *Sen. Chris Smith (D-Fort Lauderdale)* ☹

- Senate: Three amendments are adopted. As amended, CS/SB 248 creates a public record exemption for body camera recordings taken (1) within the interior of a private residence; (2) at a health care, mental health care, or social services facility; and (3) in a place where a person recorded or depicted in the recording has a reasonable expectation of privacy. Allows disclosure of the recording in furtherance of the law enforcement agency's official duties and responsibilities; to other governmental entities in furtherance of official duties and responsibilities; and pursuant to a court order under certain specified conditions. Allows disclosure of certain portions of the recording to anyone recorded or to his/her personal representative. Finally, requires that body camera recordings be retained for a minimum of 90 days. Applies retroactively. Now on third reading for passage by the Senate.

HB 467 Exemption/Human Trafficking Victims: Expands the public record exemption for criminal intelligence and criminal investigative information to include any information revealing the identity of human trafficking victims under the age of 18. Amends s. 119.071(2)(h), F.S. Companion to SB 1108. *Rep. Ross Spano (R-Riverview)*

- House: Passed the House unanimously. Now in Senate Messages.

HB 469 Exemption/Safe Houses – Sexual Exploitation Victims: Creates a public record exemption about the location of a safe house, safe foster home, or other residential facility serving victims of sexual exploitation. Also creates an exemption for information about the location of a residential facility offering services for adult victims of human trafficking involving commercial sexual activity. Creates s. 407.1678(6) and s. 787.06, F.S. Companion to SB 1110. *Rep. Ross Spano (R-Riverview)*

- House: An amendment stipulating that the exemption does not apply to facilities licensed by the Agency for Health Care Administration (AHCA) is adopted on second reading. HB 469, as amended, passed the House unanimously and is now in Senate Messages.

HB 7065 Exemption/Child Pornography: Expands the public record exemption for criminal intelligence and investigative information under s. 119.071(2)(h), F.S., to include information that would identify victims of child pornography. Amends s. 119.071(2)(h), F.S. *H. Criminal Justice Subcommittee*

- H. Judiciary Committee: Reported favorably. Now on House Calendar.

HB 7103 Exemption/Juvenile Criminal History Records: Amends s. 985.04, F.S., providing for the confidentiality of certain information obtained under ch. 985 related to juvenile justice, to create a public record exemption for such information, and allowing disclosure under specified circumstances. Also creates a public record exemption for criminal history information relating to a juvenile compiled by the Criminal Justice Information Program from intrastate sources *unless* the juvenile has committed or has been charged with a felony or has been transferred to adult court. Again, allows disclosure under certain specified conditions. Amends various provisions of law relating to juvenile justice and criminal history records. *H. Criminal Justice Subcommittee*

- H. Judiciary Committee: Reported favorably. Now on House Calendar.

ECONOMIC DEVELOPMENT

CS/HB 65 Exemption/Unsolicited Proposals: In pertinent part, HB 63 creates the Division of Public-Private Partnerships with the Department of Economic Opportunity, requiring the Division to develop guidelines and best practices for the creation and management of public-private partnerships, and assist “responsible public” entities in the creation and management of such partnerships by a “responsible public entity.” HB 65 creates a public record exemption for unsolicited proposals held by “a responsible public entity,” stipulating that the proposals will be exempt from public disclosure until the public entity receives and ranks the proposals. If all proposals received for the project are rejected, the unsolicited proposal will remain exempt for 90 days after the date of rejection; if the responsible public entity doesn’t issue a competitive solicitation for a qualifying project, the unsolicited proposal is exempt for 180 days following receipt by the public entity. Also creates an exemption for those portions of board meetings at which unsolicited proposals are discussed, requiring that all closed portions be recorded, and stipulating a date certain when such recordings are subject to disclosure. Creates s. 287.05712, F.S. Companion to SB 826. *Rep. Greg Steube (R-Sarasota)*

- H. State Affairs Committee: Reported favorably by a vote of 15/2, with Reps. Drake and Watson voting no. Now on House Calendar.

EVIDENCE

CS/SB 542 Interception of Wire, Oral, or Electronic Communication: Allows a child under the age of 18 to intercept and record an oral communication if the child is a party to the communication and has reasonable grounds to believe the communication will capture statements by another party that the other party intends to commit, is committing, or has committed an unlawful sexual act of physical force or violence against the child. Amends s. 934.03, F.S. Companion to HB 7001. *Sen. Lizbeth Benacquisto (R-Fort Myers)* WATCH

- Senate: Tabled; HB 7001 substituted. See HB 7001.

HB 7001 Intercepting and Recording Oral Communications: Allows a person to intercept and record an oral communication if the person is a party to the communication and has reasonable grounds to believe the recording will capture a statement by another party that the other party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against a person. Companion to SB 542. *H. Criminal Justice Subcommittee*

- Senate: Substituted for CS/SB 542 and amended. As amended, HB 7001 allows a child under the age of 18 to intercept and record an oral communication if the child is a party to the communication and has reasonable grounds to believe the communication will capture statements by another party that the other party intends to commit, is committing, or has committed an unlawful sexual act of physical force or violence against the child. Now on third reading in the Senate for Final Passage.

