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HOUSE PASSES HB 1

House approves "anti-riot bill" by a 76-39 vote.

House Bill 1, Juan Alphonso Fernandez-Barquin (R-Miami), was approved by the House. The "anti-riot bill" increases penalties for offenses that occur when protests become violent. The bill creates a new definition of committing a riot: a person who participates in a violent public disturbance involving an assembly of three or more people, acting with a common intent to assist each other in violent and disorderly conduct. The overbroad definition of riot and increased penalties may deter protestors and journalists from exercising their First Amendment rights, fearing criminal sanctions for mere presence at a peaceful protest that involves violence or a public disturbance, as determined by present law enforcement officers. In addition, crimes requiring a prosecutor to show "common intent" are extremely difficult to prove. This statute unnecessarily creates charges that are unlikely to be used by prosecutors.

OTHER BILLS MOVING THROUGH THE LEGISLATURE

House Bill 527, Christopher Benjamin (D-Miami Gardens), prohibits county or municipal detention facilities from unreasonably withholding permission to visit such facilities from a journalist or writer. The House Criminal & Public Safety subcommittee approved HB 527 unanimously.

Senate Bill 7064, Commerce and Tourism, exempts information relating to investigations by the Department of Legal Affairs pursuant to violations of the Florida Privacy Protection Act. The bill is intended to withhold investigative information, personal information, and trade secrets. However, exemptions already exist to protect investigative information received by the Department and social security numbers; the Florida Uniform Trade Secrets Act prohibits the misappropriation of trade secrets. There is no need for an additional exemption. The Senate Commerce and Tourism committee unanimously passed the exemption.

Senate Bill 402, Ray Rodrigues (R-Fort Myers), was amended and no longer would move notices from newspapers and their websites to a government-created website. As amended, SB 402 does away with the requirement that notices be placed in a newspaper that is for sale; this amendment allows publication of notices on an internet-only publication of any newspaper within the state. This decentralized publication of notices makes it difficult to find notices and reduces who sees notices. The Senate Judiciary committee voted in favor of the bill 8-3.

Senate Bill 762, Dennis Baxley (R-Lady Lake), allows criminal conflict and civil regional conflict counsel to apply for a confidential registration certificate and apply for a registration license plate or decal under a fictitious name and exempts records relating to the registration application for a license plate/decal under a fictitious name. The Senate Criminal Justice committee unanimously approved an amendment correcting how the office of criminal conflict and civil regional counsel is referenced throughout the bill.

Senate Bill 1508, Lauren Book (D-Plantation), was unanimously approved by the Senate Criminal Justice committee. The bill, which would be known as "Serena's Law", requires a county recorder or clerk of court to make known on a publicly

available website the identity of each adult against whom an injunction is entered and the fact that a protective injunction has been entered against a respondent or defendant. SB 1508 was amended to remove a provision that excluded from the definition of active criminal intelligence or investigative information the identity of a person, other than a minor, who is charged with or found guilty of child abuse, human trafficking, or a sexual offense. The Judiciary committee will hear the bill next Monday.

Senate Bill 1972, Jason Pizzo (D-Miami), seals civil court records relating to a petition for a domestic violence injunction if the injunction is withdrawn or dismissed, or if there is a ruling in favor of the respondent. **Senate Bill 1974** creates a public records exemption for those sealed records. The exemption is intended to shield injunctions brought in bad faith; however, the court records could be sealed and exempt even if the petitioner brought the injunction in good faith, but the injunction was dismissed on procedural grounds or the petitioner voluntarily withdrew the petition. The Senate Criminal Justice committee unanimously approved both bills.

House Bill 1069, Bobby Payne (R-Palatka), creates an exemption for records held by the Department of Military Affairs containing information protected from disclosure under FOIA and the Privacy Act of 1974. The Local Administration & Veterans Affairs subcommittee unanimously approved an amendment to clarify that the exemption applies to information received or maintained by Department of Military Affairs that is stored or transmitted on a Department of Defense Network or communications device or pertaining to Department of Defense.

Senate Bill 7066, was unanimously approved by the Senate Regulated Industries committee. The bill would close meetings of the Public Service Commission that the Commission finds cannot be fully and fairly conducted without revealing information that has been made confidential by a prior order of the Commission or a claim of proprietary confidential business information has been filed. Closing meetings reduces oversight of the Commission. The public necessity statement for this bill asserts that revealing confidential business information could impair the ability of utilities regulated by the Commission to fairly negotiate with third parties and compete in the marketplace. Utilities in Florida are regulated monopolies – there is no competitive marketplace. This argument is meritless. The House companion, HB 1311, was unanimously approved by the Government Operations committee and is now in the Commerce Committee.

