



Sunshine Law advocates fear setback in Florida Legislature



Written by

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Five years ago, a teenager from Panama City died in a sheriff's boot camp, a day after guards forced him to keep running.

A public outcry triggered an investigation that led to discovery of a 30-minute tape, which showed as many as nine guards shoving and restraining the youth.

Those pictures led to the state closing its five boot camps.

However, a bill that has been proposed in this year's Legislature would keep films such as that private through public-records exemptions.

"In effect," said Barbara Petersen, president of the Tallahassee-based First Amendment Foundation, "this precludes any opportunity of oversight of law enforcement.

"If there were a bill like this, there would be no Martin Lee Anderson tape," she said, referring to the 14-year-old who died.

Petersen said it's the worst of more than a dozen bills that have been filed this year that would chip away at Florida's Sunshine Law, legislation enacted in 1967 that states "all state, county and municipal records are open for personal inspection."

"The worst of these are House Bill 411 and Senate Bill 416," she said. "These create public exemptions that are not acceptable. The Martin Lee Anderson tape led to true reform."

The House legislation, filed by Rep. Rachel Burgin, R-Riverview, "provides exemption from public-records requirements for photographs & video & audio recordings that depict or record killing of person ..." Short of a court order, those kind of tapes would not be available for public viewing.

"The intent appears they are trying to protect families of the deceased ... there's

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a concern that a ghoul could get the records and put them up on Internet. I understand that," Petersen said. "But to write such a broad exemption short of getting a court order ..."

The genesis of Burgin's bill, which has a companion in the Senate filed by Sen. Ellyn Bogdanoff, R-Broward, comes from Tampa, where a dashboard camera recorded the killing of two police officers.

Freshman Rep. Matt Caldwell, R-Lehigh Acres, said this legislation is a "tough one ... a really, really tough question."

"This is a balance between protecting legitimate concerns versus real compelling interest of holding officials accountable."

Caldwell said he doesn't know how he will vote if the bill makes it to the House floor, something, he said, that is far too early to predict.

"Right now I'm stuck in middle. I want to think about it. I have always been one for open records. That is the kind of leaning I have."

On the other hand, Petersen said, there are some "very good bills" relating to governing in the sunshine.

One is a bill brought by Sen. Joe Negroni, R-Stuart.

That proposal says residents have the right to be heard at meetings of government boards and commissions.

"The genesis of the bill comes from a terrible situation in Pensacola where a group of citizens went to a taxing authority meeting and couldn't be heard," Negroni said.

"There is no principle more important than the people having the right to be heard."

Petersen said she can't begin to forecast what lies ahead for most of these bills.

"I don't know ... I can't predict anything this session," she said. "There's a brand-new governor and so many new legislators.

"If they pass the Legislature and the governor vetoes them you must remember, the Legislature is veto-proof."

Bills of interest

Some House and Senate bills dealing with Florida open-records laws:

- SB 106: Exemption/Donors – Performing Arts Centers: Creates public-record exemption for information identifying donors or prospective

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donors to a publicly owned performing arts center who desire anonymity.

- SB 600: Home Addresses — DJJ Employees: Provides public-record exemption for the home address of certain employees and their family members of the Department of Juvenile Justice and stipulates such information will be exempt only if the employee provides a written statement that reasonable efforts have been made to protect the information from being accessible through other publicly-available means.
- SB 602: Biometric: Provides public-record exemption for biometric information held by an agency, including friction ridge detail, fingerprints, palm prints and footprints.
- SB 604: Concealed Weapon Permits: Provides record exemption for personal identifying information of individuals who have applied for concealed-weapon permits.
- HB 1169 Exemption/ Insurance Records: Creates public-record exemption for notice of a proposed divestiture in a domestic insurer provided to the commissioner of insurance by a controlling person of a domestic insurer, stipulating the notice is subject to disclosure at the conclusion of the transaction unless the commissioner determines such disclosure will interfere with the enforcements.
- HB 1299: Exemption/Juvenile Offenders: Creates public-record exemption for name, photograph, address and crime or arrest report for juvenile offenders taken into custody by a law enforcement officer for a felony violation or have committed three or more misdemeanor violations.
- HB 1325: Exemption/Pawnbroker Transaction Records: Creates public-record exemption for all information contained in statewide central database of pawnbroker and secondhand dealer transactions; such information can be used only for official law enforcement purposes.
- HB 1435: Prohibition on Publication of 911 Tapes: Makes it a second degree misdemeanor to publish or broadcast a 911 call made by a minor. Allows publication or broadcast of a 911 call made by an adult but only if the voices of all persons recorded are obscured or masked.
- SJR 1704: Judicial Qualifications Commission: Proposes amendment to Florida Constitution to stipulate all records and materials relating to complaints against justices or judges held by the Judicial Qualifications Commission are subject to inspection and copying by the public.
- SB 1834 Expunction of Criminal History Records: Allows candidate for admission to Florida Bar to lawfully deny or fail to acknowledge criminal history records that have been expunged.

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