

By the Committee on Governmental Oversight and Productivity

302-292-02

1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.01, F.S.; establishing state policy with
4 respect to public records; requiring that
5 governmental agencies provide data in a common
6 format; requiring governmental agencies to
7 consider certain factors in designing or
8 acquiring electronic recordkeeping systems;
9 providing certain restrictions with respect to
10 electronic recordkeeping systems and
11 proprietary software; requiring governmental
12 agencies to provide copies of public records
13 stored in electronic recordkeeping systems;
14 specifying circumstances under which the
15 financial, business, and membership records of
16 an organization are public records; amending s.
17 119.011, F.S.; providing definitions; repealing
18 ss. 119.0115, 119.012, 119.02, F.S., relating
19 to videotapes and video signals, records made
20 public by use of public funds, and penalties;
21 amending s. 119.021, F.S.; providing
22 requirements for governmental agencies in
23 maintaining and preserving public records;
24 requiring the Division of Library and
25 Information Services of the Department of State
26 to adopt rules for retaining and disposing of
27 public records; authorizing the division to
28 provide for archiving certain noncurrent
29 records; providing for the destruction of
30 certain records and the continued maintenance
31 of certain records; providing for the

1 disposition of records at the end of an
2 official's term of office; requiring that a
3 custodian of public records demand delivery of
4 records held unlawfully; repealing ss. 119.031,
5 119.041, 119.05, 119.06, F.S., relating to the
6 retention and disposal of public records and
7 the delivery of records held unlawfully;
8 amending s. 119.07, F.S.; revising provisions
9 governing the inspection and copying of public
10 records; establishing fees for copying;
11 providing requirements for making photographs;
12 authorizing additional means of copying;
13 repealing ss. 119.08, 119.083, F.S., relating
14 to requirements for making photographs of
15 public records and the licensing and sale of
16 copyrighted data-processing software; amending
17 s. 119.084, F.S.; deleting certain provisions
18 governing the maintenance of public records in
19 an electronic recordkeeping system; repealing
20 ss. 119.085, 119.09, F.S., relating to remote
21 electronic access to public records and the
22 program for records and information management
23 of the Department of State; amending s. 119.10,
24 F.S.; clarifying provisions with respect to
25 penalties for a violation of ch. 119, F.S.;
26 amending s. 119.105, F.S.; clarifying
27 provisions under which certain police reports
28 may be exempt from the public-records law;
29 providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 119.01, Florida Statutes, is
2 amended to read:

3 119.01 General state policy on public records.--

4 (1) It is the policy of this state that all state,
5 county, and municipal records are ~~shall be~~ open for personal
6 inspection by any person unless the records are exempt from
7 inspection.

8 ~~(2) The Legislature finds that, given advancements in~~
9 ~~technology, Providing access to public records is a duty of~~
10 ~~each agency by remote electronic means is an additional method~~
11 ~~of access that agencies should strive to provide to the extent~~
12 ~~feasible. If an agency provides access to public records by~~
13 ~~remote electronic means, then such access should be provided~~
14 ~~in the most cost-effective and efficient manner available to~~
15 ~~the agency providing the information.~~

16 (3)(a) ~~The Legislature finds that providing access to~~
17 ~~public records is a duty of each agency and that Automation of~~
18 ~~public records must not erode the right of access to public~~
19 ~~those records. As each agency increases its use of and~~
20 ~~dependence on electronic recordkeeping, each agency must~~
21 ~~ensure reasonable public access to records electronically~~
22 ~~maintained and must ensure that information made exempt or~~
23 ~~confidential not be disclosed to the public.~~

24 (b) An agency must consider when designing or
25 acquiring an electronic recordkeeping system that such system
26 is capable of providing data in some common format such as,
27 but not limited to, the American Standard Code for Information
28 Interchange.

29 (c) An agency may not enter into a contract for the
30 creation or maintenance of a public records database if that
31 contract impairs the ability of the public to inspect or copy

1 the public records of the agency, including public records
2 that are on-line or stored in an electronic recordkeeping
3 system used by the agency.

4 (d) Subject to the restrictions of copyright and
5 trade-secret laws and public-records exemptions, agency use of
6 proprietary software must not diminish the right of the public
7 to inspect and copy a public record.

8 (e) Providing access to public records by remote
9 electronic means is an additional method of access that
10 agencies should strive to provide to the extent feasible. If
11 an agency provides access to public records by remote
12 electronic means, such access should be provided in the most
13 cost-effective and efficient manner available to the agency
14 providing the information.

15 (f) Each agency that maintains a public record in an
16 electronic recordkeeping system shall provide to any person,
17 pursuant to this chapter, a copy of any public record in that
18 system which is not exempted by law from public disclosure. An
19 agency must provide a copy of the record in the medium
20 requested if the agency maintains the record in that medium,
21 and the agency may charge a fee in accordance with this
22 chapter. For the purpose of satisfying a public-records
23 request, the fee to be charged by an agency if it elects to
24 provide a copy of a public record in a medium not routinely
25 used by the agency, or if it elects to compile information not
26 routinely developed or maintained by the agency or that
27 requires a substantial amount of manipulation or programming,
28 must be in accordance with s. 119.07(4).

29 (4) If public funds are expended by an agency defined
30 in s. 119.011(2) in payment of dues or membership
31 contributions for any person, corporation, foundation, trust,

1 association, group, or other organization, all the financial,
2 business, and membership records of that person, corporation,
3 foundation, trust, association, group, or other organization
4 which pertain to the public agency are public records and
5 subject to the provisions of s. 119.07.

6 ~~(4) Each agency shall establish a program for the~~
7 ~~disposal of records that do not have sufficient legal, fiscal,~~
8 ~~administrative, or archival value in accordance with retention~~
9 ~~schedules established by the records and information~~
10 ~~management program of the Division of Library and Information~~
11 ~~Services of the Department of State.~~

12 Section 2. Section 119.011, Florida Statutes, is
13 amended to read:

14 119.011 Definitions.--As used in ~~For the purpose of~~
15 ~~this chapter, the term:~~

16 (1) "Actual cost of duplication" means the cost of the
17 material and supplies used to duplicate the record, but it
18 does not include the labor cost or overhead cost associated
19 with such duplication. ~~"Public records" means all documents,~~
20 ~~papers, letters, maps, books, tapes, photographs, films, sound~~
21 ~~recordings, data processing software, or other material,~~
22 ~~regardless of the physical form, characteristics, or means of~~
23 ~~transmission, made or received pursuant to law or ordinance or~~
24 ~~in connection with the transaction of official business by any~~
25 ~~agency.~~

26 (2) "Agency" means any state, county, district,
27 authority, or municipal officer, department, division, board,
28 bureau, commission, or other separate unit of government
29 created or established by law including, for the purposes of
30 this chapter, the Commission on Ethics, the Public Service
31 Commission, and the Office of Public Counsel, and any other

1 public or private agency, person, partnership, corporation, or
2 business entity acting on behalf of any public agency.

3 (3)(a) "Criminal intelligence information" means
4 information with respect to an identifiable person or group of
5 persons collected by a criminal justice agency in an effort to
6 anticipate, prevent, or monitor possible criminal activity.

7 (b) "Criminal investigative information" means
8 information with respect to an identifiable person or group of
9 persons compiled by a criminal justice agency in the course of
10 conducting a criminal investigation of a specific act or
11 omission, including, but not limited to, information derived
12 from laboratory tests, reports of investigators or informants,
13 or any type of surveillance.

14 (c) "Criminal intelligence information" and "criminal
15 investigative information" shall not include:

16 1. The time, date, location, and nature of a reported
17 crime.

18 2. The name, sex, age, and address of a person
19 arrested or of the victim of a crime except as provided in s.
20 119.07(3)(f).

21 3. The time, date, and location of the incident and of
22 the arrest.

23 4. The crime charged.

24 5. Documents given or required by law or agency rule
25 to be given to the person arrested, except as provided in s.
26 119.07(3)(f), and, except that the court in a criminal case
27 may order that certain information required by law or agency
28 rule to be given to the person arrested be maintained in a
29 confidential manner and exempt from the provisions of s.
30 119.07(1) until released at trial if it is found that the
31 release of such information would:

1 a. Be defamatory to the good name of a victim or
2 witness or would jeopardize the safety of such victim or
3 witness; and

4 b. Impair the ability of a state attorney to locate or
5 prosecute a codefendant.

6 6. Informations and indictments except as provided in
7 s. 905.26.

8 (d) The word "active" shall have the following
9 meaning:

10 1. Criminal intelligence information shall be
11 considered "active" as long as it is related to intelligence
12 gathering conducted with a reasonable, good faith belief that
13 it will lead to detection of ongoing or reasonably anticipated
14 criminal activities.

