



LEGISLATIVE REPORT

-
- Current action
- CS** Committee Substitute
- P** Passed both Chambers
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For Period Ending February 19

COURT RECORDS

SB 762 Exemption/Involuntary Assessment Petitions: Creates a public record exemption for involuntary assessment and stabilization petitions filed with a court. Amends s. 391.6815, F.S. Companion to HB 741. *Sen. Joseph Abruzzo (D-Wellington) ???*

- Senate Special Order Calendar: Rolled to third reading on Tuesday, February 23.

CRIMINAL JUSTICE

SB 418 Body Cameras/Policies and Procedures: Defines the term “body camera,” requiring law enforcement agencies using body cameras establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by such cameras. Those law enforcement agencies using body cameras must also ensure that all personnel who use the cameras receive training on the agency’s policies and procedures. Creates s. 943.1718, F.S. Companion to HB 93. *Sen. Chris Smith (D-Fort Lauderdale) WATCH*

- S. Community Affairs Committee: Reported favorably. Now in S. Fiscal Policy Committee.

CS/SB 700 Exemption/Juvenile Criminal History Records: Amends s. 985.04, F.S., to create a public record exemption for confidential information relating to juvenile offenders obtained under ch. 985, and to stipulate that the name, photograph, address, and crime or arrest report of a juvenile (1) taken into custody for a violation of law that would be classified as a felony if committed by an adult; (2) charged with a violation of law which, if committed by an adult, would be a felony; (3) found to have committed a crime which, if committed by an adult would, be a felony; or (4) transferred to adult court is *not* exempt from public disclosure. Also amends s. 943.053(3) relating to the dissemination of criminal history information to conform to s. 985.04. Amends ss. 985.04 and 943.053. Companion to HB 293. *Sen. Darren Soto (D-Kissimmee)*

- S. Fiscal Policy Committee: A proposed committee substitute is adopted; reported favorably as a committee substitute. The CS/CS/SB 700 amends s. 985.04, F.S., to create a public record exemption for confidential information relating to juvenile offenders obtained under ch. 985, and to stipulate that the name, photograph, address, and crime or arrest report of a juvenile (1) taken into custody for a violation of law that would be classified as a felony if committed by an adult; (2) charged with a violation of law which, if committed by an adult, would be a felony; (3) found to have committed a crime which, if committed by an adult would, be a felony; or (4) transferred to

adult court is *not* exempt from public disclosure. Stipulates that the custodial agency is not required to post non-exempt arrest or booking photograph of a child on the agency's website. Also amends s. 943.053(3) relating to the dissemination of criminal history information to conform to the amended s. 985.04. Now on S. Calendar.

SB 1072 Arrest Booking Photographs: Prohibits a person who publishes or disseminates arrest booking photographs – mug shots – from soliciting or accepting a fee to remove, correct, or modify the photograph. Creates s. 119.17, F.S. Companion to HB 905. *Sen. Darren Soto (D-Kissimmee)* WATCH

- S. Criminal Justice Committee: Reported favorably. Now in S. Judiciary Committee.

SB 7022 OGSR/Photographs and Videos Depicting the Killing of a Law Enforcement Officer: Reenacts and significantly narrows the current public record exemption for photographs, videos, or audio recordings depicting or recording the “killing of a person,” defined as “all acts or events that cause or otherwise relate to the death of any human being, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death.” As amended, SB 7022 provides a public record exemption for photographs, videos, or audio recordings depicting the death of a law enforcement officer who was killed while acting in accordance with his or her official duties. Reenacts and amends s. 406.136, F.S. *S. Criminal Justice Committee*

- S. Governmental Oversight and Accountability Committee: Reported favorably. Now in S. Rules Committee.

