

By the Committee on Tourism and Representatives
Trovillion, Heyman, Bullard, Justice, Allen and Davis

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 that
10 governmental agencies provide data in a common
11 format; requiring governmental agencies to
12 consider certain factors in designing or
13 acquiring electronic recordkeeping systems;
14 providing certain restrictions with respect to
15 electronic recordkeeping systems and
16 proprietary software; requiring governmental
17 agencies to provide copies of public records
18 stored in electronic recordkeeping systems;
19 specifying circumstances under which the
20 financial, business, and membership records of
21 an organization are public records; amending s.
22 119.011, F.S.; providing definitions; repealing
23 ss. 119.0115, 119.012, 119.02, F.S., relating
24 to videotapes and video signals, records made
25 public by use of public funds, and penalties;
26 amending s. 119.021, F.S.; providing
27 requirements for governmental agencies in
28 maintaining and preserving public records;
29 requiring the Division of Library and
30 Information Services of the Department of State
31 to adopt rules for retaining and disposing of

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

1 provisions under which certain police reports
2 may be exempt from the public-records law;
3 amending s. 120.55, F.S.; revising language
4 with respect to publication of the Florida
5 Administrative Code to provide that the
6 Department of State is required to compile and
7 publish the code through a continuous revision
8 system; amending s. 257.36, F.S.; providing
9 procedure with respect to official custody of
10 records upon transfer of duties or
11 responsibilities between state agencies or
12 dissolution of a state agency; amending s.
13 328.15, F.S.; revising the classification of
14 records of notices and satisfaction of liens on
15 vessels maintained by the Department of Highway
16 Safety and Motor Vehicles; amending s.
17 372.5717, F.S.; revising the classification of
18 records of hunter safety certification cards
19 maintained by the Fish and Wildlife
20 Conservation Commission; amending s. 560.121,
21 F.S.; decreasing and qualifying the period of
22 retention for examination reports,
23 investigatory records, applications,
24 application records, and related information
25 compiled by the Department of Banking and
26 Finance under the Money Transmitters' Code;
27 amending s. 560.123, F.S.; decreasing the
28 period of retention for specified reports filed
29 by money transmitters with the Department of
30 Banking and Finance under the Money
31 Transmitters' Code; amending s. 560.129, F.S.;

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

1 shall be retained in accordance with federal
2 law; revising a requirement of the department
3 to retain copies of specified records of
4 exemption for a person exempt under the Florida
5 Control of Money Laundering in Financial
6 Institutions Act to provide that if such person
7 or the person's transactions are known to be
8 the subject of an existing criminal proceeding
9 the records shall be retained in accordance
10 with federal law; amending s. 945.25, F.S.;
11 requiring the Department of Corrections to
12 obtain and place in its official records
13 specified information on every person who may
14 be sentenced to supervision or incarceration
15 under the jurisdiction of the department;
16 eliminating a requirement of the department, in
17 its discretion, to obtain and place in its
18 permanent records specified information on
19 persons placed on probation and on persons who
20 may become subject to pardon and commutation of
21 sentence; amending s. 985.31, F.S.; revising
22 the classification of specified medical files
23 of serious or habitual juvenile offenders;
24 repealing s. 212.095(6)(d), F.S., which
25 requires the Department of Revenue to keep a
26 permanent record of the amounts of refunds
27 claimed and paid under ch. 212, F.S., and which
28 requires that such records shall be open to
29 public inspection; repealing s. 238.03(9),
30 F.S., relating to the authority of the
31 Department of Management Services to photograph

1 and reduce to microfilm as a permanent record
2 its ledger sheets showing the salaries and
3 contributions of members of the Teachers'
4 Retirement System of Florida, the records of
5 deceased members of the system, and the
6 authority to destroy the documents from which
7 such films derive; repealing s. 591.34, F.S.;
8 eliminating a procedure by which permission may
9 be obtained from the Department of Agriculture
10 and Consumer Services to cut seed trees;
11 designating the Records Management Center of
12 the Department of State as the "James C. 'Jim'
13 Smith Records Management Center"; providing an
14 effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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

20 18.20 Treasurer to make reproductions of certain
21 warrants, records, and documents.--

22 (1) All vouchers or checks heretofore or hereafter
23 drawn by appropriate court officials of the several counties
24 of the state against money deposited with the Treasurer under
25 the provisions of s. 43.17, and paid by the Treasurer, may be
26 photographed, microphotographed, or reproduced on film by the
27 Treasurer. Such photographic film shall be durable material
28 and the device used to so reproduce such warrants, vouchers,
29 or checks shall be one which accurately reproduces the
30 originals thereof in all detail; and such photographs,
31 microphotographs, or reproductions on film shall be placed in

1 conveniently accessible and identified files and shall be
2 preserved by the Treasurer as a part of the ~~permanent~~ records
3 of office. When any such warrants, vouchers, or checks have
4 been so photographed, microphotographed, or reproduced on
5 film, and the photographs, microphotographs, or reproductions
6 on film thereof have been placed in files as a part of the
7 ~~permanent~~ records of the office of the Treasurer as aforesaid,
8 the Treasurer is authorized to return such warrants, vouchers,
9 or checks to the offices of the respective county officials
10 who drew the same and such warrants, vouchers, or checks shall
11 be retained and preserved in such offices to which returned as
12 a part of the ~~permanent~~ records of such offices.

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

15 119.01 General state policy on public records.--

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

20 ~~(2) The Legislature finds that, given advancements in~~
21 ~~technology, Providing access to public records is a duty of~~
22 ~~each agency by remote electronic means is an additional method~~
23 ~~of access that agencies should strive to provide to the extent~~
24 ~~feasible. If an agency provides access to public records by~~
25 ~~remote electronic means, then such access should be provided~~
26 ~~in the most cost-effective and efficient manner available to~~
27 ~~the agency providing the information.~~

28 (3)(a) ~~The Legislature finds that providing access to~~
29 ~~public records is a duty of each agency and that Automation of~~
30 ~~public records must not erode the right of access to public~~
31 ~~those records. As each agency increases its use of and~~

1 dependence on electronic recordkeeping, each agency must
2 ensure reasonable public access to records electronically
3 maintained and must ensure that information made exempt or
4 confidential not be disclosed to the public.

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

10 (c) An agency may not enter into a contract for the
11 creation or maintenance of a public records database if that
12 contract impairs the ability of the public to inspect or copy
13 the public records of the agency, including public records
14 that are on-line or stored in an electronic recordkeeping
15 system used by the agency.

16 (d) Subject to the restrictions of copyright and
17 trade-secret laws and public-records exemptions, agency use of
18 proprietary software must not diminish the right of the public
19 to inspect and copy a public record.

20 (e) Providing access to public records by remote
21 electronic means is an additional method of access that
22 agencies should strive to provide to the extent feasible. If
23 an agency provides access to public records by remote
24 electronic means, such access should be provided in the most
25 cost-effective and efficient manner available to the agency
26 providing the information.

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

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

10 (4) If public funds are expended by an agency defined
11 in s. 119.011(2) in payment of dues or membership
12 contributions for any person, corporation, foundation, trust,
13 association, group, or other organization, all the financial,
14 business, and membership records of that person, corporation,
15 foundation, trust, association, group, or other organization
16 which pertain to the public agency are public records and
17 subject to the provisions of s. 119.07.

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

24 Section 3. Section 119.011, Florida Statutes, is
25 amended to read:

26 119.011 Definitions.--As used in ~~For the purpose of~~
27 this chapter, the term:

28 (1) "Actual cost of duplication" means the cost of the
29 material and supplies used to duplicate the record, but it
30 does not include the labor cost or overhead cost associated
31 with such duplication. ~~"Public records" means all documents,~~

1 ~~papers, letters, maps, books, tapes, photographs, films, sound~~
2 ~~recordings, data processing software, or other material,~~
3 ~~regardless of the physical form, characteristics, or means of~~
4 ~~transmission, made or received pursuant to law or ordinance or~~
5 ~~in connection with the transaction of official business by any~~
6 ~~agency.~~

7 (2) "Agency" means any state, county, district,
8 authority, or municipal officer, department, division, board,
9 bureau, commission, or other separate unit of government
10 created or established by law including, for the purposes of
11 this chapter, the Commission on Ethics, the Public Service
12 Commission, and the Office of Public Counsel, and any other
13 public or private agency, person, partnership, corporation, or
14 business entity acting on behalf of any public agency.

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

19 (b) "Criminal investigative information" means
20 information with respect to an identifiable person or group of
21 persons compiled by a criminal justice agency in the course of
22 conducting a criminal investigation of a specific act or
23 omission, including, but not limited to, information derived
24 from laboratory tests, reports of investigators or informants,
25 or any type of surveillance.

