

By the Committee on Criminal Justice; and Senators Brown-Waite and Smith

307-740-02

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. This
2 exemption is remedial in nature and it is the intent of the
3 Legislature that the exemption be applied to requests for
4 information received before, on, or after the effective date
5 of this subparagraph. The law enforcement agency shall give
6 notice to the custodial agency when the criminal-intelligence
7 information or criminal-investigative information is no longer
8 active, so that the custodian's response to the request and
9 information that would identify the public record requested
10 are available to the public. This subparagraph is subject to
11 the Open Government Sunset Review Act of 1995 in accordance
12 with s. 119.15 and shall stand repealed October 2, 2007,
13 unless reviewed and saved from repeal through reenactment by
14 the Legislature.

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

1 such a request, and any information that would identify the
2 specific records requested by a law enforcement agency, must
3 be exempt during the period in which the information
4 constitutes criminal-intelligence information or
5 criminal-investigative information that is active.

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

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 Senate Bill 22-C

12 Provides that the exemption is remedial in nature and that it
13 applies to records received before, on, or after, the
14 effective date of the bill.
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