ETHICS AND ACCOUNTABILITY

CS/SB 686 Government Accountability: Creates the Florida Anti-Corruption Act of 2016 and, in pertinent part, expands the application of the Code of Ethics for Public Officers and Employees to various entities and agency employees not formerly covered by the Code; requires lobbyists to report more frequently on who is paying for their services; and adds contractors to the list of officials covered by anti-bribery laws. Also requires local governments to keep their final budgets and budget amendments on their website for two years after the budgets are approved. Allows the Ethics Commission to render advisory opinions to any public officer, candidate for public office, or public employee regarding application of the code of ethics. Amends s. 286.0114, F.S., which requires boards and commissions to provide a reasonable opportunity to be heard at public meetings, to stipulate that boards and commissions can't require a member of the public to provide an advance written copy of his or her testimony or comments as a precondition of being allowed to speak. Amends numerous statutes. Companion to HB 593. *Sen. Don Gaetz (R-Destin)* 😊

- S. Community Affairs Committee: Reported favorably. Now in S. Appropriations Committee.

EXAMINATIONS AND INVESTIGATIONS

HB 643 Exemption/Investigations – Department of Agriculture and Consumer Services: Creates a public record exemption for information received or developed by the Department of Agriculture and Consumer Services (DOACS) as part of a joint or multiagency examination or investigation with another state or federal agency. Also exempts criminal or civil intelligence, investigative information, or any other information held by DOACS received from a state or federal regulatory, administrative, or criminal justice agency that is exempt pursuant to federal law or the laws of other states. Creates s. 570.077, F.S. Companion to SB 754. *Rep. Jay Trumbull (R-Panama City)*

- H. Regulatory Affairs Committee: Reported favorably. Now on H. Calendar.

CS/SB 754 Exemption/Investigations – Department of Agriculture and Consumer Services: Creates a public record exemption for information received or developed by the Department as part of a joint or multiagency examination or investigation with another state or federal agency. Also exempts criminal or civil intelligence, investigative information, or any other information held by the Department which is received from a state or federal regulatory, administrative, or criminal justice agency which is exempt pursuant to federal law or the laws of other states. Creates s. 570.077, F.S. Companion to HB 643. *Sen. Garrett Richter (R-Naples)*

- S. Rules Committee: Reported favorably. Now on S. Calendar.

FINANCIAL INFORMATION

SB 1094 Exemption/Limited Purpose International Trust Companies: Creates a public record exemption for personal identifying information contained in records held by the Office of Financial Regulation relating to: (1) applications; (2) new or renewal registrations; (3) investigations; and (4) reports or investigations, including working papers, of a limited purpose trust company representative office. Also exempts the names of existing or prospective clients of affiliated international trust companies, and records received by OFR from another state or country that are otherwise confidential or exempt. Stipulates that the intentional disclosure of such information is a third degree felony. Creates s. 663.097, F.S. *Sen. Anitere Flores (R-Miami) ???*

- S. Governmental Oversight and Accountability Committee: A strike-all amendment is adopted; reported favorably as a committee substitute. As amended, CS/SB 1094 creates a public record exemption for all records and information in reports or investigations, records, or working papers of a limited purpose international trust company representative office so long as an investigation is active; once the investigation is complete, some portions of the records, reports, and working papers will remain exempt as specified. Also exempts all personal identifying information of the clients of the trust company and any information received from another state, country, or the federal government that is otherwise confidential or exempt. Allows disclosure under certain specified conditions, and stipulates that the following information is subject to disclosure: (1) the name of the trust company's representative office; (2) the name and business address of the directors, managers, officers, registered agent, or any affiliated international trust company; and (3) any personal identifying information that is already in the public domain about the directors, officers, managers, or persons who own or control more than 25% of the trust company's voting stock. Now in S. Rules Committee.

INSURANCE

CS/SB 1416 Exemption/ORSA Reports – Office of Insurance Regulation: Creates a public record exemption for own-risk and solvency assessment (ORSA) reports and supporting documentation provided to the Office of Insurance Regulation pursuant to s. 628.8015, F.S. Amends s. 624.4212, F.S. Companion to HB 1165. *Sen. David Simmons (R-Altamonte Springs) ???*

- S. Rules Committee: Reported favorably. Now on S. Calendar.

