



# First Amendment FOUNDATION

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## DEVA JU IN TALLAHASSEE



Lawmakers have tried to exempt the names of applicants for presidents of public universities and colleges at least 5 times. The bills have died at the last minute or failed to pass on the narrowest of margins. The First Amendment Foundation has argued that secrecy would lead to political insiders getting the positions, excluding women and candidates with more diverse experiences from top leadership positions. Last year, we highlighted instances of failed searches and disastrous hires made in states that allowed closed selection and withheld application materials.

Again, we are challenging the purported justification for the exemption. We have argued that an open search led to a highly qualified president at Florida State University. Richard McCullough served as the vice provost for research at Harvard University for nearly a decade before being selected in the Sunshine to serve as FSU's 16th president. The search process was commended for its transparency by outgoing president, and former Speaker of the House, John Thrasher. Results like this and the legacies of prior Florida university presidents leave us scratching our heads when the bill's supporters claim that Florida isn't getting the best candidates to serve in leadership positions because of our open government laws. The proof to the contrary is in the excellent leadership and the excellent rankings of our public institutions.

The First Amendment Foundation is not alone in calling for access to records and meetings on the presidential search process. University faculty have argued that this bill would “[streamline corruption](#).” Experts on executive search firms and university president searches have urged that secrecy will only benefit executive search firms seeking to make the names of candidates confidential at every stage of the hiring process. At this week’s Senate Rules committee, all but one of the speakers testifying on SB 520 spoke against the bill. Despite the public opposition, the bill passed [12 to 5](#). FAF will continue to challenge the legislation in the House and before the entire Senate.

## EDUCATION RECORDS

### **HB 7019 OGSR/Technology Systems/State University or a Florida College System Institution**

Reinstates exemption for records held by a university or college to identify detection, investigation, or response practices regarding suspected or confirmed information technology security incidents, including suspected or confirmed breaches, if the disclosure would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of data or information technology resources. HB 7019 was unanimously approved by the Post-Secondary Education & Lifelong Learning Subcommittee and is now in the State Affairs Committee.

## LAW ENFORCEMENT + CRIMINAL JUSTICE RECORDS

### **HB 1513/SB 1550 Public Records/Autopsy Reports of Minors**

Chuck Clemons (R-Jonesville), Keith Perry (R-Gainesville)

Exempts and makes confidential the autopsy report of a minor whose death is related to an act of domestic violence by a family or household member. Allows a surviving parent who did not commit the act of domestic violence leading to the minor’s death to view and copy the report. Local, state, or federal agencies may view or copy an autopsy report. A court, upon a showing of good cause, may order any person to view or copy an autopsy report. The Senate Children, Families, and Elder Affairs committee unanimously approved SB 1550 and adopted an amendment to name the proposed law the Rex and Brody Reinhart Act. The House Criminal Justice & Public Safety Subcommittee unanimously approved HB 1513.

### **SB 1046 Public Records/Law Enforcement Geolocation Information**

Ed Hooper (R-Palm Harbor)

Exempts law enforcement geolocation information. Defines law enforcement geolocation information 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 a law enforcement officer or vehicle. 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. In addition, another exemption protects the home address, plot identification number, and GPS coordinates that may reveal a law enforcement officer's home address.

Supporters of the bill explained that this information could be hacked and used to harm officers. If the problem is cyber security, the focus should be on safeguarding cyber infrastructure – not limiting the public's right to know. If the information is not being obtained through public records requests, there is no reason to limit the public's constitutional right to government records. The Senate Criminal Justice committee unanimously approved the bill, and it is now in the Governmental Oversight and Accountability committee.

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

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 exemption is based on unsupported hypotheticals and fails to state with necessity the reason for the exemption. In addition, access to this information is essential to the oversight of the Florida Department of Corrections and lethal injections. The Criminal Justice committee unanimously approved SB 1204, and it is now in the Judiciary committee.

### **HB 7015 OCSR/Identity of a Witness to Murder**

Reinstates exemption for personal identifying information of a witness to a murder for two years. The Criminal Justice & Public Safety Subcommittee unanimously approved HB 7015, and it is now in the State Affairs Committee.

### **HB 7031/SB 7024 OCSR/Alleged Victim or Victim of Sexual Harassment**

Reinstates exemption for personal identifying information of an alleged victim of sexual harassment. Also expands the exemption to prevent release of identifying information of a victim of sexual harassment. The identifying information is exempt only if it identifies that person as an alleged victim or as a victim of sexual harassment. It does not apply to all agency records identifying the victim. Confidentiality may be waived in writing by the alleged victim or victim. The House State Affairs Committee and the Governmental Oversight and Accountability Committee unanimously approved the bills. SB 7024 is now on the Senate calendar for approval by the entire chamber.

**HB 385 Pub. Rec./Criminal Conflict and Civil Regional Counsel Offices**

Patt Maney (R-Fort Walton Beach)

HB 383, in part, authorizes 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 exempts records relating to the registration application for a license plate or decal issued under a fictitious name. The Government Operations Subcommittee unanimously passed HB 385.

**COURT RECORDS****HB 1441/SB 756 Pub. Rec./Human Trafficking Victim Expunction**

Jackie Toledo (R-Tampa), Manny Diaz (R-Hialeah Gardens)

Exempts and makes confidential all documents related to a petition to expunge criminal records resulting from arrest or charges for offenses committed while a person was victim of human trafficking. Expands expunction for offenses listed as habitual violent felony offender designation if the defendant was found not guilty or did not pled guilty or nolo contendere to such



offense. The Criminal Justice & Public Safety Subcommittee unanimously approved HB 1441. The Senate Governmental Oversight and Accountability Committee unanimously approved SB 756.