15 2. Criminal investigative information shall be
16 considered "active" as long as it is related to an ongoing
17 investigation which is continuing with a reasonable, good
18 faith anticipation of securing an arrest or prosecution in the
19 foreseeable future.

20
21 In addition, criminal intelligence and criminal investigative
22 information shall be considered "active" while such
23 information is directly related to pending prosecutions or
24 appeals. The word "active" shall not apply to information in
25 cases which are barred from prosecution under the provisions
26 of s. 775.15 or other statute of limitation.

27 (4) "Criminal justice agency" means:

28 (a) Any law enforcement agency, court, or prosecutor;
29 ~~The term also includes~~

30 (b) Any other agency charged by law with criminal law
31 enforcement duties; ~~or~~

1 (c) Any agency having custody of criminal intelligence
2 information or criminal investigative information for the
3 purpose of assisting such law enforcement agencies in the
4 conduct of active criminal investigation or prosecution or for
5 the purpose of litigating civil actions under the Racketeer
6 Influenced and Corrupt Organization Act, during the time that
7 such agencies are in possession of criminal intelligence
8 information or criminal investigative information pursuant to
9 their criminal law enforcement duties; ~~or. The term also~~
10 ~~includes~~

11 (d) The Department of Corrections.

12 (5) "Custodian of public records" means the elected or
13 appointed state, county, or municipal officer charged with the
14 responsibility of maintaining the office having public
15 records, or his or her designee.

16 (6) "Data-processing software" means the programs and
17 routines used to employ and control the capabilities of
18 data-processing hardware, including, but not limited to,
19 operating systems, compilers, assemblers, utilities, library
20 routines, maintenance routines, applications, and
21 computer-networking programs.

22 (7) "Duplicated copies" means new copies produced by
23 duplicating, as defined in s. 283.30.

24 (8) "Exemption" means a provision of the Florida
25 Statutes which creates an exception to s. 119.07(1) or s.
26 286.011 and which applies to the executive branch of state
27 government or to local government, but it does not include any
28 provision of a special law or local law.

29 (9) "Information technology resources" has the meaning
30 ascribed in s. 282.303(12).

31

1 (10) "Proprietary software" means data-processing
2 software that is protected by copyright or trade-secret laws.

3 (11) "Public records" means all documents, papers,
4 letters, maps, books, tapes, photographs, films, sound
5 recordings, data-processing software, or other material,
6 regardless of the physical form, characteristics, or means of
7 transmission, made or received pursuant to law or ordinance or
8 in connection with the transaction of official business by any
9 agency.

10 (12) "Sensitive," for purposes of defining
11 agency-produced software that is sensitive, means only those
12 portions of data-processing software, including the
13 specifications and documentation, which are used to:

14 (a) Collect, process, store, and retrieve information
15 that is exempt from s. 119.07(1);

16 (b) Collect, process, store, and retrieve financial
17 management information of the agency, such as payroll and
18 accounting records; or

19 (c) Control and direct access authorizations and
20 security measures for automated systems.

21 Section 3. Sections 119.0115, 119.012, and 119.02,
22 Florida Statutes, are repealed.

23 Section 4. Section 119.021, Florida Statutes, is
24 amended to read:

25 (Substantial rewording of section. See
26 s. 119.021, F.S., for present text.)

27 119.021 Custodial requirements; maintenance,
28 preservation, and retention of public records.--

29 (1) Public records shall be maintained and preserved
30 as follows:

31

1 (a) All public records should be kept in the buildings
2 in which they are ordinarily used.

3 (b) Insofar as practicable, custodians of vital,
4 permanent, or archival records shall keep them in fireproof
5 and waterproof safes, vaults, or rooms fitted with
6 noncombustible materials and in such arrangement as to be
7 easily accessible for convenient use.

8 (c)1. Record books should be copied or repaired,
9 renovated, or rebound if worn, mutilated, damaged, or
10 difficult to read.

11 2. Whenever any state, county, or municipal records
12 are in need of repair, restoration, or rebinding, the head of
13 the concerned state agency, department, board, or commission;
14 the board of county commissioners of such county; or the
15 governing body of such municipality may authorize that such
16 records be removed from the building or office in which such
17 records are ordinarily kept for the length of time required to
18 repair, restore, or rebind them.

19 3. Any public official who causes a record book to be
20 copied shall attest and certify on oath that the copy is an
21 accurate copy of the original book. The copy shall then have
22 the force and effect of the original.

23 (3)(a) The Division of Library and Information
24 Services of the Department of State shall adopt rules to
25 establish retention schedules and a disposal process for
26 public records.

27 (b) Each agency shall comply with the rules
28 establishing retention schedules and disposal processes for
29 public records which are adopted by the records and
30 information management program of the division.

31

1 (c) Every public official shall systematically dispose
2 of records no longer needed, subject to the consent of the
3 records and information management program of the division in
4 accordance with s. 257.36.

5 (d) The division may ascertain the condition of public
6 records and shall give advice and assistance to public
7 officials to solve problems related to the preservation,
8 creation, filing, and public accessibility of public records
9 in their custody. Public officials shall assist the division
10 by preparing an inclusive inventory of categories of public
11 records in their custody. The division shall establish a time
12 period for the retention or disposal of each series of
13 records. Upon the completion of the inventory and schedule,
14 the division shall, subject to the availability of necessary
15 space, staff, and other facilities for such purposes, make
16 space available in its records center for the filing of
17 semicurrent records so scheduled and in its archives for
18 noncurrent records of permanent value, and shall render such
19 other assistance as needed, including the microfilming of
20 records so scheduled.

21 (4) Agency orders that comprise final agency action
22 and that must be indexed or listed pursuant to s. 120.53 have
23 continuing legal significance; therefore, notwithstanding any
24 other provision of this chapter or any provision of chapter
25 257, each agency shall permanently maintain records of such
26 orders pursuant to the applicable rules of the Department of
27 State.

28 (5)(a) Whoever has the custody of any public records
29 shall, at the expiration of his or her term of office, deliver
30 to his or her successor or, if there be none, to the records
31 and information management program of the Division of Library

1 and Information Services of the Department of State, all
2 public records kept or received by him or her in the
3 transaction of official business.

4 (b) Whoever is entitled to the custody of public
5 records shall demand them from any person having illegal
6 possession of them, who must forthwith deliver the same to him
7 or her. Any person unlawfully possessing public records must
8 within 10 days deliver such records to their lawful custodian
9 unless just cause exists for failing to deliver such records.

10 Section 5. Sections 119.031, 119.041, 119.05, and
11 119.06, Florida Statutes, are repealed.

12 Section 6. Section 119.07, Florida Statutes, is
13 amended to read:

14 119.07 Inspection, ~~examination,~~ and copying
15 duplication of records; ~~fees;~~ exemptions.--

16 (1)(a) Every person who has custody of a public record
17 shall permit the record to be inspected and copied ~~examined~~ by
18 any person desiring to do so, at any reasonable time, under
19 reasonable conditions, and under supervision by the custodian
20 of the public record or the custodian's designee.

21 (b) A person who has custody of a public record and
22 asserts that an exemption applies to a particular public
23 record or part of such record shall delete or excise from the
24 record only that portion of the record with respect to which
25 an exemption has been asserted and validly applies, and such
26 person shall produce the remainder of such record for
27 inspection and copying.

28 (c) If the person who has custody of a public record
29 contends that the record or part of it is exempt from
30 inspection and copying, he or she shall state the basis of the
31 exemption that he or she contends is applicable to the record,

1 including the statutory citation to an exemption created or
2 afforded by statute.

3 (d) If requested by the person seeking to inspect or
4 copy the record, the custodian or designee shall state in
5 writing and with particularity the reasons for the conclusion
6 that the record is exempt.

7 (e) In any civil action in which an exemption to
8 subsection (1) is asserted, if the exemption is alleged to
9 exist under or by virtue of paragraph (6)(c), paragraph
10 (6)(d), paragraph (6)(e), paragraph (6)(k), paragraph (6)(l),
11 or paragraph (6)(o), the public record or part thereof in
12 question shall be submitted to the court for an inspection in
13 camera. If an exemption is alleged to exist under or by virtue
14 of paragraph (6)(b), an inspection in camera will be
15 discretionary with the court. If the court finds that the
16 asserted exemption is not applicable, it shall order the
17 public record or part thereof in question to be immediately
18 produced for inspection, examination, or copying as requested
19 by the person seeking such access.

