



# First Amendment FOUNDATION

Protecting Your Right to Know Since 1985

## 2022 PRE-SESSION REPORT

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The First Amendment Foundation has analyzed bills affecting your right of access to government records and meetings. We are tracking more than 40 bills potentially affecting your right to know and your First Amendment rights. We have provided a summary of each bill we are monitoring, organized by category. In addition, we have noted when bills were considered during committee weeks in fall 2021. Article I, section 24(c) of the Florida Constitution is our guide in reviewing legislation: exemptions must state with specificity the public necessity justifying the exemption and be no broader than necessary to accomplish the stated purpose of the law.

Bills FAF supports are in green, while bills FAF opposes are in red. Otherwise, FAF has not taken a position on the legislation. An asterisk indicates that FAF has suggested an amendment or will suggest an amendment. This report only includes records and meeting exemptions filed before Monday, Jan. 3.



- Responding to Requests
- Law Enforcement Records
- Investigative Records
- Court Records
- Education Records
- Legislative Records
- Agency Records
- Home Address Exemptions
- Open Government Sunset Review
- Meetings During Emergencies
- First Amendment

# RESPONDING TO REQUESTS

## SB 1472 Public Records

Linda Stewart (D-Orlando)

Requires an agency to respond to public records requests under chapter 119 within five business days of receipt. Alternatively, an agency must deny the records request or provide a written statement of the time reasonably necessary to determine whether the request will be granted or denied and the reason for the delay within five business days. Florida's Public Records Law has no time frame in which an agency must respond to requests. According to a review of requests by the nonprofit organization Muckrock, the average response time for completed records requests in Florida is 75 days. If a requestor believes that an agency is unreasonably delaying access to records, the requestor is forced to bring a lawsuit. This bill will ensure reasonable, timely access to government information without costly litigation. FAF has called for a strengthening of the records law to prevent unjustified delay and lawsuits.

# LAW ENFORCEMENT RECORDS

## HB 385/SB 598 Public Records/Criminal Conflict and Civil Regional Counsel Office

Patt Maney (R-Fort Walton Beach), Dennis Baxley (R-Lady Lake)

HB 383 and SB 596, in part, authorize an office of criminal conflict and civil regional counsel to register a license plate or decal under a fictitious name for counsel's use. HB 385 and SB 598 exempt records relating to the registration application for a license plate or decal issued under a fictitious name. The House Criminal Justice & Public Safety Subcommittee unanimously approved HB 385, and it is now in the House Government Operations Subcommittee.

## HB 773/SB 1046 Public Records/Law Enforcement Geolocation Information

Matt Willhite (D-Wellington), Ed Hooper (R-Palm Harbor)

Exempts law enforcement geolocation information, defined as information collected using a global positioning system or another mapping, locational, or directional information system that allows tracking of the location or movement of law enforcement officers or vehicles. The exemption does not apply to uniform traffic citations, arrest reports, or other official reports issued by a law enforcement agency containing geolocation information. The public necessity statement asserts that the release of law enforcement geolocation information can reveal surveillance and investigative techniques. However, an exemption already exists to withhold information revealing surveillance techniques. Fla. Stat. § 119.071(2)(d).

Geolocation information is critical to showing where law enforcement officers are and how often they are in certain areas. The information reveals whether officers are fairly distributed throughout a county or municipality. In addition, Florida journalists have used tollway transponder records to report on speeding by officers. As a result of such reporting, law enforcement agencies implemented new ways to track police activity and prevent speeding.

# INVESTIGATIVE RECORDS

## SB 1282 PUBLIC RECORDS/INVESTIGATION OF A MURDER

Manny Diaz (R-Hialeah Gardens)

Exempts active criminal intelligence or investigative information relating to an investigation of a murder which reveals the key details of the crime and which a law enforcement agency determines must be withheld to secure a future arrest or conviction. Records made exempt by the bill may be disclosed only when the records are given or required to be given to the person arrested. SB 1282 also expands the exemption for information identifying a witness to a murder to exempt the statement of such witness for two years. An exemption already exists to withhold active criminal investigative information when there is a reasonable, good faith anticipation of arrest. Law enforcement agencies use [this exemption](#) to withhold arrest warrants and supporting documents in decades-old murder investigations still under investigation. While the public necessity statement contends that officers may never be able to solve older murder cases if key details of a crime are released to the public, investigators [have solved decades-old cases](#) without the proposed exemption. Access to key details of murder investigations is essential for the public to understand and oversee the actions of law enforcement officers. Later reporting, using murder investigation records, and public awareness of crimes [may lead to an arrest](#).

