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SENATE HEARS ANTI-PROTEST BILL

While **House Bill 1**, Juan Alphonso Fernandez-Barquin (R-Miami), moved through committees and the House, the Senate version, **Senate Bill 484**, Danny Burgess (R-Zephyrhills), stalled. The Senate Criminal Justice committee, the first committee of reference for the bill, had not placed SB 484 on an agenda. The legislation appeared dead in the Senate – that is, until this week.

HB 1 was placed on the Senate Appropriations committee agenda for today and tomorrow (Saturday). The Senate president is required to refer bills that the House has passed to committees.

The 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 at the scene of the protest.

Court records

House Bill 525, Jackie Toledo (R-Tampa), creates an exemption for expunction petitions for offenses committed while a defendant was a victim of a human trafficking scheme, pursuant to **HB 523**. HB 525 unanimously passed the House Judiciary committee and is now on the House calendar.

House Bill 1193, Vance Arthur Aloupis (R-Miami), allows a tenant to ask a court to seal records of an eviction under certain circumstances, and **House Bill 1195** creates a public records exemption for any sealed records. Both bills unanimously passed the House Judiciary committee and will next be considered by the entire chamber.

Senate Bill 166, Keith Perry (R-Gainesville), exempts and makes confidential nonjudicial records of the arrest of a minor who has successfully completed a diversion program and has had records sealed or expunged. The bill was unanimously approved by the Senate and has been sent to the House.

Criminal Justice

House Bill 643, Mike Gottlieb (D-Sunrise), was unanimously approved by the House Judiciary committee. The bill exempts reinvestigation information generated during a new investigation by a conviction integrity unit within a state attorney's office. The exemption applies only during an active, ongoing, and good faith investigation of a claim of actual innocence and until the claim is no longer capable of further investigation. The bill is now on the House calendar. **Senate Bill 1048**, Aaron Bean (R-Jacksonville), was unanimously approved by the Senate Rules committee and is now on the Senate calendar. The Senate version exempts the information for two years and during an active, ongoing, and good faith investigation.

Agency Records

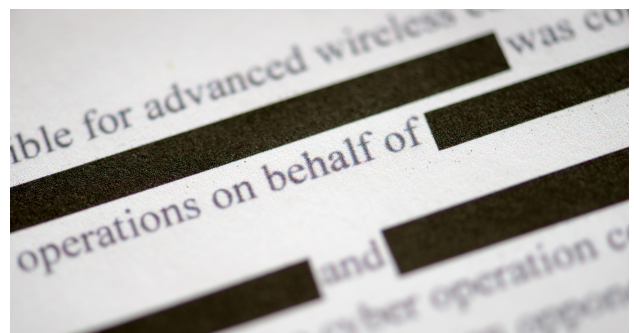
Senate Bill 400, Ray Rodrigues (R-Fort Myers), was unanimously approved by the Senate Rules committee. The bill prohibits an agency from filing a declaratory action against the requestor to determine whether the record is confidential or exempt. The bill is now on the Senate calendar.

House Bill 1399, Andrew Learned (D-Riverview), was unanimously approved by the House State Affairs committee and has been placed on the House calendar. The bill exempts and makes confidential certain information held by the Department related to shellfish processing facilities, audit records, and aquaculture production records. The companion, **Senate Bill 1634**, Jason Brodeur (R-Lake Mary), was unanimously approved by the Senate Rules committee and is now on the Senate Calendar.

Senate Bill 968, George Gainer (R-Panama City), exempts the tax returns, credit history, credit reports, and credit score held by an economic development agency in the administration of a state or federally funded small business loan program. The Senate Rules committee unanimously voted in favor of the bill, and it is now on the Senate calendar.

House Bill 781, Will Robinson (R-Bradenton), was unanimously approved by the House Civil Justice & Property Rights 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. There is no provision for access to the information for newsgathering purposes, research or public benefit. 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 House State Affairs 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 Commerce committee unanimously approved the bill, which is now in the House State Affairs committee.