LICENSED PROFESSIONALS

SB 1306 Exemption/Nursing Licensure Compact: SB 1316 enacts the Nurse Licensure Compact, a multi-state agreement that establishes a mutual recognition system for the licensure of nurses, allowing nurses who receive multi-state licenses to practice in Florida. By enacting the Compact, Florida is required to adopt model legislation created by the National Council of State Boards of Nursing. SB 1306 creates a public record exemption for a nurse's personal identifying information obtained from the "coordinated licensure information system" held by the Department of Health or the Board of Nursing *unless* the state that originally reported the information authorizes disclosure by law. Also exempts meetings or portions of meetings of the Interstate Commission of Nurse Licensure Compact Administrators when discussing (1) the failure of a party state to comply with the Compact; (2) employment, compensation, discipline, or other personnel matters, practices, or procedures; (3) current, threatened, or reasonably anticipated litigation; (4) negotiation of contracts for the purchase or sale of goods, services, or real estate; (5) accusing any person of a crime or formally censuring any person; (6) trade secrets or commercial or financial information required by the commission's bylaws or rules to be kept privileged or confidential; (7) information of a personal nature which the commission determines by a majority vote would constitute an unwarranted invasion of personal privacy if disclosed; (8) active investigative records compiled for law enforcement purposes; (9) investigative reports prepared by or on behalf of the commission; (10) information made exempt by state or federal law; and (11) information made exempt pursuant to rules or bylaws of the commission which protect privacy and proprietary information. Finally, creates a public record exemption for any records created during exempt meetings. Creates s. 464.0096, F.S. Companion to HB 1063. *Sen. Denise Grimsley (R-Sebring) ???*

- S. Health Policy Committee: A strike-all amendment is adopted; reported favorably as a committee substitute. As amended, CS/SB 1306 creates a public record exemption for a nurse's public record exemption for a nurse's personal identifying information obtained from the "coordinated licensure information system" held by the Department of Health or the Board of Nursing *unless* the state that originally reported the information authorizes disclosure by law. Specifically allows access to the nurse's name, licensure status, and license number. Also creates an exemption for meetings or portions of meetings of the Interstate Commission of Nurse Licensure Compact Administrators during which matters specifically exempted from disclosure by federal or state law are discussed, and exempts all records generated during the closed meetings. Now in S. Rules Committee.

UPDATE: The amendment to SB 1306 addressed the concerns raised by the First Amendment Foundation and our position on the bill is now neutral.

PERSONAL INFORMATION

SB 702 Exemption/Voter and Voter Registration Information: Amends and expands the public record exemption in s. 97.0585, F.S., for information held by an agency and obtained for the purpose of voter registration to include the residential address, date of birth, telephone number and email address of a voter registration applicant or a voter. Also exempts all information relating to preregistered voter registration applicants who are 16 or 17 years old. Allows access to the exempt information by a canvassing board, an election officials, a political party, candidates, and registered political parties. Amends s. 97.0585, F.S. Companion to HB 647. *Sen. Thad Altman (R-Cape Canaveral) ???*

- S. Ethics and Elections Committee: A strike-all amendment is adopted; reported favorably as a committee substitute. As amended, CS/SB 702 creates a public record exemption for all

information concerning preregistered voters registration applicants who are 16 or 17 years of age. Now in S. Governmental Oversight and Accountability Committee.

UPDATE: The amendment to SB 702 addressed the concerns raised by the First Amendment Foundation and our position on this bill is now neutral.