House Bill 1399, Andrew Learned (D-Riverview), was unanimously approved by the House Environment, Agriculture & Flooding subcommittee. The bill exempts and makes confidential certain information held by the Department related to shellfish processing facilities, audit records, and aquaculture production records.

Senate Bill 972, Ana Maria Rodriguez (R-Doral), permits meetings of legal and administrative entities created by an interlocal agreement located in four contiguous counties to meet using communication media technology. The Senate Governmental Oversight and Accountability committee approved an amendment – suggested by FAF – ensuring that Fla. Stat. § 286.0114, requiring public participation before a board, applies to such remote meetings. The amendment will ensure the public can comment at meetings of entities created by interlocal agreements, such as the Southeast Florida Regional Climate Change Compact.

House Bill 95, David Smith (R-Winter Springs), exempts and makes confidential nonjudicial records of the arrest of a minor who has successfully completed a diversion program and has sealed or expunged those records. The House Judiciary committee unanimously approved the bill, which is now on the House Calendar.

House Bill 913, Lawrence McClure (R-Plant City), the “anti-declaratory action” bill was unanimously approved by the House State Affairs committee. The bill prohibits an agency from filing a declaratory action against a public records requestor to determine whether the records is subject to disclosure. The House will hear the bill for second reading.

House Bill 525, Jackie Toledo (R-Tampa), creates an exemption for petitions for expunction for offenses committed while a defendant was a victim of a human trafficking scheme, pursuant to HB 523. HB 525 unanimously passed the House Government Operations subcommittee. It is now in



House Bill 1055, Tommy Gregory (R-Bradenton), was unanimously approved by the House State Affairs committee and is now on the House calendar. HB 1055 creates an exemption and process to exempt trade secrets in records held by agencies..

The bill has been modified and no longer excludes the amount paid to a private contractor from the definition of trade secrets. We will continue to push for the contract bids and payments to be accessible to the public. Even if the trade secret exemption is not intended to protect this information, agencies and contractors have



tried to hide this information as a trade secret. Specifically excluding bids and price terms from the definition will ensure this information remains public and that companies and the government cannot hide these contract terms.

House Bill 311, David Silvers (D-West Palm Beach), expands the exemption for examination and assessment instruments pertaining to: kindergarten screenings and readiness rates; educational services in the Department of Juvenile Justice; instruction for limited English proficient students; civic literacy assessment for students entering the Florida college system; educator certification requirements; and the Florida Partnership for Minority and Underrepresented Student Achievement. The bill also creates a new exemption for examinations administered by a Florida College System or State University or the Florida Department of Education. The House Government Operations subcommittee unanimously approved HB 311, which is now in the Education & Employment committee.

House Bill 619, Webster Barnaby (R-Orange City), passed the House Government Operations subcommittee by a 12-1 margin with Rep. Carlos Guillermo Smith voting no. HB 619 exempts and makes confidential, in part, information received by the Office of Financial Regulation in an application for a de novo banking charter, such as personal identifying information – including the names – of a shareholder, subscriber, proposed officer, or proposed director of the applicant bank when such information has been marked by the applicant as confidential. The bill would make oversight of Florida-regulated banks more difficult because the public will have no way to know who was responsible when a bank fails or is involved in money laundering. HB 619 is now in the Commerce committee.

House Bill 997, Sam Garrison (R-Orange Park), creates a public records exemption for the personal identifying information of a candidate for president of a state college or university and an exemption for meetings discussing the candidates. The information of the final group of applicant(s) would be made public, but the delayed release of information will not improve the secret selection process. In states where this has passed, having a final group of 1 is the rule, not the exception. The House Government Operations subcommittee passed the bill 11-5. It is now in the Education & Employment Committee.

House Bill 1539, Evan Jenne (D-Hollywood), exempts home addresses, photos, and other personal identifying information of current or former inspectors of the Department of Agriculture and Consumer Services. The House Government Operations subcommittee unanimously approved the bill, which is now in the Commerce committee.

