

1                                   A bill to be entitled  
2           An act relating to public records; amending s.  
3           18.20, F.S.; removing photographic film  
4           reproductions of specified vouchers or checks  
5           paid by the State Treasurer and preserved as  
6           records of the office of the Treasurer from  
7           classification as permanent records; amending  
8           s. 119.01, F.S.; establishing state policy with  
9           respect to public records; requiring  
10          governmental agencies to consider certain  
11          factors in designing or acquiring electronic  
12          recordkeeping systems; providing certain  
13          restrictions with respect to electronic  
14          recordkeeping systems and proprietary software;  
15          requiring governmental agencies to provide  
16          copies of public records stored in electronic  
17          recordkeeping systems; authorizing agencies to  
18          charge a fee for such copies; specifying  
19          circumstances under which the financial,  
20          business, and membership records of an  
21          organization are public records; amending s.  
22          119.011, F.S.; providing definitions; repealing  
23          ss. 119.0115, 119.012, and 119.02, F.S.,  
24          relating to specified exemption for certain  
25          videotapes and video signals, records made  
26          public by the use of public funds, and  
27          penalties for violation of public records  
28          requirements by a public officer; amending s.  
29          119.021, F.S.; providing requirements for  
30          governmental agencies in maintaining and  
31          preserving public records; requiring the

1 Division of Library and Information Services of  
2 the Department of State to adopt rules for  
3 retaining and disposing of public records;  
4 authorizing the division to provide for  
5 archiving certain noncurrent records; providing  
6 for the destruction of certain records and the  
7 continued maintenance of certain records;  
8 providing for the disposition of records at the  
9 end of an official's term of office; requiring  
10 that a custodian of public records demand  
11 delivery of records held unlawfully; repealing  
12 ss. 119.031, 119.041, 119.05, and 119.06, F.S.,  
13 relating to the retention and disposal of  
14 public records and the delivery of records held  
15 unlawfully; amending s. 119.07, F.S.; revising  
16 provisions governing the inspection and copying  
17 of public records; establishing fees for  
18 copying; providing requirements for making  
19 photographs; authorizing additional means of  
20 copying; repealing ss. 119.08 and 119.083,  
21 F.S., relating to requirements for making  
22 photographs of public records and the licensing  
23 and sale of copyrighted data processing  
24 software by an agency; amending s. 119.084,  
25 F.S.; deleting certain provisions governing the  
26 maintenance of public records in an electronic  
27 recordkeeping system; repealing ss. 119.085 and  
28 119.09, F.S., relating to remote electronic  
29 access to public records and the program for  
30 records and information management of the  
31 Department of State; amending s. 119.10, F.S.;

1 clarifying provisions with respect to penalties  
2 for violations of ch. 119, F.S.; amending s.  
3 119.105, F.S.; clarifying provisions under  
4 which certain police reports may be exempt from  
5 the public records law; amending s. 120.55,  
6 F.S.; revising language with respect to  
7 publication of the Florida Administrative Code  
8 to provide that the Department of State is  
9 required to compile and publish the code  
10 through a continuous revision system; amending  
11 s. 257.36, F.S.; providing procedure with  
12 respect to official custody of records upon  
13 transfer of duties or responsibilities between  
14 state agencies or dissolution of a state  
15 agency; amending s. 328.15, F.S.; revising the  
16 classification of records of notices and  
17 satisfaction of liens on vessels maintained by  
18 the Department of Highway Safety and Motor  
19 Vehicles; amending s. 372.5717, F.S.; revising  
20 the classification of records of hunter safety  
21 certification cards maintained by the Fish and  
22 Wildlife Conservation Commission; amending s.  
23 560.121, F.S.; decreasing and qualifying the  
24 period of retention for examination reports,  
25 investigatory records, applications,  
26 application records, and related information  
27 compiled by the Department of Banking and  
28 Finance under the Money Transmitters' Code;  
29 amending s. 560.123, F.S.; decreasing the  
30 period of retention for specified reports filed  
31 by money transmitters with the Department of

1 Banking and Finance under the Money  
2 Transmitters' Code; amending s. 560.129, F.S.;  
3 decreasing and qualifying the period of  
4 retention for examination reports,  
5 investigatory records, applications,  
6 application records, and related information  
7 compiled by the Department of Banking and  
8 Finance under the Money Transmitters' Code;  
9 amending s. 624.311, F.S.; authorizing the  
10 Department of Insurance to maintain an  
11 electronic recordkeeping system for specified  
12 records, statements, reports, and documents;  
13 eliminating a standard for the reproduction of  
14 such records, statements, reports, and  
15 documents; amending s. 624.312, F.S.; providing  
16 that reproductions from an electronic  
17 recordkeeping system of specified documents and  
18 records of the Department of Insurance shall be  
19 treated as originals for the purpose of their  
20 admissibility in evidence; amending s. 633.527,  
21 F.S.; decreasing the period of retention for  
22 specified examination test questions, answer  
23 sheets, and grades in the possession of the  
24 Division of State Fire Marshal of the  
25 Department of Insurance; amending s. 655.50,  
26 F.S.; revising requirements of the Department  
27 of Banking and Finance with respect to  
28 retention of copies of specified reports and  
29 records of exemption submitted or filed by  
30 financial institutions under the Florida  
31 Control of Money Laundering in Financial

1 Institutions Act; amending s. 945.25, F.S.;  
2 requiring the Department of Corrections to  
3 obtain and place in its records specified  
4 information on every person who may be  
5 sentenced to supervision or incarceration under  
6 the jurisdiction of the department; eliminating  
7 a requirement of the department, in its  
8 discretion, to obtain and place in its  
9 permanent records specified information on  
10 persons placed on probation and on persons who  
11 may become subject to pardon and commutation of  
12 sentence; amending s. 985.31, F.S.; revising  
13 the classification of specified medical files  
14 of serious or habitual juvenile offenders;  
15 repealing s. 212.095(6)(d), F.S., which  
16 requires the Department of Revenue to keep a  
17 permanent record of the amounts of refunds  
18 claimed and paid under ch. 212, F.S., and which  
19 requires that such records shall be open to  
20 public inspection; repealing s. 238.03(9),  
21 F.S., relating to the authority of the  
22 Department of Management Services to photograph  
23 and reduce to microfilm as a permanent record  
24 its ledger sheets showing the salaries and  
25 contributions of members of the Teachers'  
26 Retirement System of Florida, the records of  
27 deceased members of the system, and the  
28 authority to destroy the documents from which  
29 such films derive; repealing s. 591.34, F.S.;  
30 eliminating a procedure by which permission may  
31 be obtained from the Department of Agriculture

1 and Consumer Services to cut seed trees;  
2 amending s. 27.151, F.S.; expanding  
3 considerations of the Governor in making an  
4 executive order confidential; correcting a  
5 cross reference; amending s. 399.02, F.S.;  
6 eliminating a confidentiality requirement of  
7 the Department of Business and Professional  
8 Regulation with respect to the names of  
9 companies under contract to provide elevator  
10 service maintenance; amending s. 655.0321,  
11 F.S.; expanding considerations of the  
12 Department of Banking and Finance in  
13 determining whether specified hearings and  
14 proceedings and documents related thereto shall  
15 be exempt from public records and meetings  
16 requirements; correcting a cross reference;  
17 amending ss. 15.09, 23.22, 101.5607, 112.533,  
18 231.291, 257.34, 257.35, 282.21, 287.0943,  
19 320.05, 322.20, 338.223, 378.406, 400.0077,  
20 401.27, 403.111, 409.2577, 455.219, 456.025,  
21 627.311, 627.351, 633.527, 668.50, and 794.024,  
22 F.S.; conforming cross references; reenacting  
23 s. 947.13(2)(a), F.S., relating to the duty of  
24 the Parole Commission to examine specified  
25 records, to incorporate the amendment to s.  
26 945.25, F.S., in a reference thereto;  
27 designating the Records Management Center of  
28 the Department of State as the "James C. 'Jim'  
29 Smith Records Center"; providing an effective  
30 date.  
31

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

2

3 Section 1. Subsection (1) of section 18.20, Florida  
4 Statutes, is amended to read:

5 18.20 Treasurer to make reproductions of certain  
6 warrants, records, and documents.--

7 (1) All vouchers or checks heretofore or hereafter  
8 drawn by appropriate court officials of the several counties  
9 of the state against money deposited with the Treasurer under  
10 the provisions of s. 43.17, and paid by the Treasurer, may be  
11 photographed, microphotographed, or reproduced on film by the  
12 Treasurer. Such photographic film shall be durable material  
13 and the device used to so reproduce such warrants, vouchers,  
14 or checks shall be one which accurately reproduces the  
15 originals thereof in all detail; and such photographs,  
16 microphotographs, or reproductions on film shall be placed in  
17 conveniently accessible and identified files and shall be  
18 preserved by the Treasurer as a part of the ~~permanent~~ records  
19 of office. When any such warrants, vouchers, or checks have  
20 been so photographed, microphotographed, or reproduced on  
21 film, and the photographs, microphotographs, or reproductions  
22 on film thereof have been placed in files as a part of the  
23 ~~permanent~~ records of the office of the Treasurer as aforesaid,  
24 the Treasurer is authorized to return such warrants, vouchers,  
25 or checks to the offices of the respective county officials  
26 who drew the same and such warrants, vouchers, or checks shall  
27 be retained and preserved in such offices to which returned as  
28 a part of the ~~permanent~~ records of such offices.

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

31 119.01 General state policy on public records.--

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

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

13           ~~(2)(3)(a) The Legislature finds that providing access~~  
14 ~~to public records is a duty of each agency and that Automation~~  
15 ~~of public records must not erode the right of access to public~~  
16 ~~those records. As each agency increases its use of and~~  
17 ~~dependence on electronic recordkeeping, each agency must~~  
18 ~~provide~~ ensure reasonable public access to records  
19 electronically maintained and must keep information made  
20 exempt or confidential from being disclosed to the public.

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

26           (c) An agency may not enter into a contract for the  
27 creation or maintenance of a public records database if that  
28 contract impairs the ability of the public to inspect or copy  
29 the public records of the agency, including public records  
30 that are on-line or stored in an electronic recordkeeping  
31 system used by the agency.



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

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

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

26           (3) If public funds are expended by an agency defined  
27 in s. 119.011(2) in payment of dues or membership  
28 contributions for any person, corporation, foundation, trust,  
29 association, group, or other organization, all the financial,  
30 business, and membership records of that person, corporation,  
31 foundation, trust, association, group, or other organization

1 which pertain to the public agency are public records and  
2 subject to the provisions of s. 119.07.

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

9 Section 3. Section 119.011, Florida Statutes, is  
10 amended to read:

11 119.011 Definitions.--As used in ~~For the purpose of~~  
12 ~~this chapter, the term:~~

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

23 (2) "Agency" means any state, county, district,  
24 authority, or municipal officer, department, division, board,  
25 bureau, commission, or other separate unit of government  
26 created or established by law including, for the purposes of  
27 this chapter, the Commission on Ethics, the Public Service  
28 Commission, and the Office of Public Counsel, and any other  
29 public or private agency, person, partnership, corporation, or  
30 business entity acting on behalf of any public agency.

31

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

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

12           (c) "Criminal intelligence information" and "criminal  
13 investigative information" shall not include:

14           1. The time, date, location, and nature of a reported  
15 crime.

16           2. The name, sex, age, and address of a person  
17 arrested or of the victim of a crime except as provided in s.  
18 119.07(6)(3)(f).

19           3. The time, date, and location of the incident and of  
20 the arrest.

21           4. The crime charged.

22           5. Documents given or required by law or agency rule  
23 to be given to the person arrested, except as provided in s.  
24 119.07(6)(3)(f), and, except that the court in a criminal case  
25 may order that certain information required by law or agency  
26 rule to be given to the person arrested be maintained in a  
27 confidential manner and exempt from the provisions of s.  
28 119.07(1) until released at trial if it is found that the  
29 release of such information would:

30  
31

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 data  
18 processing hardware, including, but not limited to, operating  
19 systems, compilers, assemblers, utilities, library routines,  
20 maintenance routines, applications, and computer networking  
21 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 general law which  
25 provides that a specified record or meeting, or portion  
26 thereof, is not subject to the access requirements of s.  
27 119.07(1), s. 286.011, or s. 24, Art. I of the State  
28 Constitution.