20 (f) Even if an assertion is made by the custodian of a
21 public record that a requested record is not a public record
22 subject to public inspection and examination under subsection
23 (1), the requested record shall, nevertheless, not be disposed
24 of for a period of 30 days after the date on which a written
25 request to inspect, examine, or copy the record was served on
26 or otherwise made to the custodian of the record by the person
27 seeking access to the record. If a civil action is instituted
28 within the 30-day period to enforce the provisions of this
29 section with respect to the requested record, the custodian
30 may not dispose of the record except by order of a court of
31 competent jurisdiction after notice to all affected parties.

1 (g) The absence of a civil action instituted for the
2 purpose stated in paragraph (e) does not relieve the custodian
3 of the duty to maintain the record as a public record if the
4 record is in fact a public record subject to public inspection
5 and copying under subsection (1) and does not otherwise excuse
6 or exonerate the custodian from any unauthorized or unlawful
7 disposition of such record.

8 (2)(a) In all cases where the public or any person
9 interested has a right to inspect or make copies from any
10 public record, any person shall hereafter have the right of
11 access to those public records for the purpose of making
12 photographs of the record while in the possession, custody,
13 and control of the custodian of records or his or her
14 designee.

15 (b) This subsection applies to the making of
16 photographs in the conventional sense by use of a camera
17 device to capture images of public records but excludes the
18 duplication of microfilm in the possession of the clerk of the
19 circuit court where a copy of the microfilm may be made
20 available by the clerk.

21 (c) Such work shall be done under the supervision of
22 the custodian of records or designee, who may adopt and
23 enforce reasonable rules governing the work.

24 (d) Photographing of public records shall be done in
25 the room where the public records are kept. If, in the
26 judgment of the custodian of records, this is impossible or
27 impracticable, the work shall be done in another room or
28 place, as nearly adjacent as possible to the room where the
29 public records are kept, to be determined by the custodian of
30 the records or his or her designee. Where provision of another
31 room or place for photographing is required, the expense of

1 providing the same shall be paid by the person desiring to
2 photograph the public record pursuant to subsection (5).

3 (3)(a) As an additional means of inspecting or copying
4 public records of the executive branch, judicial branch, or
5 any political subdivision of the state, a custodian of records
6 may provide access to public records by remote electronic
7 means.

8 (b) The custodian shall provide safeguards to protect
9 the contents of public records from unauthorized remote
10 electronic access or alteration and to prevent the disclosure
11 or modification of those portions of public records which are
12 exempt from s. 119.07(1).

13 (c) Unless otherwise required by law, the custodian
14 may charge a fee for remote electronic access, granted under a
15 contractual arrangement with a user, which fee may include the
16 direct and indirect costs of providing such access. Fees for
17 remote electronic access provided to the general public shall
18 be in accordance with the provisions of s. 119.07.

19 (4) The custodian shall furnish a copy or a certified
20 copy of the record upon payment of the fee prescribed by law.
21 ~~or,~~ If a fee is not prescribed by law, the following fees are
22 authorized:

23 (a) Up to 15 cents per one-sided copy for duplicated
24 copies of not more than 14 inches by 8 1/2 inches; an agency
25 may charge no more than an additional 5 cents for each
26 two-sided duplicated copy. ~~upon payment of not more than 15~~
27 ~~cents per one-sided copy, and~~

28 (b) For all other copies, an agency may charge upon
29 ~~payment of~~ the actual cost of duplication of the record. An
30 agency may charge no more than an additional 5 cents for each
31 two-sided duplicated copy. ~~For purposes of this section,~~

1 ~~duplicated copies shall mean new copies produced by~~
2 ~~duplicating, as defined in s. 283.30. The phrase "actual cost~~
3 ~~of duplication" means the cost of the material and supplies~~
4 ~~used to duplicate the record, but it does not include the~~
5 ~~labor cost or overhead cost associated with such duplication.~~

6 ~~However,~~

7 (c) The charge for copies of county maps or aerial
8 photographs supplied by county constitutional officers may
9 also include a reasonable charge for the labor and overhead
10 associated with their duplication. ~~Unless otherwise provided~~
11 ~~by law, the fees to be charged for duplication of public~~
12 ~~records shall be collected, deposited, and accounted for in~~
13 ~~the manner prescribed for other operating funds of the agency.~~

14 (d) An agency may charge up to \$1 per copy for a
15 certified copy of a public record.

16 (e)~~(b)~~ If the nature or volume of public records
17 requested to be inspected, ~~examined,~~ or copied pursuant to
18 this subsection is such as to require extensive use of
19 information technology resources or extensive clerical or
20 supervisory assistance by personnel of the agency involved, or
21 both, the agency may charge, in addition to the actual cost of
22 duplication, a special service charge, which shall be
23 reasonable and shall be based on the cost incurred for such
24 extensive use of information technology resources or the labor
25 cost of the personnel providing the service that is actually
26 incurred by the agency or attributable to the agency for the
27 clerical and supervisory assistance required, or both.

28 (f)1. Where provision of another room or place is
29 necessary to photograph public records, the expense of
30 providing the same shall be paid by the person desiring to
31 photograph the public records.

1 2. The custodian may charge the person making the
2 photographs for the services of a designee to supervise the
3 photography or for the services of the custodian to photograph
4 the public records at a rate of compensation to be agreed upon
5 by the person desiring to make the photographs and the
6 custodian of records. If they fail to agree as to the
7 appropriate charge, then the charge is to be determined by the
8 custodian of the records. ~~"Information technology resources"~~
9 ~~means data processing hardware and software and services,~~
10 ~~communications, supplies, personnel, facility resources,~~
11 ~~maintenance, and training.~~

12 ~~(5)(c)~~ When ballots are produced under this section
13 for inspection or examination, no persons other than the
14 supervisor of elections or the supervisor's employees shall
15 touch the ballots. The supervisor of elections shall make a
16 reasonable effort to notify all candidates by telephone or
17 otherwise of the time and place of the inspection or
18 examination. All such candidates, or their representatives,
19 shall be allowed to be present during the inspection or
20 examination.

21 ~~(2)(a)~~ A person who has custody of a public record and
22 who asserts that an exemption provided in subsection (3) or in
23 a general or special law applies to a particular public record
24 or part of such record shall delete or excise from the record
25 only that portion of the record with respect to which an
26 exemption has been asserted and validly applies, and such
27 person shall produce the remainder of such record for
28 inspection and examination. If the person who has custody of
29 a public record contends that the record or part of it is
30 exempt from inspection and examination, he or she shall state
31 the basis of the exemption which he or she contends is

1 ~~applicable to the record, including the statutory citation to~~
2 ~~an exemption created or afforded by statute, and, if requested~~
3 ~~by the person seeking the right under this subsection to~~
4 ~~inspect, examine, or copy the record, he or she shall state in~~
5 ~~writing and with particularity the reasons for the conclusion~~
6 ~~that the record is exempt.~~

7 ~~(b) In any civil action in which an exemption to~~
8 ~~subsection (1) is asserted, if the exemption is alleged to~~
9 ~~exist under or by virtue of paragraph (c), paragraph (d),~~
10 ~~paragraph (e), paragraph (k), paragraph (l), or paragraph (o)~~
11 ~~of subsection (3), the public record or part thereof in~~
12 ~~question shall be submitted to the court for an inspection in~~
13 ~~camera. If an exemption is alleged to exist under or by~~
14 ~~virtue of paragraph (b) of subsection (3), an inspection in~~
15 ~~camera will be discretionary with the court. If the court~~
16 ~~finds that the asserted exemption is not applicable, it shall~~
17 ~~order the public record or part thereof in question to be~~
18 ~~immediately produced for inspection, examination, or copying~~
19 ~~as requested by the person seeking such access.~~

20 ~~(c) Even if an assertion is made by the custodian of a~~
21 ~~public record that a requested record is not a public record~~
22 ~~subject to public inspection and examination under subsection~~
23 ~~(1), the requested record shall, nevertheless, not be disposed~~
24 ~~of for a period of 30 days after the date on which a written~~
25 ~~request requesting the right to inspect, examine, or copy the~~
26 ~~record was served on or otherwise made to the custodian of the~~
27 ~~record by the person seeking access to the record. If a civil~~
28 ~~action is instituted within the 30-day period to enforce the~~
29 ~~provisions of this section with respect to the requested~~
30 ~~record, the custodian shall not dispose of the record except~~

31

1 ~~by order of a court of competent jurisdiction after notice to~~
2 ~~all affected parties.~~

3 ~~(d) The absence of a civil action instituted for the~~
4 ~~purpose stated in paragraph (c) will not relieve the custodian~~
5 ~~of the duty to maintain the record as a public record if the~~
6 ~~record is in fact a public record subject to public inspection~~
7 ~~and examination under subsection (1) and will not otherwise~~
8 ~~excuse or exonerate the custodian from any unauthorized or~~
9 ~~unlawful disposition of such record.~~

10 (6)~~(3)~~(a) Examination questions and answer sheets of
11 examinations administered by a governmental agency for the
12 purpose of licensure, certification, or employment are exempt
13 from the provisions of subsection (1) and s. 24(a), Art. I of
14 the State Constitution. A person who has taken such an
15 examination shall have the right to review his or her own
16 completed examination.