26 (c) "Criminal intelligence information" and "criminal
27 investigative information" shall not include:

28 1. The time, date, location, and nature of a reported
29 crime.

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- 1 2. The name, sex, age, and address of a person
2 arrested or of the victim of a crime except as provided in s.
3 119.07(3)(f).
- 4 3. The time, date, and location of the incident and of
5 the arrest.
- 6 4. The crime charged.
- 7 5. Documents given or required by law or agency rule
8 to be given to the person arrested, except as provided in s.
9 119.07(3)(f), and, except that the court in a criminal case
10 may order that certain information required by law or agency
11 rule to be given to the person arrested be maintained in a
12 confidential manner and exempt from the provisions of s.
13 119.07(1) until released at trial if it is found that the
14 release of such information would:
- 15 a. Be defamatory to the good name of a victim or
16 witness or would jeopardize the safety of such victim or
17 witness; and
- 18 b. Impair the ability of a state attorney to locate or
19 prosecute a codefendant.
- 20 6. Informations and indictments except as provided in
21 s. 905.26.
- 22 (d) The word "active" shall have the following
23 meaning:
- 24 1. Criminal intelligence information shall be
25 considered "active" as long as it is related to intelligence
26 gathering conducted with a reasonable, good faith belief that
27 it will lead to detection of ongoing or reasonably anticipated
28 criminal activities.
- 29 2. Criminal investigative information shall be
30 considered "active" as long as it is related to an ongoing
31 investigation which is continuing with a reasonable, good

1 faith anticipation of securing an arrest or prosecution in the
2 foreseeable future.

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4 In addition, criminal intelligence and criminal investigative
5 information shall be considered "active" while such
6 information is directly related to pending prosecutions or
7 appeals. The word "active" shall not apply to information in
8 cases which are barred from prosecution under the provisions
9 of s. 775.15 or other statute of limitation.

10 (4) "Criminal justice agency" means:

11 (a) Any law enforcement agency, court, or prosecutor; ~~or~~

12 ~~The term also includes~~

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

15 (c) Any agency having custody of criminal intelligence
16 information or criminal investigative information for the
17 purpose of assisting such law enforcement agencies in the
18 conduct of active criminal investigation or prosecution or for
19 the purpose of litigating civil actions under the Racketeer
20 Influenced and Corrupt Organization Act, during the time that
21 such agencies are in possession of criminal intelligence
22 information or criminal investigative information pursuant to
23 their criminal law enforcement duties; or. ~~The term also~~
24 ~~includes~~

25 (d) The Department of Corrections.

26 (5) "Custodian of public records" means the elected or
27 appointed state, county, or municipal officer charged with the
28 responsibility of maintaining the office having public
29 records, or his or her designee.

30 (6) "Data-processing software" means the programs and
31 routines used to employ and control the capabilities of

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

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

7 (8) "Exemption" means a provision of the Florida
8 Statutes which creates an exception to s. 119.07(1) or s.
9 286.011 and which applies to the executive branch of state
10 government or to local government, but it does not include any
11 provision of a special law or local law.

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

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

16 (11) "Public records" means all documents, papers,
17 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 (12) "Sensitive," for purposes of defining
24 agency-produced software that is sensitive, means only those
25 portions of data-processing software, including the
26 specifications and documentation, which are used to:

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

29 (b) Collect, process, store, and retrieve financial
30 management information of the agency, such as payroll and
31 accounting records; or

1 (c) Control and direct access authorizations and
2 security measures for automated systems.

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

5 Section 5. Section 119.021, Florida Statutes, is
6 amended to read:

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

9 119.021 Custodial requirements; maintenance,
10 preservation, and retention of public records.--

11 (1) Public records shall be maintained and preserved
12 as follows:

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

15 (b) Insofar as practicable, custodians of vital,
16 permanent, or archival records shall keep them in fireproof
17 and waterproof safes, vaults, or rooms fitted with
18 noncombustible materials and in such arrangement as to be
19 easily accessible for convenient use.

20 (c)1. Record books should be copied or repaired,
21 renovated, or rebound if worn, mutilated, damaged, or
22 difficult to read.

23 2. Whenever any state, county, or municipal records
24 are in need of repair, restoration, or rebinding, the head of
25 the concerned state agency, department, board, or commission;
26 the board of county commissioners of such county; or the
27 governing body of such municipality may authorize that such
28 records be removed from the building or office in which such
29 records are ordinarily kept for the length of time required to
30 repair, restore, or rebind them.

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

5 (3)(a) The Division of Library and Information
6 Services of the Department of State shall adopt rules to
7 establish retention schedules and a disposal process for
8 public records.

9 (b) Each agency shall comply with the rules
10 establishing retention schedules and disposal processes for
11 public records which are adopted by the records and
12 information management program of the division.

13 (c) Every public official shall systematically dispose
14 of records no longer needed, subject to the consent of the
15 records and information management program of the division in
16 accordance with s. 257.36.

17 (d) The division may ascertain the condition of public
18 records and shall give advice and assistance to public
19 officials to solve problems related to the preservation,
20 creation, filing, and public accessibility of public records
21 in their custody. Public officials shall assist the division
22 by preparing an inclusive inventory of categories of public
23 records in their custody. The division shall establish a time
24 period for the retention or disposal of each series of
25 records. Upon the completion of the inventory and schedule,
26 the division shall, subject to the availability of necessary
27 space, staff, and other facilities for such purposes, make
28 space available in its records center for the filing of
29 semicurrent records so scheduled and in its archives for
30 noncurrent records of permanent value, and shall render such
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1 other assistance as needed, including the microfilming of
2 records so scheduled.

3 (4) Agency orders that comprise final agency action
4 and that must be indexed or listed pursuant to s. 120.53 have
5 continuing legal significance; therefore, notwithstanding any
6 other provision of this chapter or any provision of chapter
7 257, each agency shall permanently maintain records of such
8 orders pursuant to the applicable rules of the Department of
9 State.

10 (5)(a) Whoever has the custody of any public records
11 shall, at the expiration of his or her term of office, deliver
12 to his or her successor or, if there be none, to the records
13 and information management program of the Division of Library
14 and Information Services of the Department of State, all
15 public records kept or received by him or her in the
16 transaction of official business.

17 (b) Whoever is entitled to the custody of public
18 records shall demand them from any person having illegal
19 possession of them, who must forthwith deliver the same to him
20 or her. Any person unlawfully possessing public records must
21 within 10 days deliver such records to their lawful custodian
22 unless just cause exists for failing to deliver such records.

23 Section 6. Sections 119.031, 119.041, 119.05, and
24 119.06, Florida Statutes, are repealed.

25 Section 7. Section 119.07, Florida Statutes, is
26 amended to read:

27 119.07 Inspection, ~~examination,~~ and copying
28 duplication of records; ~~fees;~~ exemptions.--

29 (1)(a) Every person who has custody of a public record
30 shall permit the record to be inspected and copied ~~examined~~ by
31 any person desiring to do so, at any reasonable time, under

1 reasonable conditions, and under supervision by the custodian
2 of the public record or the custodian's designee.

3 (b) A person who has custody of a public record and
4 asserts that an exemption applies to a particular public
5 record or part of such record shall delete or excise from the
6 record only that portion of the record with respect to which
7 an exemption has been asserted and validly applies, and such
8 person shall produce the remainder of such record for
9 inspection and copying.

10 (c) If the person who has custody of a public record
11 contends that the record or part of it is exempt from
12 inspection and copying, he or she shall state the basis of the
13 exemption that he or she contends is applicable to the record,
14 including the statutory citation to an exemption created or
15 afforded by statute.

16 (d) If requested by the person seeking to inspect or
17 copy the record, the custodian or designee shall state in
18 writing and with particularity the reasons for the conclusion
19 that the record is exempt.

20 (e) In any civil action in which an exemption to
21 subsection (1) is asserted, if the exemption is alleged to
22 exist under or by virtue of paragraph (6)(c), paragraph
23 (6)(d), paragraph (6)(e), paragraph (6)(k), paragraph (6)(l),
24 or paragraph (6)(o), the public record or part thereof in
25 question shall be submitted to the court for an inspection in
26 camera. If an exemption is alleged to exist under or by virtue
27 of paragraph (6)(b), an inspection in camera will be
28 discretionary with the court. If the court finds that the
29 asserted exemption is not applicable, it shall order the
30 public record or part thereof in question to be immediately
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1 produced for inspection, examination, or copying as requested
2 by the person seeking such access.