29           (9) "Information technology resources" has the meaning  
30 ascribed in s. 282.0041(7).

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 4. Sections 119.0115, 119.012, and 119.02,  
22 Florida Statutes, are repealed.

23           Section 5. 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, a custodian of public  
4 records of vital, permanent, or archival records shall keep  
5 them in fireproof and waterproof safes, vaults, or rooms  
6 fitted with noncombustible materials and in such arrangement  
7 as to be 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 under 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 (2)(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           (3) 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           (4)(a) Whoever has custody of any public records shall  
29 deliver, at the expiration of his or her term of office, to  
30 his or her successor or, if there be none, to the records and  
31 information management program of the Division of Library and



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

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

11 Section 6. Sections 119.031, 119.041, 119.05, and  
12 119.06, Florida Statutes, are repealed.

13 Section 7. Section 119.07, Florida Statutes, as  
14 amended by chapter 2001-364, Laws of Florida, is amended to  
15 read:

16 119.07 Inspection, examination, and copying  
17 duplication of records; fees; exemptions.--

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

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

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

1 exemption that he or she contends is applicable to the record,  
2 including the statutory citation to an exemption created or  
3 afforded by statute.

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

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

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

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

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

11 (2)(a) Any person shall have the right of access to  
12 public records for the purpose of making photographs of the  
13 record while in the possession, custody, and control of the  
14 custodian of public records.

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) Photographing public records shall be done under  
22 the supervision of the custodian of public records, who may  
23 adopt and 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 public records, this is  
27 impossible or impracticable, the work shall be done in another  
28 room or place, as nearly adjacent as possible to the room  
29 where the public records are kept, to be determined by the  
30 custodian of public records. Where provision of another room  
31 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 paragraph (4)(e).

3 (3)(a) As an additional means of inspecting or copying  
4 public records, a custodian of public records may provide  
5 access to public records by remote electronic means, provided  
6 confidential or exempt information is not disclosed.

7 (b) The custodian of public records shall provide  
8 safeguards to protect the contents of public records from  
9 unauthorized remote electronic access or alteration and to  
10 prevent the disclosure or modification of those portions of  
11 public records which are exempt from subsection (1) or s. 24,  
12 Art. I of the State Constitution.

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

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

24 (a)1. Up to 15 cents per one-sided copy for duplicated  
25 copies of not more than 14 inches by 8 1/2 inches;

26 2. An agency may charge no more than an additional 5  
27 cents for each two-sided copy; ~~upon payment of not more than~~  
28 ~~15 cents per one-sided copy, and~~

29 3. For all other copies, upon payment of the actual  
30 cost of duplication of the public record. An agency may  
31 ~~charge no more than an additional 5 cents for each two-sided~~

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

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

16 (d)~~(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 (e)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 of public records may charge the  
2 person making the photographs for supervision services at a  
3 rate of compensation to be agreed upon by the person desiring  
4 to make the photographs and the custodian of public records.  
5 If they fail to agree as to the appropriate charge, then the  
6 charge is to be determined by the custodian of public records.

7 ~~"Information technology resources" means data processing~~  
8 ~~hardware and software and services, communications, supplies,~~  
9 ~~personnel, facility resources, maintenance, and training.~~

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

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

1 ~~by the person seeking the right under this subsection to~~  
2 ~~inspect, examine, or copy the record, he or she shall state in~~  
3 ~~writing and with particularity the reasons for the conclusion~~  
4 ~~that the record is exempt.~~

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

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

31

1           ~~(d) The absence of a civil action instituted for the~~  
2 ~~purpose stated in paragraph (c) will 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 examination under subsection (1) and will not otherwise~~  
6 ~~excuse or exonerate the custodian from any unauthorized or~~  
7 ~~unlawful disposition of such record.~~

8           (6)(3)(a) Examination questions and answer sheets of  
9 examinations administered by a governmental agency for the  
10 purpose of licensure, certification, or employment are exempt  
11 from the provisions of subsection (1) and s. 24(a), Art. I of  
12 the State Constitution. A person who has taken such an  
13 examination shall have the right to review his or her own  
14 completed examination.

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

19           2. A request of a law enforcement agency to inspect or  
20 copy a public record that is in the custody of another agency,  
21 the custodian's response to the request, and any information  
22 that would identify the public record that was requested by  
23 the law enforcement agency or provided by the custodian are  
24 exempt from the requirements of subsection (1) and s. 24(a),  
25 Art. I of the State Constitution, during the period in which  
26 the information constitutes criminal intelligence  
27 ~~criminal-intelligence~~ information or criminal investigative  
28 ~~criminal-investigative~~ information that is active. This  
29 exemption is remedial in nature and it is the intent of the  
30 Legislature that the exemption be applied to requests for  
31 information received before, on, or after the effective date



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

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

16 (d) Any information revealing surveillance techniques  
17 or procedures or personnel is exempt from the provisions of  
18 subsection (1) and s. 24(a), Art. I of the State Constitution.  
19 Any comprehensive inventory of state and local law enforcement  
20 resources compiled pursuant to part I, chapter 23, and any  
21 comprehensive policies or plans compiled by a criminal justice  
22 agency pertaining to the mobilization, deployment, or tactical  
23 operations involved in responding to emergencies, as defined  
24 in s. 252.34(3), are exempt from the provisions of subsection  
25 (1) and s. 24(a), Art. I of the State Constitution and  
26 unavailable for inspection, except by personnel authorized by  
27 a state or local law enforcement agency, the office of the  
28 Governor, the Department of Legal Affairs, the Department of  
29 Law Enforcement, or the Department of Community Affairs as  
30 having an official need for access to the inventory or  
31 comprehensive policies or plans.

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

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

20           (g) Any criminal intelligence information or criminal  
21 investigative information which reveals the personal assets of  
22 the victim of a crime, other than property stolen or destroyed  
23 during the commission of the crime, is exempt from the  
24 provisions of subsection (1) and s. 24(a), Art. I of the State  
25 Constitution.

26           (h) All criminal intelligence and criminal  
27 investigative information received by a criminal justice  
28 agency prior to January 25, 1979, is exempt from the  
29 provisions of subsection (1) and s. 24(a), Art. I of the State  
30 Constitution.

31

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

1 or former state attorneys, assistant state attorneys,  
2 statewide prosecutors, or assistant statewide prosecutors; the  
3 home addresses, telephone numbers, social security numbers,  
4 photographs, and places of employment of the spouses and  
5 children of current or former state attorneys, assistant state  
6 attorneys, statewide prosecutors, or assistant statewide  
7 prosecutors; and the names and locations of schools and day  
8 care facilities attended by the children of current or former  
9 state attorneys, assistant state attorneys, statewide  
10 prosecutors, or assistant statewide prosecutors are exempt  
11 from subsection (1) and s. 24(a), Art. I of the State  
12 Constitution.

13           2. The home addresses, telephone numbers, social  
14 security numbers, and photographs of current or former human  
15 resource, labor relations, or employee relations directors,  
16 assistant directors, managers, or assistant managers of any  
17 local government agency or water management district whose  
18 duties include hiring and firing employees, labor contract  
19 negotiation, administration, or other personnel-related  
20 duties; the names, home addresses, telephone numbers, social  
21 security numbers, photographs, and places of employment of the  
22 spouses and children of such personnel; and the names and  
23 locations of schools and day care facilities attended by the  
24 children of such personnel are exempt from subsection (1) and  
25 s. 24(a), Art. I of the State Constitution. This subparagraph  
26 is subject to the Open Government Sunset Review Act of 1995 in  
27 accordance with s. 119.15, and shall stand repealed on October  
28 2, 2006, unless reviewed and saved from repeal through  
29 reenactment by the Legislature.

30           3. The home addresses, telephone numbers, social  
31 security numbers, and photographs of current or former code

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

11           4. An agency that is the custodian of the personal  
12 information specified in subparagraph 1., subparagraph 2., or  
13 subparagraph 3. and that is not the employer of the officer,  
14 employee, justice, judge, or other person specified in  
15 subparagraph 1., subparagraph 2., or subparagraph 3. shall  
16 maintain the exempt status ~~confidentiality~~ of the personal  
17 information only if the officer, employee, justice, judge,  
18 other person, or employing agency of the designated employee  
19 submits a written request for maintenance of the exemption  
20 ~~confidentiality~~ to the custodial agency.

21           (j) Any information provided to an agency of state  
22 government or to an agency of a political subdivision of the  
23 state for the purpose of forming ridesharing arrangements,  
24 which information reveals the identity of an individual who  
25 has provided his or her name for ridesharing, as defined in s.  
26 341.031, is exempt from the provisions of subsection (1) and  
27 s. 24(a), Art. I of the State Constitution.

28           (k) Any information revealing the substance of a  
29 confession of a person arrested is exempt from the provisions  
30 of subsection (1) and s. 24(a), Art. I of the State  
31 Constitution, until such time as the criminal case is finally

1 determined by adjudication, dismissal, or other final  
2 disposition.

3 (1)1. A public record which was prepared by an agency  
4 attorney (including an attorney employed or retained by the  
5 agency or employed or retained by another public officer or  
6 agency to protect or represent the interests of the agency  
7 having custody of the record) or prepared at the attorney's  
8 express direction, which reflects a mental impression,  
9 conclusion, litigation strategy, or legal theory of the  
10 attorney or the agency, and which was prepared exclusively for  
11 civil or criminal litigation or for adversarial administrative  
12 proceedings, or which was prepared in anticipation of imminent  
13 civil or criminal litigation or imminent adversarial  
14 administrative proceedings, is exempt from the provisions of  
15 subsection (1) and s. 24(a), Art. I of the State Constitution  
16 until the conclusion of the litigation or adversarial  
17 administrative proceedings. For purposes of capital collateral  
18 litigation as set forth in s. 27.7001, the Attorney General's  
19 office is entitled to claim this exemption for those public  
20 records prepared for direct appeal as well as for all capital  
21 collateral litigation after direct appeal until execution of  
22 sentence or imposition of a life sentence.

23 2. This exemption is not waived by the release of such  
24 public record to another public employee or officer of the  
25 same agency or any person consulted by the agency attorney.  
26 When asserting the right to withhold a public record pursuant  
27 to this paragraph, the agency shall identify the potential  
28 parties to any such criminal or civil litigation or  
29 adversarial administrative proceedings. If a court finds that  
30 the document or other record has been improperly withheld  
31 under this paragraph, the party seeking access to such

1 document or record shall be awarded reasonable attorney's fees  
2 and costs in addition to any other remedy ordered by the  
3 court.

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

11 (n) When an agency of the executive branch of state  
12 government seeks to acquire real property by purchase or  
13 through the exercise of the power of eminent domain all  
14 appraisals, other reports relating to value, offers, and  
15 counteroffers must be in writing and are exempt from the  
16 provisions of subsection (1) and s. 24(a), Art. I of the State  
17 Constitution until execution of a valid option contract or a  
18 written offer to sell that has been conditionally accepted by  
19 the agency, at which time the exemption shall expire. The  
20 agency shall not finally accept the offer for a period of 30  
21 days in order to allow public review of the transaction. The  
22 agency may give conditional acceptance to any option or offer  
23 subject only to final acceptance by the agency after the  
24 30-day review period. If a valid option contract is not  
25 executed, or if a written offer to sell is not conditionally  
26 accepted by the agency, then the exemption from the provisions  
27 of this chapter shall expire at the conclusion of the  
28 condemnation litigation of the subject property. An agency of  
29 the executive branch may exempt title information, including  
30 names and addresses of property owners whose property is  
31 subject to acquisition by purchase or through the exercise of

1 the power of eminent domain, from the provisions of subsection  
2 (1) and s. 24(a), Art. I of the State Constitution to the same  
3 extent as appraisals, other reports relating to value, offers,  
4 and counteroffers. For the purpose of this paragraph, "option  
5 contract" means an agreement of an agency of the executive  
6 branch of state government to purchase real property subject  
7 to final agency approval. This paragraph shall have no  
8 application to other exemptions from the provisions of  
9 subsection (1) which are contained in other provisions of law  
10 and shall not be construed to be an express or implied repeal  
11 thereof.