# COURT RECORDS

## HB 197/ SB 344 Public Records/Nonjudicial Record of the Arrest of a Minor

David Smith (R-Winter Springs), Keith Perry (R-Gainesville)

Exempts and makes confidential the record of the arrest of a minor who has successfully completed a diversion program for a misdemeanor or a felony, other than a forcible felony. The Senate Criminal Justice Committee and Appropriations Subcommittee on Criminal and Civil Justice both unanimously approved SB 344, and it heads to the Senate Appropriations Committee.

## SB 756 Public Records/Human Trafficking Victims

Manny Diaz (R-Hialeah Gardens)

Exempts and makes confidential the personal identifying information of a victim of human trafficking in a petition to expunge criminal records resulting from arrest or charges for offenses committed while a person was victim of human trafficking.

## SB 1322 Court Records of Eviction Proceedings

Ana Maria Rodriguez (R-Dorel)

Permits a tenant or mobile homeowner to petition to seal court records in an eviction proceeding and substitute name with “tenant” in the docket if certain conditions are met. Court records may be sealed only once. Sealing entire court records to protect evicted tenants also shields landlords who unlawfully evict tenants from public scrutiny. This exemption will reduce the public's ability to assess or monitor eviction practices. Further, the bill does not prevent a landlord from using past evictions – learned from interviewing landlords or other sources – against a tenant. Rather than sealing records and preventing oversight of landlords, FAF suggests considering legislation like **SB 648**, Janet Cruz (D-Tampa), which prevents a consumer reporting agency or company that screens tenants from including information in a report relating to an eviction that occurred during the COVID-19 pandemic.

# EDUCATION RECORDS

## HB 703/SB 520 PUBLIC RECORDS AND PUBLIC MEETINGS

Sam Garrison (R-Orange Park), Jeff Brandes (R-St. Petersburg)

Exempts and makes confidential personal identifying information of an applicant for president of a state university or college. Information of an applicant included in the final group of candidates becomes public either when the final group is established or 21 days before a meeting to interview an applicant or take final action to select a president. Exempts from the Sunshine Law meetings to vet applicants or which would reveal personal identifying information of applicants. This provision excludes the public from meetings at which applicants are screened – meaning the public will never know why an applicant was rejected. Because the bill contains no minimum number of candidates in a final group, the public may learn just the name of the final candidate. The public necessity statement contends that secrecy is needed to ensure the most experienced and qualified candidates apply. There is no evidence that secret searches result in better candidates. In fact, [research shows](#) secret searches lead to the hiring of more insider candidates and political appointees.



# LEGISLATIVE RECORDS

## HB 6053/SB 530 Public Disclosure of Reapportionment and Redistricting Plan Records

Joe Geller (D-Dania Beach), Annette Taddeo (D-Miami)

Repeals Fla. Stat. §11.0431(2)(e), which provides an exemption for a draft, and a request for draft, of a reapportionment plan or redistricting plan and an amendment. This bill would also repeal an existing exemption for supporting documents associated with redistricting plans or amendments until a bill implementing the plan, or the amendment is filed. Repealing this exemption will make the districting process more transparent, allow oversight of the legislative decision-making process, and reveal who requests a draft of redistricting and reapportionment plans.

# AGENCY RECORDS + MEETINGS

## HB 159/SB 170 PUBLIC RECORDS/LOTTERY WINNERS

Tracie Davis (D-Jacksonville), Tina Polsky (D-Boca Raton)

Exempts and makes confidential the name of a winner of a lottery prize valued at \$250,000 or more. The name can become public if a winner consents to release. In addition, the name becomes public 90 days after the prize is claimed. HB 159 passed the House Government Operations Subcommittee with one no vote and is in the State Affairs Committee. SB 170 was unanimously approved by the Senate Regulated Industries Committee and is in the Governmental Oversight and Accountability Committee. The exemption is intended to protect winners from potential violence and harm. The 90-day exemption gives winners the chance to

make necessary security precautions before public disclosure. The release of winners' names ensures public oversight of the lottery, specifically allowing the public to detect any suspicious patterns of lottery winnings.

