



LEGISLATIVE REPORT

-
- Current action
- CS** Committee Substitute
- P** Passed both Chambers
-

For Period Ending February 5

CONTRACTORS

P CS/HB 273 Public Records/Public Agency Contracts: Amends s. 119.07(1), F.S., to include requirements on the transfer and retention of public records by a contractor upon completion of the contract. Stipulates that requests to inspect or copy public records relating to an agency's contract for services must be made directly to the agency. If the agency doesn't possess the requested records, the agency must immediately notify the contractor of the request, and the contractor must provide the records to the agency or allow the records to be inspected or copied within a reasonable period of time. Contractors who fail to provide the requested records to the agency within a reasonable time may be subject to penalties under s. 119.10. If a civil action is filed against a contractor to compel the contractor to produce records relating to a contract for services, the contractor will be required to pay reasonable attorney fees and costs *if* (1) a court determines the contractor unlawfully refused to comply with the public record request within a reasonable period of time; *and* (2) the requestor provides written notice of the request, including a statement that the contractor has failed to comply with the request, to the public agency and to the contractor at least 8 days prior to filing the action. Finally, a contractor who complies with a public record request within 8 days of the notice being sent will not be liable for attorney fees and costs. Companion to SB 390. *Rep. Halsey Beshears (R-Perry)*

- Senate: Passed the Senate by a vote of 34/1, with Sen. Joyner voting no. **PASSED THE LEGISLATURE**

COURT RECORDS

HB 679 Exemption/Family Law Records: Creates a public record exemption for records and images of those records that relate to a matter or case governed by the Florida Rules of Family Law that cannot be placed on a publicly available website maintained by a clerk of court or that is removed from such a website. Amends s. 28.2221, F.S. Companion to SB 1436. *Rep. Larry Lee (D-Fort Pierce) ???*

★ To see FAF's letter on HB 679, click here: <http://bit.ly/1S0IkKE>

- H. Civil Justice Subcommittee: A strike-all amendment is adopted; reported favorably as a committee substitute. As amended, CS/HB 679 creates a public record exemption for injunctions against domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyber stalking that is dismissed without a hearing or at an ex parte hearing. Requires that such petitions dismissed on or after July 1, 2016 be removed from "all publicly accessible records," and that

petitions dismissed before that date be removed upon request by the individual named in the petition. Now in H. Government Operations Subcommittee. ☹️

UPDATE: HB 679, as originally drafted, was too broad, encompassing all family law records. Even though the amendment narrowed the exemption, we have grave concerns about the bill as amended. What happens, for example, if someone seeks an injunction for domestic violence and is then pressured to withdraw the petition? Or if numerous petitions have been filed against the same person but each has been withdrawn or dismissed? CS/HB 679 thwarts any meaningful opportunity for oversight and accountability.

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) ???*

- S. Governmental Oversight and Accountability Committee: A strike-all amendment making minor changes is adopted; reported favorably as a committee substitute. Now in S. Rules Committee.

SB 1278 Exemption/Petitions for Incapacity: Amends ch. 394, F.S. to create various public records exemptions for (1) personal identifying information of a person for whom a Baker Act petition is filed or ordered by a judge and filed with the clerk of court; (2) petitions and ex parte orders for involuntary examinations; (3) petitions and court orders related to involuntary outpatient placements; and (4) petitions and court orders for involuntary inpatient placements. Amends ss. 394.4615; 394.463; 394.4655; and 394.467, F.S. Companion to HB 1027 and SB 1280. *Sen. Jeremy Ring (R-Margate) ???*

★ To see FAF's letter on SB 1278, click here: <http://bit.ly/1nyDUER>

- S. Governmental Oversight and Accountability Committee: As amended, CS/SB 1278 creates a public record exemption for all pleadings, documents, and the images of such records filed with a court relating to Florida's Mental Health Act. Allows disclosure under certain specified conditions. Now in S. Rules Committee.

CRIMINAL JUSTICE

HB 93 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 SB 418. *Rep. Shev Jones (D-West Park) WATCH*

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

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. Criminal Justice Committee: Reported favorably. Now in S. Community Affairs Committee.

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. Criminal Justice Committee: Reported favorably. Now in S. Appropriations Subcommittee on Criminal and Civil Justice.

HB 905 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 SB 1072. *Rep. Bobby DuBose (D-Fort Lauderdale)*
WATCH

- H. Criminal Justice Committee: A proposed committee substitute is adopted; as amended, CS/HB 905 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. Also prohibits the electronic publication by a criminal justice agency of mug shots of those arrested but not yet convicted of a criminal offense. Allows access if the head of the criminal justice agency decides publication is necessary to protect public safety. Creates s. 501.172 and amends s. 951.23. Now in H. Justice Appropriations Subcommittee. ☹️

UPDATE: The FAF wasn't opposed to this bill as originally drafted, but the committee substitute appears to create a back-door public record exemption and the bill doesn't comply with the constitutional standard for the creation of new exemptions under Art. I, s. 24(c), Fla. Con.

SPB 7022 OGSR/Photographs and Videos Depicting the Killing of a Person: Reenacts, without modification, the 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.” Reenacts s. 406.136, F.S. *S. Criminal Justice Committee* ☹️

★ To see FAF's letter on SB 7022, click here: <http://bit.ly/1ORCM4Y>

- S. Criminal Justice Committee: A strike-all amendment narrowing the exemption is adopted. As amended, SB 7022 amends and reenacts s. 406.136, F.S., to provide 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. Reported favorably as a committee bill.

UPDATE: The amendment to SPB 7022 addresses our concerns regarding the reenactment of this exemption and our position on the bill as amended is now neutral.

ECONOMIC DEVELOPMENT

HB 97 Exemption/Unsolicited Proposals: In pertinent part, HB 95 amends and renumbers s. 287.05712, F.S., relating to public-private partnerships, allowing a “responsible public entity” to request proposals from private entities for a qualifying project and to accept unsolicited proposals. HB 97 creates a public record exemption for unsolicited proposals received by “a responsible public entity,” stipulating that the proposals are exempt from public disclosure until the public entity provides notice of an intended decision for a qualifying project. 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 meetings at which unsolicited proposals are discussed, requiring that all closed portions be recorded, and providing a date certain when such recordings are subject to disclosure. Creates s. 255.065, F.S. Companion to SB 126. *Rep. Greg Steube (R-Sarasota)*

- H. State Administration Committee: Reported favorably by a vote of 14/1, with Rep. Gaetz voting no. Now on H. Calendar.

SB 126 Exemption/Unsolicited Proposals: In pertinent part, SB 124 amends and renumbers s. 287.05712, F.S., relating to public-private partnerships, allowing a “responsible public entity” to request proposals from private entities for a qualifying project and to accept unsolicited proposals. SB 126 creates a public record exemption for unsolicited proposals received by “a responsible public entity,” stipulating that the proposals are exempt from public disclosure until the public entity provides notice of an intended decision for a qualifying project. 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 meetings at which unsolicited proposals are discussed, requiring that all closed portions be recorded, and providing a date certain when such recordings are subject to disclosure. Creates s. 255.065, F.S. Companion to SB 126. *Rep. Greg Steube (R-Sarasota)*

- S. Governmental Oversight and Accountability Committee: A minor technical amendment is adopted; reported favorably as a committee substitute. Now in S. Fiscal Policy Committee.

EXAMINATIONS AND INVESTIGATIONS

SB 7002 OGSR/Investigative and Audit Reports – Inspectors General: Reenacts, with minor modification, the public record exemption for audit reports of internal auditors and investigative reports of inspectors general prepared on behalf of a unit of local government, stipulating that such records are subject to disclosure when the audit or investigation is final. Reenacts s. 119.0713(2), F.S. Companion to HB 7037. *S. Community Affairs Committee*

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

SB 7032 OGSR/Examinations and Investigations – Office of Financial Regulation: Reenacts, without modification, the public record exemption for information received by the Office of Financial Regulation (OFR) from another state or a federal agency that is otherwise confidential or exempt. Also reenacts the exemption for information that is received or developed by OFR as part of a joint or multiagency

examination or investigation. Reenacts s. 119.0712(3), F.S. Companion to HB 7035. *S. Banking and Insurance Committee*

- Senate: Tabled; HB 7035 substituted. See HB 7035.

P HB 7035 OGSR/Examinations and Investigations – Office of Financial Regulation: Reenacts, without modification, the public record exemption for information received by the Office of Financial Regulation (OFR) from another state or a federal agency that is otherwise confidential or exempt. Also reenacts the exemption for information that is received or developed by OFR as part of a joint or multiagency examination or investigation. Reenacts s. 119.0712(3), F.S. Companion to SB 7032. *H. Government Operations Subcommittee*

- Senate: Substituted for SB 7035 and passed unanimously. **PASSED THE LEGISLATURE**

INSURANCE

HB 1165 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 SB 1416. *Rep. Bill Hager (R-Boca Raton) ???*

- H. State Affairs Committee: An amendment to the statement of public necessity is adopted; reported favorably as a committee substitute. Now on H. Calendar.

PERSONAL INFORMATION

SB 662 Exemption/Identifying Information - Compassionate and Palliative Care Plans: Creates a public record exemption for information held in the clearinghouse for compassionate and palliative care plans at the Agency for Health Care Administration. Allows access by physicians, patients or their legal guardians, and health care facilities under certain specified conditions. Creates s. 408.0641, F.S. *Sen. Jeff Brandes (R-St. Petersburg) ???*

★ To see FAF's letter on SB 662, click here: <http://bit.ly/1PhLLhb>

- S. Health Policy Committee: A strike-all amendment making minor technical changes is adopted; reported favorably as a committee substitute by a vote of 7/1, with Sen. Flores voting no. Now in S. Governmental Oversight and Accountability Committee.