12 (o) Data processing software obtained by an agency  
13 under a licensing agreement which prohibits its disclosure and  
14 which software is a trade secret, as defined in s. 812.081,  
15 and agency-produced data processing software which is  
16 sensitive are exempt from the provisions of subsection (1) and  
17 s. 24(a), Art. I of the State Constitution. The designation  
18 of agency-produced software as sensitive shall not prohibit an  
19 agency head from sharing or exchanging such software with  
20 another public agency. ~~As used in this paragraph:~~

21 1. ~~"Data processing software" means the programs and~~  
22 ~~routines used to employ and control the capabilities of data~~  
23 ~~processing hardware, including, but not limited to, operating~~  
24 ~~systems, compilers, assemblers, utilities, library routines,~~  
25 ~~maintenance routines, applications, and computer networking~~  
26 ~~programs.~~

27 2. ~~"Sensitive" means only those portions of data~~  
28 ~~processing software, including the specifications and~~  
29 ~~documentation, used to:~~

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



1           ~~b. Collect, process, store, and retrieve financial~~  
2 ~~management information of the agency, such as payroll and~~  
3 ~~accounting records; or~~

4           ~~c. Control and direct access authorizations and~~  
5 ~~security measures for automated systems.~~

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

24           (q) All complaints and other records in the custody of  
25 any agency in the executive branch of state government which  
26 relate to a complaint of discrimination relating to race,  
27 color, religion, sex, national origin, age, handicap, or  
28 marital status in connection with hiring practices, position  
29 classifications, salary, benefits, discipline, discharge,  
30 employee performance, evaluation, or other related activities  
31 are exempt from the provisions of subsection (1) and s. 24(a),

1 Art. I of the State Constitution until a finding is made  
2 relating to probable cause, the investigation of the complaint  
3 becomes inactive, or the complaint or other record is made  
4 part of the official record of any hearing or court  
5 proceeding. This provision shall not affect any function or  
6 activity of the Florida Commission on Human Relations. Any  
7 state or federal agency which is authorized to have access to  
8 such complaints or records by any provision of law shall be  
9 granted such access in the furtherance of such agency's  
10 statutory duties, notwithstanding the provisions of this  
11 section.

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

18 (s)1. Any document that reveals the identity, home or  
19 employment telephone number, home or employment address, or  
20 personal assets of the victim of a crime and identifies that  
21 person as the victim of a crime, which document is received by  
22 any agency that regularly receives information from or  
23 concerning the victims of crime, is exempt from the provisions  
24 of subsection (1) and s. 24(a), Art. I of the State  
25 Constitution. Any information not otherwise held confidential  
26 or exempt from the provisions of subsection (1) which reveals  
27 the home or employment telephone number, home or employment  
28 address, or personal assets of a person who has been the  
29 victim of sexual battery, aggravated child abuse, aggravated  
30 stalking, harassment, aggravated battery, or domestic violence  
31 is exempt from the provisions of subsection (1) and s. 24(a),

1 Art. I of the State Constitution, upon written request by the  
2 victim, which must include official verification that an  
3 applicable crime has occurred. Such information shall cease  
4 to be exempt 5 years after the receipt of the written request.  
5 Any state or federal agency that is authorized to have access  
6 to such documents by any provision of law shall be granted  
7 such access in the furtherance of such agency's statutory  
8 duties, notwithstanding the provisions of this section.

9         2. Any information in a videotaped statement of a  
10 minor who is alleged to be or who is a victim of sexual  
11 battery, lewd acts, or other sexual misconduct proscribed in  
12 chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s.  
13 847.0125, s. 847.013, s. 847.0133, or s. 847.0145, which  
14 reveals that minor's identity, including, but not limited to,  
15 the minor's face; the minor's home, school, church, or  
16 employment telephone number; the minor's home, school, church,  
17 or employment address; the name of the minor's school, church,  
18 or place of employment; or the personal assets of the minor;  
19 and which identifies that minor as the victim of a crime  
20 described in this subparagraph, is confidential and exempt  
21 from subsection (1) and s. 24(a), Art. I of the State  
22 Constitution. Any governmental agency that is authorized to  
23 have access to such statements by any provision of law shall  
24 be granted such access in the furtherance of the agency's  
25 statutory duties, notwithstanding the provisions of this  
26 section. This subparagraph is subject to the Open Government  
27 Sunset Review Act of 1995 in accordance with s. 119.15, and  
28 shall stand repealed on October 2, 2003.

29         3. A public employee or officer who has access to the  
30 videotaped statement of a minor who is alleged to be or who is  
31 a victim of sexual battery, lewd acts, or other sexual

1 misconduct proscribed in chapter 800 or in s. 794.011, s.  
2 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or  
3 s. 847.0145, may not willfully and knowingly disclose  
4 videotaped information that reveals that minor's identity to a  
5 person who is not assisting in the investigation or  
6 prosecution of the alleged offense or to any person other than  
7 the defendant, the defendant's attorney, or a person specified  
8 in an order entered by the court having jurisdiction of the  
9 alleged offense.

10           4. A person who violates subparagraph 3. commits a  
11 misdemeanor of the first degree, punishable as provided in s.  
12 775.082 or s. 775.083.

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

18           (u) Where the alleged victim chooses not to file a  
19 complaint and requests that records of the complaint remain  
20 confidential, all records relating to an allegation of  
21 employment discrimination are confidential and exempt from the  
22 provisions of subsection (1) and s. 24(a), Art. I of the State  
23 Constitution.

24           (v) Medical information pertaining to a prospective,  
25 current, or former officer or employee of an agency which, if  
26 disclosed, would identify that officer or employee is exempt  
27 from the provisions of subsection (1) and s. 24(a), Art. I of  
28 the State Constitution. However, such information may be  
29 disclosed if the person to whom the information pertains or  
30 the person's legal representative provides written permission  
31 or pursuant to court order.

1 (w)1. If certified pursuant to subparagraph 2., an  
2 investigatory record of the Chief Inspector General within the  
3 Executive Office of the Governor or of the employee designated  
4 by an agency head as the agency inspector general under s.  
5 112.3189 is exempt from the provisions of subsection (1) and  
6 s. 24(a), Art. I of the State Constitution until the  
7 investigation ceases to be active, or a report detailing the  
8 investigation is provided to the Governor or the agency head,  
9 or 60 days from the inception of the investigation for which  
10 the record was made or received, whichever first occurs.  
11 Investigatory records are those records which are related to  
12 the investigation of an alleged, specific act or omission or  
13 other wrongdoing, with respect to an identifiable person or  
14 group of persons, based on information compiled by the Chief  
15 Inspector General or by an agency inspector general, as named  
16 under the provisions of s. 112.3189, in the course of an  
17 investigation. An investigation is active if it is continuing  
18 with a reasonable, good faith anticipation of resolution and  
19 with reasonable dispatch.

20 2. The Governor, in the case of the Chief Inspector  
21 General, or agency head, in the case of an employee designated  
22 as the agency inspector general under s. 112.3189, may certify  
23 such investigatory records require an exemption to protect the  
24 integrity of the investigation or avoid unwarranted damage to  
25 an individual's goodname or reputation. The certification  
26 shall specify the nature and purpose of the investigation and  
27 shall be kept with the exempt records and made public when the  
28 records are made public.

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

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

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

21           ~~(z) Bank account numbers or debit, charge, or credit~~  
22 ~~card numbers given to an agency for the purpose of payment of~~  
23 ~~any fee or debt owing are confidential and exempt from~~  
24 ~~subsection (1) and s. 24(a), Art. I of the State Constitution.~~  
25 ~~However, such numbers may be used by an agency, as needed, in~~  
26 ~~any administrative or judicial proceeding, provided such~~  
27 ~~numbers are kept confidential and exempt, unless otherwise~~  
28 ~~ordered by the court. This paragraph is subject to the Open~~  
29 ~~Government Sunset Review Act of 1995 in accordance with s.~~  
30 ~~119.15, and shall stand repealed on October 2, 2001, unless~~

31

1 ~~reviewed and saved from repeal through reenactment by the~~  
2 ~~Legislature.~~

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

20       (aa)~~(bb)~~ Upon a request made in a form designated by  
21 the Department of Highway Safety and Motor Vehicles, personal  
22 information contained in a motor vehicle record that  
23 identifies the requester is exempt from subsection (1) and s.  
24 24(a), Art. I of the State Constitution except as provided in  
25 this paragraph. Personal information includes, but is not  
26 limited to, the requester's social security number, driver  
27 identification number, name, address, telephone number, and  
28 medical or disability information. For purposes of this  
29 paragraph, personal information does not include information  
30 relating to vehicular crashes, driving violations, and  
31 driver's status. Such request may be made only by the person

1 who is the subject of the motor vehicle record. For purposes  
2 of this paragraph, "motor vehicle record" means any record  
3 that pertains to a motor vehicle operator's permit, motor  
4 vehicle title, motor vehicle registration, or identification  
5 card issued by the Department of Highway Safety and Motor  
6 Vehicles. Personal information contained in motor vehicle  
7 records exempted by an individual's request pursuant to this  
8 paragraph shall be released by the department for any of the  
9 following uses:

10           1. For use in connection with matters of motor vehicle  
11 or driver safety and theft; motor vehicle emissions; motor  
12 vehicle product alterations, recalls, or advisories;  
13 performance monitoring of motor vehicles and dealers by motor  
14 vehicle manufacturers; and removal of nonowner records from  
15 the original owner records of motor vehicle manufacturers, to  
16 carry out the purposes of the Automobile Information  
17 Disclosure Act, the Motor Vehicle Information and Cost Saving  
18 Act, the National Traffic and Motor Vehicle Safety Act of  
19 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

20           2. For use by any government agency, including any  
21 court or law enforcement agency, in carrying out its  
22 functions, or any private person or entity acting on behalf of  
23 a federal, state, or local agency in carrying out its  
24 functions.

25           3. For use in connection with matters of motor vehicle  
26 or driver safety and theft; motor vehicle emissions; motor  
27 vehicle product alterations, recalls, or advisories;  
28 performance monitoring of motor vehicles, motor vehicle parts,  
29 and dealers; motor vehicle market research activities,  
30 including survey research; and removal of nonowner records  
31



1 from the original owner records of motor vehicle  
2 manufacturers.

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

6 a. To verify the accuracy of personal information  
7 submitted by the individual to the business or its agents,  
8 employees, or contractors; and

9 b. If such information as so submitted is not correct  
10 or is no longer correct, to obtain the correct information,  
11 but only for the purposes of preventing fraud by, pursuing  
12 legal remedies against, or recovering on a debt or security  
13 interest against, the individual.

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

17 a. Service of process by any certified process server,  
18 special process server, or other person authorized to serve  
19 process in this state.

20 b. Investigation in anticipation of litigation by an  
21 attorney licensed to practice law in this state or the agent  
22 of the attorney.

23 c. Investigation by any person in connection with any  
24 filed proceeding.

25 d. Execution or enforcement of judgments and orders.

26 e. Compliance with an order of any court.

27 6. For use in research activities and for use in  
28 producing statistical reports, so long as the personal  
29 information is not published, redisclosed, or used to contact  
30 individuals.

31

1           7. For use by any insurer or insurance support  
2 organization, or by a self-insured entity, or its agents,  
3 employees, or contractors, in connection with claims  
4 investigation activities, anti-fraud activities, rating, or  
5 underwriting.

6           8. For use in providing notice to the owners of towed  
7 or impounded vehicles.

8           9. For use by any licensed private investigative  
9 agency or licensed security service for any purpose permitted  
10 under this paragraph. Personal information obtained based on  
11 an exempt driver's record may not be provided to a client who  
12 cannot demonstrate a need based on a police report, court  
13 order, or a business or personal relationship with the subject  
14 of the investigation.

