

2019 LEGISLATIVE UPDATE

A. Guide to Reviewing Legislation

- 1. 2019 Laws of Florida. Easiest way to locate is at flsenate.gov by accessing the “laws” site at the home page.**

Justification section (explains legislative intent). Can also access legislative bill analyses from the flsenate.gov website home page by typing in the bill number (only the numerals, not SB or HB) in the “Go to bill” box next to 2019 at the top of the page. You can also locate bill analyses at this site.

Effective Date—either a specific date (i.e. July 1, 2019); “upon becoming a law (date Governor signs the bill); or the date another law becomes effective.

- 2. 2019 Florida Statutes.... Typically available mid summer on line. Locate at flsenate.gov**
- 3. Exempt or confidential records. Who is entitled to access the exempt or confidential records, and under what conditions if any?**
- 4. What agencies are covered by the exemption? Does it apply to any agency as defined in s. 119.011(2), F.S., or does it apply only to records belong to a specified agency or agencies.**
- 5. Retroactive application**
- 6. Definition of key terms**
- 7. Conditions which must be complied with by the subject of the record before the exemption is applicable. Is the exemption permanent or does it expire after certain events occur?**
- 8. Penalties for unauthorized disclosure**

B. 2019 Legislative Highlights:

- 1. Agency personnel records/Home addresses etc.**

Section 119.071(4)(d), F.S., was amended by Ch. 19-12, Laws of Florida, as follows:

- a. The term “home address” for purposes of the exemption was defined to mean “the dwelling location at which an individual resides and includes the**

physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, any other descriptive property information that may reveal the home address.”

- b. The exemption relating to home addresses etc. of law enforcement personnel in s. 119.071(4)(d)2.a., F.S., was amended to clarify the application of the exemption to civilian law enforcement. Prior to amendment, the exemption applied to “active or former sworn or civilian law enforcement personnel.” The new language clarifies that the exemption applies to active or former sworn law enforcement personnel, and also to “active or former civilian personnel employed by a law enforcement agency.”
- c. Section 119.071(4)(d)3., F.S., currently states that an agency that is the custodian of exempt home the personnel information specified in the exemption but is not the employer of an employee, officer, or other individual specified in the exemption shall maintain exempt status only if the affected person submits a written request for exempt status to the custodial agency. For example, a law enforcement officer who wants to keep his/her home address on file with the government operated utility submits a written exemption request to the utility. This provision was not changed.

A new s. 4 has been added stating that a covered individual may submit a written request for the *release* of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party that is authorized to receive the information. Upon receipt of the written request, the custodial agency shall release the specified information to the authorized party.

Effective date: July 1, 2019. The exemptions in s. 119.071(4)(d), F.S., apply to information held by an agency before, on, or after the effective date of the exemption.

2. Child abuse reporter identifying information

Section 39.202, F.S., provides confidentiality and limitations on disclosure of records of the Department of Children and Families relating to reports of child abandonment, abuse, or neglect. Current law contains additional specific restrictions on disclosure of the name of the person reporting to the abuse hotline. CS/CS/CS/SB 318 expands the confidentiality for the name of the reporter to also include identifying information relating to the reporter.

Effective date: July 1, 2019

3. Commission on Ethics/Financial disclosure statements

CS/HB 7023 creates a new exemption for secure login credentials held by the Commission on Ethics to allow access to the electronic filing system. Information entered into the electronic filing system is also exempt until the disclosure of financial interests or statement of financial interests is submitted to the Commission.

Effective date: Takes effect the same day CS/SB 7021, dealing with a variety of Ethics Commission matters, takes effect. That bill takes effect upon becoming law.

4. Department of the Lottery records

HB 7121 modifies and clarifies an existing exemption—s. 24.105, F.S. -- relating to information of the Department of the Lottery and provides confidentiality for specified security information, personal information obtained by DOL when conducting background checks of current or potential vendors, and certain financial information related to review by DOL.

Effective date: Upon becoming a law. “These public records exemptions must be given retroactive application because they are remedial in nature”

5. Court records relating to mental health treatment

CS/CS/SB 838 creates a new statutory provision --s. 394.464, F.S., -- that provides confidentiality for petitions for voluntary and involuntary admission for mental health treatment, court orders, and related records that are filed with or by a court under the Baker Act. “Pleadings and other documents” made confidential by this provision may be disclosed to certain entities as established in the exemption.

Effective date: July 1, 2019. The exemption applies to all documents filed with a court before, on, or after July 1, 2019.

6. Protective injunction petitions

CS/HB 845 amends s. 119.0714(1)(k), F.S., to provide that any information that can be used to identify a petitioner or respondent in a petition for an injunction against domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking, and any affidavits, notice of hearing, and temporary injunction, is confidential until the respondent has been personally served with a copy of the petition for injunction, affidavits, notice of hearing, and temporary injunction.

Effective date: July 1, 2019.

7. Public Utilities. There were two new exemptions affecting government owned utilities.

- a. **Security meetings.** CS/CS/HB327 provides that an exemption from the Sunshine Law for portions of local government utility meetings dealing with IT security information that is made exempt from disclosure pursuant to s. 119.0713(5), F.S. The exempt portions must be recorded and transcribed. The recording and transcript are exempt unless a court determines, after in camera review, that the meeting was not restricted to the discussion of data and information made exempt by the statute. In that case, only the portion of the recording or transcript which reveals nonexempt data and information may be disclosed to a third party.

Effective date: July 1, 2019.

- b. **Smart meter usage.** CS/HB 591 amends s. 119.0713(5)(a) , F.S., to add an exemption for customer meter-derived data and billing information in increments less than one billing cycle, i.e., detailed customer data that can be used to specifically identify minute-by-minute usage patterns, including the exact appliance or service being used.

Effective date: July 1, 2019. Section 119.0713(1)(b), F.S., states that the exemption applies to such information before, on, or after the effective date of the exemption.

8. Victims of Mass Violence/Photographs, video and audio recordings of killing

Currently, s. 406.136, F.S., provides confidentiality for photographs, video and audio recordings of the killing of a law enforcement officer in the course of his or her official duties. SB 186 moves this exemption to s. 119.071(2)(p), F.S. and expands it to provide confidentiality for these materials when they depict the killing or the body of a victim killed in an incident in which 3 or more persons, not including the perpetrator, are killed by the perpetrator of an intentional act of violence. Disclosure is authorized to persons and entities specified and upon issuance of a court order for good cause.

Effective date: Upon becoming law. “The Legislature further finds that the exemption in this act be given retroactive application because it is remedial in nature.”

Note: It appears that the Legislature did not address the victim disclosure provisions contained in Marsy’s Law this year.

9. Voter registration information

Section 97.0585, F.S., relating to voter registration records was amended by CS/HB 281 to provide that information obtained for the purpose of voter registration and

related to a voter registration applicant's or voter's prior felony conviction and whether such person has had his or her voting rights restored, and all information concerning preregistered voter registration applicants who are 16 or 17 years of age, is confidential.

Effective date: July 1, 2019. The language in the current exemption states that it applies to information held before, on, or after the effective date of this exemption.