

By Senator Klein

28-876-02

1                                   A bill to be entitled  
2           An act relating to public records; creating s.  
3           943.0596, F.S.; providing an exemption from  
4           public-records requirements for investigative  
5           incident reports that are ordered sealed by a  
6           court; providing certain exceptions; exempting  
7           information relating to the existence of a  
8           sealed investigative incident report from  
9           public-records requirements; providing for the  
10          release of such information for specified  
11          purposes of employment or licensing;  
12          prohibiting the unlawful release of  
13          information; providing a penalty; providing for  
14          future legislative review and repeal; providing  
15          a statement of public necessity; providing a  
16          contingent effective date.

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

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20           Section 1. Section 943.0596, Florida Statutes, is  
21          created to read:

22                   943.0596 Confidentiality of sealed investigative  
23          incident reports; exceptions.--

24                   (1) An investigative incident report of a minor or an  
25          adult which is ordered sealed by a court of competent  
26          jurisdiction pursuant to s. 943.0595 is confidential and  
27          exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
28          Constitution and is available only to the person who is the  
29          subject of the report, to the subject's attorney, to criminal  
30          justice agencies for their respective criminal justice

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1 purposes, or to the appropriate licensing or employment entity  
2 if the subject of the report is:  
3 (a) A candidate for employment with a criminal justice  
4 agency;  
5 (b) A candidate for admission to The Florida Bar;  
6 (c) Seeking to be employed or licensed by or to  
7 contract with the Department of Children and Family Services  
8 or the Department of Juvenile Justice or to be employed or  
9 used by such contractor or licensee in a sensitive position  
10 having direct contact with children, the developmentally  
11 disabled, the aged, or the elderly as provided in s.  
12 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
13 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
14 415.103, s. 985.407, or chapter 400; or  
15 (d) Seeking to be employed or licensed by the Office  
16 of Teacher Education, Certification, Staff Development, and  
17 Professional Practices of the Department of Education, any  
18 district school board, or any local governmental entity that  
19 licenses child care facilities.  
20 (2) Information relating to the existence of a sealed  
21 investigative incident report is confidential and exempt from  
22 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
23 except that the agency that prepared the investigative  
24 incident report shall disclose the sealed investigative  
25 incident report to the entities set forth in paragraphs  
26 (1)(a), (b), (c), and (d) for their respective licensing and  
27 employment purposes. It is unlawful for any employee of an  
28 entity set forth in paragraph (1)(a), subparagraph (1)(b),  
29 subparagraph (1)(c), or subparagraph (1)(d) to disclose  
30 information relating to the existence of a sealed  
31 investigative incident report of a person seeking employment

1 or licensure with such entity or contractor except to the  
2 person to whom the investigative incident report relates or to  
3 persons having direct responsibility for employment or  
4 licensure decisions. Any person who violates this subsection  
5 commits a misdemeanor of the first degree, punishable as  
6 provided in s. 775.082 or s. 775.083.

7 (3) This section is subject to the Open Government  
8 Sunset Review Act of 1995 in accordance with s. 119.15, and  
9 shall stand repealed on October 2, 2007, unless reviewed and  
10 saved from repeal through reenactment by the Legislature.

11 Section 2. The Legislature finds it is a public  
12 necessity that an investigative incident report that is  
13 ordered sealed by a court be made confidential and exempt from  
14 section 119.07(1), Florida Statutes, and section 24(a) of  
15 Article I of the State Constitution, except as otherwise  
16 provided by law. The Legislature further finds that the public  
17 policy provided by the creation of section 943.0595, Florida  
18 Statutes, will be best served if the confidentiality of a  
19 sealed investigative incident report is maintained and a  
20 report released only for the limited purposes of licensing or  
21 employment.

22 Section 3. This act shall take effect on the same date  
23 that Senate Bill \_\_\_\_ or similar legislation takes effect, if  
24 such legislation is adopted in the same legislative session or  
25 an extension thereof.

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SENATE SUMMARY

Provides that an investigative incident report that is ordered sealed by a court is confidential and exempt from the public records law. Provides for the limited release of such information if the subject of the report is seeking employment with a criminal justice agency; is a candidate for admission to The Florida Bar; or is seeking employment or licensing for a position that involves contact with children, the disabled, or the elderly. Provides that it is a first-degree misdemeanor to disclose an investigative incident report to an unauthorized person. Provides for future legislative review and repeal of the act. (See bill for details.)