15          10. For use by an employer or its agent or insurer to  
16 obtain or verify information relating to a holder of a  
17 commercial driver's license that is required under the  
18 Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. App.  
19 2710 et seq.

20          11. For use in connection with the operation of  
21 private toll transportation facilities.

22          12. For bulk distribution for surveys, marketing, or  
23 solicitations when the department has implemented methods and  
24 procedures to ensure that:

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

27           b. The information will be used, rented, or sold  
28 solely for bulk distribution for survey, marketing, and  
29 solicitations, and that surveys, marketing, and solicitations  
30 will not be directed at those individuals who have timely  
31 requested that they not be directed at them.

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

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

7  
8 Personal information exempted from public disclosure according  
9 to this paragraph may be disclosed by the Department of  
10 Highway Safety and Motor Vehicles to an individual, firm,  
11 corporation, or similar business entity whose primary business  
12 interest is to resell or redisclose the personal information  
13 to persons who are authorized to receive such information.  
14 Prior to the department's disclosure of personal information,  
15 such individual, firm, corporation, or similar business entity  
16 must first enter into a contract with the department regarding  
17 the care, custody, and control of the personal information to  
18 ensure compliance with the federal Driver's Privacy Protection  
19 Act of 1994 and applicable state laws. An authorized recipient  
20 of personal information contained in a motor vehicle record,  
21 except a recipient under subparagraph 12., may contract with  
22 the Department of Highway Safety and Motor Vehicles to resell  
23 or redisclose the information for any use permitted under this  
24 paragraph. However, only authorized recipients of personal  
25 information under subparagraph 12. may resell or redisclose  
26 personal information pursuant to subparagraph 12. Any  
27 authorized recipient who resells or rediscloses personal  
28 information shall maintain, for a period of 5 years, records  
29 identifying each person or entity that receives the personal  
30 information and the permitted purpose for which it will be  
31 used. Such records shall be made available for inspection upon

1 request by the department. The department shall adopt rules to  
2 carry out the purposes of this paragraph and the federal  
3 Driver's Privacy Protection Act of 1994, Title XXX, Pub. L.  
4 No. 103-322. Rules adopted by the department shall provide for  
5 the payment of applicable fees and, prior to the disclosure of  
6 personal information pursuant to this paragraph, shall require  
7 the meeting of conditions by the requesting person for the  
8 purposes of obtaining reasonable assurance concerning the  
9 identity of such requesting person, and, to the extent  
10 required, assurance that the use will be only as authorized or  
11 that the consent of the person who is the subject of the  
12 personal information has been obtained. Such conditions may  
13 include, but need not be limited to, the making and filing of  
14 a written application in such form and containing such  
15 information and certification requirements as the department  
16 requires.

17 (bb)~~(cc)~~1. Medical history records, bank account  
18 numbers, credit card numbers, telephone numbers, and  
19 information related to health or property insurance furnished  
20 by an individual to any agency pursuant to federal, state, or  
21 local housing assistance programs are confidential and exempt  
22 from the provisions of subsection (1) and s. 24(a), Art. I of  
23 the State Constitution. Any other information produced or  
24 received by any private or public entity in direct connection  
25 with federal, state, or local housing assistance programs,  
26 unless the subject of another federal or state exemption, is  
27 subject to subsection (1).

28 2. Governmental agencies or their agents are entitled  
29 to access to the records specified in this paragraph for the  
30 purposes of auditing federal, state, or local housing programs  
31 or housing assistance programs. Such records may be used by an

1 agency, as needed, in any administrative or judicial  
2 proceeding, provided such records are kept confidential and  
3 exempt, unless otherwise ordered by a court.

4 3. This paragraph is repealed effective October 2,  
5 2003, and must be reviewed by the Legislature before that date  
6 in accordance with s. 119.15, the Open Government Sunset  
7 Review Act of 1995.

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

17 1. With the express written consent of the individual  
18 or the individual's legally authorized representative.

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

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

22 4. To a health research entity, if the entity seeks  
23 the records or data pursuant to a research protocol approved  
24 by the department, maintains the records or data in accordance  
25 with the approved protocol, and enters into a purchase and  
26 data-use agreement with the department, the fee provisions of  
27 which are consistent with subsection (4)~~paragraph (1)(a)~~.

28 The department may deny a request for records or data if the  
29 protocol provides for intrusive follow-back contacts, has not  
30 been approved by a human studies institutional review board,  
31 does not plan for the destruction of confidential records

1 after the research is concluded, is administratively  
2 burdensome, or does not have scientific merit. The agreement  
3 must restrict the release of any information, which would  
4 permit the identification of persons, limit the use of records  
5 or data to the approved research protocol, and prohibit any  
6 other use of the records or data. Copies of records or data  
7 issued pursuant to this subparagraph remain the property of  
8 the department.

9

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

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

18 ~~(7)(4)~~ Nothing in this section shall be construed to  
19 exempt from subsection (1) a public record which was made a  
20 part of a court file and which is not specifically closed by  
21 order of court, except as provided in paragraphs (c), (d),  
22 (e), (k), (l), and (o) of subsection ~~(6)(3)~~ and except  
23 information or records which may reveal the identity of a  
24 person who is a victim of a sexual offense as provided in  
25 paragraph (f) of subsection ~~(6)(3)~~.

26 ~~(8)(5)~~ An exemption from this section does not imply  
27 an exemption from or exception to s. 286.011. The exemption  
28 from or exception to s. 286.011 must be expressly provided.

29 ~~(9)(6)~~ Nothing in subsection ~~(6)(3)~~ or any other  
30 general or special law shall limit the access of the Auditor  
31 General, the Office of Program Policy Analysis and Government

1 Accountability, or any state, county, municipal, university,  
2 board of community college, school district, or special  
3 district internal auditor to public records when such person  
4 states in writing that such records are needed for a properly  
5 authorized audit, examination, or investigation. Such person  
6 shall maintain the confidential or exempt status  
7 ~~confidentiality~~ of a any public record ~~records~~ that is ~~are~~  
8 confidential or exempt from the provisions of subsection (1),  
9 and shall be subject to the same penalties as the custodian  
10 ~~custodians~~ of that record ~~those public records~~ for public  
11 disclosure of such record ~~violating confidentiality~~.

12 (10)(7)(a) Any person or organization, including the  
13 Department of Children and Family Services, may petition the  
14 court for an order making public the records of the Department  
15 of Children and Family Services that pertain to investigations  
16 of alleged abuse, neglect, abandonment, or exploitation of a  
17 child or a vulnerable adult. The court shall determine if good  
18 cause exists for public access to the records sought or a  
19 portion thereof. In making this determination, the court shall  
20 balance the best interest of the vulnerable adult or child who  
21 is the focus of the investigation, and in the case of the  
22 child, the interest of that child's siblings, together with  
23 the privacy right of other persons identified in the reports  
24 against the public interest. The public interest in access to  
25 such records is reflected in s. 119.01(1), and includes the  
26 need for citizens to know of and adequately evaluate the  
27 actions of the Department of Children and Family Services and  
28 the court system in providing vulnerable adults and children  
29 of this state with the protections enumerated in ss. 39.001  
30 and 415.101. However, this subsection does not contravene ss.  
31 39.202 and 415.107, which protect the name of any person

1 reporting the abuse, neglect, or exploitation of a child or a  
2 vulnerable adult.

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

- 19 1. A confirmation that an investigation has been  
20 conducted concerning the alleged victim.
- 21 2. The dates and brief description of procedural  
22 activities undertaken during the department's investigation.
- 23 3. The date of each judicial proceeding, a summary of  
24 each participant's recommendations made at the judicial  
25 proceedings, and the rulings of the court.

26  
27 The summary information may not include the name of, or other  
28 identifying information with respect to, any person identified  
29 in any investigation. In making a determination to release  
30 confidential information, the court shall balance the best  
31 interests of the vulnerable adult or child who is the focus of



1 the investigation and, in the case of the child, the interests  
2 of that child's siblings, together with the privacy rights of  
3 other persons identified in the reports against the public  
4 interest for access to public records. However, this paragraph  
5 does not contravene ss. 39.202 and 415.107, which protect the  
6 name of any person reporting abuse, neglect, or exploitation  
7 of a child or a vulnerable adult.

8 (c) When the court determines that good cause for  
9 public access exists, the court shall direct that the  
10 department redact the name of and other identifying  
11 information with respect to any person identified in any  
12 protective investigation report until such time as the court  
13 finds that there is probable cause to believe that the person  
14 identified committed an act of alleged abuse, neglect, or  
15 abandonment.

16 (11)~~(8)~~ The provisions of this section are not  
17 intended to expand or limit the provisions of Rule 3.220,  
18 Florida Rules of Criminal Procedure, regarding the right and  
19 extent of discovery by the state or by a defendant in a  
20 criminal prosecution or in collateral postconviction  
21 proceedings. This section may not be used by any inmate as  
22 the basis for failing to timely litigate any postconviction  
23 action.

24 Section 8. Sections 119.08 and 119.083, Florida  
25 Statutes, are repealed.

26 Section 9. Section 119.084, Florida Statutes, is  
27 amended to read:

28 119.084 Definitions; copyright of data processing  
29 software created by governmental agencies; sale price and  
30 licensing fee; ~~access to public records; prohibited~~  
31 ~~contracts.--~~

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

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

5 ~~(b) "Data processing software" means the programs and~~  
6 ~~routines used to employ and control the capabilities of data~~  
7 ~~processing hardware, including, but not limited to, operating~~  
8 ~~systems, compilers, assemblers, utilities, library routines,~~  
9 ~~maintenance routines, applications, and computer networking~~  
10 ~~programs.~~

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

13 (2) Any agency is authorized to acquire and hold  
14 copyrights for data processing software created by the agency  
15 and to enforce its rights pertaining to such copyrights,  
16 provided that the agency complies with the requirements of  
17 this section.

18 (a) Any agency that has acquired a copyright for data  
19 processing software created by the agency may sell or license  
20 the copyrighted data processing software to any public agency  
21 or private person and may establish a price for the sale and a  
22 license fee for the use of such data processing software.  
23 Proceeds from the sale or licensing of copyrighted data  
24 processing software shall be deposited by the agency into a  
25 trust fund for the agency's appropriate use for authorized  
26 purposes. Counties, municipalities, and other political  
27 subdivisions of the state may designate how such sale and  
28 licensing proceeds are to be used. The price for the sale of  
29 and the fee for the licensing of copyrighted data processing  
30 software may be based on market considerations. However, the  
31 prices or fees for the sale or licensing of copyrighted data

1 processing software to an individual or entity solely for  
2 application to information maintained or generated by the  
3 agency that created the copyrighted data processing software  
4 shall be determined pursuant to s. 119.07(4)~~(1)~~.

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

8 ~~(3) Subject to the restrictions of copyright and trade~~  
9 ~~secret laws and public records exemptions, agency use of~~  
10 ~~proprietary software must not diminish the right of the public~~  
11 ~~to inspect and copy a public record.~~

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

17 ~~(5) Each agency that maintains a public record in an~~  
18 ~~electronic recordkeeping system shall provide to any person,~~  
19 ~~pursuant to this chapter, a copy of any public record in that~~  
20 ~~system which is not exempted by law from public disclosure.~~  
21 ~~An agency must provide a copy of the record in the medium~~  
22 ~~requested if the agency maintains the record in that medium,~~  
23 ~~and the agency may charge a fee which shall be in accordance~~  
24 ~~with this chapter. For the purpose of satisfying a public~~  
25 ~~records request, the fee to be charged by an agency if it~~  
26 ~~elects to provide a copy of a public record in a medium not~~  
27 ~~routinely used by the agency, or if it elects to compile~~  
28 ~~information not routinely developed or maintained by the~~  
29 ~~agency or that requires a substantial amount of manipulation~~  
30 ~~or programming, must be in accordance with s. 119.07(1)(b).~~

31

1           ~~(6) An agency may not enter into a contract for the~~  
 2 ~~creation or maintenance of a public records database if that~~  
 3 ~~contract impairs the ability of the public to inspect or copy~~  
 4 ~~the public records of that agency, including public records~~  
 5 ~~that are on-line or stored in an electronic recordkeeping~~  
 6 ~~system used by the agency. Such contract may not allow any~~  
 7 ~~impediment that as a practical matter makes it more difficult~~  
 8 ~~for the public to inspect or copy the records than to inspect~~  
 9 ~~or copy the agency's records. The fees and costs for the~~  
 10 ~~production of such records may not be more than the fees or~~  
 11 ~~costs charged by the agency.~~

12           ~~(3)(7)~~ This section is subject to the Open Government  
 13 Sunset Review Act of 1995 in accordance with s. 119.15 and  
 14 shall stand repealed on October 2, 2006, unless reviewed and  
 15 saved from repeal through reenactment by the Legislature.