**HB 1157 Pub. Rec./Court Records**

Patt Maney (R-Fort Walton Beach)

Makes confidential and exempts a respondent's name, at trial and on appeal, and all petitions or applications for voluntary and involuntary admission for mental health examinations or treatment (Baker Act) and for application or petitions for substance abuse treatment or assessment (Marchman Act). The Children, Families & Seniors Subcommittee unanimously voted in favor of HB 1157, which heads to the Criminal Justice & Public Safety Subcommittee.

**HB 1413/SB 1526 Public Records/Annuity Contact Payees**

John Snyder (R-Palm City), Jim Boyd (R-Bradenton)

Exempts personal identifying information and annuity contract numbers of a payee of a structured settlement and the names of the family members, dependents, and beneficiaries of such payee. A structured settlement is an arrangement for periodic payment of damages for personal injuries awarded in a settlement or judgment of a tort resolution. Both bills were amended to withhold only court files relating to the approval of a transfer of settlement payment rights, rather than all structured settlements. The House Civil Justice & Property Rights Subcommittee unanimously



approved HB 1413. The Senate Banking and Insurance Committee approved SB 1526 [over two no votes](#); it is now in the Senate Judiciary Committee.

### **HB 197 Pub. Rec./Nonjudicial Record of the Arrest of a Minor**

David Smith (R-Winter Springs)

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 Government Operations Subcommittee unanimously voted in favor of the bill.

## **AGENCY RECORDS**

### **HB 1121 Pub. Rec./Crash Reports and Traffic Citations**

Chuck Brannan (R-Lake City)

Exempts and makes confidential crash reports that reveal the identity of parties involved in the crash. Permits, but does not require, an agency to release a summary report of crashes to media. Exempts traffic citations. Information in crash reports and traffic citations can be used to assess crash trends, infrastructure, and ticketing patterns. FAF suggested requiring disclosure of summary crash reports and requiring access to information for permissible uses under the federal Drivers Privacy Protection Act. The House Tourism, Infrastructure & Energy Subcommittee approved an amendment to require release of summary crash reports. However, the amendment also exempts the personal information of witnesses and passengers in a crash. As amended, the bill still limits journalists' ability to access reports made available to attorneys, insurance agents, and government agencies. The Tourism, Infrastructure & Energy Subcommittee unanimously approved the bill.

### **SB 170 Public Records/Lottery Winners**

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. SB 170 was unanimously approved by the Governmental Oversight and Accountability Committee and is now in the Rules Committee.

### **SB 934 Public Records/Homelessness Counts and Information Systems**

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

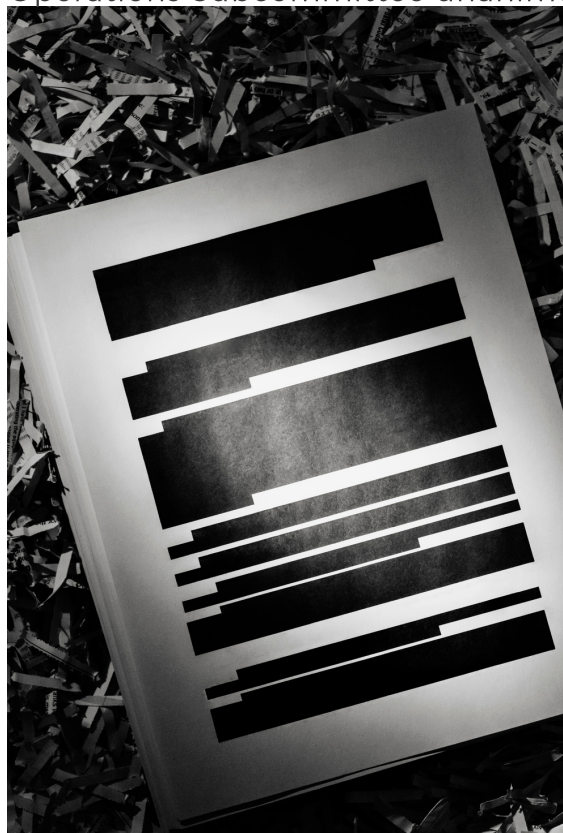
released in the aggregate if it does not disclose the individual identifying information of a person. The Governmental Oversight and Accountability Committee unanimously voted in favor of SB 934, and it is now in the Rules Committee.

### **SB 7026 OGSR/Dependent Eligibility Verification Services**

Reinstates exemption for records collected by the Department of Management Services for purposes of dependent eligibility verification services conducted for the state group insurance program. Enumerates the specific records DMS holds as exempt, replacing the catch-all “any other information” for purposes of verifying eligibility. The Rules Committee unanimously approved the bill, and it is now on the Senate Calendar.

### **GOS9 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 Government Operations Subcommittee unanimously approved the bill.



### **GOS10 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 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.

The staff analysis for the Senate version, SB 7020, notes that the OFR has never received a request for information made exempt by sections 663.416 and 663.540. Based on the OFR’s statements, FAF recommends sunseting these two provisions of the statute. No public purpose is served by maintaining these exemptions. The House Government Operations Subcommittee approved the bill 11-5.

# HEALTH RECORDS

## **HB 955 Public Records and Meetings/Psychology Interjurisdictional Compact**

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

HB 953 creates 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 exempts 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 matters exempt by federal or state statutes. The Professions & Public Health Subcommittee unanimously approved the bill.