

By the Committee on Governmental Oversight and Productivity;  
and Senators Brown-Waite, Smith and Crist

302-471A-02

1                                   A bill to be entitled  
2           An act relating to public records; amending s.  
3           119.07, F.S.; creating an exemption from  
4           public-records requirements; providing that a  
5           request by a law enforcement agency from  
6           another agency for information from a public  
7           entity is exempt; providing that the response  
8           of a public entity to a law enforcement agency  
9           for information is exempt; providing a  
10          statement of public necessity; providing an  
11          effective date.

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

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15           Section 1. Paragraph (b) of subsection (3) of section  
16 119.07, Florida Statutes, is amended to read:

17           119.07 Inspection, examination, and duplication of  
18 records; exemptions.--

19           (3)

20           (b)1. Active criminal intelligence information and  
21 active criminal investigative information are exempt from the  
22 provisions of subsection (1) and s. 24(a), Art. I of the State  
23 Constitution.

24           2. A request of a law enforcement agency to inspect or  
25 copy a public record that is in the custody of another agency,  
26 the custodian's response to the request, and any information  
27 that would identify the public record that was requested by  
28 the law enforcement agency or provided by the custodian are  
29 exempt from the requirements of subsection (1) and s. 24(a),  
30 Art. I of the State Constitution, during the period in which  
31 the information constitutes criminal-intelligence information

1 or criminal-investigative information that is active. The law  
2 enforcement agency shall give notice to the custodial agency  
3 when the criminal-intelligence information or  
4 criminal-investigative information is no longer active, so  
5 that the custodian's response to the request and information  
6 that would identify the public record requested are available  
7 to the public. This subparagraph is subject to the Open  
8 Government Sunset Review Act of 1995 in accordance with s.  
9 119.15 and shall stand repealed October 2, 2007, unless  
10 reviewed and saved from repeal through reenactment by the  
11 Legislature.

12           Section 2. The Legislature finds that the exemption  
13 from public-records requirements which is provided in section  
14 119.07(3)(b)2., Florida Statutes, is a public necessity  
15 because criminal investigations are jeopardized if law  
16 enforcement requests to inspect or copy a public record, the  
17 record custodian's response to such a request, or other  
18 information that would identify the records requested are  
19 available to the public. Persons who obtain such information  
20 may inadvertently or purposefully make the subjects of such  
21 investigations aware that an investigation is active. If it is  
22 discovered that criminal activity is being investigated,  
23 perpetrators of that activity may flee, destroy evidence,  
24 evade prosecution, or speed up the timetable for the  
25 performance of that illegal activity. Therefore, the  
26 Legislature finds that requests of law enforcement agencies to  
27 inspect or copy public records that are in the custody of  
28 other agencies, as well as the response of the custodian to  
29 such a request, and any information that would identify the  
30 specific records requested by a law enforcement agency, must  
31 be exempt during the period in which the information

1 constitutes criminal-intelligence information or  
2 criminal-investigative information that is active.

3 Section 3. This act shall take effect upon becoming a  
4 law.

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
7 COMMITTEE SUBSTITUTE FOR  
8 Senate Bill 70-B

9 Creates an exemption for the request of a law enforcement  
10 agency to inspect or copy records of another agency that are  
related to an active criminal investigation.

11 Also exempts the response of the custodial agency to the law  
12 enforcement request, as well as any information that would  
identify the requested records.

13 Sunsets the exemption on October 2, 2007, unless reviewed and  
14 reenacted by the Legislature.

15 Provides a statement of public necessity.  
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