3 (f) Even if an assertion is made by the custodian of a
4 public record that a requested record is not a public record
5 subject to public inspection and examination under subsection
6 (1), the requested record shall, nevertheless, not be disposed
7 of for a period of 30 days after the date on which a written
8 request to inspect, examine, or copy the record was served on
9 or otherwise made to the custodian of the record by the person
10 seeking access to the record. If a civil action is instituted
11 within the 30-day period to enforce the provisions of this
12 section with respect to the requested record, the custodian
13 may not dispose of the record except by order of a court of
14 competent jurisdiction after notice to all affected parties.

15 (g) The absence of a civil action instituted for the
16 purpose stated in paragraph (e) does not relieve the custodian
17 of the duty to maintain the record as a public record if the
18 record is in fact a public record subject to public inspection
19 and copying under subsection (1) and does not otherwise excuse
20 or exonerate the custodian from any unauthorized or unlawful
21 disposition of such record.

22 (2)(a) In all cases where the public or any person
23 interested has a right to inspect or make copies from any
24 public record, any person shall hereafter have the right of
25 access to those public records for the purpose of making
26 photographs of the record while in the possession, custody,
27 and control of the custodian of records or his or her
28 designee.

29 (b) This subsection applies to the making of
30 photographs in the conventional sense by use of a camera
31 device to capture images of public records but excludes the

1 duplication of microfilm in the possession of the clerk of the
2 circuit court where a copy of the microfilm may be made
3 available by the clerk.

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

7 (d) Photographing of public records shall be done in
8 the room where the public records are kept. If, in the
9 judgment of the custodian of records, this is impossible or
10 impracticable, the work shall be done in another room or
11 place, as nearly adjacent as possible to the room where the
12 public records are kept, to be determined by the custodian of
13 the records or his or her designee. Where provision of another
14 room or place for photographing is required, the expense of
15 providing the same shall be paid by the person desiring to
16 photograph the public record pursuant to subsection (5).

17 (3)(a) As an additional means of inspecting or copying
18 public records of the executive branch, judicial branch, or
19 any political subdivision of the state, a custodian of records
20 may provide access to public records by remote electronic
21 means.

22 (b) The custodian shall provide safeguards to protect
23 the contents of public records from unauthorized remote
24 electronic access or alteration and to prevent the disclosure
25 or modification of those portions of public records which are
26 exempt from s. 119.07(1).

27 (c) Unless otherwise required by law, the custodian
28 may charge a fee for remote electronic access, granted under a
29 contractual arrangement with a user, which fee may include the
30 direct and indirect costs of providing such access. Fees for
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1 remote electronic access provided to the general public shall
2 be in accordance with the provisions of s. 119.07.

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

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

12 (b) For all other copies, an agency may charge upon
13 ~~payment of~~ the actual cost of duplication of the record. An
14 agency may charge no more than an additional 5 cents for each
15 two-sided duplicated copy. ~~For purposes of this section,~~
16 ~~duplicated copies shall mean new copies produced by~~
17 ~~duplicating, as defined in s. 283.30. The phrase "actual cost~~
18 ~~of duplication" means the cost of the material and supplies~~
19 ~~used to duplicate the record, but it does not include the~~
20 ~~labor cost or overhead cost associated with such duplication.~~
21 ~~However,~~

22 (c) The charge for copies of county maps or aerial
23 photographs supplied by county constitutional officers may
24 also include a reasonable charge for the labor and overhead
25 associated with their duplication. Unless otherwise provided
26 ~~by law, the fees to be charged for duplication of public~~
27 ~~records shall be collected, deposited, and accounted for in~~
28 ~~the manner prescribed for other operating funds of the agency.~~

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

31

1 ~~(e)(b)~~ If the nature or volume of public records
2 requested to be inspected, ~~examined~~, or copied pursuant to
3 this subsection is such as to require extensive use of
4 information technology resources or extensive clerical or
5 supervisory assistance by personnel of the agency involved, or
6 both, the agency may charge, in addition to the actual cost of
7 duplication, a special service charge, which shall be
8 reasonable and shall be based on the cost incurred for such
9 extensive use of information technology resources or the labor
10 cost of the personnel providing the service that is actually
11 incurred by the agency or attributable to the agency for the
12 clerical and supervisory assistance required, or both.

13 (f)1. Where provision of another room or place is
14 necessary to photograph public records, the expense of
15 providing the same shall be paid by the person desiring to
16 photograph the public records.

17 2. The custodian may charge the person making the
18 photographs for the services of a designee to supervise the
19 photography or for the services of the custodian to photograph
20 the public records at a rate of compensation to be agreed upon
21 by the person desiring to make the photographs and the
22 custodian of records. If they fail to agree as to the
23 appropriate charge, then the charge is to be determined by the
24 custodian of the records. ~~"Information technology resources"~~
25 ~~means data processing hardware and software and services,~~
26 ~~communications, supplies, personnel, facility resources,~~
27 ~~maintenance, and training.~~

28 ~~(5)(c)~~ When ballots are produced under this section
29 for inspection or examination, no persons other than the
30 supervisor of elections or the supervisor's employees shall
31 touch the ballots. The supervisor of elections shall make a

1 reasonable effort to notify all candidates by telephone or
2 otherwise of the time and place of the inspection or
3 examination. All such candidates, or their representatives,
4 shall be allowed to be present during the inspection or
5 examination.

6 ~~(2)(a) A person who has custody of a public record and~~
7 ~~who asserts that an exemption provided in subsection (3) or in~~
8 ~~a general or special law applies to a particular public record~~
9 ~~or part of such record shall delete or excise from the record~~
10 ~~only that portion of the record with respect to which an~~
11 ~~exemption has been asserted and validly applies, and such~~
12 ~~person shall produce the remainder of such record for~~
13 ~~inspection and examination. If the person who has custody of~~
14 ~~a public record contends that the record or part of it is~~
15 ~~exempt from inspection and examination, he or she shall state~~
16 ~~the basis of the exemption which he or she contends is~~
17 ~~applicable to the record, including the statutory citation to~~
18 ~~an exemption created or afforded by statute, and, if requested~~
19 ~~by the person seeking the right under this subsection to~~
20 ~~inspect, examine, or copy the record, he or she shall state in~~
21 ~~writing and with particularity the reasons for the conclusion~~
22 ~~that the record is exempt.~~

23 ~~(b) In any civil action in which an exemption to~~
24 ~~subsection (1) is asserted, if the exemption is alleged to~~
25 ~~exist under or by virtue of paragraph (c), paragraph (d),~~
26 ~~paragraph (e), paragraph (k), paragraph (l), or paragraph (o)~~
27 ~~of subsection (3), the public record or part thereof in~~
28 ~~question shall be submitted to the court for an inspection in~~
29 ~~camera. If an exemption is alleged to exist under or by~~
30 ~~virtue of paragraph (b) of subsection (3), an inspection in~~
31 ~~camera will be discretionary with the court. If the court~~

1 ~~finds that the asserted exemption is not applicable, it shall~~
2 ~~order the public record or part thereof in question to be~~
3 ~~immediately produced for inspection, examination, or copying~~
4 ~~as requested by the person seeking such access.~~

5 ~~(c) Even if an assertion is made by the custodian of a~~
6 ~~public record that a requested record is not a public record~~
7 ~~subject to public inspection and examination under subsection~~
8 ~~(1), the requested record shall, nevertheless, not be disposed~~
9 ~~of for a period of 30 days after the date on which a written~~
10 ~~request requesting the right to inspect, examine, or copy the~~
11 ~~record was served on or otherwise made to the custodian of the~~
12 ~~record by the person seeking access to the record. If a civil~~
13 ~~action is instituted within the 30-day period to enforce the~~
14 ~~provisions of this section with respect to the requested~~
15 ~~record, the custodian shall not dispose of the record except~~
16 ~~by order of a court of competent jurisdiction after notice to~~
17 ~~all affected parties.~~

18 ~~(d) The absence of a civil action instituted for the~~
19 ~~purpose stated in paragraph (c) will not relieve the custodian~~
20 ~~of the duty to maintain the record as a public record if the~~
21 ~~record is in fact a public record subject to public inspection~~
22 ~~and examination under subsection (1) and will not otherwise~~
23 ~~excuse or exonerate the custodian from any unauthorized or~~
24 ~~unlawful disposition of such record.~~

25 (6)(3)(a) Examination questions and answer sheets of
26 examinations administered by a governmental agency for the
27 purpose of licensure, certification, or employment are exempt
28 from the provisions of subsection (1) and s. 24(a), Art. I of
29 the State Constitution. A person who has taken such an
30 examination shall have the right to review his or her own
31 completed examination.

1 (b) Active criminal intelligence information and
2 active criminal investigative information are exempt from the
3 provisions of subsection (1) and s. 24(a), Art. I of the State
4 Constitution.

