

By Senators Brown-Waite and Smith

10-687-02

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 for future
10 repeal and review; providing a statement of
11 public necessity; providing an 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4 criminal-investigative information is no longer active, so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9 119.15 and shall stand repealed October 2, 2007, unless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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7 SENATE SUMMARY

8 Creates an exemption for the request of a law enforcement
9 agency to inspect or copy records of another agency that
10 are related to an active criminal investigation. Also
11 exempts the response of the custodial agency to the law
12 enforcement request, as well as any information that
13 would identify the requested records. Provides for future
14 repeal and review. Provides a statement of public
15 necessity.
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