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>

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

SB 7020 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 HB 7093. *S. Health Policy Committee*

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

➔ **HB 7093 OGSR/Identifying Information – Florida Health Choices Program**: Companion to SB 7020. *H. Government Operations Subcommittee*

SB 7024 OGSR/Identifying Information – Florida Center for Brain Tumor Research: Reenacts, without modification, the public record exemption for personal identifying information of donors to the central repository for brain tumor biopsies or the brain tumor registry. Reenacts s. 381.8531, F.S. Companion to HB 7041. *S. Health Policy Committee*

- Senate: Passed unanimously. Now in H. Messages.

P HB 7033 OGSR/Personal Information – Emergency Notification System: Reenacts, without modification, the public record exemption for personal information provided to an agency for the purpose of receiving emergency notifications. Reenacts s. 119.071(5)(j), F.S. Companion to SB 7004. *H. Government Operations Subcommittee*

- Senate: Substituted for SB 7004; passed the Senate unanimously. **PASSED THE LEGISLATURE**

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*

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

PROCUREMENT

SB 7030 OGSR/Competitive Solicitations: Reenacts, without modification, the limited public record exemption for sealed bids or proposals received by an agency pursuant to a competitive solicitation. Also reenacts, without change, the meetings exemption for portions of meetings at which negotiations with vendors are conducted pursuant to a competitive solicitation and certain portions of team meetings. Reenacts ss. 119.071(1)(b) and 286.0113(2), F.S. Companion to HB 7067. *S. Governmental Operations and Accountability Committee*

- Senate: Passed unanimously. Now in H. Messages.

PROPRIETARY INFORMATION

HB 381 Exemption/State Boxing Commission: Currently, s. 548.062, F.S., provides an exemption for proprietary confidential business information contained in a written report that promoters are required to file with the State Boxing Commission after a boxing match. HB 381 expands the public record exemption to protect all proprietary confidential business information provided by a promoter to the Commission. Amends s. 548.062, F.S. Companion to SB 578. *Rep. Jake Raburn (R-Valrico)* ☹

★ To see FAF's letter on HB 381, click here: <http://bit.ly/1RAoHA2>

- House Special Order Calendar: Rolled to third reading for passage by the House.

CS/SB 578 Exemption/State Boxing Commission: Currently, s. 548.062, F.S., provides an exemption for proprietary confidential business information contained in a written report that promoters are required to file with the State Boxing Commission after a boxing match. HB 381 expands the public record exemption to protect all proprietary confidential business information provided by a promoter to the Commission. Amends s. 548.062, F.S. Companion to HB 381. *Sen. Travis Hutson (R-Palm Coast)* ☹

★ To see FAF's letter on CS/SB 578, click here: <http://bit.ly/1Q9ygm3>

- Senate Special Order Calendar: Temporarily postponed on second reading. Retained on the Senate Calendar.

PUBLIC EMPLOYEES

HB 587 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 SB 752. *Rep. Bobby Powell (D-West Palm Beach)* ☹

★ To see FAF's letter on HB 587, click here: <http://bit.ly/1VN7rpP>

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

PUBLIC RECORDS

SB 628 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 HB 1089. *Sen. Garrett Richter (R-Naples)* WATCH

- Senate Special Order Calendar: Rolled to third reading for passage by the Senate. Placed on third reading 2/10.

HB 1021 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. HB 1021 amends the attorney fee provision to say the court *may* award such fees and costs, and requires plaintiffs to provide notice of a public record request to an agency at least five days before filing suit to force compliance with the public records law. Amends s. 119.12, F.S. Companion to SB 1220. *Rep. Greg Steube (R-Sarasota)* ☹

★ To see FAF's letter on HB 1021, click here: <http://bit.ly/1RckhPi>

- H. Government Operations Appropriations Subcommittee: Reported favorably by a vote of 11/1, with Rep. Torres voting no. Now in H. State Affairs Committee.

SECURITY

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. Finally, creates an exemption for information that identifies security firms used by the utility to secure and store data or provide information technology services. Amends s. 119.0713, F.S. Companion to HB 1025. *Sen. Rob Bradley (R-Orange Park) ???*

★ To see FAF's letter on SB 776, click here: <http://bit.ly/107fQ4G>

- S. Communications, Energy and Public Utilities Committee: A strike-all amendment narrowing the exemption is adopted; reported favorably as a committee substitute. As amended, CS/SB 776 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. Now in H. Regulatory Affairs Committee.

UPDATE: The amendment to SB 776 addressed concerns raised by the First Amendment Foundation and our position on the bill is now neutral.

CS/HB 869 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 SB 1004. *Rep. Shawn Harrison (R-Tampa)*

- H. Criminal Justice Subcommittee: Reported favorably. Now in H. State Affairs 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)*

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

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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.