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

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

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

28 (f) Any criminal intelligence information or criminal
29 investigative information including the photograph, name,
30 address, or other fact or information which reveals the
31 identity of the victim of the crime of sexual battery as

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

13 (g) Any criminal intelligence information or criminal
14 investigative information which reveals the personal assets of
15 the victim of a crime, other than property stolen or destroyed
16 during the commission of the crime, is exempt from the
17 provisions of subsection (1) and s. 24(a), Art. I of the State
18 Constitution.

19 (h) All criminal intelligence and criminal
20 investigative information received by a criminal justice
21 agency prior to January 25, 1979, is exempt from the
22 provisions of subsection (1) and s. 24(a), Art. I of the State
23 Constitution.

24 (i)1. The home addresses, telephone numbers, social
25 security numbers, and photographs of active or former law
26 enforcement personnel, including correctional and correctional
27 probation officers, personnel of the Department of Children
28 and Family Services whose duties include the investigation of
29 abuse, neglect, exploitation, fraud, theft, or other criminal
30 activities, personnel of the Department of Health whose duties
31 are to support the investigation of child abuse or neglect,

1 and personnel of the Department of Revenue or local
2 governments whose responsibilities include revenue collection
3 and enforcement or child support enforcement; the home
4 addresses, telephone numbers, social security numbers,
5 photographs, and places of employment of the spouses and
6 children of such personnel; and the names and locations of
7 schools and day care facilities attended by the children of
8 such personnel are exempt from the provisions of subsection
9 (1). The home addresses, telephone numbers, and photographs of
10 firefighters certified in compliance with s. 633.35; the home
11 addresses, telephone numbers, photographs, and places of
12 employment of the spouses and children of such firefighters;
13 and the names and locations of schools and day care facilities
14 attended by the children of such firefighters are exempt from
15 subsection (1). The home addresses and telephone numbers of
16 justices of the Supreme Court, district court of appeal
17 judges, circuit court judges, and county court judges; the
18 home addresses, telephone numbers, and places of employment of
19 the spouses and children of justices and judges; and the names
20 and locations of schools and day care facilities attended by
21 the children of justices and judges are exempt from the
22 provisions of subsection (1). The home addresses, telephone
23 numbers, social security numbers, and photographs of current
24 or former state attorneys, assistant state attorneys,
25 statewide prosecutors, or assistant statewide prosecutors; the
26 home addresses, telephone numbers, social security numbers,
27 photographs, and places of employment of the spouses and
28 children of current or former state attorneys, assistant state
29 attorneys, statewide prosecutors, or assistant statewide
30 prosecutors; and the names and locations of schools and day
31 care facilities attended by the children of current or former

1 state attorneys, assistant state attorneys, statewide
2 prosecutors, or assistant statewide prosecutors are exempt
3 from subsection (1) and s. 24(a), Art. I of the State
4 Constitution.

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

22 3. The home addresses, telephone numbers, social
23 security numbers, and photographs of current or former code
24 enforcement officers; the names, home addresses, telephone
25 numbers, social security numbers, photographs, and places of
26 employment of the spouses and children of such persons; and
27 the names and locations of schools and day care facilities
28 attended by the children of such persons are exempt from
29 subsection (1) and s. 24(a), Art. I of the State Constitution.
30 This subparagraph is subject to the Open Government Sunset
31 Review Act of 1995 in accordance with s. 119.15, and shall

1 stand repealed on October 2, 2006, unless reviewed and saved
2 from repeal through reenactment by the Legislature.

3 4. An agency that is the custodian of the personal
4 information specified in subparagraph 1., subparagraph 2., or
5 subparagraph 3. and that is not the employer of the officer,
6 employee, justice, judge, or other person specified in
7 subparagraph 1., subparagraph 2., or subparagraph 3. shall
8 maintain the exempt status ~~confidentiality~~ of the personal
9 information only if the officer, employee, justice, judge,
10 other person, or employing agency of the designated employee
11 submits a written request for maintenance of the exemption
12 ~~confidentiality~~ to the custodial agency.

13 (j) Any information provided to an agency of state
14 government or to an agency of a political subdivision of the
15 state for the purpose of forming ridesharing arrangements,
16 which information reveals the identity of an individual who
17 has provided his or her name for ridesharing, as defined in s.
18 341.031, is exempt from the provisions of subsection (1) and
19 s. 24(a), Art. I of the State Constitution.

20 (k) Any information revealing the substance of a
21 confession of a person arrested is exempt from the provisions
22 of subsection (1) and s. 24(a), Art. I of the State
23 Constitution, until such time as the criminal case is finally
24 determined by adjudication, dismissal, or other final
25 disposition.

26 (l)1. A public record which was prepared by an agency
27 attorney (including an attorney employed or retained by the
28 agency or employed or retained by another public officer or
29 agency to protect or represent the interests of the agency
30 having custody of the record) or prepared at the attorney's
31 express direction, which reflects a mental impression,

1 conclusion, litigation strategy, or legal theory of the
2 attorney or the agency, and which was prepared exclusively for
3 civil or criminal litigation or for adversarial administrative
4 proceedings, or which was prepared in anticipation of imminent
5 civil or criminal litigation or imminent adversarial
6 administrative proceedings, is exempt from the provisions of
7 subsection (1) and s. 24(a), Art. I of the State Constitution
8 until the conclusion of the litigation or adversarial
9 administrative proceedings. For purposes of capital collateral
10 litigation as set forth in s. 27.7001, the Attorney General's
11 office is entitled to claim this exemption for those public
12 records prepared for direct appeal as well as for all capital
13 collateral litigation after direct appeal until execution of
14 sentence or imposition of a life sentence.

15 2. This exemption is not waived by the release of such
16 public record to another public employee or officer of the
17 same agency or any person consulted by the agency attorney.
18 When asserting the right to withhold a public record pursuant
19 to this paragraph, the agency shall identify the potential
20 parties to any such criminal or civil litigation or
21 adversarial administrative proceedings. If a court finds that
22 the document or other record has been improperly withheld
23 under this paragraph, the party seeking access to such
24 document or record shall be awarded reasonable attorney's fees
25 and costs in addition to any other remedy ordered by the
26 court.

27 (m) Sealed bids or proposals received by an agency
28 pursuant to invitations to bid or requests for proposals are
29 exempt from the provisions of subsection (1) and s. 24(a),
30 Art. I of the State Constitution until such time as the agency
31 provides notice of a decision or intended decision pursuant to

1 s. 120.57(3)(a) or within 10 days after bid or proposal
2 opening, whichever is earlier.
3 (n) When an agency of the executive branch of state
4 government seeks to acquire real property by purchase or
5 through the exercise of the power of eminent domain all
6 appraisals, other reports relating to value, offers, and
7 counteroffers must be in writing and are exempt from the
8 provisions of subsection (1) and s. 24(a), Art. I of the State
9 Constitution until execution of a valid option contract or a
10 written offer to sell that has been conditionally accepted by
11 the agency, at which time the exemption shall expire. The
12 agency shall not finally accept the offer for a period of 30
13 days in order to allow public review of the transaction. The
14 agency may give conditional acceptance to any option or offer
15 subject only to final acceptance by the agency after the
16 30-day review period. If a valid option contract is not
17 executed, or if a written offer to sell is not conditionally
18 accepted by the agency, then the exemption from the provisions
19 of this chapter shall expire at the conclusion of the
20 condemnation litigation of the subject property. An agency of
21 the executive branch may exempt title information, including
22 names and addresses of property owners whose property is
23 subject to acquisition by purchase or through the exercise of
24 the power of eminent domain, from the provisions of subsection
25 (1) and s. 24(a), Art. I of the State Constitution to the same
26 extent as appraisals, other reports relating to value, offers,
27 and counteroffers. For the purpose of this paragraph, "option
28 contract" means an agreement of an agency of the executive
29 branch of state government to purchase real property subject
30 to final agency approval. This paragraph shall have no
31 application to other exemptions from the provisions of

1 subsection (1) which are contained in other provisions of law
2 and shall not be construed to be an express or implied repeal
3 thereof.

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

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

19 ~~2. "Sensitive" means only those portions of data~~
20 ~~processing software, including the specifications and~~
21 ~~documentation, used to:~~

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

24 ~~b. Collect, process, store, and retrieve financial~~
25 ~~management information of the agency, such as payroll and~~
26 ~~accounting records; or~~

27 ~~c. Control and direct access authorizations and~~
28 ~~security measures for automated systems.~~

29 (p) All complaints and other records in the custody of
30 any unit of local government which relate to a complaint of
31 discrimination relating to race, color, religion, sex,

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

16 (q) All complaints and other records in the custody of
17 any agency in the executive branch of state government which
18 relate to a complaint of discrimination relating to race,
19 color, religion, sex, national origin, age, handicap, or
20 marital status in connection with hiring practices, position
21 classifications, salary, benefits, discipline, discharge,
22 employee performance, evaluation, or other related activities
23 are exempt from the provisions of subsection (1) and s. 24(a),
24 Art. I of the State Constitution until a finding is made
25 relating to probable cause, the investigation of the complaint
26 becomes inactive, or the complaint or other record is made
27 part of the official record of any hearing or court
28 proceeding. This provision shall not affect any function or
29 activity of the Florida Commission on Human Relations. Any
30 state or federal agency which is authorized to have access to
31 such complaints or records by any provision of law shall be

1 granted such access in the furtherance of such agency's
2 statutory duties, notwithstanding the provisions of this
3 section.