House Bill 1207, Mike Beltran (R-Valrico) exempts the home addresses and personal information of current members of the Senate and House of Representatives. It would also exempt the names, places of employment of legislators' 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 Public Integrity & Elections committee.

Senate Bill 418, Danny Burgess (R-Zephyrhills), was amended to narrow the exemption for information provided to an agency providing shelter to exempt the addresses and phone numbers of individuals seeking shelter during a storm or catastrophic event. SB 418 unanimously passed the Senate Governmental Oversight and Accountability committee.

House Bill 1639, Michael Grant (R-Port Charlotte), was approved by the House Public Integrity & Elections committee. 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.

Senate Bill 1456, Ray Rodrigues (R-Fort Myers), was unanimously approved by the Senate Governmental Oversight and Accountability committee and is now in the Senate Rules committee. The bill expands the exemption for examination and assessment instruments for tests given to assess kindergarten readiness and certify educators, in addition to other tests. The bill also creates a new exemption for examinations administered by a Florida College System or State University or the Florida Department of Education.

Senate Bill 1824, Bobby Powell (D-West Palm Beach), creates an exemption for information from a person or a business provided to the Division of Emergency Management or local emergency management agency for the purpose of receiving assistance with emergency planning. In addition, SB 1824 exempts an after-action report, defined as “a report containing observations of a disaster, an incident, an emergency, or an exercise and recommendations identifying specific corrective actions for post-event improvements”, and an “emergency response assessment reports”, or any report analyzing and evaluating the response of first responders before, during, or after a disaster. The Senate Governmental Oversight and Accountability committee unanimously passed SB 1824.

Social Media

House Bill 7013, Commerce committee, was approved by the House Judiciary committee 12-6 along party lines. The “Technology Transparency” bill would regulate social media companies that censor users; prohibit websites from taking any action to censor, deplatform, or shadow ban a “journalistic enterprise” based on the content of publication or broadcast; and prohibit websites from deplatforming a candidate. By requiring social media platforms to carry users’ posts, even if such posts violate a company’s policies, companies will be forced to carry messages with which they disagree, compelling speech in violation of the First Amendment. In addition, Section 230 of the Federal Communications Decency Act likely preempts this bill. Section 230 allows interactive service providers to filter and remove content without liability if done in good faith. Finally, HB 7013 creates an underinclusive definition of “journalistic enterprises.” The bill prohibits social media companies from censoring an entity that has at least 50,000 paid subscribers or 100,000 monthly active users. Social media sites could censor smaller newspapers but would be compelled to carry the same content of larger news organizations. HB 7013 is now on the House calendar. The companion bill in the Senate, **Senate Bill 7072**, was approved by the Governmental Oversight and Accountability committee, again, along party lines.



Agency Investigations

Senate Bill 7064, Commerce and Tourism committee, makes confidential and exempts information relating to investigations by the Department of Legal Affairs pursuant to violations of the Florida Privacy Protection Act. The Senate Commerce and Tourism committee unanimously passed the exemption.

Senate Bill 7074, Governmental Oversight and Accountability committee, similarly makes confidential and exempts information received by the Attorney General, Department of Legal Affairs, and law enforcement agencies pursuant to antitrust investigations and investigations into unlawful practices of social media companies. SB 7064 and 7074 make information both confidential and exempt, not merely exempt. Accordingly, agencies are prohibited from releasing the information. Confidentiality is counter to Florida Statute, § 119.071(2)(c), the exemption for criminal investigative information, making information merely exempt. SB 7074 was approved 4 to 1, with Senator Victor Torres voting now.

House Bill 1359, Chuck Brannan III (R-Lake City), exempts 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 Commerce committee unanimously voted in favor of HB 1359, and it is now in the House calendar.

Open Government Sunset Review Update

House Bill 7037, House Government Operations subcommittee, exempts financial information of private entity applicants to the State Infrastructure Bank (SIB). The public has a right to know how money from the SIB will be used and whether the requesting entity is financially sound and capable of taking on Department of Transportation projects. The bill was unanimously approved by the State Affairs committee.