16           Section 10. Sections 119.085 and 119.09, Florida  
 17 Statutes, are repealed.

18           Section 11. Section 119.10, Florida Statutes, is  
 19 amended to read:

20           119.10 Violation of chapter; penalties.--

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

24           (2) Any person who willfully and knowingly violates:  
 25 violating

26           (a) Any of the provisions of this chapter commits is  
 27 guilty of a misdemeanor of the first degree, punishable as  
 28 provided in s. 775.082 or s. 775.083.

29           (b)(3) Section ~~Any person who willfully and knowingly~~  
 30 ~~violates s.119.105~~ commits a felony of the third degree,  
 31

1 punishable as provided in s. 775.082, s. 775.083, or s.  
2 775.084.

3 Section 12. Section 119.105, Florida Statutes, is  
4 amended to read:

5 119.105 Protection of victims of crimes or  
6 accidents.--Police reports are public records except as  
7 otherwise made exempt or confidential ~~by general or special~~  
8 ~~law~~. Every person is allowed to examine nonexempt or  
9 nonconfidential police reports. No person who inspects or  
10 copies police reports for the purpose of obtaining the names  
11 and addresses of the victims of crimes or accidents shall use  
12 any information contained therein for any commercial  
13 solicitation of the victims or relatives of the victims of the  
14 reported crimes or accidents. Nothing herein shall prohibit  
15 the publication of such information by any news media or the  
16 use of such information for any other data collection or  
17 analysis purposes.

18 Section 13. Paragraph (a) of subsection (1) of section  
19 120.55, Florida Statutes, is amended to read:

20 120.55 Publication.--

21 (1) The Department of State shall:

22 (a)1. Through a continuous revision system, compile  
23 and publish the "Florida Administrative Code." The Florida  
24 Administrative Code shall contain ~~Publish in a permanent~~  
25 ~~compilation entitled "Florida Administrative Code"~~all rules  
26 adopted by each agency, citing the specific rulemaking  
27 authority pursuant to which each rule was adopted, all history  
28 notes as authorized in s. 120.545(9), and complete indexes to  
29 all rules contained in the code. Supplementation shall be made  
30 as often as practicable, but at least monthly. The department  
31 may contract with a publishing firm for the publication, in a

1 timely and useful form, of the Florida Administrative Code;  
2 however, the department shall retain responsibility for the  
3 code as provided in this section. This publication shall be  
4 the official compilation of the administrative rules of this  
5 state. The Department of State shall retain the copyright  
6 over the Florida Administrative Code.

7         2. Rules general in form but applicable to only one  
8 school district, community college district, or county, or a  
9 part thereof, or university rules relating to internal  
10 personnel or business and finance shall not be published in  
11 the Florida Administrative Code. Exclusion from publication in  
12 the Florida Administrative Code shall not affect the validity  
13 or effectiveness of such rules.

14         3. At the beginning of the section of the code dealing  
15 with an agency that files copies of its rules with the  
16 department, the department shall publish the address and  
17 telephone number of the executive offices of each agency, the  
18 manner by which the agency indexes its rules, a listing of all  
19 rules of that agency excluded from publication in the code,  
20 and a statement as to where those rules may be inspected.

21         4. Forms shall not be published in the Florida  
22 Administrative Code; but any form which an agency uses in its  
23 dealings with the public, along with any accompanying  
24 instructions, shall be filed with the committee before it is  
25 used. Any form or instruction which meets the definition of  
26 "rule" provided in s. 120.52 shall be incorporated by  
27 reference into the appropriate rule. The reference shall  
28 specifically state that the form is being incorporated by  
29 reference and shall include the number, title, and effective  
30 date of the form and an explanation of how the form may be  
31 obtained.

1           Section 14. Paragraph (b) of subsection (2) of section  
2 257.36, Florida Statutes, is amended to read:

3           257.36 Records and information management.--

4           (2)

5           (b) Title to any record detained in any records center  
6 shall remain in the agency transferring such record to the  
7 division. When the Legislature transfers any duty or  
8 responsibility of an agency to another agency, the receiving  
9 agency shall be the custodian of public records with regard to  
10 the public records associated with that transferred duty or  
11 responsibility, and shall be responsible for the records  
12 storage service charges of the division. If an agency is  
13 dissolved and the legislation dissolving that agency does not  
14 assign an existing agency as the custodian of public records  
15 for the dissolved agency's records, then the Cabinet is the  
16 custodian of public records for the dissolved agency, unless  
17 the Cabinet otherwise designates a custodian. The Cabinet or  
18 the agency designated by the Cabinet shall be responsible for  
19 the records storage service charges of the division.

20           Section 15. Subsection (5) of section 328.15, Florida  
21 Statutes, is amended to read:

22           328.15 Notice of lien on vessel; recording.--

23           (5) The Department of Highway Safety and Motor  
24 Vehicles shall make such rules and regulations as it deems  
25 necessary or proper for the effective administration of this  
26 law. The department may by rule require that a notice of  
27 satisfaction of a lien be notarized. The department shall  
28 prepare the forms of the notice of lien and the satisfaction  
29 of lien to be supplied, at a charge not to exceed 50 percent  
30 more than cost, to applicants for recording the liens or  
31 satisfactions and shall keep a ~~permanent~~ record of such

1 notices of lien and satisfactions available for inspection by  
2 the public at all reasonable times. The division is authorized  
3 to furnish certified copies of such satisfactions for a fee of  
4 \$1, which certified copies shall be admissible in evidence in  
5 all courts of this state under the same conditions and to the  
6 same effect as certified copies of other public records.

7 Section 16. Subsection (4) of section 372.5717,  
8 Florida Statutes, is amended to read:

9 372.5717 Hunter safety course; requirements;  
10 penalty.--

11 (4) The commission shall issue a permanent hunter  
12 safety certification card to each person who successfully  
13 completes the hunter safety course. The commission shall  
14 maintain ~~permanent~~ records of hunter safety certification  
15 cards issued and shall establish procedures for replacing lost  
16 or destroyed cards.

17 Section 17. Subsection (2) of section 560.121, Florida  
18 Statutes, is amended to read:

19 560.121 Records; limited restrictions upon public  
20 access.--

21 (2) Examination reports, investigatory records,  
22 applications, and related information compiled by the  
23 department, or photographic copies thereof, shall be retained  
24 by the department for a period of at least 3 ~~10~~ years from the  
25 date that the examination or investigation ceases to be  
26 active. Application records, and related information compiled  
27 by the department, or photographic copies thereof, shall be  
28 retained by the department for a period of at least 2 years  
29 from the date that the registration ceases to be active.

30 Section 18. Subsection (6) of section 560.123, Florida  
31 Statutes, is amended to read:



1           560.123 Florida control of money laundering in the  
2 Money Transmitters' Code; reports of transactions involving  
3 currency or monetary instruments; when required; purpose;  
4 definitions; penalties; corpus delicti.--

5           (6) The department must retain a copy of all reports  
6 received under subsection (5) for a minimum of 3 ~~5~~ calendar  
7 years after receipt of the report. However, if a report or  
8 information contained in a report is known by the department  
9 to be the subject of an existing criminal proceeding, the  
10 report must be retained for a minimum of 10 calendar years  
11 from the date of receipt.

12           Section 19. Subsection (5) of section 560.129, Florida  
13 Statutes, is amended to read:

14           560.129 Confidentiality.--

15           (5) Examination reports, investigatory records,  
16 applications, and related information compiled by the  
17 department, or photographic copies thereof, shall be retained  
18 by the department for a period of at least 3 ~~10~~ years from the  
19 date that the examination or investigation ceases to be  
20 active. Application records, and related information compiled  
21 by the department, or photographic copies thereof, shall be  
22 retained by the department for a period of at least 2 years  
23 from the date that the registration ceases to be active.

24           Section 20. Subsection (3) of section 624.311, Florida  
25 Statutes, is amended to read:

26           624.311 Records; reproductions; destruction.--

27           (3) The department may photograph, microphotograph, or  
28 reproduce on film, or maintain in an electronic recordkeeping  
29 system ~~whereby each page will be reproduced in exact~~  
30 ~~conformity with the original~~, all financial records, financial  
31 statements of domestic insurers, reports of business

1 transacted in this state by foreign insurers and alien  
2 insurers, reports of examination of domestic insurers, and  
3 such other records and documents on file in its office as it  
4 may in its discretion select.

5 Section 21. Subsection (1) of section 624.312, Florida  
6 Statutes, is amended to read:

7 624.312 Reproductions and certified copies of records  
8 as evidence.--

9 (1) Photographs or microphotographs in the form of  
10 film or prints, or other reproductions from an electronic  
11 recordkeeping system, of documents and records made under s.  
12 624.311(3), or made under former s. 624.311(3) before October  
13 1, 1982, shall have the same force and effect as the originals  
14 thereof and shall be treated as originals for the purpose of  
15 their admissibility in evidence. Duly certified or  
16 authenticated reproductions of such photographs or  
17 microphotographs or reproductions from an electronic  
18 recordkeeping system shall be as admissible in evidence as the  
19 originals.

20 Section 22. Subsection (2) of section 633.527, Florida  
21 Statutes, is amended to read:

22 633.527 Records concerning applicant; extent of  
23 confidentiality.--

24 (2) All examination test questions, answer sheets, and  
25 grades shall be retained for a period of 2 5 years from the  
26 date of the examination.

27 Section 23. Subsection (8) of section 655.50, Florida  
28 Statutes, is amended to read:

29 655.50 Florida Control of Money Laundering in  
30 Financial Institutions Act; reports of transactions involving  
31

1 currency or monetary instruments; when required; purpose;  
2 definitions; penalties.--

3 ~~(8)(a) The department shall retain a copy of all~~  
4 ~~reports received under subsection (4) for a minimum of 5~~  
5 ~~calendar years after receipt of the report. However, if a~~  
6 ~~report or information contained in a report is known by the~~  
7 ~~department to be the subject of an existing criminal~~  
8 ~~proceeding, the report shall be retained for a minimum of 10~~  
9 ~~calendar years after receipt of the report.~~

10 (a)~~(b)~~ Each financial institution shall maintain for a  
11 minimum of 5 calendar years full and complete records of all  
12 financial transactions, including all records required by 31  
13 C.F.R. parts 103.33 and 103.34.

14 (b)~~(c)~~ The financial institution shall retain a copy  
15 of all reports filed with the department under subsection (4)  
16 for a minimum of 5 calendar years after submission of the  
17 report. ~~However, if a report or information contained in a~~  
18 ~~report is known by the financial institution to be the subject~~  
19 ~~of an existing criminal proceeding, the report shall be~~  
20 ~~retained for a minimum of 10 calendar years after submission~~  
21 ~~of the report.~~

22 (c)~~(d)~~ The financial institution shall retain a copy  
23 of all records of exemption for each designation of exempt  
24 person made pursuant to subsection (6) for a minimum of 5  
25 calendar years after termination of exempt status of such  
26 customer. ~~However, if it is known by the financial institution~~  
27 ~~that the customer or the transactions of the customer are the~~  
28 ~~subject of an existing criminal proceeding, the records shall~~  
29 ~~be retained for a minimum of 10 calendar years after~~  
30 ~~termination of exempt status of such customer.~~

31

1           Section 24. Section 945.25, Florida Statutes, is  
2 amended to read:

3           945.25 Records.--

4           (1) It shall be the duty of the Department of  
5 Corrections to obtain and place in its ~~permanent~~ records  
6 information as complete as practicable ~~may be practicably~~  
7 ~~available~~ on every person who may be sentenced to supervision  
8 or incarceration under the jurisdiction of the department  
9 ~~become subject to parole~~. Such information shall be obtained  
10 as soon as possible after imposition of sentence and shall, in  
11 the discretion of the department, include, among other things:

12           (a) A copy of the indictment or information and a  
13 complete statement of the facts of the crime for which such  
14 person has been sentenced.