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

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

1 2. Any information in a videotaped statement of a
2 minor who is alleged to be or who is a victim of sexual
3 battery, lewd acts, or other sexual misconduct proscribed in
4 chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s.
5 847.0125, s. 847.013, s. 847.0133, or s. 847.0145, which
6 reveals that minor's identity, including, but not limited to,
7 the minor's face; the minor's home, school, church, or
8 employment telephone number; the minor's home, school, church,
9 or employment address; the name of the minor's school, church,
10 or place of employment; or the personal assets of the minor;
11 and which identifies that minor as the victim of a crime
12 described in this subparagraph, is confidential and exempt
13 from subsection (1) and s. 24(a), Art. I of the State
14 Constitution. Any governmental agency that is authorized to
15 have access to such statements by any provision of law shall
16 be granted such access in the furtherance of the agency's
17 statutory duties, notwithstanding the provisions of this
18 section. This subparagraph is subject to the Open Government
19 Sunset Review Act of 1995 in accordance with s. 119.15, and
20 shall stand repealed on October 2, 2003.

21 3. A public employee or officer who has access to the
22 videotaped statement of a minor who is alleged to be or who is
23 a victim of sexual battery, lewd acts, or other sexual
24 misconduct proscribed in chapter 800 or in s. 794.011, s.
25 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or
26 s. 847.0145, may not willfully and knowingly disclose
27 videotaped information that reveals that minor's identity to a
28 person who is not assisting in the investigation or
29 prosecution of the alleged offense or to any person other than
30 the defendant, the defendant's attorney, or a person specified
31

1 in an order entered by the court having jurisdiction of the
2 alleged offense.

3 4. A person who violates subparagraph 3. commits a
4 misdemeanor of the first degree, punishable as provided in s.
5 775.082 or s. 775.083.

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

11 (u) Where the alleged victim chooses not to file a
12 complaint and requests that records of the complaint remain
13 confidential, all records relating to an allegation of
14 employment discrimination are confidential and exempt from the
15 provisions of subsection (1) and s. 24(a), Art. I of the State
16 Constitution.

17 (v) Medical information pertaining to a prospective,
18 current, or former officer or employee of an agency which, if
19 disclosed, would identify that officer or employee is exempt
20 from the provisions of subsection (1) and s. 24(a), Art. I of
21 the State Constitution. However, such information may be
22 disclosed if the person to whom the information pertains or
23 the person's legal representative provides written permission
24 or pursuant to court order.

25 (w)1. If certified pursuant to subparagraph 2., an
26 investigatory record of the Chief Inspector General within the
27 Executive Office of the Governor or of the employee designated
28 by an agency head as the agency inspector general under s.
29 112.3189 is exempt from the provisions of subsection (1) and
30 s. 24(a), Art. I of the State Constitution until the
31 investigation ceases to be active, or a report detailing the

1 investigation is provided to the Governor or the agency head,
2 or 60 days from the inception of the investigation for which
3 the record was made or received, whichever first occurs.
4 Investigatory records are those records which are related to
5 the investigation of an alleged, specific act or omission or
6 other wrongdoing, with respect to an identifiable person or
7 group of persons, based on information compiled by the Chief
8 Inspector General or by an agency inspector general, as named
9 under the provisions of s. 112.3189, in the course of an
10 investigation. An investigation is active if it is continuing
11 with a reasonable, good faith anticipation of resolution and
12 with reasonable dispatch.

13 2. The Governor, in the case of the Chief Inspector
14 General, or agency head, in the case of an employee designated
15 as the agency inspector general under s. 112.3189, may certify
16 such investigatory records require an exemption to protect the
17 integrity of the investigation or avoid unwarranted damage to
18 an individual's good name or reputation. The certification
19 shall specify the nature and purpose of the investigation and
20 shall be kept with the exempt records and made public when the
21 records are made public.

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

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

31

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

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

27 (z)(aa) Any data, record, or document used directly or
28 solely by a municipally owned utility to prepare and submit a
29 bid relative to the sale, distribution, or use of any service,
30 commodity, or tangible personal property to any customer or
31 prospective customer shall be exempt from the provisions of

1 subsection (1) and s. 24(a), Art. I of the State Constitution.
2 This exemption commences when a municipal utility identifies
3 in writing a specific bid to which it intends to respond. This
4 exemption no longer applies when the contract for sale,
5 distribution, or use of the service, commodity, or tangible
6 personal property is executed, a decision is made not to
7 execute such contract, or the project is no longer under
8 active consideration. The exemption in this paragraph includes
9 the bid documents actually furnished in response to the
10 request for bids. However, the exemption for the bid documents
11 submitted no longer applies after the bids are opened by the
12 customer or prospective customer.

13 ~~(aa)(bb)~~ Upon a request made in a form designated by
14 the Department of Highway Safety and Motor Vehicles, personal
15 information contained in a motor vehicle record that
16 identifies the requester is exempt from subsection (1) and s.
17 24(a), Art. I of the State Constitution except as provided in
18 this paragraph. Personal information includes, but is not
19 limited to, the requester's social security number, driver
20 identification number, name, address, telephone number, and
21 medical or disability information. For purposes of this
22 paragraph, personal information does not include information
23 relating to vehicular crashes, driving violations, and
24 driver's status. Such request may be made only by the person
25 who is the subject of the motor vehicle record. For purposes
26 of this paragraph, "motor vehicle record" means any record
27 that pertains to a motor vehicle operator's permit, motor
28 vehicle title, motor vehicle registration, or identification
29 card issued by the Department of Highway Safety and Motor
30 Vehicles. Personal information contained in motor vehicle
31 records exempted by an individual's request pursuant to this

1 paragraph shall be released by the department for any of the
2 following uses:

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

13 2. For use by any government agency, including any
14 court or law enforcement agency, in carrying out its
15 functions, or any private person or entity acting on behalf of
16 a federal, state, or local agency in carrying out its
17 functions.

18 3. For use in connection with matters of motor vehicle
19 or driver safety and theft; motor vehicle emissions; motor
20 vehicle product alterations, recalls, or advisories;
21 performance monitoring of motor vehicles, motor vehicle parts,
22 and dealers; motor vehicle market research activities,
23 including survey research; and removal of nonowner records
24 from the original owner records of motor vehicle
25 manufacturers.

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

29 a. To verify the accuracy of personal information
30 submitted by the individual to the business or its agents,
31 employees, or contractors; and

1 b. If such information as so submitted is not correct
2 or is no longer correct, to obtain the correct information,
3 but only for the purposes of preventing fraud by, pursuing
4 legal remedies against, or recovering on a debt or security
5 interest against, the individual.

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

9 a. Service of process by any certified process server,
10 special process server, or other person authorized to serve
11 process in this state.

12 b. Investigation in anticipation of litigation by an
13 attorney licensed to practice law in this state or the agent
14 of the attorney.

15 c. Investigation by any person in connection with any
16 filed proceeding.

17 d. Execution or enforcement of judgments and orders.

18 e. Compliance with an order of any court.

19 6. For use in research activities and for use in
20 producing statistical reports, so long as the personal
21 information is not published, redisclosed, or used to contact
22 individuals.

23 7. For use by any insurer or insurance support
24 organization, or by a self-insured entity, or its agents,
25 employees, or contractors, in connection with claims
26 investigation activities, anti-fraud activities, rating, or
27 underwriting.

28 8. For use in providing notice to the owners of towed
29 or impounded vehicles.

30 9. For use by any licensed private investigative
31 agency or licensed security service for any purpose permitted

1 under this paragraph. Personal information obtained based on
2 an exempt driver's record may not be provided to a client who
3 cannot demonstrate a need based on a police report, court
4 order, or a business or personal relationship with the subject
5 of the investigation.

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

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

13 12. For bulk distribution for surveys, marketing, or
14 solicitations when the department has implemented methods and
15 procedures to ensure that:

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

18 b. The information will be used, rented, or sold
19 solely for bulk distribution for survey, marketing, and
20 solicitations, and that surveys, marketing, and solicitations
21 will not be directed at those individuals who have timely
22 requested that they not be directed at them.