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

21 (c) Any information revealing the identity of a
22 confidential informant or a confidential source is exempt from
23 the provisions of subsection (1) and s. 24(a), Art. I of the
24 State Constitution.

25 (d) Any information revealing surveillance techniques
26 or procedures or personnel is exempt from the provisions of
27 subsection (1) and s. 24(a), Art. I of the State Constitution.
28 Any comprehensive inventory of state and local law enforcement
29 resources compiled pursuant to part I, chapter 23, and any
30 comprehensive policies or plans compiled by a criminal justice
31 agency pertaining to the mobilization, deployment, or tactical

1 operations involved in responding to emergencies, as defined
2 in s. 252.34(3), are exempt from the provisions of subsection
3 (1) and s. 24(a), Art. I of the State Constitution and
4 unavailable for inspection, except by personnel authorized by
5 a state or local law enforcement agency, the office of the
6 Governor, the Department of Legal Affairs, the Department of
7 Law Enforcement, or the Department of Community Affairs as
8 having an official need for access to the inventory or
9 comprehensive policies or plans.

10 (e) Any information revealing undercover personnel of
11 any criminal justice agency is exempt from the provisions of
12 subsection (1) and s. 24(a), Art. I of the State Constitution.

13 (f) Any criminal intelligence information or criminal
14 investigative information including the photograph, name,
15 address, or other fact or information which reveals the
16 identity of the victim of the crime of sexual battery as
17 defined in chapter 794; the identity of the victim of a lewd
18 or lascivious offense committed upon or in the presence of a
19 person less than 16 years of age, as defined in chapter 800;
20 or the identity of the victim of the crime of child abuse as
21 defined by chapter 827 and any criminal intelligence
22 information or criminal investigative information or other
23 criminal record, including those portions of court records and
24 court proceedings, which may reveal the identity of a person
25 who is a victim of any sexual offense, including a sexual
26 offense proscribed in chapter 794, chapter 800, or chapter
27 827, is exempt from the provisions of subsection (1) and s.
28 24(a), Art. I of the State Constitution.

29 (g) Any criminal intelligence information or criminal
30 investigative information which reveals the personal assets of
31 the victim of a crime, other than property stolen or destroyed

1 during the commission of the crime, is exempt from the
2 provisions of subsection (1) and s. 24(a), Art. I of the State
3 Constitution.

4 (h) All criminal intelligence and criminal
5 investigative information received by a criminal justice
6 agency prior to January 25, 1979, is exempt from the
7 provisions of subsection (1) and s. 24(a), Art. I of the State
8 Constitution.

9 (i)1. The home addresses, telephone numbers, social
10 security numbers, and photographs of active or former law
11 enforcement personnel, including correctional and correctional
12 probation officers, personnel of the Department of Children
13 and Family Services whose duties include the investigation of
14 abuse, neglect, exploitation, fraud, theft, or other criminal
15 activities, personnel of the Department of Health whose duties
16 are to support the investigation of child abuse or neglect,
17 and personnel of the Department of Revenue or local
18 governments whose responsibilities include revenue collection
19 and enforcement or child support enforcement; the home
20 addresses, telephone numbers, social security numbers,
21 photographs, and places of employment of the spouses and
22 children of such personnel; and the names and locations of
23 schools and day care facilities attended by the children of
24 such personnel are exempt from the provisions of subsection
25 (1). The home addresses, telephone numbers, and photographs of
26 firefighters certified in compliance with s. 633.35; the home
27 addresses, telephone numbers, photographs, and places of
28 employment of the spouses and children of such firefighters;
29 and the names and locations of schools and day care facilities
30 attended by the children of such firefighters are exempt from
31 subsection (1). The home addresses and telephone numbers of

1 justices of the Supreme Court, district court of appeal
2 judges, circuit court judges, and county court judges; the
3 home addresses, telephone numbers, and places of employment of
4 the spouses and children of justices and judges; and the names
5 and locations of schools and day care facilities attended by
6 the children of justices and judges are exempt from the
7 provisions of subsection (1). The home addresses, telephone
8 numbers, social security numbers, and photographs of current
9 or former state attorneys, assistant state attorneys,
10 statewide prosecutors, or assistant statewide prosecutors; the
11 home addresses, telephone numbers, social security numbers,
12 photographs, and places of employment of the spouses and
13 children of current or former state attorneys, assistant state
14 attorneys, statewide prosecutors, or assistant statewide
15 prosecutors; and the names and locations of schools and day
16 care facilities attended by the children of current or former
17 state attorneys, assistant state attorneys, statewide
18 prosecutors, or assistant statewide prosecutors are exempt
19 from subsection (1) and s. 24(a), Art. I of the State
20 Constitution.

21 2. The home addresses, telephone numbers, social
22 security numbers, and photographs of current or former human
23 resource, labor relations, or employee relations directors,
24 assistant directors, managers, or assistant managers of any
25 local government agency or water management district whose
26 duties include hiring and firing employees, labor contract
27 negotiation, administration, or other personnel-related
28 duties; the names, home addresses, telephone numbers, social
29 security numbers, photographs, and places of employment of the
30 spouses and children of such personnel; and the names and
31 locations of schools and day care facilities attended by the

1 children of such personnel are exempt from subsection (1) and
2 s. 24(a), Art. I of the State Constitution. This subparagraph
3 is subject to the Open Government Sunset Review Act of 1995 in
4 accordance with s. 119.15, and shall stand repealed on October
5 2, 2006, unless reviewed and saved from repeal through
6 reenactment by the Legislature.

7 3. The home addresses, telephone numbers, social
8 security numbers, and photographs of current or former code
9 enforcement officers; the names, home addresses, telephone
10 numbers, social security numbers, photographs, and places of
11 employment of the spouses and children of such persons; and
12 the names and locations of schools and day care facilities
13 attended by the children of such persons are exempt from
14 subsection (1) and s. 24(a), Art. I of the State Constitution.
15 This subparagraph is subject to the Open Government Sunset
16 Review Act of 1995 in accordance with s. 119.15, and shall
17 stand repealed on October 2, 2006, unless reviewed and saved
18 from repeal through reenactment by the Legislature.

19 4. An agency that is the custodian of the personal
20 information specified in subparagraph 1., subparagraph 2., or
21 subparagraph 3. and that is not the employer of the officer,
22 employee, justice, judge, or other person specified in
23 subparagraph 1., subparagraph 2., or subparagraph 3. shall
24 maintain the exempt status ~~confidentiality~~ of the personal
25 information only if the officer, employee, justice, judge,
26 other person, or employing agency of the designated employee
27 submits a written request for maintenance of the exemption
28 ~~confidentiality~~ to the custodial agency.

29 (j) Any information provided to an agency of state
30 government or to an agency of a political subdivision of the
31 state for the purpose of forming ridesharing arrangements,

1 which information reveals the identity of an individual who
2 has provided his or her name for ridesharing, as defined in s.
3 341.031, is exempt from the provisions of subsection (1) and
4 s. 24(a), Art. I of the State Constitution.

5 (k) Any information revealing the substance of a
6 confession of a person arrested is exempt from the provisions
7 of subsection (1) and s. 24(a), Art. I of the State
8 Constitution, until such time as the criminal case is finally
9 determined by adjudication, dismissal, or other final
10 disposition.

11 (l)1. A public record which was prepared by an agency
12 attorney (including an attorney employed or retained by the
13 agency or employed or retained by another public officer or
14 agency to protect or represent the interests of the agency
15 having custody of the record) or prepared at the attorney's
16 express direction, which reflects a mental impression,
17 conclusion, litigation strategy, or legal theory of the
18 attorney or the agency, and which was prepared exclusively for
19 civil or criminal litigation or for adversarial administrative
20 proceedings, or which was prepared in anticipation of imminent
21 civil or criminal litigation or imminent adversarial
22 administrative proceedings, is exempt from the provisions of
23 subsection (1) and s. 24(a), Art. I of the State Constitution
24 until the conclusion of the litigation or adversarial
25 administrative proceedings. For purposes of capital collateral
26 litigation as set forth in s. 27.7001, the Attorney General's
27 office is entitled to claim this exemption for those public
28 records prepared for direct appeal as well as for all capital
29 collateral litigation after direct appeal until execution of
30 sentence or imposition of a life sentence.