SB 914 Exemption/Identifying Information – Property Tax Exemption for Disabled Persons: Creates a public record exemption for medical information and personal identifying information of applicants and recipients of a property tax exemption for totally and permanently disabled persons held by a property appraiser or tax collector, and the Department of Revenue, Auditor General, and the Office of Program Policy Analysis and Government Accountability. Amends s. 119.071(5), F.S. Companion to HB 901. *Sen. Nancy Detert (R-Venice)* ☹

★ To see FAF's letter on SB 914, click here: <http://bit.ly/1Pe6Ms0>

- Senate Special Order Calendar: Rolled to third reading on Tuesday, February 23.

CS/SB 1364 Exemption/Identifying Information – Florida Wildlife Conservation Commission Licensure: Creates a public record exemption for “personal information” held by the Florida Wildlife Conservation Commission in connection with recreational fishing, hunting, or use licenses and permits, and hunter and boating safety certification. Defines “personal information” as an individual’s name, photograph, social security number, driver license number, date of birth, address, telephone number, email address, and medical or disability information. Allows access to an individual’s zip code. Creates s. 379.107, F.S. Companion to HB 1153. *Sen. Alan Hays (R-Umatilla)* ☹

★ To see FAF's letter on SB 1364, click here: <http://bit.ly/1NBFVVP>

- S. Rules Committee: Two amendments limiting the public record exemption to personal information contained in hunting licenses held by the Florida Wildlife Conservation Commission are adopted. Regardless, CS/SB 1364, as amended, failed in the S. Rules Committee by a vote of 3/6. To see how the committee members voted, click here: <http://bit.ly/20GAc8I>

UPDATE: This is the first time in many years that a public record exemption failed to pass out of a committee. The House companion, HB 1153, has one more committee stop, but it's unlikely that the bill will move forward in light of the action taken by the S. Rules Committee this week. If you want to listen to the debate on CS/SB 1364, click here: <http://bit.ly/1ou5J1V>. CS/SB 1364 is the second or third bill on the agenda.

SB 7048 OGSR/Client Records – Regional Autism Centers: Reenacts, without modification, the public record exemption for records that relate to a client of a regional autism center who receives center services or participates in center activities. Also reenacts the exemption for the identity of donors to such centers who wish to remain anonymous. Amends s. 1004.55, F.S. Companion to HB 7069. *S. Children, Families and Elder Affairs Committee*

- Senate Special Order Calendar: Rolled to third reading on Tuesday, February 23.

HB 7093 OGSR/Identifying Information – Florida Health Choices Program: Reenacts, without modification, public record exemptions for information identifying participants and proprietary confidential business information held by the Florida Health Choices Program. Reenacts s. 408.910(4), F.S. Companion to SB 7020. *H. Government Operations Subcommittee*

- H. State Affairs Committee: Reported favorably. Now on H. Calendar.

PUBLIC EMPLOYEES

SB 752 Exemption/Home Addresses – Inspectors General: Creates a public record exemption for the home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general and those whose duties include conducting internal audits. Also exempts the names, home addresses, telephone numbers, social security numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel, and the names and locations of schools and day care facilities attended by their children. Creates s. 119.071(4)(d)2.o., F.S. Companion to HB 587. *Sen. Joseph Abruzzo*

- Senate Special Order Calendar: Rolled to third reading on Tuesday, February 23.

PUBLIC RECORDS

HB 1089 Fees for Public Records/Agency for Persons with Disabilities: Adds the Agency for Persons with Disabilities to the list of agencies and vendors that pay a reduced per record fee for criminal history information. Amends s. 943.053, F.S. Companion to SB 628. *Rep. Patrick Joseph Rooney (R-Palm Beach Gardens)* WATCH

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

CS/SB 1220 Public Record/Reasonable Attorney Fees and Costs: Current law requires a court to award reasonable attorney fees and costs when the court finds that an agency violated the public records law. CS/SB 1220 amends the attorney fee provision to say to say a court *shall* award reasonable attorney fees and costs when the court determines that the agency violated the law *and* the requestor provided written notice to the custodian of public records at least five business days before filing the lawsuit, provided that the agency posted information on how to contact the custodian. Stipulates that a court may not award attorney fees if the court determines that (1) the lawsuit or the public record request was frivolous, malicious, was intended to harass the agency, or was brought or made for the primary purpose of causing a violation of the law; or (2) any alleged delay or error was a technical delay constituting harmless error. Amends s. 119.12, F.S. Companion to HB 1021. *Sen. Rene Garcia (R-Hialeah)* ☹