House Bill 7015, Commerce Committee, exempts and makes confidential information received by the Department of Legal Affairs pursuant to violations of the Technology Transparency Act. Like SB 7064, much of the information sought to be protected – personal information, investigative information – is exempt by other statutes. Moreover, Fla. Stat. § 119.071(2)(c) only makes agency criminal investigative and criminal intelligence exempt – not exempt and confidential. HB 7015 would make investigative information confidential, prohibiting the Department from releasing the information. The Government Operations subcommittee passed the bill 13-1 with Rep. Carlos Guillermo Smith voting no.

House Bill 781, Will Robinson (R-Bradenton), was unanimously approved by the House Government operations subcommittee. In part, HB 781 permits clerks of court to enter access agreements to permit certain individuals (attorneys, title insurers) to access otherwise exempt records. The bill applies only to certain property records. The First Amendment Foundation supports increasing access to records and allowing parties to enter agreements with clerks rather than going to court for a determination that the records should be released. However, this bill prioritizes certain professions; the general public and the press would not have the same ability to access records. Title insurers and financial institutions can still seek the records by asking the person whose home address or name is exempt from public view to provide the information. HB 781 is now in the Civil Justice & Property Rights subcommittee.

House Bill 1207, Mike Beltran (R-Valrico) exempts the home addresses and personal information of current members of the Senate, House of Representatives, and cabinet officers. It would also exempt the names, places of employment of legislators and Cabinet officers' spouses and children. If this bill becomes law, the public has no way to know whether legislators live in the districts they are elected to represent or whether a conflict of interest exists between officials and their spouses or adult children. HB 1207 passed the House Government Operations subcommittee 12-4 and is now in the Public Integrity & Elections committee.

House Bill 1639, Michael Grant (R-Port Charlotte), was unanimously approved by the House Government Operations subcommittee. The bill exempts certain records held by a supervisor of elections that, if disclosed, would facilitate unauthorized access to data or unauthorized modification, disclosure, or destruction of information related to the security of election technologies.

House Bill 1539, Evan Jenne (D-Hollywood), exempts home addresses, photos, and other personal identifying information of current or former inspectors of the Department of Agriculture and Consumer Services. The House Government Operations subcommittee unanimously approved the bill, which is now in the Commerce committee.

House Bill 1315, Chip LaMarca (R-Lighthouse Point), exempts drivers' secure login held by the Department of Highway Safety and Motor Vehicles for using digital driver's license and identification cards, known as Florida Smart ID and geolocation data held by DHSMV.

House Bill 1359, Chuck Brannan III (R-Lake City), exempts and makes confidential information received by the Department of Highway Safety and Motor Vehicles pursuant to investigations of the Department, including investigations of improperly issued certificates of title. Information is exempt until an investigation ceases to be active or administrative action taken by the Department has concluded or been made part of any hearing or court proceeding. The House Tourism, Infrastructure & Energy subcommittee unanimously voted in favor of both HB 1315 and HB 1359. Both are now in the House Government Operations subcommittee.

Senate Bill 890, Ed Hooper (R-Palm Harbor), imposes a noncriminal infraction, punishable by a fine not exceeding \$2,000, for unauthorized use or release of information in the Driver and Vehicle Information Database. The Senate voted in favor of SB 890.

Open Government Sunset Review Update

The House Regulatory Reform subcommittee unanimously passed **House Bill 7003**, sponsored by the House Government Operations Subcommittee, which reinstates the exemption for confidential proprietary business information provided to the Florida State Boxing Commission pursuant to an audit of the boxing promoter's business records. In addition, the subcommittee approved

HB 7007, also sponsored by Government Operations, which exempts and make confidential information held by the Department of Agriculture and Consumer Services as part of a joint investigation with another state or federal agency.

GOS6, Government Operations subcommittee, exempts proprietary business information in certain records held by the Office of Insurance Regulation. The bill was unanimously approved by the subcommittee.

Senate Bill 7000, Health Policy Committee, would reinstate the exemption protecting personal identifying information – other than a nurse's name, licensure status, or licensure number – held by the Board of Nursing or Department of Health under the Nurse Licensure Compact. The bill also exempts portions of meetings of the Commission of Nurse Licensure Compact Administrators at which matters specifically exempt by federal or state law are discussed. The Senate Rules committee approved the measure.

Senate Bill 7012, Criminal Justice Committee, was also unanimously approved by the Senate Rules committee. SB 7012 reinstates the exemption for juvenile criminal history compiled by the Criminal Justice Information program from interstate sources.

