

Committee Substitute for Senate Bill No. 2224

An act relating to a review under the Open Government Sunset Review Act; amending s. 119.011, F.S.; defining the term “paratransit” for purposes of the public records law; amending s. 119.071, F.S.; expanding an exemption from public-records requirements which is provided for information identifying an applicant for or a recipient of paratransit services so that the exemption applies to all agencies; providing for future legislative review of the exemption under the Open Government Sunset Review Act; repealing s. 119.0713(2), F.S., relating to the prior exemption provided for such information; providing a statement of public necessity; repealing s. 2 of chapter 2003-110, Laws of Florida; deleting provisions providing for repeal of the exemption; amending ss. 257.34 and 257.35, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Present subsections (10), (11), (12), and (13) of section 119.011, Florida Statutes, are renumbered as subsections (11), (12), (13), and (14), respectively, and a new subsection (10) is added to that section. to read:

119.011 Definitions.—As used in this chapter, the term:

(10) “Paratransit” has the same meaning as provided in s. 427.011.

Section 2. Paragraph (h) is added to subsection (5) of section 119.071, Florida Statutes, to read:

119.071 General exemptions from inspection or copying of public records.—

(5) OTHER PERSONAL INFORMATION.—

(h)1. Personal identifying information of an applicant for or a recipient of paratransit services which is held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to personal identifying information of an applicant for or a recipient of paratransit services which is held by an agency before, on, or after the effective date of this exemption.

3. Confidential and exempt personal identifying information shall be disclosed:

a. With the express written consent of the individual or the individual’s legally authorized representative;

b. In a medical emergency, but only to the extent that is necessary to protect the health or life of the individual;

- c. By court order upon a showing of good cause; or
- d. To another agency in the performance of its duties and responsibilities.

4. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2013, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. Subsection (2) of section 119.0713, Florida Statutes, is repealed.

Section 4. The Legislature finds that it is a public necessity that personal identifying information of an applicant for or recipient of paratransit services be made confidential and exempt from public-records requirements. Paratransit services include transportation services for persons who, because of physical or mental disability, income status, or age, are unable to transport themselves and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities. Paratransit services also include transportation services for children who are handicapped, such as the developmentally disabled, and children who are at high-risk or at-risk, such as children who are victims of child abuse or neglect. As such, information provided to an agency would be personal, sensitive information related to a person's physical or mental health or income status. Matters of personal health are traditionally private and confidential concerns between a patient and a health care provider. The private and confidential nature of personal health matters pervades both the public and private health care sectors. For this reason, a person's expectation of a right to privacy in all matters regarding his or her personal health necessitates the exemption. Furthermore, the exemption ensures the protection of the identity of an applicant for or recipient of paratransit services. If the identifying information was not protected, the administration of paratransit services would be significantly impaired because applicants would be less inclined to apply for those services due to the fact that the identifying information would be made available to the public, which would cause an unwarranted invasion into the life and privacy of applicants for and recipients of the services. Thus, the number of recipients would significantly decrease. As a result, the effective administration of paratransit services would be impaired.

Section 5. Section 2 of chapter 2003-110, Laws of Florida is repealed.

Section 6. Subsection (1) of section 257.34, Florida Statutes, is amended to read:

257.34 Florida International Archive and Repository.—

(1) There is created within the Division of Library and Information Services of the Department of State the Florida International Archive and Repository for the preservation of those public records, as defined in s. 119.011 ~~s. 119.011(11)~~, manuscripts, international judgments involving disputes between domestic and foreign businesses, and all other public matters

that the department or the Florida Council of International Development deems relevant to international issues. It is the duty and responsibility of the division to:

(a) Organize and administer the Florida International Archive and Repository.

(b) Preserve and administer records that are transferred to its custody; accept, arrange, and preserve them, according to approved archival and repository practices; and permit them, at reasonable times and under the supervision of the division, to be inspected and copied. All public records transferred to the custody of the division are subject to the provisions of s. 119.07(1).

(c) Assist the records and information management program in the determination of retention values for records.

(d) Cooperate with and assist, insofar as practicable, state institutions, departments, agencies, counties, municipalities, and individuals engaged in internationally related activities.

(e) Provide a public research room where, under rules established by the division, the materials in the international archive and repository may be studied.

(f) Conduct, promote, and encourage research in international trade, government, and culture and maintain a program of information, assistance, coordination, and guidance for public officials, educational institutions, libraries, the scholarly community, and the general public engaged in such research.

(g) Cooperate with and, insofar as practicable, assist agencies, libraries, institutions, and individuals in projects concerned with internationally related issues and preserve original materials relating to internationally related issues.

(h) Assist and cooperate with the records and information management program in the training and information program described in s. 257.36(1)(g).

Section 7. Subsection (1) of section 257.35, Florida Statutes, is amended to read:

257.35 Florida State Archives.—

(1) There is created within the Division of Library and Information Services of the Department of State the Florida State Archives for the preservation of those public records, as defined in s. 119.011 ~~s. 119.011(11)~~, manuscripts, and other archival material that have been determined by the division to have sufficient historical or other value to warrant their continued preservation and have been accepted by the division for deposit in its custody. It is the duty and responsibility of the division to:

(a) Organize and administer the Florida State Archives.

(b) Preserve and administer such records as shall be transferred to its custody; accept, arrange, and preserve them, according to approved archival practices; and permit them, at reasonable times and under the supervision of the division, to be inspected and copied. All public records transferred to the custody of the division shall be subject to the provisions of s. 119.07(1), except that any public record or other record provided by law to be confidential or prohibited from inspection by the public shall be made accessible only after a period of 50 years from the date of the creation of the record. Any nonpublic manuscript or other archival material which is placed in the keeping of the division under special terms and conditions, shall be made accessible only in accordance with such law terms and conditions and shall be exempt from the provisions of s. 119.07(1) to the extent necessary to meet the terms and conditions for a nonpublic manuscript or other archival material.

(c) Assist the records and information management program in the determination of retention values for records.

(d) Cooperate with and assist insofar as practicable state institutions, departments, agencies, counties, municipalities, and individuals engaged in activities in the field of state archives, manuscripts, and history and accept from any person any paper, book, record, or similar material which in the judgment of the division warrants preservation in the state archives.

(e) Provide a public research room where, under rules established by the division, the materials in the state archives may be studied.

(f) Conduct, promote, and encourage research in Florida history, government, and culture and maintain a program of information, assistance, coordination, and guidance for public officials, educational institutions, libraries, the scholarly community, and the general public engaged in such research.

(g) Cooperate with and, insofar as practicable, assist agencies, libraries, institutions, and individuals in projects designed to preserve original source materials relating to Florida history, government, and culture and prepare and publish handbooks, guides, indexes, and other literature directed toward encouraging the preservation and use of the state's documentary resources.

(h) Encourage and initiate efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government.

(i) Assist and cooperate with the records and information management program in the training and information program described in s. 257.36(1)(g).

Section 8. This act shall take effect October 1, 2008.

Approved by the Governor May 28, 2008.

Filed in Office Secretary of State May 28, 2008.