★ To see FAF's letter on SB 1220, click here: <http://bit.ly/1MW1MXK>

- S. Fiscal Policy Committee: A strike-all amendment is adopted; reported favorably as a committee substitute. The CS/CS/SB 1220 amends the attorney fee provision to say a court *shall* award reasonable attorney fees and costs when the court determines that the agency violated the law *and* the requestor provided written notice to the custodian of public records at least five business days before filing the lawsuit, provided that the agency prominently posted information on how to contact the custodian. States that a court *may not* award attorney fees if the court determines that the public record request was made for the primary purpose of (1) harassing the agency or (2) causing a violation of the public records law. Now on S. Calendar.

UPDATE: Sen. Garcia worked with the FAF to address our concerns regarding this bill and the compromise amendment adopted in the S. Fiscal Policy Committee, addresses the most serious of our concerns and our position on CS/CS/SB 1220 is now neutral.

SECURITY

CS/SB 776 Exemption/Utility Agency Information Technology Security: Amends s. 119.0713, F.S., to create a public record exemption for information relating to the security of a utility agency's technologies, processes, and practices designed to protect networks, computers, programs, and data from attack, damage, or unauthorized access which, if disclosed, could be used to alter, disclose, or destroy data or information technology resources. Also exempts security information, whether physical or virtual, relating to the utility's existing or proposed information technology systems or industrial control systems which, if disclosed, could affect security, economic security, or public health or safety. Amends s. 119.0713, F.S. Companion to HB 1025. *Sen. Rob Bradley (R-Orange Park)*

- S. Governmental Oversight and Accountability Committee: An amendment making mostly technical changes to the bill is adopted; reported favorably as a committee substitute. As amended, CS/CS/SB 776 creates a public record exemption for information relating to the security of a utility agency's technologies, processes, and practices designed to protect networks, computers, programs, and data from attack, damage, or unauthorized access which, if disclosed, could be used to alter, disclose, or destroy data or information technology resources. Also exempts information related to the security of existing or proposed information technology systems or industrial control systems which, if disclosed would facilitate unauthorized access to, and alteration and destruction of systems impacting operations. Stipulates that the exemption applies retroactively. Now in S. Rules Committee.

CS/SB 1004 Exemption/Security Camera Recordings: Amends s. 119.071(3)(a), F.S., providing an exemption for security system plans, to allow access to the protected plans upon court order and a showing of good cause. Amends s. 119.071(3), F.S. Companion to HB 869. *Sen. Alan Hays (R-Umatilla)*

- Senate Special Order Calendar: Rolled to third reading on Tuesday, February 23.

CS/HB 1025 Exemption/Utility Agency Information Technology Security: Amends s. 119.0713, F.S., to create a public record exemption for information relating to the security of a utility agency's technologies, processes, and practices designed to protect networks, computers, programs, and data from attack, damage, or unauthorized access which, if disclosed, could be used to alter, disclose, or destroy data or information technology resources. Also exempts security information whether physical or virtual, relating to the utility's existing or proposed information technology systems or industrial control systems which, if disclosed, could affect security, economic security, or public health or safety. Amends s. 119.0713, F.S. Companion to SB 776. *Rep. Bruce Antone (D-Orlando)*

- H. Regulatory Affairs Committee: Reported favorably. Now on H. Calendar.

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If you'd like additional information about any of the bills included in this report or to know the Foundation's position on a specific bill, please call 800/337-3518. And check our website, <http://floridafaf.org>, for copies of bill letters to various sponsors.