### **HB 183/SB 346 Public Records/Buyer or Transferee of Ammunition**

Dan Daley (D-Sunrise), Tina Polsky (D-Boca Raton)

HB 181 and SB 334 requires background checks for the sale or transfer of ammunition. HB 183 and SB 346 exempt and make confidential records related to the buyer whose background check is cleared and able to buy ammunition. The exemption is based on the assertion that release of personal identifying information of an individual who has purchased ammunition could be harmed based on their right to own a firearm.

### **HB 307/SB 716 Public Records/Person Who Has Adopted an Animal**

Fred Hawkins (R-Saint Cloud), Jennifer Bradley (R-Orange Park)

Exempts the name, email addresses, home addresses, and telephone number of a person who has adopted an animal from an animal shelter or animal control agency operated by a county, municipality, or other incorporated political subdivision, on any records relating to the animal and held by the shelter. The public necessity statement suggests that would-be adopters may be discouraged from adopting if the prior owners of animal obtain the adopter's personal information and attempt to regain custody. FAF notes that the information can readily be obtained by alternative means, through a chip registration or on an animal shelter's social media page.

### **HB 409/SB 938 Public Record/Compulsive and Addictive Gambling Prevention Program**

Tracie Davis (D-Jacksonville), Dennis Baxley (R-Lady Lake)

HB 405 and SB 936 establish a Compulsive & Addictive Gambling Prevention Program within the Florida Gaming Control Commission to provide assistance for addictive gambling and operate a helpline to provide information and referral services regarding addictive gambling. HB 409 and SB 938 exempt and make confidential personal identifying information of a person seeking assistance through the Compulsive & Addictive Gambling Prevention Program.

### **SB 590 Public Records & Meetings\***

Ana Maria Rodriguez (R-Doral)

SB 358 creates a professional counselors licensure compact, permitting licensed professional counselors to apply to practice in another member state. Member states must submit licensure, adverse action, and investigative information on all licensed professional counselors to a shared database created pursuant to the compact. SB 590 exempts from the Public Records Law a counselor's personal identifying information, other than the counselor's name, licensure status and number. SB 590 also exempts from the Sunshine Law meetings of the Counseling Compact Commission if the Commission's legal counsel certifies the meeting must be closed to discuss certain subjects, including anticipated litigation or contract negotiations. As [the staff analysis notes](#), personal identifying information is not defined. FAF suggests defining personal identifying information so the exemption is not broader than necessary to achieve its purpose. In order to become a member of the compact, member states must protect personal identifying information and close certain compact meetings.



**HB 955/SB 1372 Public Records and Meetings/Psychology Interjurisdictional Compact\***

Christine Hunschofsky (D-Coconut Creek), Gayle Harrell (R-Stuart)

HB 953 and SB 1370 create the Psychology Interjurisdictional Compact, which permits psychologists to practice in member states. Member states join the Psychology Interjurisdictional Compact Commission and share information in a shared database. HB 955 and SB 1372 exempt the personal identifying information, other than the psychologist's name, licensure status, or licensure number, obtained from the coordinated licensure information system. Meetings of the Psychology Interjurisdictional Compact Commission are exempt from the Sunshine Law if the commission must discuss certain issues, such as a state's noncompliance with the compact. Like SB 590, there is no definition of "identifying information." The lack of definition could exempt more information than is necessary to achieve the purpose of the exemption. Accordingly, FAF recommends defining identifying information.