31

1 2. This exemption is not waived by the release of such
2 public record to another public employee or officer of the
3 same agency or any person consulted by the agency attorney.
4 When asserting the right to withhold a public record pursuant
5 to this paragraph, the agency shall identify the potential
6 parties to any such criminal or civil litigation or
7 adversarial administrative proceedings. If a court finds that
8 the document or other record has been improperly withheld
9 under this paragraph, the party seeking access to such
10 document or record shall be awarded reasonable attorney's fees
11 and costs in addition to any other remedy ordered by the
12 court.

13 (m) Sealed bids or proposals received by an agency
14 pursuant to invitations to bid or requests for proposals are
15 exempt from the provisions of subsection (1) and s. 24(a),
16 Art. I of the State Constitution until such time as the agency
17 provides notice of a decision or intended decision pursuant to
18 s. 120.57(3)(a) or within 10 days after bid or proposal
19 opening, whichever is earlier.

20 (n) When an agency of the executive branch of state
21 government seeks to acquire real property by purchase or
22 through the exercise of the power of eminent domain all
23 appraisals, other reports relating to value, offers, and
24 counteroffers must be in writing and are exempt from the
25 provisions of subsection (1) and s. 24(a), Art. I of the State
26 Constitution until execution of a valid option contract or a
27 written offer to sell that has been conditionally accepted by
28 the agency, at which time the exemption shall expire. The
29 agency shall not finally accept the offer for a period of 30
30 days in order to allow public review of the transaction. The
31 agency may give conditional acceptance to any option or offer

1 subject only to final acceptance by the agency after the
2 30-day review period. If a valid option contract is not
3 executed, or if a written offer to sell is not conditionally
4 accepted by the agency, then the exemption from the provisions
5 of this chapter shall expire at the conclusion of the
6 condemnation litigation of the subject property. An agency of
7 the executive branch may exempt title information, including
8 names and addresses of property owners whose property is
9 subject to acquisition by purchase or through the exercise of
10 the power of eminent domain, from the provisions of subsection
11 (1) and s. 24(a), Art. I of the State Constitution to the same
12 extent as appraisals, other reports relating to value, offers,
13 and counteroffers. For the purpose of this paragraph, "option
14 contract" means an agreement of an agency of the executive
15 branch of state government to purchase real property subject
16 to final agency approval. This paragraph shall have no
17 application to other exemptions from the provisions of
18 subsection (1) which are contained in other provisions of law
19 and shall not be construed to be an express or implied repeal
20 thereof.

21 (o) Data processing software obtained by an agency
22 under a licensing agreement which prohibits its disclosure and
23 which software is a trade secret, as defined in s. 812.081,
24 and agency-produced data processing software which is
25 sensitive are exempt from the provisions of subsection (1) and
26 s. 24(a), Art. I of the State Constitution. The designation
27 of agency-produced software as sensitive shall not prohibit an
28 agency head from sharing or exchanging such software with
29 another public agency. ~~As used in this paragraph:~~

30 ~~1. "Data processing software" means the programs and~~
31 ~~routines used to employ and control the capabilities of data~~

1 ~~processing hardware, including, but not limited to, operating~~
2 ~~systems, compilers, assemblers, utilities, library routines,~~
3 ~~maintenance routines, applications, and computer networking~~
4 ~~programs.~~

5 ~~2. "Sensitive" means only those portions of data~~
6 ~~processing software, including the specifications and~~
7 ~~documentation, used to:~~

8 ~~a. Collect, process, store, and retrieve information~~
9 ~~which is exempt from the provisions of subsection (1);~~

10 ~~b. Collect, process, store, and retrieve financial~~
11 ~~management information of the agency, such as payroll and~~
12 ~~accounting records; or~~

13 ~~c. Control and direct access authorizations and~~
14 ~~security measures for automated systems.~~

15 (p) All complaints and other records in the custody of
16 any unit of local government which relate to a complaint of
17 discrimination relating to race, color, religion, sex,
18 national origin, age, handicap, marital status, sale or rental
19 of housing, the provision of brokerage services, or the
20 financing of housing are exempt from the provisions of
21 subsection (1) and s. 24(a), Art. I of the State Constitution
22 until a finding is made relating to probable cause, the
23 investigation of the complaint becomes inactive, or the
24 complaint or other record is made part of the official record
25 of any hearing or court proceeding. This provision shall not
26 affect any function or activity of the Florida Commission on
27 Human Relations. Any state or federal agency which is
28 authorized to have access to such complaints or records by any
29 provision of law shall be granted such access in the
30 furtherance of such agency's statutory duties, notwithstanding
31

1 the provisions of this section. This paragraph shall not be
2 construed to modify or repeal any special or local act.

3 (q) All complaints and other records in the custody of
4 any agency in the executive branch of state government which
5 relate to a complaint of discrimination relating to race,
6 color, religion, sex, national origin, age, handicap, or
7 marital status in connection with hiring practices, position
8 classifications, salary, benefits, discipline, discharge,
9 employee performance, evaluation, or other related activities
10 are exempt from the provisions of subsection (1) and s. 24(a),
11 Art. I of the State Constitution until a finding is made
12 relating to probable cause, the investigation of the complaint
13 becomes inactive, or the complaint or other record is made
14 part of the official record of any hearing or court
15 proceeding. This provision shall not affect any function or
16 activity of the Florida Commission on Human Relations. Any
17 state or federal agency which is authorized to have access to
18 such complaints or records by any provision of law shall be
19 granted such access in the furtherance of such agency's
20 statutory duties, notwithstanding the provisions of this
21 section.

22 (r) All records supplied by a telecommunications
23 company, as defined by s. 364.02, to a state or local
24 governmental agency which contain the name, address, and
25 telephone number of subscribers are confidential and exempt
26 from the provisions of subsection (1) and s. 24(a), Art. I of
27 the State Constitution.

28 (s)1. Any document that reveals the identity, home or
29 employment telephone number, home or employment address, or
30 personal assets of the victim of a crime and identifies that
31 person as the victim of a crime, which document is received by

1 any agency that regularly receives information from or
2 concerning the victims of crime, is exempt from the provisions
3 of subsection (1) and s. 24(a), Art. I of the State
4 Constitution. Any information not otherwise held confidential
5 or exempt from the provisions of subsection (1) which reveals
6 the home or employment telephone number, home or employment
7 address, or personal assets of a person who has been the
8 victim of sexual battery, aggravated child abuse, aggravated
9 stalking, harassment, aggravated battery, or domestic violence
10 is exempt from the provisions of subsection (1) and s. 24(a),
11 Art. I of the State Constitution, upon written request by the
12 victim, which must include official verification that an
13 applicable crime has occurred. Such information shall cease
14 to be exempt 5 years after the receipt of the written request.
15 Any state or federal agency that is authorized to have access
16 to such documents by any provision of law shall be granted
17 such access in the furtherance of such agency's statutory
18 duties, notwithstanding the provisions of this section.

19 2. Any information in a videotaped statement of a
20 minor who is alleged to be or who is a victim of sexual
21 battery, lewd acts, or other sexual misconduct proscribed in
22 chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s.
23 847.0125, s. 847.013, s. 847.0133, or s. 847.0145, which
24 reveals that minor's identity, including, but not limited to,
25 the minor's face; the minor's home, school, church, or
26 employment telephone number; the minor's home, school, church,
27 or employment address; the name of the minor's school, church,
28 or place of employment; or the personal assets of the minor;
29 and which identifies that minor as the victim of a crime
30 described in this subparagraph, is confidential and exempt
31 from subsection (1) and s. 24(a), Art. I of the State

1 Constitution. Any governmental agency that is authorized to
2 have access to such statements by any provision of law shall
3 be granted such access in the furtherance of the agency's
4 statutory duties, notwithstanding the provisions of this
5 section. This subparagraph is subject to the Open Government
6 Sunset Review Act of 1995 in accordance with s. 119.15, and
7 shall stand repealed on October 2, 2003.

8 3. A public employee or officer who has access to the
9 videotaped statement of a minor who is alleged to be or who is
10 a victim of sexual battery, lewd acts, or other sexual
11 misconduct proscribed in chapter 800 or in s. 794.011, s.
12 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or
13 s. 847.0145, may not willfully and knowingly disclose
14 videotaped information that reveals that minor's identity to a
15 person who is not assisting in the investigation or
16 prosecution of the alleged offense or to any person other than
17 the defendant, the defendant's attorney, or a person specified
18 in an order entered by the court having jurisdiction of the
19 alleged offense.

