



July 22, 2019

The Honorable Blaise Ingoglia, Chair
House State Affairs Committee
Florida House of Representatives
402 S. Monroe Street, Room 209 HOB
Tallahassee, FL 32399-1100

The Honorable Ed Hooper, Chair
Senate Governmental Oversight & Accountability Committee
The Florida Senate
404 S. Monroe Street, Room 330 Knott Building
Tallahassee, FL 32399-1300

Re: Exemptions Subject to Open Government Sunset Review - 2020

Dear Representative Ingoglia and Senator Hooper:

The First Amendment Foundation has conducted its annual review of the exemptions from public records and meetings requirements subject to review and repeal under the Open Government Sunset Review Act during the 2020 legislative session. Our comments on each follow below.

Section 119.071(2)(h), Human Trafficking Victims: This public record exemption for information revealing the identity of human trafficking victims under the age of 18 contained in criminal intelligence and criminal investigative records is sufficiently narrow and the First Amendment Foundation doesn't object to its reenactment as currently drafted.

Section 119.071(2)(l), Body Camera Videos: The FAF opposed the passage of this exemption for body camera videos taken in certain locations as originally filed. Our policy concerns were mostly addressed in subsequent amendments but we objected to the bill's passage on procedural grounds – there was no House companion to the Senate bill. However, since its passage, we have not received any complaints about the exemption, and we do not object to reenactment of the exemption in its current limited form.

Section 119.071(5)(k), Home Addresses – Military Personnel: This public record exemption for the home address of current or former U.S. military personnel who served after 9/11 is deeply flawed, both in terms of public policy and practical application. The exemption is under-inclusive in that it fails to protect those military personnel who saw combat in the Gulf War and over-inclusive in that it protects all military personnel who served after

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9/11, including those who never saw combat and never left the U.S. The exemption also places an unnecessary burden on record custodians and doesn't address the burden of proof – is a record custodian to accept my word that I served in the military after 9/11 or am I required to provide some sort of proof such as a Form DD-214? If I'm required to provide proof, then any documents I provide become public record subject to disclosure and must be retained by the record custodian. We strongly suggest that this misguided public record exemption be allowed to sunset. Our veto request letter is attached.

Section 119.0712(2)(c), Email Addresses – DHSMV: The FAF raised public policy concerns on the passage of this public record exemption for email addresses collected by the Department of Highway Safety and Motor Vehicles. However, we've not received any complaints regarding the implementation or application of the exemption and aren't opposed to reenactment of the exemption in its current form.

Section 197.3225, Email Addresses – Tax Collectors: Our concerns regarding passage of the exemption for email addresses collected by tax collectors were much the same as those expressed for the similar DHSMV exemption, and like that exemption, we've not received any complaints. Thus, we do not oppose reenactment of the exemption as currently drafted.

Section 383.412, Identifying Information – Deceased Children: The public record exemption for information identifying the surviving siblings of a child whose death occurred as a result of a verified report of abuse or neglect held by the State Child Abuse Death Review Committee is sufficiently narrow and the Foundation is not opposed to reenactment of the exemption in its current form.

Section 409.1678(6), Safe Houses – Sexual Exploitation Victims: The FAF does not oppose the reenactment of this exemption for information about the location of a safe house, safe foster home, or other residential facility serving victims of sexual exploitation.

Section 474.2167, Veterinary Medical Practice: Section 474.2167, F.S., protects 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. The FAF did not oppose the passage of these exemption and does not object to reenactment.

Section 560.312, OFR - Financial Regulation Payments: The Foundation does not object to reenactment of the public record exemption for payment transaction information that identifies a licensee, payor, payee, or conductor contained in a database held by OFR.

Section 787.06(10), Safe Houses – Sexual Exploitation Victims: This exemption for information about the location of a safe house, safe foster home, or other residential facility serving victims of sexual exploitation is sufficiently narrow and FAF does not object to reenactment of the exemption as currently drafted.

Section 895.06(7), Florida RICO Act Investigations: The FAF does not oppose reenactment of the narrow exemption for information relating to a RICO Act violation until all investigations relating to such information are completed

Section 943.0583(11), Human Trafficking Victims: Again, this public record exemption for information revealing the identity of human trafficking victims whose criminal history records have been expunged is sufficiently narrow and FAF does not object to its reenactment.

Section 1009.987, Florida ABLE Program: The Foundation doesn't object to reenactment of the public record exemption for personal financial and health information of participants in the program held by the Florida Prepaid College Board, Florida ABLE Inc., or the Florida ABLE program as currently drafted.

Please let us know if you have any questions or need additional information.

Sincerely,



Barbara A. Petersen, President

Cc: The Honorable Scott Plakon, Vice-Chair, H. State Administration Committee
The Honorable Kevin Rader, Vice-Chair, S. Governmental Oversight & Accountability
Committee
Heather Williamson, Staff Director, H. State Administration Committee
Joe McVaney, Staff Director, S. Governmental Oversight & Accountability Committee
Bob Shaw, Chair, First Amendment Foundation Legislative Committee