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

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

29
30 Personal information exempted from public disclosure according
31 to this paragraph may be disclosed by the Department of

1 Highway Safety and Motor Vehicles to an individual, firm,
2 corporation, or similar business entity whose primary business
3 interest is to resell or redisclose the personal information
4 to persons who are authorized to receive such information.
5 Prior to the department's disclosure of personal information,
6 such individual, firm, corporation, or similar business entity
7 must first enter into a contract with the department regarding
8 the care, custody, and control of the personal information to
9 ensure compliance with the federal Driver's Privacy Protection
10 Act of 1994 and applicable state laws. An authorized recipient
11 of personal information contained in a motor vehicle record,
12 except a recipient under subparagraph 12., may contract with
13 the Department of Highway Safety and Motor Vehicles to resell
14 or redisclose the information for any use permitted under this
15 paragraph. However, only authorized recipients of personal
16 information under subparagraph 12. may resell or redisclose
17 personal information pursuant to subparagraph 12. Any
18 authorized recipient who resells or rediscloses personal
19 information shall maintain, for a period of 5 years, records
20 identifying each person or entity that receives the personal
21 information and the permitted purpose for which it will be
22 used. Such records shall be made available for inspection upon
23 request by the department. The department shall adopt rules to
24 carry out the purposes of this paragraph and the federal
25 Driver's Privacy Protection Act of 1994, Title XXX, Pub. L.
26 No. 103-322. Rules adopted by the department shall provide for
27 the payment of applicable fees and, prior to the disclosure of
28 personal information pursuant to this paragraph, shall require
29 the meeting of conditions by the requesting person for the
30 purposes of obtaining reasonable assurance concerning the
31 identity of such requesting person, and, to the extent

1 required, assurance that the use will be only as authorized or
2 that the consent of the person who is the subject of the
3 personal information has been obtained. Such conditions may
4 include, but need not be limited to, the making and filing of
5 a written application in such form and containing such
6 information and certification requirements as the department
7 requires.

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

19 2. Governmental agencies or their agents are entitled
20 to access to the records specified in this paragraph for the
21 purposes of auditing federal, state, or local housing programs
22 or housing assistance programs. Such records may be used by an
23 agency, as needed, in any administrative or judicial
24 proceeding, provided such records are kept confidential and
25 exempt, unless otherwise ordered by a court.

26 3. This paragraph is repealed effective October 2,
27 2003, and must be reviewed by the Legislature before that date
28 in accordance with s. 119.15, the Open Government Sunset
29 Review Act of 1995.

30 ~~(dd)~~(cc) All personal identifying information; bank
31 account numbers; and debit, charge, and credit card numbers

1 contained in records relating to an individual's personal
2 health or eligibility for health-related services made or
3 received by the Department of Health or its service providers
4 are confidential and exempt from the provisions of subsection
5 (1) and s. 24(a), Art. I of the State Constitution, except as
6 otherwise provided in this paragraph. Information made
7 confidential and exempt by this paragraph shall be disclosed:
8 1. With the express written consent of the individual
9 or the individual's legally authorized representative.
10 2. In a medical emergency, but only to the extent
11 necessary to protect the health or life of the individual.
12 3. By court order upon a showing of good cause.
13 4. To a health research entity, if the entity seeks
14 the records or data pursuant to a research protocol approved
15 by the department, maintains the records or data in accordance
16 with the approved protocol, and enters into a purchase and
17 data-use agreement with the department, the fee provisions of
18 which are consistent with paragraph (1)(a). The department
19 may deny a request for records or data if the protocol
20 provides for intrusive follow-back contacts, has not been
21 approved by a human studies institutional review board, does
22 not plan for the destruction of confidential records after the
23 research is concluded, is administratively burdensome, or does
24 not have scientific merit. The agreement must restrict the
25 release of any information, which would permit the
26 identification of persons, limit the use of records or data to
27 the approved research protocol, and prohibit any other use of
28 the records or data. Copies of records or data issued
29 pursuant to this subparagraph remain the property of the
30 department.
31

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

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

9 ~~(7)(4)~~ Nothing in this section shall be construed to
10 exempt from subsection (1) a public record which was made a
11 part of a court file and which is not specifically closed by
12 order of court, except as provided in paragraphs (c), (d),
13 (e), (k), (l), and (o) of subsection~~(6)(3)~~and except
14 information or records which may reveal the identity of a
15 person who is a victim of a sexual offense as provided in
16 paragraph (f) of subsection~~(6)(3)~~.

17 ~~(8)(5)~~ An exemption from this section does not imply
18 an exemption from or exception to s. 286.011. The exemption
19 from or exception to s. 286.011 must be expressly provided.

20 ~~(9)(6)~~ Nothing in subsection~~(6)(3)~~or any other
21 general or special law shall limit the access of the Auditor
22 General, the Office of Program Policy Analysis and Government
23 Accountability, or any state, county, municipal, university,
24 board of community college, school district, or special
25 district internal auditor to public records when such person
26 states in writing that such records are needed for a properly
27 authorized audit, examination, or investigation. Such person
28 shall maintain the confidentiality of any public records that
29 are confidential or exempt from the provisions of subsection
30 (1) and shall be subject to the same penalties as the
31

1 custodians of those public records for violating
2 confidentiality.

3 (10)~~(7)~~(a) Any person or organization, including the
4 Department of Children and Family Services, may petition the
5 court for an order making public the records of the Department
6 of Children and Family Services that pertain to investigations
7 of alleged abuse, neglect, abandonment, or exploitation of a
8 child or a vulnerable adult. The court shall determine if good
9 cause exists for public access to the records sought or a
10 portion thereof. In making this determination, the court shall
11 balance the best interest of the vulnerable adult or child who
12 is the focus of the investigation, and in the case of the
13 child, the interest of that child's siblings, together with
14 the privacy right of other persons identified in the reports
15 against the public interest. The public interest in access to
16 such records is reflected in s. 119.01(1), and includes the
17 need for citizens to know of and adequately evaluate the
18 actions of the Department of Children and Family Services and
19 the court system in providing vulnerable adults and children
20 of this state with the protections enumerated in ss. 39.001
21 and 415.101. However, this subsection does not contravene ss.
22 39.202 and 415.107, which protect the name of any person
23 reporting the abuse, neglect, or exploitation of a child or a
24 vulnerable adult.

25 (b) In cases involving serious bodily injury to a
26 child or a vulnerable adult, the Department of Children and
27 Family Services may petition the court for an order for the
28 immediate public release of records of the department which
29 pertain to the protective investigation. The petition must be
30 personally served upon the child or vulnerable adult, the
31 child's parents or guardian, the legal guardian of that

1 person, if any, and any person named as an alleged perpetrator
2 in the report of abuse, neglect, abandonment, or exploitation.
3 The court must determine if good cause exists for the public
4 release of the records sought no later than 24 hours,
5 excluding Saturdays, Sundays, and legal holidays, after the
6 date the department filed the petition with the court. If the
7 court has neither granted nor denied the petition within the
8 24-hour time period, the department may release to the public
9 summary information including:

- 10 1. A confirmation that an investigation has been
11 conducted concerning the alleged victim.
- 12 2. The dates and brief description of procedural
13 activities undertaken during the department's investigation.
- 14 3. The date of each judicial proceeding, a summary of
15 each participant's recommendations made at the judicial
16 proceedings, and the rulings of the court.

17
18 The summary information may not include the name of, or other
19 identifying information with respect to, any person identified
20 in any investigation. In making a determination to release
21 confidential information, the court shall balance the best
22 interests of the vulnerable adult or child who is the focus of
23 the investigation and, in the case of the child, the interests
24 of that child's siblings, together with the privacy rights of
25 other persons identified in the reports against the public
26 interest for access to public records. However, this paragraph
27 does not contravene ss. 39.202 and 415.107, which protect the
28 name of any person reporting abuse, neglect, or exploitation
29 of a child or a vulnerable adult.

30 (c) When the court determines that good cause for
31 public access exists, the court shall direct that the

1 department redact the name of and other identifying
2 information with respect to any person identified in any
3 protective investigation report until such time as the court
4 finds that there is probable cause to believe that the person
5 identified committed an act of alleged abuse, neglect, or
6 abandonment.

7 (11)~~(8)~~ The provisions of this section are not
8 intended to expand or limit the provisions of Rule 3.220,
9 Florida Rules of Criminal Procedure, regarding the right and
10 extent of discovery by the state or by a defendant in a
11 criminal prosecution or in collateral postconviction
12 proceedings. This section may not be used by any inmate as
13 the basis for failing to timely litigate any postconviction
14 action.