EXAMINATIONS AND INVESTIGATIONS

CS/SB 1446 Exemption/Investigations – Department of Agriculture and Consumer Services: Creates a public record exemption for criminal or civil intelligence or investigative information, or any other information, held by the Department as part of a joint or multiagency examination or investigation with another state or federal regulatory, administrative, or criminal justice agency that is otherwise exempt pursuant to state or federal law. Allows the DOACS to obtain, use, and release the information under conditions imposed by the joint or multiagency agreement. Creates s. 570.077, F.S. Companion to HB 997. *Sen. Garrett Richter (R-Naples)*

- Senate: Rolled to third reading for passage by the Senate.

MOTOR VEHICLE RECORDS

CS/SB 7040 Exemption/Email Addresses – Department of Highway Safety and Motor Vehicles: Creates a public record exemption for email addresses collected by the Department of Highway Safety and Motor Vehicles. Amends s. 119.0712. Companion to HB 7041. *S. Transportation* ☹

- Senate: Rolled to third reading for passage by the Senate.

PERSONAL INFORMATION

CS/HB 185 Exemption/Home Addresses – U.S. Military Personnel: Creates a public record exemption for the home addresses, telephone numbers, and photographs of current or former service members of the U.S. Armed Forces, a reserve component of the Armed Forces, or the National Guard who served after September 11, 2001. Also exempts the home addresses, telephone numbers, photographs, and places of

employment of the spouses and children of such service members, and the names and locations of schools and day care facilities attended by their children. Requires such personnel to request confidentiality in writing and take reasonable steps to protect such information from being accessible through other means available to the public. Creates s. 119.071(5)(k), F.S. Companion to SB 674. *Rep. Matt Gaetz (R-Shalimar)*

- House: Passed the House unanimously. Now in Senate Messages.

PRIVACY

SB 1178 Florida Drone Privacy Act: Amends s. 934.50, to create the Florida Drone Privacy Act, requiring the Florida Department of Law Enforcement (FDLE) to adopt guidelines for the use of drones by state and local law enforcement agencies. Requires annual reporting by law enforcement agencies to FDLE of the (1) number of times a drone was used, organized by date, time, location, and type of incident for each use; (2) number of criminal investigations aided by the use of a drone and a description of how the drone aided each investigation; (3) number of times a drone was used for a law enforcement operation other than a criminal investigation, the dates and locations of those operations, and a description of how the drone aided in each operation; (4) type of information collected on the individual, residence, property, or area that was not the subject of a law enforcement operation and the frequency of the collection of such information; and (5) total cost of acquiring, maintaining, repairing, and operating, or otherwise using each drone for the preceding year. Requires FDLE to summarize the information obtained in a report to the Governor and legislative leaders.

Creates s. 934.55, F.S. to allow capturing images using a drone (1) for the purposes of professional or scholarly research and development by a person acting on behalf of a college or university; (2) in airspace designated by the FAA as a test site or range for the purpose of integrating drone systems into the national airspace; (3) as part of a military operation, exercise, or mission; (4) if the image is captured by a satellite for the purpose of mapping; (5) if the image is captured by or for an electric or natural gas utility under certain, specified conditions; (6) with the consent of the individual who owns or lawfully occupies the property captured in the image; (7) if the image is captured by a law enforcement agency in compliance with s. 934.50(4), F.S.; (8) if the image is captured by a law enforcement agency under certain, specified conditions; (9) at the scene of a spill or suspected spill of hazardous materials; (10) for the purpose of fire suppression; (11) for rescue purposes; (12) if the image is captured by a real estate broker in connection with the marketing, sale, or financing of real property; (13) of real property or a person on real property that is within 25 miles of the U.S. border; (14) from a height of no more than 8 feet under certain, specified conditions; (15) of public real property or a person on such property; (16) if the images are captured by the owner or operator of an oil, gas, water, or other pipeline for the purpose of inspecting, maintaining, or repairing the pipeline; (17) in connection with oil pipeline safety and rig protection; or (18) in connection with port authority surveillance and security. Stipulates it is illegal to capture an image by drone of an individual or privately owned real property with the intent to conduct surveillance, or possess, disclose, display, distribution or otherwise use such images. Provides penalties. Amends s. 934.50 and creates s. 934.55, F.S. *Sen. Garrett Richter (R-Naples)*