20 4. A person who violates subparagraph 3. commits a
21 misdemeanor of the first degree, punishable as provided in s.
22 775.082 or s. 775.083.

23 (t) Any financial statement which an agency requires a
24 prospective bidder to submit in order to prequalify for
25 bidding or for responding to a proposal for a road or any
26 other public works project is exempt from the provisions of
27 subsection (1) and s. 24(a), Art. I of the State Constitution.

28 (u) Where the alleged victim chooses not to file a
29 complaint and requests that records of the complaint remain
30 confidential, all records relating to an allegation of
31 employment discrimination are confidential and exempt from the

1 provisions of subsection (1) and s. 24(a), Art. I of the State
2 Constitution.

3 (v) Medical information pertaining to a prospective,
4 current, or former officer or employee of an agency which, if
5 disclosed, would identify that officer or employee is exempt
6 from the provisions of subsection (1) and s. 24(a), Art. I of
7 the State Constitution. However, such information may be
8 disclosed if the person to whom the information pertains or
9 the person's legal representative provides written permission
10 or pursuant to court order.

11 (w)1. If certified pursuant to subparagraph 2., an
12 investigatory record of the Chief Inspector General within the
13 Executive Office of the Governor or of the employee designated
14 by an agency head as the agency inspector general under s.
15 112.3189 is exempt from the provisions of subsection (1) and
16 s. 24(a), Art. I of the State Constitution until the
17 investigation ceases to be active, or a report detailing the
18 investigation is provided to the Governor or the agency head,
19 or 60 days from the inception of the investigation for which
20 the record was made or received, whichever first occurs.
21 Investigatory records are those records which are related to
22 the investigation of an alleged, specific act or omission or
23 other wrongdoing, with respect to an identifiable person or
24 group of persons, based on information compiled by the Chief
25 Inspector General or by an agency inspector general, as named
26 under the provisions of s. 112.3189, in the course of an
27 investigation. An investigation is active if it is continuing
28 with a reasonable, good faith anticipation of resolution and
29 with reasonable dispatch.

30 2. The Governor, in the case of the Chief Inspector
31 General, or agency head, in the case of an employee designated

1 as the agency inspector general under s. 112.3189, may certify
2 such investigatory records require an exemption to protect the
3 integrity of the investigation or avoid unwarranted damage to
4 an individual's good name or reputation. The certification
5 shall specify the nature and purpose of the investigation and
6 shall be kept with the exempt records and made public when the
7 records are made public.

8 3. The provisions of this paragraph do not apply to
9 whistle-blower investigations conducted pursuant to the
10 provisions of ss. 112.3187, 112.3188, 112.3189, and 112.31895.

11 (x) The social security numbers of all current and
12 former agency employees which numbers are contained in agency
13 employment records are exempt from subsection (1) and exempt
14 from s. 24(a), Art. I of the State Constitution. As used in
15 this paragraph, the term "agency" means an agency as defined
16 in s. 119.011.

17 (y) The audit report of an internal auditor prepared
18 for or on behalf of a unit of local government becomes a
19 public record when the audit becomes final. As used in this
20 paragraph, "unit of local government" means a county,
21 municipality, special district, local agency, authority,
22 consolidated city-county government, or any other local
23 governmental body or public body corporate or politic
24 authorized or created by general or special law. An audit
25 becomes final when the audit report is presented to the unit
26 of local government. Audit workpapers and notes related to
27 such audit report are confidential and exempt from the
28 provisions of subsection (1) and s. 24(a), Art. I of the State
29 Constitution until the audit is completed and the audit report
30 becomes final.

31

1 ~~(z) Bank account numbers or debit, charge, or credit~~
2 ~~card numbers given to an agency for the purpose of payment of~~
3 ~~any fee or debt owing are confidential and exempt from~~
4 ~~subsection (1) and s. 24(a), Art. I of the State Constitution.~~
5 ~~However, such numbers may be used by an agency, as needed, in~~
6 ~~any administrative or judicial proceeding, provided such~~
7 ~~numbers are kept confidential and exempt, unless otherwise~~
8 ~~ordered by the court. This paragraph is subject to the Open~~
9 ~~Government Sunset Review Act of 1995 in accordance with s.~~
10 ~~119.15, and shall stand repealed on October 2, 2001, unless~~
11 ~~reviewed and saved from repeal through reenactment by the~~
12 ~~Legislature.~~

13 (z)~~(aa)~~ Any data, record, or document used directly or
14 solely by a municipally owned utility to prepare and submit a
15 bid relative to the sale, distribution, or use of any service,
16 commodity, or tangible personal property to any customer or
17 prospective customer shall be exempt from the provisions of
18 subsection (1) and s. 24(a), Art. I of the State Constitution.
19 This exemption commences when a municipal utility identifies
20 in writing a specific bid to which it intends to respond. This
21 exemption no longer applies when the contract for sale,
22 distribution, or use of the service, commodity, or tangible
23 personal property is executed, a decision is made not to
24 execute such contract, or the project is no longer under
25 active consideration. The exemption in this paragraph includes
26 the bid documents actually furnished in response to the
27 request for bids. However, the exemption for the bid documents
28 submitted no longer applies after the bids are opened by the
29 customer or prospective customer.

30 (aa)~~(bb)~~ Upon a request made in a form designated by
31 the Department of Highway Safety and Motor Vehicles, personal

1 information contained in a motor vehicle record that
2 identifies the requester is exempt from subsection (1) and s.
3 24(a), Art. I of the State Constitution except as provided in
4 this paragraph. Personal information includes, but is not
5 limited to, the requester's social security number, driver
6 identification number, name, address, telephone number, and
7 medical or disability information. For purposes of this
8 paragraph, personal information does not include information
9 relating to vehicular crashes, driving violations, and
10 driver's status. Such request may be made only by the person
11 who is the subject of the motor vehicle record. For purposes
12 of this paragraph, "motor vehicle record" means any record
13 that pertains to a motor vehicle operator's permit, motor
14 vehicle title, motor vehicle registration, or identification
15 card issued by the Department of Highway Safety and Motor
16 Vehicles. Personal information contained in motor vehicle
17 records exempted by an individual's request pursuant to this
18 paragraph shall be released by the department for any of the
19 following uses:

20 1. For use in connection with matters of motor vehicle
21 or driver safety and theft; motor vehicle emissions; motor
22 vehicle product alterations, recalls, or advisories;
23 performance monitoring of motor vehicles and dealers by motor
24 vehicle manufacturers; and removal of nonowner records from
25 the original owner records of motor vehicle manufacturers, to
26 carry out the purposes of the Automobile Information
27 Disclosure Act, the Motor Vehicle Information and Cost Saving
28 Act, the National Traffic and Motor Vehicle Safety Act of
29 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

30 2. For use by any government agency, including any
31 court or law enforcement agency, in carrying out its

1 functions, or any private person or entity acting on behalf of
2 a federal, state, or local agency in carrying out its
3 functions.

4 3. For use in connection with matters of motor vehicle
5 or driver safety and theft; motor vehicle emissions; motor
6 vehicle product alterations, recalls, or advisories;
7 performance monitoring of motor vehicles, motor vehicle parts,
8 and dealers; motor vehicle market research activities,
9 including survey research; and removal of nonowner records
10 from the original owner records of motor vehicle
11 manufacturers.

12 4. For use in the normal course of business by a
13 legitimate business or its agents, employees, or contractors,
14 but only:

15 a. To verify the accuracy of personal information
16 submitted by the individual to the business or its agents,
17 employees, or contractors; and

18 b. If such information as so submitted is not correct
19 or is no longer correct, to obtain the correct information,
20 but only for the purposes of preventing fraud by, pursuing
21 legal remedies against, or recovering on a debt or security
22 interest against, the individual.

23 5. For use in connection with any civil, criminal,
24 administrative, or arbitral proceeding in any court or agency
25 or before any self-regulatory body for:

26 a. Service of process by any certified process server,
27 special process server, or other person authorized to serve
28 process in this state.

29 b. Investigation in anticipation of litigation by an
30 attorney licensed to practice law in this state or the agent
31 of the attorney.