15 Section 8. Sections 119.08 and 119.083, Florida
16 Statutes, are repealed.

17 Section 9. Section 119.084, Florida Statutes, is
18 amended to read:

19 119.084 Definitions; copyright of data processing
20 software created by governmental agencies; sale price and
21 licensing fee; ~~access to public records; prohibited~~
22 ~~contracts.--~~

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

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

27 ~~(b) "Data processing software" means the programs and~~
28 ~~routines used to employ and control the capabilities of data~~
29 ~~processing hardware, including, but not limited to, operating~~
30 ~~systems, compilers, assemblers, utilities, library routines,~~
31

1 ~~maintenance routines, applications, and computer networking~~
2 ~~programs.~~

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

5 (2) Any agency is authorized to acquire and hold
6 copyrights for data processing software created by the agency
7 and to enforce its rights pertaining to such copyrights,
8 provided that the agency complies with the requirements of
9 this section.

10 (a) Any agency that has acquired a copyright for data
11 processing software created by the agency may sell or license
12 the copyrighted data processing software to any public agency
13 or private person and may establish a price for the sale and a
14 license fee for the use of such data processing software.
15 Proceeds from the sale or licensing of copyrighted data
16 processing software shall be deposited by the agency into a
17 trust fund for the agency's appropriate use for authorized
18 purposes. Counties, municipalities, and other political
19 subdivisions of the state may designate how such sale and
20 licensing proceeds are to be used. The price for the sale of
21 and the fee for the licensing of copyrighted data processing
22 software may be based on market considerations. However, the
23 prices or fees for the sale or licensing of copyrighted data
24 processing software to an individual or entity solely for
25 application to information maintained or generated by the
26 agency that created the copyrighted data processing software
27 shall be determined pursuant to s. 119.07(1).

28 (b) The provisions of this subsection are supplemental
29 to, and shall not supplant or repeal, any other provision of
30 law that authorizes an agency to acquire and hold copyrights.
31

1 ~~(3) 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 ~~(4) An agency must consider when designing or~~
6 ~~acquiring an electronic recordkeeping system that such system~~
7 ~~is capable of providing data in some common format such as,~~
8 ~~but not limited to, the American Standard Code for Information~~
9 ~~Interchange.~~

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

24 ~~(6) An agency may not enter into a contract for the~~
25 ~~creation or maintenance of a public records database if that~~
26 ~~contract impairs the ability of the public to inspect or copy~~
27 ~~the public records of that agency, including public records~~
28 ~~that are on-line or stored in an electronic recordkeeping~~
29 ~~system used by the agency. Such contract may not allow any~~
30 ~~impediment that as a practical matter makes it more difficult~~
31 ~~for the public to inspect or copy the records than to inspect~~

1 ~~or copy the agency's records. The fees and costs for the~~
2 ~~production of such records may not be more than the fees or~~
3 ~~costs charged by the agency.~~

4 (3)~~(7)~~ This section is subject to the Open Government
5 Sunset Review Act of 1995 in accordance with s. 119.15 and
6 shall stand repealed on October 2, 2006, unless reviewed and
7 saved from repeal through reenactment by the Legislature.

8 Section 10. Sections 119.085 and 119.09, Florida
9 Statutes, are repealed.

10 Section 11. Section 119.10, Florida Statutes, is
11 amended:

12 119.10 Violation of chapter; penalties.--

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

16 (2) Any person who willfully and knowingly violates:
17 violating

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

21 (b)~~(3)~~ Section ~~Any person who willfully and knowingly~~
22 ~~violates s.119.105~~ commits a felony of the third degree,
23 punishable as provided in s. 775.082, s. 775.083, or s.
24 775.084.

25 Section 12. Section 119.105, Florida Statutes, is
26 amended to read:

27 119.105 Protection of victims of crimes or
28 accidents.--Police reports are public records except as
29 otherwise made exempt or confidential ~~by general or special~~
30 ~~law~~. Every person is allowed to examine nonexempt or
31 nonconfidential police reports. No person who inspects or

1 copies police reports for the purpose of obtaining the names
2 and addresses of the victims of crimes or accidents shall use
3 any information contained therein for any commercial
4 solicitation of the victims or relatives of the victims of the
5 reported crimes or accidents. Nothing herein shall prohibit
6 the publication of such information by any news media or the
7 use of such information for any other data collection or
8 analysis purposes.

9 Section 13. Paragraph (a) of subsection (1) of section
10 120.55, Florida Statutes, is amended to read:

11 120.55 Publication.--

12 (1) The Department of State shall:

13 (a)1. Through a continuous revision system, compile
14 and publish the "Florida Administrative Code." The Florida
15 Administrative Code shall contain ~~Publish in a permanent~~
16 ~~compilation entitled "Florida Administrative Code"~~all rules
17 adopted by each agency, citing the specific rulemaking
18 authority pursuant to which each rule was adopted, all history
19 notes as authorized in s. 120.545(9), and complete indexes to
20 all rules contained in the code. Supplementation shall be made
21 as often as practicable, but at least monthly. The department
22 may contract with a publishing firm for the publication, in a
23 timely and useful form, of the Florida Administrative Code;
24 however, the department shall retain responsibility for the
25 code as provided in this section. This publication shall be
26 the official compilation of the administrative rules of this
27 state. The Department of State shall retain the copyright
28 over the Florida Administrative Code.

29 2. Rules general in form but applicable to only one
30 school district, community college district, or county, or a
31 part thereof, or university rules relating to internal

1 personnel or business and finance shall not be published in
2 the Florida Administrative Code. Exclusion from publication in
3 the Florida Administrative Code shall not affect the validity
4 or effectiveness of such rules.

5 3. At the beginning of the section of the code dealing
6 with an agency that files copies of its rules with the
7 department, the department shall publish the address and
8 telephone number of the executive offices of each agency, the
9 manner by which the agency indexes its rules, a listing of all
10 rules of that agency excluded from publication in the code,
11 and a statement as to where those rules may be inspected.

12 4. Forms shall not be published in the Florida
13 Administrative Code; but any form which an agency uses in its
14 dealings with the public, along with any accompanying
15 instructions, shall be filed with the committee before it is
16 used. Any form or instruction which meets the definition of
17 "rule" provided in s. 120.52 shall be incorporated by
18 reference into the appropriate rule. The reference shall
19 specifically state that the form is being incorporated by
20 reference and shall include the number, title, and effective
21 date of the form and an explanation of how the form may be
22 obtained.

23 Section 14. Paragraph (b) of subsection (2) of section
24 257.36, Florida Statutes, is amended to read:

25 257.36 Records and information management.--

26 (2)

27 (b) Title to any record detained in any records center
28 shall remain in the agency transferring such record to the
29 division. When an agency has been directed to transfer any
30 duty or responsibility to another agency or entity, the
31 receiving agency or entity shall be the official custodian of

1 records in accordance with s. 119.021, and shall be
2 responsible for records storage service charges of the
3 division. If an agency or entity is dissolved with no
4 successor agency or entity, the Executive Office of the
5 Governor shall be the official custodian of records in
6 accordance with s. 119.021, and shall be responsible for the
7 records storage service charges of the division.

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

10 328.15 Notice of lien on vessel; recording.--

11 (5) The Department of Highway Safety and Motor
12 Vehicles shall make such rules and regulations as it deems
13 necessary or proper for the effective administration of this
14 law. The department may by rule require that a notice of
15 satisfaction of a lien be notarized. The department shall
16 prepare the forms of the notice of lien and the satisfaction
17 of lien to be supplied, at a charge not to exceed 50 percent
18 more than cost, to applicants for recording the liens or
19 satisfactions and shall keep an official ~~a permanent~~ record of
20 such notices of lien and satisfactions available for
21 inspection by the public at all reasonable times. The division
22 is authorized to furnish certified copies of such
23 satisfactions for a fee of \$1, which certified copies shall be
24 admissible in evidence in all courts of this state under the
25 same conditions and to the same effect as certified copies of
26 other public records.

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

29 372.5717 Hunter safety course; requirements;
30 penalty.--

31

1 (4) The commission shall issue a permanent hunter
2 safety certification card to each person who successfully
3 completes the hunter safety course. The commission shall
4 maintain ~~permanent~~ records of hunter safety certification
5 cards issued and shall establish procedures for replacing lost
6 or destroyed cards.

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

9 560.121 Records; limited restrictions upon public
10 access.--

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

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

22 560.123 Florida control of money laundering in the
23 Money Transmitters' Code; reports of transactions involving
24 currency or monetary instruments; when required; purpose;
25 definitions; penalties; corpus delicti.--

26 (6) The department must retain a copy of all reports
27 received under subsection (5) for a minimum of 3 ~~5~~ calendar
28 years after receipt of the report. However, if a report or
29 information contained in a report is known by the department
30 to be the subject of an existing criminal proceeding, the
31

1 report must be retained for a minimum of 10 calendar years
2 from the date of receipt.

