

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 23 Public Records

SPONSOR(S): Judiciary Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Judiciary Committee		Mawn	Kramer

SUMMARY ANALYSIS

The Arthur G. Dozier School for Boys (“Dozier School”) opened in Marianna, Florida on January 1, 1900, as the Florida State Reform School. The Dozier School housed children as young as five committed for criminal and other offenses ranging from theft and murder to “incorrigibility” and truancy; the school also housed orphaned and abandoned children when other placements were unavailable. In 1955, the Florida School for Boys at Okeechobee (“Okeechobee School”) opened to address overcrowding at the Dozier School, and some of the Dozier School’s staff transferred to the Okeechobee School.

Allegations of abuse at the Dozier School began as early as 1901, with reports of children being chained to walls in irons, whippings, and peonage; allegations of abuse at the Okeechobee School began shortly after it opened, with reports of children receiving severe beatings and being forced to fight one another for the staff’s entertainment. Reports of sexual abuse, beatings, torture, and mysterious deaths at both reform schools continued in the subsequent decades, and a succession of reports and commissions called for reforms at the schools with little success. However, the U.S. Department of Justice reported in 2011 that it had found “harmful practices” that put the reform school’s residents at “serious risk of avoidable harm.” The state closed the Dozier School in 2011, citing budget constraints, and the Okeechobee School in 2020.

In recent years, more than 400 men sent to the Dozier School or the Okeechobee School in the 1950s and 1960s have come forward to recount their experiences. Calling themselves the “White House Boys” after a white structure on Dozier School property where many beatings reportedly occurred, these men recount brutal whippings, sexual abuse, disappearances, deaths, and other tortures they either witnessed or suffered personally. In recognition of their suffering, the Legislature has introduced PCS for HB 21 for the 2024 Legislative Session to create the Dozier School for Boys and Okeechobee School Victim Compensation Program within the Department of Legal Affairs (“DLA”) to compensate living persons who were confined to the Dozier School or the Okeechobee School at any time between 1940 and 1975 and who were subjected to mental, physical, or sexual abuse perpetrated by school personnel while they were so confined.

PCS for HB 23 creates a public record exemption to protect personal identifying information in an application submitted to DLA by, or on behalf of, a person seeking compensation through the Dozier School for Boys and Okeechobee School Victim Compensation Program. Under the PCS, such information would be confidential and exempt from public inspection except upon court order, and, in accordance with the Open Government Sunset Review Act, the PCS specifies that the exemption shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment. The PCS also provides a statement of public necessity as required by the Florida Constitution.

The PCS does not appear to have a fiscal impact on state or local governments. The PCS provides that it shall take effect on the same date that HB 21 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly-created or expanded public record exemption. The PCS creates a public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Reform School History

Dozier School History

The Arthur G. Dozier School for Boys (“Dozier School”) opened in Marianna, Florida on January 1, 1900, as the Florida State Reform School.¹ The Dozier School housed children as young as five committed for criminal and other offenses ranging from theft and murder to “incurability” and truancy; the school also housed orphaned and abandoned children when other placements were unavailable.²

Allegations of abuse at the Dozier School began as early as 1903, with reports of children being chained to walls in irons, whippings, and peonage.³ Reports of inadequate medical care, sexual abuse, beatings, torture, and mysterious deaths at the Dozier School continued in the subsequent decades, and a succession of reports and commissions called for reforms at the schools with little success.⁴ However, the U.S. Department of Justice reported in 2011 that it had found “harmful practices” that put the reform school’s residents at “serious risk of avoidable harm.”⁵ The state closed the Dozier School in 2011, citing budget constraints, and the Okeechobee School in 2020.⁶

In recent years, more than 400 men confined to the Dozier School in the 1950s and 1960s have come forward to recount their experiences. Calling themselves the White House Boys Survivors Organization (“White House Boys”) after a white structure on Dozier School property where many abuses reportedly occurred, these men recount brutal whippings, sexual batteries, disappearances, deaths, and other tortures they either witnessed or suffered personally while confined to the Dozier School.

2024 PCS for HB 21

The Legislature has introduced PCS for HB 21 in the 2024 Legislative Session to create the Dozier School for Boys and Okeechobee School Victim Compensation Program (“Program”) within the Department of Legal Affairs (“DLA”) to compensate living persons who were confined to the Dozier School or the Okeechobee School at any time between 1940 and 1975 and who were subjected to mental, physical, or sexual abuse perpetrated by school personnel while they were so confined. To accomplish this, 2024 PCS for HB 21 creates a process whereby a victim of the Dozier School or the Okeechobee School can apply for compensation through the Program on a DLA-approved form.

¹ The Dozier School originally housed both boys and girls but became The Florida School for Boys (“FSB”) in 1913 with the opening of a separate school for girls. In 1959, an overflow FSB campus opened in Okeechobee, Florida, as the Florida School for Boys at Okeechobee (“Okeechobee School”). For the purposes of this analysis, both campuses are referred to by the phrase “Dozier School.”