**HB 617/SB 294 Public Records/Statewide Council on Human Trafficking\***

Toby Oberdorf (R-Stuart), Ilene Garcia (R-Miami)

Exempts and makes confidential any personal identifying information of a donor or prospective donor to End Human Trafficking, a direct-support organization (DSO) to the Statewide Council on Human Trafficking, who desires to remain anonymous. Exempts from Sunshine Law and Administrative Procedures Act portions of meetings of End Human Trafficking at which personal identifying information of a donor or prospective donor is discussed. The exemption is intended to encourage private donations and protect the identity of donors wishing to remain anonymous. FAF has written to the sponsors, suggesting that the bill be amended to require closed portions of meetings to be held on the record and available after a court reviews the recording to determine whether the discussion was limited to donor information. Recordings ensure that closed portions of meetings are not used to carry out public business in private. The Senate Children, Families, and Elder Affairs Committee unanimously approved SB 294, and it is now in the Governmental Oversight and Accountability Committee.

**HB 699/SB 934 Public Records/Homelessness Counts and Information Systems**

Fiona McFarland (R-Sarasota), Joe Gruters (R-Sarasota)

Exempts and makes confidential individual identifying information of a person contained in a Point-in-Time Count or homeless management information system. Individual identifying information is defined as information that directly or indirectly identifies a specific person, can be manipulated to identify a specific person, or can be linked with other available information to identify a specific person. Information can be released in the aggregate if it does not disclose the individual identifying information of a person. The exemption is meant to prevent discrimination and harm against an individual who provides identifying information to a Point-in-Time Count or homeless management information system.

**HB 735/SB 1042 Public Records/Registry of Persons with Special Needs**

Rene Plasencia (R-Titusville), Jason Brodeur (R-Lake Mary)

HB 733 and SB 1040 require the Agency for Persons with Disabilities to create a database, known as the "Registry of Persons with Special Needs" of persons who have developmental, psychological or other disabilities or conditions that may be relevant to interactions with law enforcement. Parents, guardians, and caregivers may enroll in the registry. If requested, FDLE must provide information from the registry to law enforcement to assist officers. HB 735 and

SB 1042 exempt and make confidential all records, data, information, correspondence and communications relating to the enrollment of a person in the Registry, and information in a locally maintained registry substantially similar to the state registry.

### **SB 782 Public Meetings and Records/Conditional Medical Release Program\***

Keith Perry (R-Gainesville)

SB 784 creates a conditional medical release program within the Department of Corrections to determine whether release is appropriate for inmates with terminal or permanently incapacitating medical conditions. SB 782 exempts portions of meetings of a panel review hearing to determine whether release is appropriate during which the panel discusses information that is exempt under state law or confidential under federal law such as HIPAA. Closed portions of meetings must be recorded. FAF suggests amending the bill to permit release of transcripts upon a judicial finding that the closed portion of a meeting went beyond the discussion of exempt information.

### **HB 869/SB Public Records and Meetings/In-hospital Medical Staff Committees\***

Alex Rizo (R-Hialeah), Manny Diaz (R-Hialeah Gardens)

Exempts and makes confidential records held by an in-hospital medical staff committee, medical executive committee, or credentialing committee of a public hospital containing individually identifiable health information protected by HIPAA; personal identifying information of hospital personnel; and information relating to pending legal matters. Exempts from the Sunshine Law portion of in-hospital medical staff committee meeting at which information made confidential and exempt by the statute is discussed. FAF notes that the legislation does not permit the release of meeting minutes upon a finding that the meetings diverged from exempt subjects and suggests an amendment to allow release of records upon a finding by a court that the meeting was not limited to exempt meetings.

In addition, exemptions already exist to close meetings to discuss pending litigation. Regarding new exemptions considered under the legislation, the bill does not define personal identifying information of hospital personnel or personnel matters. This exemption could be used to close more meetings than necessary to prevent harm to personnel. Finally, the public necessity statement argues that subjecting staff committees to public meetings requirements is duplicative because the decisions made by medical staff committees will be presented at subsequent publicly noticed meetings. This assertion ignores the purpose of the Sunshine Law, which is to frustrate evasive devices and open up the entire decision-making process to the public. As the Florida Supreme Court has explained, this can be accomplished only by providing public access to collective inquiry and discussion stages. *Town of Palm Beach v. Gradison*, 296 So. 2d 477, 477 (Fla. 1974). The fact that a decision will take place at another public meeting does not justify preventing the public from accessing earlier meetings.