15           (b) The court in which the person was sentenced.

16           (c) The terms of the sentence.

17           (d) The name of the presiding judge, the prosecuting  
18 officers, the investigating officers, and the attorneys for  
19 the person convicted.

20           (e) A copy of all probation reports which may have  
21 been made.

22           (f) Any social, physical, mental, psychiatric, or  
23 criminal record of such person.

24           ~~(2) The department, in its discretion, shall also~~  
25 ~~obtain and place in its permanent records such information on~~  
26 ~~every person who may be placed on probation, and on every~~  
27 ~~person who may become subject to pardon and commutation of~~  
28 ~~sentence.~~

29           (2)(3) It shall be the duty of the court and its  
30 prosecuting officials to furnish to the department upon its  
31 request such information and also to furnish such copies of

1 such minutes and other records as may be in their possession  
2 or under their control.

3 ~~(3)(4)~~ Following the initial hearing provided for in  
4 s. 947.172(1), the commission shall prepare and the department  
5 shall include in the official record a copy of the  
6 seriousness-of-offense and favorable-parole-outcome scores and  
7 shall include a listing of the specific factors and  
8 information used in establishing a presumptive parole release  
9 date for the inmate.

10 Section 25. Paragraph (e) of subsection (4) of section  
11 985.31, Florida Statutes, is amended to read:

12 985.31 Serious or habitual juvenile offender.--

13 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

14 (e) The results of any serologic blood or urine test  
15 on a serious or habitual juvenile offender shall become a part  
16 of that child's ~~permanent~~ medical file. Upon transfer of the  
17 child to any other designated treatment facility, such file  
18 shall be transferred in an envelope marked confidential. The  
19 results of any test designed to identify the human  
20 immunodeficiency virus, or its antigen or antibody, shall be  
21 accessible only to persons designated by rule of the  
22 department. The provisions of such rule shall be consistent  
23 with the guidelines established by the Centers for Disease  
24 Control and Prevention.

25 Section 26. Paragraph (d) of subsection (6) of section  
26 212.095, Florida Statutes, is repealed.

27 Section 27. Subsection (9) of section 238.03, Florida  
28 Statutes, is repealed.

29 Section 28. Section 591.34, Florida Statutes, is  
30 repealed.

31

1 Section 29. Paragraph (a) of subsection (5) of section  
2 15.09, Florida Statutes, is amended to read:

3 15.09 Fees.--

4 (5)(a) There is created within the Department of State  
5 a Public Access Data Systems Trust Fund, which shall be used  
6 by the department to purchase information systems and  
7 equipment that provide greater public accessibility to the  
8 information and records maintained by it. Notwithstanding any  
9 other provision of law, the Divisions of Licensing, Elections,  
10 and Corporations of the department shall transfer each fiscal  
11 year to the Public Access Data Systems Trust Fund from their  
12 respective trust funds:

13 1. An amount equal to 2 percent of all revenues  
14 received for the processing of documents, filings, or  
15 information requests.

16 2. All public access network revenues collected  
17 pursuant to s. 15.16 or s. 119.01(2)(f)~~119.085~~.

18 Section 30. Paragraph (f) of subsection (1) of section  
19 23.22, Florida Statutes, is amended to read:

20 23.22 Paperwork reduction; activities of  
21 departments.--

22 (1) In order to reduce the amount of paperwork  
23 associated with the collection of information from  
24 individuals, private-sector organizations, and local  
25 governments and to provide more efficient and effective  
26 assistance to such individuals and organizations in completing  
27 necessary paperwork required by the government, each  
28 department head shall, to the extent feasible:

29 (f) Collaborate with the Division of Library and  
30 Information Services, pursuant to s. 119.021(2)(d)~~119.09~~, to  
31 identify and index records retention requirements placed on

1 private-sector organizations and local governments in Florida,  
2 clarify and reduce the requirements, and educate the affected  
3 entities through various communications media, including  
4 voice, data, video, radio, and image.

5 Section 31. Subsection (2) of section 27.151, Florida  
6 Statutes, is amended to read:

7 27.151 Confidentiality of specified executive orders;  
8 criteria.--

9 (2) The Governor shall consider the purposes specified  
10 in s. 119.15 and shall consider the provisions of s. 24, Art.  
11 I of the State Constitution when making ~~The Governor shall~~  
12 ~~base his or her decision to make~~ an executive order  
13 ~~confidential on the criteria set forth in s. 119.14.~~

14 Section 32. Paragraph (d) of subsection (1) of section  
15 101.5607, Florida Statutes, is amended to read:

16 101.5607 Department of State to maintain voting system  
17 information; prepare software.--

18 (1)  
19 (d) Section 119.07~~(6)~~(3)(o) applies to all software on  
20 file with the Department of State.

21 Section 33. Paragraph (b) of subsection (2) of section  
22 112.533, Florida Statutes, is amended to read:

23 112.533 Receipt and processing of complaints.--

24 (2)  
25 (b) This subsection does not apply to any public  
26 record which is exempt from public disclosure pursuant to s.  
27 119.07~~(6)~~(3). For the purposes of this subsection, an  
28 investigation shall be considered active as long as it is  
29 continuing with a reasonable, good faith anticipation that an  
30 administrative finding will be made in the foreseeable future.

31

1 An investigation shall be presumed to be inactive if no  
2 finding is made within 45 days after the complaint is filed.

3 Section 34. Paragraph (e) of subsection (2) of section  
4 231.291, Florida Statutes, is amended to read:

5 231.291 Personnel files.--Public school system  
6 employee personnel files shall be maintained according to the  
7 following provisions:

8 (2)

9 (e) Upon request, an employee, or any person  
10 designated in writing by the employee, shall be permitted to  
11 examine the personnel file of such employee. The employee  
12 shall be permitted conveniently to reproduce any materials in  
13 the file, at a cost no greater than the fees prescribed in s.  
14 119.07(4)~~(1)~~.

15 Section 35. Subsection (1) of section 257.34, Florida  
16 Statutes, is amended to read:

17 257.34 Florida International Archive and Repository.--

18 (1) There is created within the Division of Library  
19 and Information Services of the Department of State the  
20 Florida International Archive and Repository for the  
21 preservation of those public records, as defined in s.  
22 119.011(11)~~(1)~~, manuscripts, international judgments involving  
23 disputes between domestic and foreign businesses, and all  
24 other public matters that the department or the Florida  
25 Council of International Development deems relevant to  
26 international issues. It is the duty and responsibility of the  
27 division to:

28 (a) Organize and administer the Florida International  
29 Archive and Repository.

30 (b) Preserve and administer records that are  
31 transferred to its custody; accept, arrange, and preserve



1 them, according to approved archival and repository practices;  
2 and permit them, at reasonable times and under the supervision  
3 of the division, to be inspected, examined, and copied. All  
4 public records transferred to the custody of the division are  
5 subject to the provisions of s. 119.07(1).

6 (c) Assist the records and information management  
7 program in the determination of retention values for records.

8 (d) Cooperate with and assist, insofar as practicable,  
9 state institutions, departments, agencies, counties,  
10 municipalities, and individuals engaged in internationally  
11 related activities.

12 (e) Provide a public research room where, under rules  
13 established by the division, the materials in the  
14 international archive and repository may be studied.

15 (f) Conduct, promote, and encourage research in  
16 international trade, government, and culture and maintain a  
17 program of information, assistance, coordination, and guidance  
18 for public officials, educational institutions, libraries, the  
19 scholarly community, and the general public engaged in such  
20 research.

21 (g) Cooperate with and, insofar as practicable, assist  
22 agencies, libraries, institutions, and individuals in projects  
23 concerned with internationally related issues and preserve  
24 original materials relating to internationally related issues.

25 (h) Assist and cooperate with the records and  
26 information management program in the training and information  
27 program described in s. 257.36(1)(g).

28 Section 36. Subsection (1) of section 257.35, Florida  
29 Statutes, is amended to read:

30 257.35 Florida State Archives.--

31

1           (1) There is created within the Division of Library  
2 and Information Services of the Department of State the  
3 Florida State Archives for the preservation of those public  
4 records, as defined in s. 119.011(11)(~~1~~), manuscripts, and  
5 other archival material that have been determined by the  
6 division to have sufficient historical or other value to  
7 warrant their continued preservation and have been accepted by  
8 the division for deposit in its custody. It is the duty and  
9 responsibility of the division to:

10           (a) Organize and administer the Florida State  
11 Archives.

12           (b) Preserve and administer such records as shall be  
13 transferred to its custody; accept, arrange, and preserve  
14 them, according to approved archival practices; and permit  
15 them, at reasonable times and under the supervision of the  
16 division, to be inspected, examined, and copied. All public  
17 records transferred to the custody of the division shall be  
18 subject to the provisions of s. 119.07(1), except that any  
19 public record or other record provided by law to be  
20 confidential or prohibited from inspection by the public shall  
21 be made accessible only after a period of 50 years from the  
22 date of the creation of the record. Any nonpublic manuscript  
23 or other archival material which is placed in the keeping of  
24 the division under special terms and conditions, shall be made  
25 accessible only in accordance with such law terms and  
26 conditions and shall be exempt from the provisions of s.  
27 119.07(1) to the extent necessary to meet the terms and  
28 conditions for a nonpublic manuscript or other archival  
29 material.

30           (c) Assist the records and information management  
31 program in the determination of retention values for records.

1 (d) Cooperate with and assist insofar as practicable  
2 state institutions, departments, agencies, counties,  
3 municipalities, and individuals engaged in activities in the  
4 field of state archives, manuscripts, and history and accept  
5 from any person any paper, book, record, or similar material  
6 which in the judgment of the division warrants preservation in  
7 the state archives.

8 (e) Provide a public research room where, under rules  
9 established by the division, the materials in the state  
10 archives may be studied.

11 (f) Conduct, promote, and encourage research in  
12 Florida history, government, and culture and maintain a  
13 program of information, assistance, coordination, and guidance  
14 for public officials, educational institutions, libraries, the  
15 scholarly community, and the general public engaged in such  
16 research.

17 (g) Cooperate with and, insofar as practicable, assist  
18 agencies, libraries, institutions, and individuals in projects  
19 designed to preserve original source materials relating to  
20 Florida history, government, and culture and prepare and  
21 publish handbooks, guides, indexes, and other literature  
22 directed toward encouraging the preservation and use of the  
23 state's documentary resources.

24 (h) Encourage and initiate efforts to preserve,  
25 collect, process, transcribe, index, and research the oral  
26 history of Florida government.

27 (i) Assist and cooperate with the records and  
28 information management program in the training and information  
29 program described in s. 257.36(1)(g).

30 Section 37. Section 282.21, Florida Statutes, is  
31 amended to read:

1           282.21 The State Technology Office's electronic access  
2 services.--The State Technology Office may collect fees for  
3 providing remote electronic access pursuant to s. 119.01(2)(f)  
4 ~~119.085~~. The fees may be imposed on individual transactions or  
5 as a fixed subscription for a designated period of time. All  
6 fees collected under this section shall be deposited in the  
7 appropriate trust fund of the program or activity that made  
8 the remote electronic access available.