- 1 c. Investigation by any person in connection with any
2 filed proceeding.
- 3 d. Execution or enforcement of judgments and orders.
- 4 e. Compliance with an order of any court.
- 5 6. For use in research activities and for use in
6 producing statistical reports, so long as the personal
7 information is not published, redisclosed, or used to contact
8 individuals.
- 9 7. For use by any insurer or insurance support
10 organization, or by a self-insured entity, or its agents,
11 employees, or contractors, in connection with claims
12 investigation activities, anti-fraud activities, rating, or
13 underwriting.
- 14 8. For use in providing notice to the owners of towed
15 or impounded vehicles.
- 16 9. For use by any licensed private investigative
17 agency or licensed security service for any purpose permitted
18 under this paragraph. Personal information obtained based on
19 an exempt driver's record may not be provided to a client who
20 cannot demonstrate a need based on a police report, court
21 order, or a business or personal relationship with the subject
22 of the investigation.
- 23 10. For use by an employer or its agent or insurer to
24 obtain or verify information relating to a holder of a
25 commercial driver's license that is required under the
26 Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. App.
27 2710 et seq.
- 28 11. For use in connection with the operation of
29 private toll transportation facilities.
- 30
- 31

1 12. For bulk distribution for surveys, marketing, or
2 solicitations when the department has implemented methods and
3 procedures to ensure that:

4 a. Individuals are provided an opportunity, in a clear
5 and conspicuous manner, to prohibit such uses; and

6 b. The information will be used, rented, or sold
7 solely for bulk distribution for survey, marketing, and
8 solicitations, and that surveys, marketing, and solicitations
9 will not be directed at those individuals who have timely
10 requested that they not be directed at them.

11 13. For any use if the requesting person demonstrates
12 that he or she has obtained the written consent of the person
13 who is the subject of the motor vehicle record.

14 14. For any other use specifically authorized by state
15 law, if such use is related to the operation of a motor
16 vehicle or public safety.

17
18 Personal information exempted from public disclosure according
19 to this paragraph may be disclosed by the Department of
20 Highway Safety and Motor Vehicles to an individual, firm,
21 corporation, or similar business entity whose primary business
22 interest is to resell or redisclose the personal information
23 to persons who are authorized to receive such information.

24 Prior to the department's disclosure of personal information,
25 such individual, firm, corporation, or similar business entity
26 must first enter into a contract with the department regarding
27 the care, custody, and control of the personal information to
28 ensure compliance with the federal Driver's Privacy Protection
29 Act of 1994 and applicable state laws. An authorized recipient
30 of personal information contained in a motor vehicle record,
31 except a recipient under subparagraph 12., may contract with

1 the Department of Highway Safety and Motor Vehicles to resell
2 or redisclose the information for any use permitted under this
3 paragraph. However, only authorized recipients of personal
4 information under subparagraph 12. may resell or redisclose
5 personal information pursuant to subparagraph 12. Any
6 authorized recipient who resells or rediscloses personal
7 information shall maintain, for a period of 5 years, records
8 identifying each person or entity that receives the personal
9 information and the permitted purpose for which it will be
10 used. Such records shall be made available for inspection upon
11 request by the department. The department shall adopt rules to
12 carry out the purposes of this paragraph and the federal
13 Driver's Privacy Protection Act of 1994, Title XXX, Pub. L.
14 No. 103-322. Rules adopted by the department shall provide for
15 the payment of applicable fees and, prior to the disclosure of
16 personal information pursuant to this paragraph, shall require
17 the meeting of conditions by the requesting person for the
18 purposes of obtaining reasonable assurance concerning the
19 identity of such requesting person, and, to the extent
20 required, assurance that the use will be only as authorized or
21 that the consent of the person who is the subject of the
22 personal information has been obtained. Such conditions may
23 include, but need not be limited to, the making and filing of
24 a written application in such form and containing such
25 information and certification requirements as the department
26 requires.

27 (bb)~~(cc)~~1. Medical history records, bank account
28 numbers, credit card numbers, telephone numbers, and
29 information related to health or property insurance furnished
30 by an individual to any agency pursuant to federal, state, or
31 local housing assistance programs are confidential and exempt

1 from the provisions of subsection (1) and s. 24(a), Art. I of
2 the State Constitution. Any other information produced or
3 received by any private or public entity in direct connection
4 with federal, state, or local housing assistance programs,
5 unless the subject of another federal or state exemption, is
6 subject to subsection (1).

7 2. Governmental agencies or their agents are entitled
8 to access to the records specified in this paragraph for the
9 purposes of auditing federal, state, or local housing programs
10 or housing assistance programs. Such records may be used by an
11 agency, as needed, in any administrative or judicial
12 proceeding, provided such records are kept confidential and
13 exempt, unless otherwise ordered by a court.

14 3. This paragraph is repealed effective October 2,
15 2003, and must be reviewed by the Legislature before that date
16 in accordance with s. 119.15, the Open Government Sunset
17 Review Act of 1995.

18 ~~(cc)~~(dd) All personal identifying information; bank
19 account numbers; and debit, charge, and credit card numbers
20 contained in records relating to an individual's personal
21 health or eligibility for health-related services made or
22 received by the Department of Health or its service providers
23 are confidential and exempt from the provisions of subsection
24 (1) and s. 24(a), Art. I of the State Constitution, except as
25 otherwise provided in this paragraph. Information made
26 confidential and exempt by this paragraph shall be disclosed:

27 1. With the express written consent of the individual
28 or the individual's legally authorized representative.

29 2. In a medical emergency, but only to the extent
30 necessary to protect the health or life of the individual.

31 3. By court order upon a showing of good cause.

1 4. To a health research entity, if the entity seeks
2 the records or data pursuant to a research protocol approved
3 by the department, maintains the records or data in accordance
4 with the approved protocol, and enters into a purchase and
5 data-use agreement with the department, the fee provisions of
6 which are consistent with paragraph (1)(a). The department
7 may deny a request for records or data if the protocol
8 provides for intrusive follow-back contacts, has not been
9 approved by a human studies institutional review board, does
10 not plan for the destruction of confidential records after the
11 research is concluded, is administratively burdensome, or does
12 not have scientific merit. The agreement must restrict the
13 release of any information, which would permit the
14 identification of persons, limit the use of records or data to
15 the approved research protocol, and prohibit any other use of
16 the records or data. Copies of records or data issued
17 pursuant to this subparagraph remain the property of the
18 department.

19
20 This paragraph is subject to the Open Government Sunset Review
21 Act of 1995, in accordance with s. 119.15, and shall stand
22 repealed on October 2, 2006, unless reviewed and saved from
23 repeal through reenactment by the Legislature.

24 (dd) Any videotape or video signal which, under an
25 agreement with an agency, is produced, made, or received by,
26 or is in the custody of, a federally licensed radio or
27 television station or its agent is exempt from this chapter.

28 ~~(7)(4)~~ Nothing in this section shall be construed to
29 exempt from subsection (1) a public record which was made a
30 part of a court file and which is not specifically closed by
31 order of court, except as provided in paragraphs (c), (d),

1 (e), (k), (l), and (o) of subsection (6)~~(3)~~ and except
2 information or records which may reveal the identity of a
3 person who is a victim of a sexual offense as provided in
4 paragraph (f) of subsection (6)~~(3)~~.

5 (8)~~(5)~~ An exemption from this section does not imply
6 an exemption from or exception to s. 286.011. The exemption
7 from or exception to s. 286.011 must be expressly provided.

8 (9)~~(6)~~ Nothing in subsection (6)~~(3)~~ or any other
9 general or special law shall limit the access of the Auditor
10 General, the Office of Program Policy Analysis and Government
11 Accountability, or any state, county, municipal, university,
12 board of community college, school district, or special
13 district internal auditor to public records when such person
14 states in writing that such records are needed for a properly
15 authorized audit, examination, or investigation. Such person
16 shall maintain the confidentiality of any public records that
17 are confidential or exempt from the provisions of subsection
18 (1) and shall be subject to the same penalties as the
19 custodians of those public records for violating
20 confidentiality.

21 (10)~~(7)~~(a) Any person or organization, including the
22 Department of Children and Family Services, may petition the
23 court for an order making public the records of the Department
24 of Children and Family Services that pertain to investigations
25 of alleged abuse, neglect, abandonment, or exploitation of a
26 child or a vulnerable adult. The court shall determine if good
27 cause exists for public access to the records sought or a
28 portion thereof. In making this determination, the court shall
29 balance the best interest of the vulnerable adult or child who
30 is the focus of the investigation, and in the case of the
31 child, the interest of that child's siblings, together with

1 the privacy right of other persons identified in the reports
2 against the public interest. The public interest in access to
3 such records is reflected in s. 119.01(1), and includes the
4 need for citizens to know of and adequately evaluate the
5 actions of the Department of Children and Family Services and
6 the court system in providing vulnerable adults and children
7 of this state with the protections enumerated in ss. 39.001
8 and 415.101. However, this subsection does not contravene ss.
9 39.202 and 415.107, which protect the name of any person
10 reporting the abuse, neglect, or exploitation of a child or a
11 vulnerable adult.