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

5 560.129 Confidentiality.--

6 (5) Examination reports, investigatory records,
7 applications, and related information compiled by the
8 department, or photographic copies thereof, shall be retained
9 by the department for a period of at least 3 ~~10~~ years from the
10 date that the examination or investigation ceases to be
11 active. Application records, and related information compiled
12 by the department, or photographic copies thereof, shall be
13 retained by the department for a period of at least 2 years
14 from the date that the registration ceases to be active.

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

17 624.311 Records; reproductions; destruction.--

18 (3) The department may photograph, microphotograph, or
19 reproduce on film, or maintain in an electronic recordkeeping
20 system ~~whereby each page will be reproduced in exact~~
21 ~~conformity with the original~~, all financial records, financial
22 statements of domestic insurers, reports of business
23 transacted in this state by foreign insurers and alien
24 insurers, reports of examination of domestic insurers, and
25 such other records and documents on file in its office as it
26 may in its discretion select.

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

29 624.312 Reproductions and certified copies of records
30 as evidence.--

31

1 (1) Photographs or microphotographs in the form of
2 film or prints, or other reproductions from an electronic
3 recordkeeping system, of documents and records made under s.
4 624.311(3), or made under former s. 624.311(3) before October
5 1, 1982, shall have the same force and effect as the originals
6 thereof and shall be treated as originals for the purpose of
7 their admissibility in evidence. Duly certified or
8 authenticated reproductions of such photographs or
9 microphotographs or reproductions from an electronic
10 recordkeeping system shall be as admissible in evidence as the
11 originals.

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

14 633.527 Records concerning applicant; extent of
15 confidentiality.--

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

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

21 655.50 Florida Control of Money Laundering in
22 Financial Institutions Act; reports of transactions involving
23 currency or monetary instruments; when required; purpose;
24 definitions; penalties.--

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

1 (a)(b) Each financial institution shall maintain for a
2 minimum of 5 calendar years full and complete records of all
3 financial transactions, including all records required by 31
4 C.F.R. parts 103.33 and 103.34.

5 (b)(c) The financial institution shall retain a copy
6 of all reports filed with the department under subsection (4)
7 for a minimum of 5 calendar years after submission of the
8 report. However, if a report or information contained in a
9 report is known by the financial institution to be the subject
10 of an existing criminal proceeding, the report shall be
11 retained as required by 31 C.F.R. parts 103.33 and 103.34 for
12 ~~a minimum of 10 calendar years after submission of the report.~~

13 (c)(d) The financial institution shall retain a copy
14 of all records of exemption for each designation of exempt
15 person made pursuant to subsection (6) for a minimum of 5
16 calendar years after termination of exempt status of such
17 customer. However, if it is known by the financial institution
18 that the customer or the transactions of the customer are the
19 subject of an existing criminal proceeding, the records shall
20 be retained as required by 31 C.F.R. parts 103.33 and 103.34
21 ~~for a minimum of 10 calendar years after termination of exempt~~
22 ~~status of such customer.~~

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

25 945.25 Records.--

26 (1) It shall be the duty of the Department of
27 Corrections to obtain and place in its official permanent
28 records information as complete as practicable ~~may be~~
29 ~~practicably available~~ on every person who may be sentenced to
30 supervision or incarceration under the jurisdiction of the
31 department ~~become subject to parole~~. Such information shall

1 be obtained as soon as possible after imposition of sentence
2 and shall, in the discretion of the department, include, among
3 other things:

4 (a) A copy of the indictment or information and a
5 complete statement of the facts of the crime for which such
6 person has been sentenced.

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

8 (c) The terms of the sentence.

9 (d) The name of the presiding judge, the prosecuting
10 officers, the investigating officers, and the attorneys for
11 the person convicted.

12 (e) A copy of all probation reports which may have
13 been made.

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

16 ~~(2) The department, in its discretion, shall also~~
17 ~~obtain and place in its permanent records such information on~~
18 ~~every person who may be placed on probation, and on every~~
19 ~~person who may become subject to pardon and commutation of~~
20 ~~sentence.~~

21 (2)~~(3)~~ It shall be the duty of the court and its
22 prosecuting officials to furnish to the department upon its
23 request such information and also to furnish such copies of
24 such minutes and other records as may be in their possession
25 or under their control.

26 (3)~~(4)~~ Following the initial hearing provided for in
27 s. 947.172(1), the commission shall prepare and the department
28 shall include in the official record a copy of the
29 seriousness-of-offense and favorable-parole-outcome scores and
30 shall include a listing of the specific factors and
31

1 information used in establishing a presumptive parole release
2 date for the inmate.

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

5 985.31 Serious or habitual juvenile offender.--

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

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

18 Section 26. Paragraph (d) of subsection (6) of section
19 212.095, Florida Statutes, is repealed.

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

22 Section 28. Section 591.34, Florida Statutes, is
23 repealed.

24 Section 29. The Records Management Center of the
25 Department of State in Tallahassee, Florida, is designated as
26 the "James C. 'Jim' Smith Records Management Center."

27 Section 30. This act shall take effect July 1, 2002.

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HOUSE SUMMARY

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

Amends various provisions of Florida Statutes relating to records management to:

Remove photographic film reproductions of specified vouchers or checks paid by the State Treasurer and preserved as records of the office of the Treasurer from classification as permanent records.

Revise language with respect to publication of the Florida Administrative Code to provide that the Department of State is required to compile and publish the code through a continuous revision system.

Provide procedure with respect to official custody of records upon transfer of duties or responsibilities between state agencies or dissolution of a state agency.

Revise the classification of:

1. Records of notices and satisfaction of liens on vessels maintained by the Department of Highway Safety and Motor Vehicles.
2. Records of hunter safety certification cards maintained by the Fish and Wildlife Conservation Commission.
3. Specified medical files of serious or habitual juvenile offenders.

Decrease the period of retention of:

1. Specified cost and inspection reports pertaining to nursing home facilities.
2. Contracts between an assisted living facility and a resident of such facility.
3. Clinical records for patients who receive skilled care from a home health agency.
4. Hospice patient records after termination of hospice services.
5. A residency agreement between a provider of adult family-care home services and a resident of the adult family-care home.
6. Specified reports filed by money transmitters with the Department of Banking and Finance under the Money Transmitters' Code.
7. Specified examination test questions, answer sheets, and grades in the possession of the Division of State Fire Marshal of the Department of Insurance.

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- 1 Decrease and qualify the period of retention for
2 examination reports, investigatory records, applications,
3 application records, and related information compiled by
4 the Department of Banking and Finance under the Money
5 Transmitters' Code.
- 6 Authorize the Department of Insurance to maintain an
7 electronic recordkeeping system for specified records,
8 statements, reports, and documents and eliminate a
9 standard for the reproduction of such records,
10 statements, reports, and documents.
- 11 Provide that reproductions from an electronic
12 recordkeeping system of specified documents and records
13 of the Department of Insurance shall be treated as
14 originals for the purpose of their admissibility in
15 evidence.
- 16 Revise a requirement of the Department of Banking and
17 Finance to retain copies of specified reports submitted
18 by financial institutions under the Florida Control of
19 Money Laundering in Financial Institutions Act to provide
20 that such reports or information contained therein which
21 are known to be the subject of an existing criminal
22 proceeding shall be retained in accordance with federal
23 law, and revise a requirement of the department to retain
24 copies of specified records of exemption for a person
25 exempt under the act to provide that if such person or
26 the person's transactions are known to be the subject of
27 an existing criminal proceeding the records shall be
28 retained in accordance with federal law.
- 29 Require the Department of Corrections to obtain and place
30 in its official records specified information on every
31 person who may be sentenced to supervision or
incarceration under the jurisdiction of the department.
Eliminates a requirement of the department, in its
discretion, to obtain and place in its permanent records
specified information on persons placed on probation and
on persons who may become subject to pardon and
commutation of sentence.
- Repeal provisions which require the Department of Revenue
to keep a permanent record of the amounts of refunds
claimed and paid under ch. 212, F.S., and which require
that such records shall be open to public inspection.
- Repeal provisions relating to the authority of the
Department of Management Services to photograph and
reduce to microfilm as a permanent record its ledger
sheets showing the salaries and contributions of members
of the Teachers' Retirement System of Florida, the
records of deceased members of the system, and the
authority to destroy the documents from which such films
derive.

1 Eliminate a procedure by which permission may be obtained
2 from the Department of Agriculture and Consumer Services
3 to cut seed trees.
4 Designates the Records Management Center of the
5 Department of State as the "James C. 'Jim' Smith Records
6 Management Center."
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