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January 14, 2016

The Honorable Oscar Branyon, II
The Florida Senate
Room 213, Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Re: SB 1436 Exemption/Family Law Records

Dear Senator Branyon:

We are writing to express our concerns regarding SB 1436, proposing a broad public record exemption for records relating to matters or cases governed by the Florida Rules of Family Law that cannot be posted on a clerks of court website or that must be removed from such websites. The bill also creates a public record exemption for petitions for injunctions that have been dismissed without a hearing. It is our position that this legislation violates the standard for the creation of exemptions to our right of access.

Article I, s. 24(c), Fla. Con., requires that all proposed exemptions to the constitutional right of access to public records contain a specific statement of public necessity and that the exemption be no broader than its stated purpose. According to the required statement of public necessity in section 2 of your bill, this exemption is necessary because family law records frequently contain information of a sensitive, personal nature, including financial information. This statement, unfortunately, overlooks the fact that there are numerous existing exemptions for this information that specifically apply to family law records. To close access to an entire record because it contains some information which is exempt – if not exempt and confidential – from disclosure also ignores well-settled law in this state that requires a custodial agency to redact information that is exempt and provide access to the remainder of the document. We believe this exemption is unconstitutionally overbroad and unwarranted given the myriad of applicable exemptions currently in law.

Furthermore, SB 1436 conflates a right of access to public records with an ability to view those records on a public website. The two are not the same, Senator Branyon, and to deny a right of access to records simply because law or policy states those records cannot be accessible on a public website is overreaching.

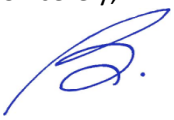
336 East College Avenue, Suite 101
Tallahassee, FL 32301
floridafaf.org

Main: 850.224.4555
Toll Free: 800.337.3518
Hotline:850.222.35.18

Finally, it is our position that the exemption for dismissed petitions for injunctions violates the specific single subject requirement in Article I, s. 24(c) and therefore, we respectfully request that SB 1436 be withdrawn from consideration.

Thank you for your attention to our concerns, Senator. If you have any questions or would like additional information about our position, please don't hesitate to contact me.

Sincerely,



Barbara A. Petersen, President

Cc: The Honorable Andy Gardiner, President, The Florida Senate
Jon Kaney, General Counsel, First Amendment Foundation
Sam Morley, General Counsel, Florida Press Association