- S. Civil Justice Committee: A strike-all amendment, as amended, is adopted. Reported favorably as a committee substitute. As amended, CS/SB 1178 creates the Florida Privacy Act and allows capturing images using a drone (1) for the purposes of professional or scholarly research and development by a person acting on behalf of a college or university; (2) in airspace designated by the FAA as a test site or range for the purpose of integrating drone systems into the national airspace; (3) as part of a military operation, exercise, or mission; (4) if the image is captured by a

satellite for the purpose of mapping; (5) if the image is captured by or for an electric or natural gas utility under certain, specified conditions; (6) with the consent of the individual who owns or lawfully occupies the property captured in the image; (7) if the image is captured by a law enforcement agency in compliance with s. 934.50(4), F.S.; (8) if the image is captured by a law enforcement agency under certain, specified conditions; (9) at the scene of a spill or suspected spill of hazardous materials; (10) for the purpose of fire suppression; (11) for rescue purposes; (12) if the image is captured by a real estate broker in connection with the marketing, sale, or financing of real property; (13) of real property or a person on real property that is within 25 miles of the U.S. border; (14) from a height of no more than 8 feet under certain, specified conditions; (15) of public real property or a person on such property; (16) if the images are captured by the owner or operator of an oil, gas, water, or other pipeline for the purpose of inspecting, maintaining, or repairing the pipeline; (17) in connection with oil pipeline safety and rig protection; (18) in connection with port authority surveillance and security; (19) for use by licensed insurer in connection with claims and underwriting; (20) for use by the owner or developer of real property for certain specified purposes; (21) for any lawful commercial use by a commercial entity; or (22) as part of a commercial drone service authorized by the FAA. Stipulates it is illegal to capture an image by drone of an individual or privately owned real property with the intent to conduct surveillance, or possess, disclose, display, distribute or otherwise use such images. Provides penalties. Now in S. Criminal and Civil Justice Appropriations Subcommittee.

PROPRIETARY INFORMATION

CS/HB 1209 Exemption/Trade Secrets – High-Pressure Well Stimulation Chemical Disclosure Registry: HB 1205, in pertinent part, amends ch. 377 to require that permits be obtained from the Department of Environmental Protection before performing high-pressure well stimulation, and that DEP conduct a study of such projects. The bill also stipulates that the national chemical registry, FracFocus, is to be used at the state’s registry for chemical disclosure for all wells on which high-pressure well stimulations are performed. CS/HB 1209 creates a public record exemption for proprietary business information relating to high-pressure well simulations held by the Department of Environmental Protection *if* the person submitting such information to DEP (1) requests that the information be protected; (2) informs DEP of the basis for the claim of proprietary business information; and (3) clearly marks each page of a document containing such information as “proprietary business information.” If DEP receives a public record request for information so marked, the department must notify the person who submitted the information who then has 10 days to file an action in circuit court seeking a determination whether the information is proprietary business information and an order barring public disclosure of the information. Stipulates that failure to file an action within 10 days constitutes a waiver of any claim of confidentiality. Finally, defines “proprietary business information” as information that (1) is owned or controlled by the applicant or a person affiliated with the applicant; (2) is intended to be private and is treated as private because disclosure would harm the applicant’s business operations; (3) has not otherwise been disclosed except as required by law or private agreement; (4) is not publicly available or otherwise ascertainable; (5) including (a) trade secrets; (b) leasing plans; (c) real property acquisition plans; (d) exploration budgets; (e) marketing studies; (f) competitive interests including well design or completion plans; (g) geological or engineering studies related to storage reservoir performance characteristics; (h) field utilization strategies; and (i) operating plans. Amends s. 377.45. Companion to SB 1582. *Rep. Ray Wesley Rodrigues (R-Fort Myers)*

- H. State Affairs Committee: Reported favorably by a vote of 11/6, with Reps. Cortes, Fullwood, Gaetz, Murphy, Taylor, and Watson voting no. Now on House Calendar.

PUBLIC EMPLOYEES

CS/SB 1324 Exemption/Agency Personnel Information: Expands the current public record exemption for the home addresses of current law enforcement officers and civilian personnel, as well as certain employees of the Department of Children and Families, the Department of Health, and the Department of Revenue, state attorneys and statewide prosecutors, public defenders, and criminal conflict and civil regional counsel, to also exempt (1) residential addresses; (2) personal email addresses; (3) license plate numbers; and (4) banking and financial information. Also expands the exemption for spouses and children of such personnel to also include parents, siblings, and cohabitants. Amends s. 119.071(4)(d)2.a., F.S. Companion to HB 1015. *Sen. Jack Latvala (R-Clearwater)* ☹

- S. Rules Committee: An amendment expanding the exemption to protect the home addresses, etc., of commissioners and certain personnel of the Florida Commission on Offender Review and capital collateral regional counsel is adopted; reported favorably as amended. Now on Senate Calendar.

REGULATED INDUSTRIES

CS/SB 716 Exemption/Veterinary Medical Practice: Creates a public record exemption for medical records relating to (1) diagnosing the medical condition of any animal; (2) prescribing, dispensing, or administering drugs, medicine, and appliances; and (3) treatments for prevention, cure, or relief of a wound, fracture, bodily injury, or disease of any animal held by a state college of veterinary medicine. Creates s. 474.2167, F.S. Companion to HB 1287. *Sen. Alan Hays (R-Umatilla)*

- Senate: Rolled to third reading for passage by the Senate.

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