9           Section 38. Paragraph (h) of subsection (2) of section  
10 287.0943, Florida Statutes, is amended to read:

11           287.0943 Certification of minority business  
12 enterprises.--

13           (2)

14           (h) The certification procedures should allow an  
15 applicant seeking certification to designate on the  
16 application form the information the applicant considers to be  
17 proprietary, confidential business information. As used in  
18 this paragraph, "proprietary, confidential business  
19 information" includes, but is not limited to, any information  
20 that would be exempt from public inspection pursuant to the  
21 provisions of s. 119.07(6)~~(3)~~; trade secrets; internal  
22 auditing controls and reports; contract costs; or other  
23 information the disclosure of which would injure the affected  
24 party in the marketplace or otherwise violate s. 286.041. The  
25 executor in receipt of the application shall issue written and  
26 final notice of any information for which noninspection is  
27 requested but not provided for by law.

28           Section 39. Subsection (1) of section 320.05, Florida  
29 Statutes, is amended to read:

30           320.05 Records of the department; inspection  
31 procedure; lists and searches; fees.--

1           (1) Except as provided in s. 119.07~~(6)(3)~~, the  
2 department may release records as provided in this section.

3           Section 40. Subsection (8) of section 322.20, Florida  
4 Statutes, is amended to read:

5           322.20 Records of the department; fees; destruction of  
6 records.--

7           (8) Except as provided in s. 119.07~~(6)(3)~~, the  
8 department may release records as provided in this section.

9           Section 41. Paragraph (b) of subsection (2) of section  
10 338.223, Florida Statutes, is amended to read:

11           338.223 Proposed turnpike projects.--

12           (2)

13           (b) In accordance with the legislative intent  
14 expressed in s. 337.273, and after the requirements of  
15 paragraph (1)(c) have been met, the department may acquire  
16 lands and property before making a final determination of the  
17 economic feasibility of a project. The requirements of  
18 paragraph (1)(c) do not apply to hardship and protective  
19 purchases of advance right-of-way by the department. The cost  
20 of advance acquisition of right-of-way may be paid from bonds  
21 issued under s. 337.276 or from turnpike revenues. For  
22 purposes of this paragraph, the term "hardship purchase" means  
23 purchase from a property owner of a residential dwelling of  
24 not more than four units who is at a disadvantage due to  
25 health impairment, job loss, or significant loss of rental  
26 income. For purposes of this paragraph, the term "protective  
27 purchase" means that a purchase to limit development,  
28 building, or other intensification of land uses within the  
29 area right-of-way is needed for transportation facilities. The  
30 department shall give written notice to the Department of  
31 Environmental Protection 30 days before final agency

1 acceptance as set forth in s. 119.07(6)~~(3)~~(n), which notice  
2 shall allow the Department of Environmental Protection to  
3 comment. Hardship and protective purchases of right-of-way  
4 shall not influence the environmental feasibility of a  
5 project, including the decision relative to the need to  
6 construct the project or the selection of a specific location.  
7 Costs to acquire and dispose of property acquired as hardship  
8 and protective purchases are considered costs of doing  
9 business for the department and are not to be considered in  
10 the determination of environmental feasibility for the  
11 project.

12 Section 42. Paragraph (a) of subsection (1) of section  
13 378.406, Florida Statutes, is amended to read:

14 378.406 Confidentiality of records; availability of  
15 information.--

16 (1)(a) Any information relating to prospecting, rock  
17 grades, or secret processes or methods of operation which may  
18 be required, ascertained, or discovered by inspection or  
19 investigation shall be exempt from the provisions of s.  
20 119.07(1), shall not be disclosed in public hearings, and  
21 shall be kept confidential by any member, officer, or employee  
22 of the department, if the applicant requests the department to  
23 keep such information confidential and informs the department  
24 of the basis for such confidentiality. Should the secretary  
25 determine that such information requested to be kept  
26 confidential shall not be kept confidential, the secretary  
27 shall provide the operator with not less than 30 days' notice  
28 of his or her intent to release the information. When making  
29 his or her determination, the secretary shall consider the  
30 public purposes specified in s. 119.15(4)(b)~~119.14(4)(b)~~.

31

1           Section 43. Paragraph (c) of subsection (5) of section  
2 399.02, Florida Statutes, is amended to read:

3           399.02 General requirements.--

4           (5)

5           (c) The elevator owner shall report to the department  
6 60 days before the expiration of the certificate of operation  
7 whether there exists a service maintenance contract, with whom  
8 the contract exists, and the details concerning the provisions  
9 and implementation of the contract which the department  
10 requires. ~~The department shall keep the names of companies~~  
11 ~~with whom the contract exists confidential pursuant to the~~  
12 ~~public records exemption provided in s. 119.14(4)(b)3.~~ This  
13 annual contract report must be made on forms supplied by the  
14 department. The elevator owner must report any material  
15 change in the service maintenance contract no fewer than 30  
16 days before the effective date of the change. The department  
17 shall determine whether the provisions of the service  
18 maintenance contract and its implementation ensure the safe  
19 operation of the elevator.

20           Section 44. Paragraph (c) of subsection (1) of section  
21 400.0077, Florida Statutes, is amended to read:

22           400.0077 Confidentiality.--

23           (1) The following are confidential and exempt from the  
24 provisions of s. 119.07(1):

25           (c) Any other information about a complaint, including  
26 any problem identified by an ombudsman council as a result of  
27 an investigation, unless an ombudsman council determines that  
28 the information does not meet any of the criteria specified in  
29 s. 119.15(4)(b)~~119.14(4)(b)~~; or unless the information is to  
30 collect data for submission to those entities specified in s.  
31

1 712(c) of the federal Older Americans Act for the purpose of  
2 identifying and resolving significant problems.

3 Section 45. Subsection (5) of section 401.27, Florida  
4 Statutes, is amended to read:

5 401.27 Personnel; standards and certification.--

6 (5) The certification examination must be offered  
7 monthly. The department shall issue an examination admission  
8 notice to the applicant advising him or her of the time and  
9 place of the examination for which he or she is scheduled.  
10 Individuals achieving a passing score on the certification  
11 examination may be issued a temporary certificate with their  
12 examination grade report. The department must issue an  
13 original certification within 45 days after the examination.  
14 Examination questions and answers are not subject to discovery  
15 but may be introduced into evidence and considered only in  
16 camera in any administrative proceeding under chapter 120. If  
17 an administrative hearing is held, the department shall  
18 provide challenged examination questions and answers to the  
19 administrative law judge. The department shall establish by  
20 rule the procedure by which an applicant, and the applicant's  
21 attorney, may review examination questions and answers in  
22 accordance with s. 119.07(6)~~(3)~~(a).

23 Section 46. Subsection (1) of section 403.111, Florida  
24 Statutes, is amended to read:

25 403.111 Confidential records.--

26 (1) Any information, other than effluent data and  
27 those records described in 42 U.S.C. s. 7661a(b)(8), relating  
28 to secret processes or secret methods of manufacture or  
29 production, or relating to costs of production, profits, or  
30 other financial information which is otherwise not public  
31 record, which may be required, ascertained, or discovered by



1 inspection or investigation shall be exempt from the  
2 provisions of s. 119.07(1), shall not be disclosed in public  
3 hearings, and shall be kept confidential by any member,  
4 officer, or employee of the department, upon a showing  
5 satisfactory to the department that the information should be  
6 kept confidential. The person from whom the information is  
7 obtained must request that the department keep such  
8 information confidential and must inform the department of the  
9 basis for the claim of confidentiality. The department shall,  
10 subject to notice and opportunity for hearing, determine  
11 whether the information requested to be kept confidential  
12 should or should not be kept confidential. The department  
13 shall determine whether the information submitted should be  
14 kept confidential pursuant to the public purpose test as  
15 stated in s. 119.15(4)(b)3.~~119.14(4)(b)3.~~

16 Section 47. Section 409.2577, Florida Statutes, is  
17 amended to read:

18 409.2577 Parent locator service.--The department shall  
19 establish a parent locator service to assist in locating  
20 parents who have deserted their children and other persons  
21 liable for support of dependent children. The department  
22 shall use all sources of information available, including the  
23 Federal Parent Locator Service, and may request and shall  
24 receive information from the records of any person or the  
25 state or any of its political subdivisions or any officer  
26 thereof. Any agency as defined in s. 120.52, any political  
27 subdivision, and any other person shall, upon request, provide  
28 the department any information relating to location, salary,  
29 insurance, social security, income tax, and employment history  
30 necessary to locate parents who owe or potentially owe a duty  
31 of support pursuant to Title IV-D of the Social Security Act.

1 This provision shall expressly take precedence over any other  
2 statutory nondisclosure provision which limits the ability of  
3 an agency to disclose such information, except that law  
4 enforcement information as provided in s. 119.07(6)~~(3)~~(i) is  
5 not required to be disclosed, and except that confidential  
6 taxpayer information possessed by the Department of Revenue  
7 shall be disclosed only to the extent authorized in s.  
8 213.053(15). Nothing in this section requires the disclosure  
9 of information if such disclosure is prohibited by federal  
10 law. Information gathered or used by the parent locator  
11 service is confidential and exempt from the provisions of s.  
12 119.07(1). Additionally, the department is authorized to  
13 collect any additional information directly bearing on the  
14 identity and whereabouts of a person owing or asserted to be  
15 owing an obligation of support for a dependent child. The  
16 department shall, upon request, make information available  
17 only to public officials and agencies of this state; political  
18 subdivisions of this state, including any agency thereof  
19 providing child support enforcement services to non-Title IV-D  
20 clients; the custodial parent, legal guardian, attorney, or  
21 agent of the child; and other states seeking to locate parents  
22 who have deserted their children and other persons liable for  
23 support of dependents, for the sole purpose of establishing,  
24 modifying, or enforcing their liability for support, and shall  
25 make such information available to the Department of Children  
26 and Family Services for the purpose of diligent search  
27 activities pursuant to chapter 39. If the department has  
28 reasonable evidence of domestic violence or child abuse and  
29 the disclosure of information could be harmful to the  
30 custodial parent or the child of such parent, the child  
31 support program director or designee shall notify the

1 Department of Children and Family Services and the Secretary  
2 of the United States Department of Health and Human Services  
3 of this evidence. Such evidence is sufficient grounds for the  
4 department to disapprove an application for location services.

5 Section 48. Subsection (6) of section 455.219, Florida  
6 Statutes, is amended to read:

7 455.219 Fees; receipts; disposition; periodic  
8 management reports.--

9 (6) The department or the appropriate board shall  
10 charge a fee not to exceed \$25 for the certification of a  
11 public record. The fee shall be determined by rule of the  
12 department. The department or the appropriate board shall  
13 assess a fee for duplication of a public record as provided in  
14 s. 119.07(4)(1)(a) and (b).

15 Section 49. Subsection (11) of section 456.025,  
16 Florida Statutes, is amended to read:

17 456.025 Fees; receipts; disposition.--

18 (11) The department or the appropriate board shall  
19 charge a fee not to exceed \$25 for the certification of a  
20 public record. The fee shall be determined by rule of the  
21 department. The department or the appropriate board shall  
22 assess a fee for duplicating a public record as provided in s.  
23 119.07(4)(1)(a) and (b).

24 Section 50. Paragraph (1) of subsection (3) of section  
25 627.311, Florida Statutes, is amended to read:

26 627.311 Joint underwriters and joint reinsurers.--

27 (3) The department may, after consultation with  
28 insurers licensed to write automobile insurance in this state,  
29 approve a joint underwriting plan for purposes of equitable  
30 apportionment or sharing among insurers of automobile  
31 liability insurance and other motor vehicle insurance, as an

1 alternate to the plan required in s. 627.351(1). All insurers  
2 authorized to write automobile insurance in this state shall  
3 subscribe to the plan and participate therein. The plan shall  
4 be subject to continuous review by the department which may at  
5 any time disapprove the entire plan or any part thereof if it  
6 determines that conditions have changed since prior approval  
7 and that in view of the purposes of the plan changes are  
8 warranted. Any disapproval by the department shall be subject  
9 to the provisions of chapter 120. If adopted, the plan and  
10 the association created under the plan:

11 (1)1. Shall be subject to the public records  
12 requirements of chapter 119 and the public meeting  
13 requirements of s. 286.011. However, the following records of  
14 the Florida Automobile Joint Underwriting Association are  
15 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
16 of the State Constitution:

17 a. Underwriting files, except that a policyholder or  
18 an applicant shall have access to his or her own underwriting  
19 files.