### **HB 873/SB 1204 Public Records/Information or Records/Executions**

Patt Maney (R-Fort Walton Beach), Doug Broxson (R-Pensacola)

Exempts identifying information or information that could reasonably lead to identification of a person or entity participating in any aspect of an execution. The public necessity statement asserts that disclosure of identifying information could jeopardize the safety of such persons or entities and could inhibit the ability of the Department of Correction to acquire personnel, drugs, or equipment to carry out such executions. The exemption is based on unsupported

hypotheticals. Florida used a drug that had never before been used in execution. In light of new drugs being used and botched executions in other states, public access to information on drug manufacturers and producers is critical to public oversight of lethal injections. Protection already exists for information that identifies an executioner, or any person prescribing, preparing, or administering a lethal injection. HB 873 and SB 1204 fail to state with necessity why the exemption must be expanded.

### **SB 978 Public Records/Applications for Certification as a Victim of Florida Reform School Abuse**

Darryl Rouson (D-St. Petersburg)

SB 482 authorizes the Department of State to certify victims of abuse from the Arthur G. Dozier School for Boys and Okeechobee School. Certified victims may file a claim against the state for compensation for abuse. SB 978 exempts personal identifying information in an application submitted to the Department of State. The public necessity statement argues that the exemption is needed to protect victims of Florida reform school from further trauma and encourage victims to apply for compensation.

### **HB 983 Pub. Rec./Voters and Voter Registration\***

Cyndi Stevenson (R-St. Augustine)

Exempts the date of birth, phone number, email address, and party affiliation of a voter registration applicant or voter. However, the information may be provided to the person whose information was made exempt; canvassing board or election official; political party, candidate, or political committee; or a person who receives permission to access the information from the office of the Secretary of State, for any purpose authorized by such office.

While nonprofit organizations seeking this information could request access through the Secretary of State, it is unclear how the Secretary will grant access and whether access will be granted fairly. FAF staff is working with the sponsor to ensure that the public can access the political party of a candidate



### **1198 Public Meetings and Public Records/Community Violence Task Force**

Shevrin Jones (D-Miami Gardens)

SB 1196 creates a Community Violence Task Force within FDLE to review causes of crime rates and violence in urban core neighborhoods, and develop recommendations to improve communications between local and state agencies to help reduce crime and violence. The task force may request records from law enforcement agencies. SB 1198 exempts portions of task force meetings at which exempt or confidential information received by the committee is discussed. Exempt meetings must be held on the record. Records and transcripts of meetings are exempt and confidential, unless a court determines the meeting was not restricted to exempt and confidential information obtained by the Task Force.

### **HB 1509/SB 1308 Public Records/Family or Household Members of Homicide Victims**

Kevin Chambliss (D-Miami), Shevrin Jones (D-Miami Gardens)

HB 949 and SB 1396 require an employer, if requested, to give an employee 3 days leave to



make funeral arrangements for a family or household member who died of homicide, secure a household from the perpetrator, or attend meetings with law enforcement officers related to the homicide. HB 1509 and SB 1308 exempt and make confidential personal identifying information of an employee that is contained in records documenting a homicide provided to an employer for such leave. HB 1509 and SB 1308 also exempt an employee's written request for leave and time sheet reflecting leave. Request and time sheets become public after 1 year.

### **HB 6059 Confidentiality of Economic Development Agreement Information**

Anna Eskamani (D-Orlando)

Repeals section 288.075(2)(a), which exempts and makes confidential information concerning a private entity's plans to locate, relocate, or expand business activities in Florida provided to or produced by an economic development agency.

## **HOME ADDRESS EXEMPTIONS**

Currently, there are close to 30 exemptions for the home addresses of certain public and private sector workers. While well-intentioned, these exemptions create a false sense of security. The information may be removed from tax and property records, but the information may still be accessible online. Moreover, these exemptions ignore the fact that someone who wants to harm an employee can follow the employee from work to their house.

Fortunately, only three home address exemption bills have been filed this year, less than half of the number of such home address bills filed last year.

### **HB 391/SB 432 Public Records/Judicial Assistants**

David Smith (R-Winter Springs), Tom Wright (R-Port Orange)

Exempts the home addresses, date of birth, and telephone numbers of current or former judicial assistants; names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former judicial assistants; and the names and locations of schools and day care facilities attended by the children of current or former judicial assistants.