12 (b) In cases involving serious bodily injury to a
13 child or a vulnerable adult, the Department of Children and
14 Family Services may petition the court for an order for the
15 immediate public release of records of the department which
16 pertain to the protective investigation. The petition must be
17 personally served upon the child or vulnerable adult, the
18 child's parents or guardian, the legal guardian of that
19 person, if any, and any person named as an alleged perpetrator
20 in the report of abuse, neglect, abandonment, or exploitation.
21 The court must determine if good cause exists for the public
22 release of the records sought no later than 24 hours,
23 excluding Saturdays, Sundays, and legal holidays, after the
24 date the department filed the petition with the court. If the
25 court has neither granted nor denied the petition within the
26 24-hour time period, the department may release to the public
27 summary information including:

28 1. A confirmation that an investigation has been
29 conducted concerning the alleged victim.

30 2. The dates and brief description of procedural
31 activities undertaken during the department's investigation.

1 3. The date of each judicial proceeding, a summary of
2 each participant's recommendations made at the judicial
3 proceedings, and the rulings of the court.

4
5 The summary information may not include the name of, or other
6 identifying information with respect to, any person identified
7 in any investigation. In making a determination to release
8 confidential information, the court shall balance the best
9 interests of the vulnerable adult or child who is the focus of
10 the investigation and, in the case of the child, the interests
11 of that child's siblings, together with the privacy rights of
12 other persons identified in the reports against the public
13 interest for access to public records. However, this paragraph
14 does not contravene ss. 39.202 and 415.107, which protect the
15 name of any person reporting abuse, neglect, or exploitation
16 of a child or a vulnerable adult.

17 (c) When the court determines that good cause for
18 public access exists, the court shall direct that the
19 department redact the name of and other identifying
20 information with respect to any person identified in any
21 protective investigation report until such time as the court
22 finds that there is probable cause to believe that the person
23 identified committed an act of alleged abuse, neglect, or
24 abandonment.

25 (11)~~(8)~~ The provisions of this section are not
26 intended to expand or limit the provisions of Rule 3.220,
27 Florida Rules of Criminal Procedure, regarding the right and
28 extent of discovery by the state or by a defendant in a
29 criminal prosecution or in collateral postconviction
30 proceedings. This section may not be used by any inmate as

31

1 the basis for failing to timely litigate any postconviction
2 action.

3 Section 7. Sections 119.08 and 119.083, Florida
4 Statutes, are repealed.

5 Section 8. Section 119.084, Florida Statutes, is
6 amended to read:

7 119.084 Definitions; copyright of data processing
8 software created by governmental agencies; sale price and
9 licensing fee; ~~access to public records; prohibited~~
10 ~~contracts.--~~

11 (1) As used in this section, the term:

12 ~~(a)~~ "agency" has the same meaning as in s. 119.011(2),
13 except that the term does not include any private agency,
14 person, partnership, corporation, or business entity.

15 ~~(b)~~ "Data processing software" means the programs and
16 routines used to employ and control the capabilities of data
17 processing hardware, including, but not limited to, operating
18 systems, compilers, assemblers, utilities, library routines,
19 maintenance routines, applications, and computer networking
20 programs.

21 ~~(c)~~ "Proprietary software" means data processing
22 software that is protected by copyright or trade secret laws.

23 (2) Any agency is authorized to acquire and hold
24 copyrights for data processing software created by the agency
25 and to enforce its rights pertaining to such copyrights,
26 provided that the agency complies with the requirements of
27 this section.

28 (a) Any agency that has acquired a copyright for data
29 processing software created by the agency may sell or license
30 the copyrighted data processing software to any public agency
31 or private person and may establish a price for the sale and a

1 license fee for the use of such data processing software.
2 Proceeds from the sale or licensing of copyrighted data
3 processing software shall be deposited by the agency into a
4 trust fund for the agency's appropriate use for authorized
5 purposes. Counties, municipalities, and other political
6 subdivisions of the state may designate how such sale and
7 licensing proceeds are to be used. The price for the sale of
8 and the fee for the licensing of copyrighted data processing
9 software may be based on market considerations. However, the
10 prices or fees for the sale or licensing of copyrighted data
11 processing software to an individual or entity solely for
12 application to information maintained or generated by the
13 agency that created the copyrighted data processing software
14 shall be determined pursuant to s. 119.07(1).

15 (b) The provisions of this subsection are supplemental
16 to, and shall not supplant or repeal, any other provision of
17 law that authorizes an agency to acquire and hold copyrights.

18 ~~(3) Subject to the restrictions of copyright and trade~~
19 ~~secret laws and public records exemptions, agency use of~~
20 ~~proprietary software must not diminish the right of the public~~
21 ~~to inspect and copy a public record.~~

22 ~~(4) An agency must consider when designing or~~
23 ~~acquiring an electronic recordkeeping system that such system~~
24 ~~is capable of providing data in some common format such as,~~
25 ~~but not limited to, the American Standard Code for Information~~
26 ~~Interchange.~~

27 ~~(5) Each agency that maintains a public record in an~~
28 ~~electronic recordkeeping system shall provide to any person,~~
29 ~~pursuant to this chapter, a copy of any public record in that~~
30 ~~system which is not exempted by law from public disclosure.~~
31 ~~An agency must provide a copy of the record in the medium~~

1 ~~requested if the agency maintains the record in that medium,~~
2 ~~and the agency may charge a fee which shall be in accordance~~
3 ~~with this chapter. For the purpose of satisfying a public~~
4 ~~records request, the fee to be charged by an agency if it~~
5 ~~elects to provide a copy of a public record in a medium not~~
6 ~~routinely used by the agency, or if it elects to compile~~
7 ~~information not routinely developed or maintained by the~~
8 ~~agency or that requires a substantial amount of manipulation~~
9 ~~or programming, must be in accordance with s. 119.07(1)(b).~~

10 ~~(6) An agency may not enter into a contract for the~~
11 ~~creation or maintenance of a public records database if that~~
12 ~~contract impairs the ability of the public to inspect or copy~~
13 ~~the public records of that agency, including public records~~
14 ~~that are on-line or stored in an electronic recordkeeping~~
15 ~~system used by the agency. Such contract may not allow any~~
16 ~~impediment that as a practical matter makes it more difficult~~
17 ~~for the public to inspect or copy the records than to inspect~~
18 ~~or copy the agency's records. The fees and costs for the~~
19 ~~production of such records may not be more than the fees or~~
20 ~~costs charged by the agency.~~

21 ~~(3)(7)~~ This section is subject to the Open Government
22 Sunset Review Act of 1995 in accordance with s. 119.15 and
23 shall stand repealed on October 2, 2006, unless reviewed and
24 saved from repeal through reenactment by the Legislature.

25 Section 9. Sections 119.085 and 119.09, Florida
26 Statutes, are repealed.

27 Section 10. Section 119.10, Florida Statutes, is
28 amended:

29 119.10 Violation of chapter; penalties.--
30
31

1 (1) Any public officer who violates any provision of
2 this chapter is guilty of a noncriminal infraction, punishable
3 by fine not exceeding \$500.

4 (2) Any person who willfully and knowingly violates:
5 ~~violating~~

6 (a) Any of the provisions of this chapter commits is
7 ~~guilty of~~ a misdemeanor of the first degree, punishable as
8 provided in s. 775.082 or s. 775.083.

9 (b)(3) ~~Section~~ Any person who willfully and knowingly
10 ~~violates s.~~119.105 commits a felony of the third degree,
11 punishable as provided in s. 775.082, s. 775.083, or s.
12 775.084.

13 Section 11. Section 119.105, Florida Statutes, is
14 amended to read:

15 119.105 Protection of victims of crimes or
16 accidents.--Police reports are public records except as
17 otherwise made exempt or confidential ~~by general or special~~
18 ~~law~~. Every person is allowed to examine nonexempt or
19 nonconfidential police reports. No person who inspects or
20 copies police reports for the purpose of obtaining the names
21 and addresses of the victims of crimes or accidents shall use
22 any information contained therein for any commercial
23 solicitation of the victims or relatives of the victims of the
24 reported crimes or accidents. Nothing herein shall prohibit
25 the publication of such information by any news media or the
26 use of such information for any other data collection or
27 analysis purposes.

28 Section 12. This act shall take effect July 1, 2002.
29
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Reorganizes various provisions of chapter 119, F.S.,
which governs the maintenance and dissemination of public
records by state agencies and local governments.