20 b. Claims files, until termination of all litigation  
21 and settlement of all claims arising out of the same incident,  
22 although portions of the claims files may remain exempt, as  
23 otherwise provided by law. Confidential and exempt claims file  
24 records may be released to other governmental agencies upon  
25 written request and demonstration of need; such records held  
26 by the receiving agency remain confidential and exempt as  
27 provided by this paragraph.

28 c. Records obtained or generated by an internal  
29 auditor pursuant to a routine audit, until the audit is  
30 completed or, if the audit is conducted as part of an  
31 investigation, until the investigation is closed or ceases to

1 be active. An investigation is considered "active" while the  
2 investigation is being conducted with a reasonable, good faith  
3 belief that it could lead to the filing of administrative,  
4 civil, or criminal proceedings.

5 d. Matters reasonably encompassed in privileged  
6 attorney-client communications.

7 e. Proprietary information licensed to the association  
8 under contract when the contract provides for the  
9 confidentiality of such proprietary information.

10 f. All information relating to the medical condition  
11 or medical status of an association employee which is not  
12 relevant to the employee's capacity to perform his or her  
13 duties, except as otherwise provided in this paragraph.

14 Information which is exempt shall include, but is not limited  
15 to, information relating to workers' compensation, insurance  
16 benefits, and retirement or disability benefits.

17 g. All records relative to an employee's participation  
18 in an employee assistance program designed to assist any  
19 employee who has a behavioral or medical disorder, substance  
20 abuse problem, or emotional difficulty which affects the  
21 employee's job performance, except as otherwise provided in s.  
22 112.0455(11).

23 h. Information relating to negotiations for financing,  
24 reinsurance, depopulation, or contractual services, until the  
25 conclusion of the negotiations.

26 i. Minutes of closed meetings regarding underwriting  
27 files, and minutes of closed meetings regarding an open claims  
28 file until termination of all litigation and settlement of all  
29 claims with regard to that claim, except that information  
30 otherwise confidential or exempt by law must be redacted.

31

1 When an authorized insurer is considering underwriting a risk  
2 insured by the association, relevant underwriting files and  
3 confidential claims files may be released to the insurer  
4 provided the insurer agrees in writing, notarized and under  
5 oath, to maintain the confidentiality of such files. When a  
6 file is transferred to an insurer, that file is no longer a  
7 public record because it is not held by an agency subject to  
8 the provisions of the public records law. The association may  
9 make the following information obtained from underwriting  
10 files and confidential claims files available to licensed  
11 general lines insurance agents: name, address, and telephone  
12 number of the automobile owner or insured; location of the  
13 risk; rating information; loss history; and policy type. The  
14 receiving licensed general lines insurance agent must retain  
15 the confidentiality of the information received.

16           2. Portions of meetings of the Florida Automobile  
17 Joint Underwriting Association during which confidential  
18 underwriting files or confidential open claims files are  
19 discussed are exempt from the provisions of s. 286.011 and s.  
20 24(b), Art. I of the State Constitution. All portions of  
21 association meetings which are closed to the public shall be  
22 recorded by a court reporter. The court reporter shall record  
23 the times of commencement and termination of the meeting, all  
24 discussion and proceedings, the names of all persons present  
25 at any time, and the names of all persons speaking. No  
26 portion of any closed meeting shall be off the record.  
27 Subject to the provisions of this paragraph and s.  
28 119.07(1)(b)-(d)(2)(a), the court reporter's notes of any  
29 closed meeting shall be retained by the association for a  
30 minimum of 5 years. A copy of the transcript, less any exempt  
31 matters, of any closed meeting during which claims are

1 discussed shall become public as to individual claims after  
2 settlement of the claim.

3

4 This paragraph is subject to the Open Government Sunset Review  
5 Act of 1995 in accordance with s. 119.15, and shall stand  
6 repealed on October 2, 2003, unless reviewed and saved from  
7 repeal through reenactment by the Legislature.

8 Section 51. Paragraph (n) of subsection (6) of section  
9 627.351, Florida Statutes, is amended to read:

10 627.351 Insurance risk apportionment plans.--

11 (6) RESIDENTIAL PROPERTY AND CASUALTY JOINT  
12 UNDERWRITING ASSOCIATION.--

13 (n)1. The following records of the Residential  
14 Property and Casualty Joint Underwriting Association are  
15 confidential and exempt from the provisions of s. 119.07(1)  
16 and s. 24(a), Art. I of the State Constitution:

17 a. Underwriting files, except that a policyholder or  
18 an applicant shall have access to his or her own underwriting  
19 files.

20 b. Claims files, until termination of all litigation  
21 and settlement of all claims arising out of the same incident,  
22 although portions of the claims files may remain exempt, as  
23 otherwise provided by law. Confidential and exempt claims file  
24 records may be released to other governmental agencies upon  
25 written request and demonstration of need; such records held  
26 by the receiving agency remain confidential and exempt as  
27 provided for herein.

28 c. Records obtained or generated by an internal  
29 auditor pursuant to a routine audit, until the audit is  
30 completed, or if the audit is conducted as part of an  
31 investigation, until the investigation is closed or ceases to

1 be active. An investigation is considered "active" while the  
2 investigation is being conducted with a reasonable, good faith  
3 belief that it could lead to the filing of administrative,  
4 civil, or criminal proceedings.

5 d. Matters reasonably encompassed in privileged  
6 attorney-client communications.

7 e. Proprietary information licensed to the association  
8 under contract and the contract provides for the  
9 confidentiality of such proprietary information.

10 f. All information relating to the medical condition  
11 or medical status of an association employee which is not  
12 relevant to the employee's capacity to perform his or her  
13 duties, except as otherwise provided in this paragraph.

14 Information which is exempt shall include, but is not limited  
15 to, information relating to workers' compensation, insurance  
16 benefits, and retirement or disability benefits.

17 g. Upon an employee's entrance into the employee  
18 assistance program, a program to assist any employee who has a  
19 behavioral or medical disorder, substance abuse problem, or  
20 emotional difficulty which affects the employee's job  
21 performance, all records relative to that participation shall  
22 be confidential and exempt from the provisions of s. 119.07(1)  
23 and s. 24(a), Art. I of the State Constitution, except as  
24 otherwise provided in s. 112.0455(11).

25 h. Information relating to negotiations for financing,  
26 reinsurance, depopulation, or contractual services, until the  
27 conclusion of the negotiations.

28 i. Minutes of closed meetings regarding underwriting  
29 files, and minutes of closed meetings regarding an open claims  
30 file until termination of all litigation and settlement of all  
31



1 claims with regard to that claim, except that information  
2 otherwise confidential or exempt by law will be redacted.

3  
4 When an authorized insurer is considering underwriting a risk  
5 insured by the association, relevant underwriting files and  
6 confidential claims files may be released to the insurer  
7 provided the insurer agrees in writing, notarized and under  
8 oath, to maintain the confidentiality of such files. When a  
9 file is transferred to an insurer that file is no longer a  
10 public record because it is not held by an agency subject to  
11 the provisions of the public records law. Underwriting files  
12 and confidential claims files may also be released to staff of  
13 and the board of governors of the market assistance plan  
14 established pursuant to s. 627.3515, who must retain the  
15 confidentiality of such files, except such files may be  
16 released to authorized insurers that are considering assuming  
17 the risks to which the files apply, provided the insurer  
18 agrees in writing, notarized and under oath, to maintain the  
19 confidentiality of such files. Finally, the association or  
20 the board or staff of the market assistance plan may make the  
21 following information obtained from underwriting files and  
22 confidential claims files available to licensed general lines  
23 insurance agents: name, address, and telephone number of the  
24 residential property owner or insured; location of the risk;  
25 rating information; loss history; and policy type. The  
26 receiving licensed general lines insurance agent must retain  
27 the confidentiality of the information received.

28         2. Portions of meetings of the Residential Property  
29 and Casualty Joint Underwriting Association are exempt from  
30 the provisions of s. 286.011 and s. 24(b), Art. I of the State  
31 Constitution wherein confidential underwriting files or

1 confidential open claims files are discussed. All portions of  
2 association meetings which are closed to the public shall be  
3 recorded by a court reporter. The court reporter shall record  
4 the times of commencement and termination of the meeting, all  
5 discussion and proceedings, the names of all persons present  
6 at any time, and the names of all persons speaking. No  
7 portion of any closed meeting shall be off the record.  
8 Subject to the provisions hereof and s.  
9 ~~119.07(1)(b)-(d)(2)(a)~~, the court reporter's notes of any  
10 closed meeting shall be retained by the association for a  
11 minimum of 5 years. A copy of the transcript, less any exempt  
12 matters, of any closed meeting wherein claims are discussed  
13 shall become public as to individual claims after settlement  
14 of the claim.

15 Section 52. Subsection (1) of section 633.527, Florida  
16 Statutes, is amended to read:

17 633.527 Records concerning applicant; extent of  
18 confidentiality.--

19 (1) Test material is made confidential by s.  
20 ~~119.07(6)(3)(a)~~. An applicant may waive in writing the  
21 confidentiality of his or her examination answer sheet for the  
22 purpose of discussion with the State Fire Marshal or his or  
23 her staff.

24 Section 53. Section 655.0321, Florida Statutes, is  
25 amended to read:

26 655.0321 Restricted access to certain hearings,  
27 proceedings, and related documents.--The department shall  
28 consider the public purposes specified in s. 119.15(4)(b)  
29 ~~119.14(4)(b)~~ and the provisions of s. 24, Art. I of the State  
30 Constitution in determining whether the hearings and  
31 proceedings conducted pursuant to s. 655.033 for the issuance

1 of cease and desist orders and s. 655.037 for the issuance of  
2 suspension or removal orders shall be closed and exempt from  
3 the provisions of s. 286.011, and whether related documents  
4 shall be confidential and exempt from the provisions of s.  
5 119.07(1).

6 Section 54. Paragraph (m) of subsection (2) of section  
7 668.50, Florida Statutes, is amended to read:

8 668.50 Uniform Electronic Transaction Act.--

9 (2) DEFINITIONS.--As used in this section:

10 (m) "Record" means information that is inscribed on a  
11 tangible medium or that is stored in an electronic or other  
12 medium and is retrievable in perceivable form, including  
13 public records as defined in s. 119.011~~(11)~~(1).

14 Section 55. Subsection (1) of section 794.024, Florida  
15 Statutes, is amended to read:

16 794.024 Unlawful to disclose identifying  
17 information.--

18 (1) A public employee or officer who has access to the  
19 photograph, name, or address of a person who is alleged to be  
20 the victim of an offense described in this chapter, chapter  
21 800, s. 827.03, s. 827.04, or s. 827.071 may not willfully and  
22 knowingly disclose it to a person who is not assisting in the  
23 investigation or prosecution of the alleged offense or to any  
24 person other than the defendant, the defendant's attorney, or  
25 a person specified in an order entered by the court having  
26 jurisdiction of the alleged offense, or to organizations  
27 authorized to receive such information pursuant to s.  
28 119.07~~(6)~~(3)(f).

29 Section 56. For the purpose of incorporating the  
30 amendments to section 945.25, Florida Statutes, in a reference  
31

1 thereto, paragraph (a) of subsection (2) of section 947.13,  
2 Florida Statutes, is reenacted to read:

3 947.13 Powers and duties of commission.--

4 (2)(a) The commission shall immediately examine  
5 records of the department under s. 945.25, and any other  
6 records which it obtains, and may make such other  
7 investigations as may be necessary.

8 Section 57. The Records Management Center of the  
9 Department of State in Tallahassee, Florida, is designated as  
10 the "James C. 'Jim' Smith Records Management Center."

11 Section 58. This act shall take effect July 1, 2002.  
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