

By Senator Smith

14-925-04

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

17

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

19

20 Section 1. Section 943.0596, Florida Statutes, is
21 created to read:22 943.0596 Confidentiality of sealed investigative
23 incident reports; exceptions.--24 (1) An investigative incident report of a minor or an
25 adult which is ordered sealed by a court of competent
26 jurisdiction pursuant to s. 943.0595 is confidential and
27 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
28 Constitution and is available only to the person who is the
29 subject of the report, to the subject's attorney, to criminal
30 justice agencies for their respective criminal justice

31

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

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

7 (3) This section is subject to the Open Government
8 Sunset Review Act of 1995 in accordance with s. 119.15, and
9 shall stand repealed on October 2, 2009, unless reviewed and
10 saved from repeal through reenactment by the Legislature.

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

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

26
27
28
29
30
31

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

SENATE SUMMARY

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