

## CHAPTER 2018-16

### Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 268

An act relating to public records; creating s. 744.21031, F.S.; providing an exemption from public records requirements for certain identifying and location information of current or former public guardians, employees with fiduciary responsibility, and the spouses and children thereof; defining the term “employee with fiduciary responsibility”; providing for retroactive application; requiring an agency that is the custodian of certain information to maintain the exempt status of that information only if the current or former public guardians and employees with fiduciary responsibility submit a written request for maintenance of the exemption to the custodial agency; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 744.21031, Florida Statutes, is created to read:

744.21031 Public records exemption.—The home addresses, telephone numbers, dates of birth, places of employment, and photographs of current or former public guardians and employees with fiduciary responsibility; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. As used in this section, the term “employee with fiduciary responsibility” means an employee of a public guardian who has the ability to direct any transactions of a ward’s funds, assets, or property; who under the supervision of the guardian, manages the care of the ward; or who makes any health care decision, as defined in s. 765.101, on behalf of the ward. This exemption applies to information held by an agency before, on, or after July 1, 2018. An agency that is the custodian of the information specified in this section shall maintain the exempt status of that information only if the current or former public guardians and employees with fiduciary responsibility submit to the custodial agency a written request for maintenance of the exemption. This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that the following identifying and location information be exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution:

(a) The home addresses, telephone numbers, dates of birth, places of employment, and photographs of current or former public guardians and employees with fiduciary responsibility;

(b) The names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such guardians and employees with fiduciary responsibility; and

(c) The names and locations of schools and day care facilities attended by the children of such guardians and employees with fiduciary responsibility.

(2) The Legislature finds that the release of such identifying and location information might place current or former public guardians and employees with fiduciary responsibility and their family members in danger of physical and emotional harm from disgruntled individuals who react inappropriately to actions taken by the public guardians and employees with fiduciary responsibility. Public guardians and employees with fiduciary responsibility provide a valuable service to the community by helping some of the state's most vulnerable residents who lack the physical or mental capacity to take care of most aspects of their own personal affairs. Public guardians and employees with fiduciary responsibility help those who lack a willing and qualified family member or friend and who do not have the income or assets to pay a professional guardian.

(3) Despite the value of this service, however, some persons, including a public guardian's own wards, become disgruntled with the assistance provided or the decisions a public guardian or an employee with fiduciary responsibility makes, which can result in a guardian or an employee with fiduciary responsibility or the family members of the guardian or the employee with fiduciary responsibility becoming potential targets for an act of revenge. Wards have harassed their public guardians with threats of incarceration, violence, and death through voicemail messages and social media. Wards have also left voicemail messages threatening to kill themselves and others, as well as the public guardian. In the course of their duties, public guardians have also been subject to being physically assaulted.

(4) After a public guardian or an employee with fiduciary responsibility concludes his or her service, the risk continues because a disgruntled individual may wait until then to commit an act of revenge. The harm that may result from the release of a public guardian's or an employee with fiduciary responsibility's personal identifying and location information outweighs any public benefit that may be derived from the disclosure of the information.

Section 3. This act shall take effect July 1, 2018.

Approved by the Governor March 19, 2018.

Filed in Office Secretary of State March 19, 2018.