### **HB 595/SB 818 Public Records/Public Employees Relations Commission**

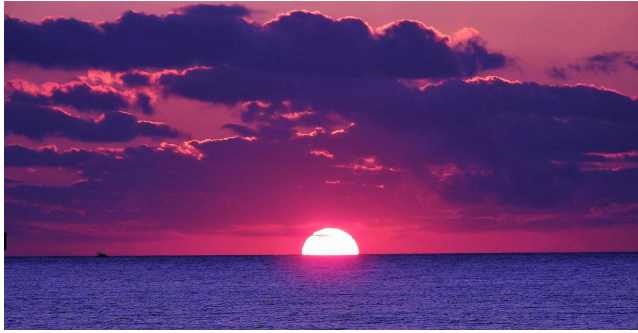
Allison Tant (D-Tallahassee), Loranne Ausley (D-Tallahassee)

Exempts the home address, dates of birth, telephone numbers of chair, commissioners, and hearing officers of the Public Employees Relations Commission. Also exempts the name, home addresses, phone numbers, dates of birth, and places of employment of the spouses and children of the chair, commissioners, and hearing officers and the name of the school or daycare attended by the children of chair, commissioners, and hearing officers.

### **SB 1420 Public Records/County and City Attorneys**

Danny Burgess (R-Zephyrhills)

Similarly exempts the home address and other information of current and former county attorneys, assistant county attorneys, city attorneys, and assistant city attorneys and their spouses and children. Unlike the other two bills, SB 1420 also exempts the photographs of a city or county attorney and the photographs of an attorney's spouse or children.



# OPEN GOVERNMENT SUNSET REVIEW

## **SB 7004 A Review Under the Open Government Sunset Review Act**

Reinstates exemption for records held by a university or college to identify detection, investigation, or response practices for suspected or confirmed information technology security incidents if disclosure would facilitate unauthorized access to information technology resources. Reinstates exemption for meetings that would reveal exempt data and information. The Senate Education Committee unanimously approved SB 7004, and it now in the Rules Committee.

## **HB 7005/SB 7002 OGSR/Information Relating to Medical Marijuana Held by the Department of Health**

Reinstates public records exemption for patient's or caregiver's personal identifying information held by the Department of Health in the Medical Marijuana Use Registry. Exempts a qualified physician's DEA number, residential address, and ID card. Information may be released to law enforcement agencies and for research purposes. The Senate Health Policy Committee unanimously approved SB 7002, and it next heads to the Rules Committee.

## **SB 7006 A Review Under the Open Government Sunset Review Act**

Reinstates exemption for campus emergency response plans and exemption for meetings that would reveal campus emergency response plans. While this exemption was intended to prevent the release of information that could be used to hinder an institution's response to a terrorist attack, the exemption was used to withhold information about the COVID-19 pandemic. Notably, even the sponsor of the legislation told reporters that schools should release the COVID information to the public. FAF opposes the OGSR as written because it is overbroad, withholding more information than necessary to achieve its stated purpose. FAF supported an amendment to narrow the exemption and specifically exclude from the definition of campus emergency response information unrelated to the occurrence or threat of an infectious disease. However, this amendment was withdrawn. The Senate Education committee approved the bill 7-1, with Sen. Lori Berman voting no. It is now in the Rules Committee.

## **HB 7007/SB 7000 OGSR/Nonviable Birth Certificates**

Reinstates public records exemption for information submitted to the Department of Health for issuance of nonviable fetus birth certificate. Exempts information relating to the cause of death and parentage of a nonviable fetus, marital status of such fetus' parent, and any medical information included in nonviable birth records held by a state agency. The Senate Health Policy Committee unanimously approved SB 7000, and it is in the Rules Committee.

**HB 7009 OGSR/Health Information held by Department of Corrections**

Reinstates exemption for protected health information of inmates and offenders held by the Department of Corrections. Personal health information is defined as individually identifiable health information transmitted or maintained electronically. Also reinstates exemption for the identity of inmates and offenders contained in HIV records. The information may be released to Department of Health, Executive Office of the Governor, law enforcement agency.

**7010 OGSR/Public and Professional Guardians\***

Reinstates exemption for records held by the Department of Elder Affairs about investigations into complaints filed with the Department. Exempts the names of complainant and ward involved; the ward's personal health and financial records; and photographs and videos related to the complaint or obtained during the investigation. Allows access by court order and allows release of information once the investigation is complete or no longer active. This is one of two exemptions related to investigations of guardians. FAF recommends merging this exemption with Fla. Stat. § 744.2104 for clarity and consistency of what information related to investigations of guardians is public. The bill was unanimously approved by the exemption, and it is now in the Rules Committee.

**HB 7013/SB 7018 OGSR/Injured or Deceased Employee/Department of Financial Services**

Reinstates exemption for personal identifying information of injured or deceased employees contained in records held by the Department of Financial Services for the administration of workers' compensation. "Personal identifying information" includes employee's name, date of birth, home address, email address, and phone number. Data may be released in aggregate format without identifying information. The bill was unanimously approved by the Senate Banking and Insurance Committee.

**SB 7016 OGSR/Information Submitted by Insurers/Department of Financial Services**

Reinstates exemption for information relating to investigating and tracking insurance fraud submitted by insurers to the Department of Financial Services. The Senate Banking and Insurance Committee unanimously approved the bill.

**SB 7020 OGSR/Office of Insurance Regulation\***

Reinstates Fla. Stat. § 663.416(2), exempting personal identifying information of customer or prospective customer of an international trust entity appearing in the books of and records of an International Trust Company Representative Office ("ITCRO", an off-shore trust company with offices in Florida), and Fla. Stat. § 663.540(2), exempting personal identifying information of customers of an international trust entity appearing in the books of a qualified limited service affiliate held by the Office of Financial Regulation. Reinstates Fla. Stat. § 655.057(1), which exempts and makes confidential records and information relating to an investigation by OFR until the investigation is completed or ceases to be active. Reinstates exemption for reports of examinations, including working papers, prepared by the OFR or any state or federal agency responsible for regulating financial institutions. Reinstates exemption for confidential documents supplied to the OFR by other state or federal government agencies.

FAF sent a public records request to the OFR for records showing the number of times these exemptions have been cited to withhold records or portions of records. The office explained it was unknown how many times the exemptions were cited, and it could not readily provide the

records without extensive labor and cost. An OFR employee did tell FAF that there are currently 12 qualified limited service affiliates in Florida but no ITCROs. The staff analysis for OGSR notes that the OFR has never received requests for information made exempt by sections 663.416 and 663.540. Based on the OFR's statements that there are no ITCROs licensed in Florida and no requests have been made for such information, FAF recommends sunseting these two provisions of the statute.

## MEETINGS DURING EMERGENCIES

### **SB 674 Public Meetings During Declared States of Emergency\***

Janet Cruz (D-Tampa)

Suspends requirement that governing body (city, county, region board or commission) must meet in a specified public place or establish a quorum by being physically present during a state of emergency declared by the governor not to exceed six months. Permits governing body to meet using communications media technology. If a meeting is conducted through communications media technology, meeting must operate as if it is being conducted in person. If the meeting is conducted through communications media technology, a member of the governing body can attend a meeting in person or through communications media technology. Although the bill provides that meetings using communications media technology must function as if being conducted in person, nothing is mentioned about public comment. FAF recommends specifically stating that the public must have an opportunity to comment before governing bodies at remote meetings.

## LEGISLATION LIMITING FIRST AMENDMENT RIGHTS

### **HB 11 Impeding, Provoking, or Harassing Law Enforcement Officers**

Alex Rizo (R-Hialeah)

Makes it a misdemeanor for any person, after receiving a warning from a law enforcement not to approach, to violate such warning and approach or remain within 30 feet of a law enforcement officer who is engaged in the lawful performance of any legal duty with the intent to interrupt, disrupt, hinder, impede, or interfere with law enforcement officer's ability to perform such duty. The First Amendment protects the right to gather information about what public officials do on public property and a right to record matters of public interest. *Smith v. City of Cumming*, 212 F. 3d 1332 (11th Cir. 2000). The bill does not define "impede" or "interfere" and could be used to arrest individuals who continue to film law enforcement officers after a warning. This bill may discourage the public from filming law enforcement officers – a clearly established First Amendment right.