

PCB GEAC 08-08

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act regarding paratransit services; amending
 4 s. 119.011, F.S.; creating a definition; amending s.
 5 119.071, F.S.; transferring the public record exemption
 6 related to paratransit services under s. 119.0713(2),
 7 F.S., to said section; expanding the exemption to apply to
 8 all agencies; clarifying that the exemption applies to an
 9 applicant for or a recipient of paratransit services;
 10 reorganizing the exemption; removing superfluous language;
 11 providing for future legislative review of the exemption;
 12 providing a statement of public necessity; repealing s. 2
 13 of Chapter 2003-110, Laws of Florida, which provides for
 14 repeal of the exemption; amending ss. 257.34 and 257.35,
 15 F.S.; conforming cross-references; providing an effective
 16 date.

17
 18 Be It Enacted by the Legislature of the State of Florida:
 19

20 Section 1. Subsections (10), (11), (12), and (13) of
 21 section 119.011, Florida Statutes, are renumbered as subsections
 22 (11), (12), (13), and (14), respectively, and a subsection (10)
 23 is added to that section, to read:

24 119.011 Definitions.--As used in this chapter, the term:
 25 (10) "Paratransit" has the same meaning as provided in s.
 26 427.011.

27 Section 2. Subsection (2) of section 119.0713, Florida
 28 Statutes, is transferred and redesignated as paragraph (h) of

PCB GEAC 08-08

ORIGINAL

YEAR

29 subsection (5) of section 119.071, Florida Statutes, and amended
 30 to read:

31 119.071 General exemptions from inspection and copying of
 32 public records.--

33 (5) OTHER PERSONAL INFORMATION.--

34 (h)1. All Personal identifying information of an applicant
 35 for or a recipient of contained in records relating to a
 36 person's health held by local governmental entities for the
 37 purpose of determining eligibility for paratransit services held
 38 by an agency under Title II of the Americans with Disabilities
 39 Act or eligibility for the transportation disadvantaged program
 40 as provided in part I of chapter 427 is confidential and exempt
 41 from s. 119.07(1) and s. 24(a), Art. I of the State
 42 Constitution, except as otherwise provided in this subsection.

43 2. This exemption applies to personal identifying
 44 information of an applicant for or a recipient of paratransit
 45 services contained in such records held by an agency local
 46 governmental entities before, on, or after the effective date of
 47 this exemption.

48 3. Information made Confidential and exempt personal
 49 identifying information by this subsection shall be disclosed:

50 (a) With the express written consent of the individual or
 51 the individual's legally authorized representative;

52 (b) In a medical emergency, but only to the extent
 53 necessary to protect the health or life of the individual;

54 (c) By court order upon a showing of good cause; or

55 (d) To another agency in the performance of its duties and
 56 responsibilities for the purpose of determining eligibility for

PCB GEAC 08-08

ORIGINAL

YEAR

57 ~~paratransit services if the individual or the individual's~~
 58 ~~legally authorized representative has filed an appeal or~~
 59 ~~petition before an administrative body of a local government or~~
 60 ~~a court.~~

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

65 Section 3. The Legislature finds that it is a public
 66 necessity that personal identifying information of an applicant
 67 for or recipient of paratransit services held by an agency be
 68 made confidential and exempt from public records requirements.
 69 Paratransit services includes transportation services for
 70 persons who because of physical or mental disability, income
 71 status, or age are unable to transport themselves or to purchase
 72 transportation and are, therefore, dependent upon others to
 73 obtain access to health care, employment, education, shopping,
 74 social activities, or other life-sustaining activities. As such,
 75 information provided to an agency would be personal sensitive
 76 information related to a person's physical or mental health or
 77 income status. Matters of personal health are traditionally
 78 private and confidential concerns between a patient and a health
 79 care provider. The private and confidential nature of personal
 80 health matters pervades both the public and private health care
 81 sectors. For this reason, an individual's expectation of a right
 82 to privacy in all matters regarding his or her personal health
 83 necessitates such exemption. Furthermore, the exemption ensures
 84 the protection of the identity of an applicant for or recipient

PCB GEAC 08-08

ORIGINAL

YEAR

85 of paratransit services. If such identifying information was not
 86 protected, the administration of paratransit services would be
 87 significantly impaired because applicants would be less inclined
 88 to apply for those services due to the fact that such
 89 identifying information would be made available to the public,
 90 which would cause an unwarranted invasion into the life and
 91 privacy of applicants for and recipients of such services. Thus,
 92 the number of recipients would significantly decrease. As a
 93 result, the effective and efficient administration of
 94 paratransit services would be impaired.

95 Section 4. Section 2. of Chapter 2003-110, Laws of Florida
 96 is hereby repealed.

97 Section 5. Subsection (1) of section 257.34, Florida
 98 Statutes, is amended to read:

99 257.34 Florida International Archive and Repository.--

100 (1) There is created within the Division of Library and
 101 Information Services of the Department of State the Florida
 102 International Archive and Repository for the preservation of
 103 those public records, as defined in s. 119.011 ~~s. 119.011(11)~~,
 104 manuscripts, international judgments involving disputes between
 105 domestic and foreign businesses, and all other public matters
 106 that the department or the Florida Council of International
 107 Development deems relevant to international issues. It is the
 108 duty and responsibility of the division to:

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

111 (b) Preserve and administer records that are transferred
 112 to its custody; accept, arrange, and preserve them, according to

PCB GEAC 08-08

ORIGINAL

YEAR

113 approved archival and repository practices; and permit them, at
 114 reasonable times and under the supervision of the division, to
 115 be inspected and copied. All public records transferred to the
 116 custody of the division are subject to the provisions of s.
 117 119.07(1).

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

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

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

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

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

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

PCB GEAC 08-08

ORIGINAL

YEAR

140 Section 6. Subsection (1) of section 257.35, Florida
 141 Statutes, is amended to read:

142 257.35 Florida State Archives.--

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

152 (a) Organize and administer the Florida State Archives.

153 (b) Preserve and administer such records as shall be
 154 transferred to its custody; accept, arrange, and preserve them,
 155 according to approved archival practices; and permit them, at
 156 reasonable times and under the supervision of the division, to
 157 be inspected and copied. All public records transferred to the
 158 custody of the division shall be subject to the provisions of s.
 159 119.07(1), except that any public record or other record
 160 provided by law to be confidential or prohibited from inspection
 161 by the public shall be made accessible only after a period of 50
 162 years from the date of the creation of the record. Any nonpublic
 163 manuscript or other archival material which is placed in the
 164 keeping of the division under special terms and conditions,
 165 shall be made accessible only in accordance with such law terms
 166 and conditions and shall be exempt from the provisions of s.
 167 119.07(1) to the extent necessary to meet the terms and

PCB GEAC 08-08

ORIGINAL

YEAR

168 conditions for a nonpublic manuscript or other archival
 169 material.

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

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

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

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

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

PCB GEAC 08-08

ORIGINAL

YEAR

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

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

200 Section 7. This act shall take effect October 1, 2008.