² Note that until 1968, the Dozier School was segregated into two campuses, one for white students and one for African-American and other “non-white” students. University of South Florida, *Florida’s Industrial Reform School System: Arthur G. Dozier School for Boys 1900-Present*, <https://guides.lib.usf.edu/dozier> (last visited Feb. 5, 2024).

³ The earliest report, from 1903, described the Dozier School not as a reform school but as a “prison for children,” with some children chained to the wall in irons, and others beaten, like “common criminals.” Ben Montgomery and Waveny Ann Moore, *They Went to Dozier School for Boys Damaged. They Came Out Destroyed*, Tampa Bay Times, Aug. 18, 2019, <https://www.tampabay.com/investigations/2019/08/18/they-went-to-the-dozier-school-for-boys-damaged-they-came-out-destroyed/#:~:text=In%20March%201958%2C%20a%20Miami,Eugene%20Byrd%20testified>. (last visited Feb. 5, 2024).

⁴ In its first two decades, investigators discovered that Dozier School administrators hired out the children to work with state convicts and brutally beat children with a leather strap attached to a wooden handle. In 1914, at least six children, and possibly as many as ten, died in a fire at the Dozier School while trapped on the top floor of their locked and burning dormitory; investigators learned that the superintendent and most staff were in town for a “pleasure bent” when the fire began, and differing reports meant that the actual number of children lost could not be determined. *Id.*

⁵ U.S. Dept. of Justice, *Investigation of the Arthur G. Dozier School for Boys and the Jackson Juvenile Offender Center, Marianna, Florida*, Dec. 1, 2011, https://www.justice.gov/sites/default/files/crt/legacy/2011/12/02/dozier_findtr_12-1-11.pdf (last visited Feb. 5, 2024).

⁶ The Okeechobee School was privatized in 1982 amid allegations of abuse and deplorable living conditions and finally closed in December of 2020 when the State declined to renew its service contract. *Id.*

Public Records

The Florida Constitution sets forth the state's public policy regarding access to government records, guaranteeing every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.⁷ The Legislature, however, may provide by general law an exemption⁸ from public record requirements, provided that the exemption passes by a two-thirds vote of each chamber, states with specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.⁹

Current law also addresses the public policy regarding access to government records, guaranteeing every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt.¹⁰ Furthermore, the Open Government Sunset Review Act¹¹ provides that a public record exemption may be created, revised, or maintained only if it serves an identifiable public purpose and the "Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption."¹² An identifiable public purpose is served if the exemption:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protects trade or business secrets.¹³

Pursuant to the Open Government Sunset Review Act, a new public record exemption or substantial amendment of an existing public record exemption is repealed on October 2nd of the fifth year following enactment, unless the Legislature reenacts the exemption.¹⁴

Effect of Proposed Changes

PCS for HB 23 creates a public record exemption for the names, dates of birth, driver license numbers, social security numbers, home and mailing addresses, telephone numbers, or electronic mail addresses in an application submitted to the DLA by, or on behalf of, a person seeking compensation through the Program. Under the PCS, such information would be confidential and exempt from public inspection except upon court order.

The PCS also:

- Specifies that, in accordance with the Open Government Sunset Review Act, the exemption shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment.
- Provides a statement of public necessity as required by the Florida Constitution.
- Provides that it shall take effect on the same date that HB 21 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

B. SECTION DIRECTORY:

Section 1: Creates s. 16.64, F.S., relating to applications for compensation through the Dozier School

⁷ Art. I, s. 24(a), Fla. Const.

⁸ A public record exemption means a provision of general law which provides that a specified record, or portion thereof, is not subject to the access requirements of s. 119.07(1), F.S., or s. 24, Art. I of the Florida Constitution. See s. 119.011(8), F.S.

⁹ Art. I, s. 24(c), Fla. Const.

¹⁰ See s. 119.01, F.S.

¹¹ S. 119.15, F.S.

¹² S. 119.15(6)(b), F.S.

¹³ *Id.*

¹⁴ S. 119.15(3), F.S.

for Boys and Okeechobee School Victim Compensation Program; public records exemption.

Section 2: Provides a statement of public necessity.

Section 3: Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The PCS may have a positive economic impact on the private sector to the extent that it induces victims of the Dozier School or the Okeechobee School to apply for compensation through the Program.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The PCS does not appear to affect county or municipal governments.

2. Other:

Vote Requirement

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly-created or expanded public record exemption. The PCS creates a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, section 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record exemption. The PCS creates a public record exemption and includes a public necessity statement.

Breadth of Exemption

Article I, section 24(c) of the Florida Constitution requires a newly created or expanded public record exemption to be no broader than necessary to accomplish the stated purpose of the law. The PCS intends to shield from public disclosure the personal identifying information of victims of the Dozier School for Boys or the Okeechobee School who apply for compensation through the Program. The PCS creates a public record exemption for specified personal identifying information in an application submitted to DLA by, or on behalf of, a person seeking compensation through the Program, and provides an exception. As such, the exemption does not appear broader than necessary to accomplish the PCS's purpose.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES