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The Senate Governmental Oversight and Accountability
Committee

330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Re: Open Government Bills before the Senate Governmental
Oversight and Accountability Committee

The First Amendment Foundation writes to oppose Senate Bill 844, which allows clerks of court to enter agreements with certain individuals to permit access to otherwise exempt information. The Florida Constitution guarantees a right of access to public records to *every* person. Fla. Const. Art. II, § 24(a). In addition, the legislature has made clear that it is the policy of this state for all state, county, and municipal records to be open for inspection and copying by *any* person. Fla. Stat. § 119.01(1). Senate Bill 844, however, limits access to exempt records only to specific individuals.

This legislation gives special preference to a class of individuals to inspect certain records. The general public is unable to obtain the same preference, even if they can show that the records will be used for a lawful purpose. Senate Bill 844 lacks a research inquiry for the records to be used for an educational purpose and a newsgathering inquiry for journalists to access records.

While Senate Bill 844 makes it easier to access exempt records for some professionals, this bill provides unequal application of the law and discriminates against others with equally justified objectives. In addition, the bevy of home address and personal information exemptions that apply only to certain professionals has created preferential protections and unequal application of the laws. SB 844 only makes those inequalities worse -- by allowing a preferred class of professionals to access information that is exempt for another preferred class of professionals.

Currently, there are more than 1,150 exemptions to Florida's open government laws. These exemptions make it more difficult

for records custodians, who must ensure that records do not contain confidential information. Further, these exemptions make it harder for the public to copy and inspect government documents. The solution is not to open access to some individuals while keeping others in the dark. The solution is addressing the thousands of exemptions that undermine Floridians' right of access – a right guaranteed to every person. Accordingly, FAF opposes Senate Bill 844.

If you have any questions or concerns regarding our position or potential amendments, we would be happy to talk with you and work with you.

With best regards,

FIRST AMENDMENT FOUNDATION



Pamela C. Marsh
Executive Director

cc: The Honorable Wilton Simpson, President, Florida Senate
The Honorable Ed Hooper, Senator, Florida Senate
Jim Baltzelle, Associated Press, Chair, First Amendment Foundation
Mr. Samuel Morley, General Counsel, Florida Press Association
Ms. Lisa Nellessen Savage, Chair, Florida Society of News Editors