

CHAMBER ACTION

1 The Committee on Public Safety & Crime Prevention recommends the
2 following:

3
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to public records concerning law
8 enforcement officers and correctional officers; amending
9 s. 112.533, F.S.; providing that personal and private
10 records of law enforcement officers and correctional
11 officers that are held in the possession of a law
12 enforcement agency or correctional agency because of a
13 complaint investigation are exempt from disclosure under
14 the public records law; defining the term "personal or
15 private record" for purposes of the exemption; providing
16 for future legislative review and repeal; providing
17 findings of public necessity; providing a contingent
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Subsection (2) of section 112.533, Florida
23 Statutes, is amended to read:

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24 | 112.533 Receipt and processing of complaints.--

25 | (2)(a) A complaint filed against a law enforcement officer

26 | or correctional officer with a law enforcement agency or

27 | correctional agency and all information obtained pursuant to the

28 | investigation by the agency of such complaint shall be

29 | confidential and exempt from the provisions of s. 119.07(1)

30 | until the investigation ceases to be active, or until the agency

31 | head or the agency head's designee provides written notice to

32 | the officer who is the subject of the complaint, either

33 | personally or by mail, that the agency has either:

34 | 1. Concluded the investigation with a finding not to

35 | proceed with disciplinary action or to file charges; or

36 | 2. Concluded the investigation with a finding to proceed

37 | with disciplinary action or to file charges.

38 |

39 | Notwithstanding the foregoing provisions, the officer who is the

40 | subject of the complaint, along with legal counsel or any other

41 | representative of his or her choice, may review the complaint

42 | and all statements regardless of form made by the complainant

43 | and witnesses immediately prior to the beginning of the

44 | investigative interview. If a witness to a complaint is

45 | incarcerated in a correctional facility and may be under the

46 | supervision of, or have contact with, the officer under

47 | investigation, only the names and written statements of the

48 | complainant and nonincarcerated witnesses may be reviewed by the

49 | officer under investigation immediately prior to the beginning

50 | of the investigative interview.

51 (b)1. This subsection does not apply to any public record
 52 that ~~which~~ is exempt from public disclosure pursuant to s.
 53 119.07(3). In addition, any personal or private record produced
 54 by the accused officer at the request of the agency is
 55 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 56 of the State Constitution.

57 2. As used in this subsection, the term "personal or
 58 private record" means personal telephone records, cellular
 59 telephone records, financial records, beeper and pager records,
 60 credit card and bank records, electronic mail records, and video
 61 and audio cassettes, or other objects made by or which are the
 62 property of the law enforcement officer or correctional officer
 63 and intended for or restricted to his or her use.

64 3. For the purposes of this subsection, an investigation
 65 shall be considered active as long as it is continuing with a
 66 reasonable, good faith anticipation that an administrative
 67 finding will be made in the foreseeable future. An investigation
 68 shall be presumed to be inactive if no finding is made within 45
 69 days after the complaint is filed.

70 (c) Notwithstanding other provisions of this section, the
 71 complaint and information shall be available to law enforcement
 72 agencies, correctional agencies, and state attorneys in the
 73 conduct of a lawful criminal investigation.

74 Section 2. Section 112.533(2)(b)1., Florida Statutes, is
 75 subject to the Open Government Sunset Review Act of 1995 in
 76 accordance with s. 119.15, Florida Statutes, and shall stand
 77 repealed on October 2, 2009, unless reviewed and saved from
 78 repeal through reenactment by the Legislature.

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79 Section 3. The Legislature finds that it is a public
80 necessity to exempt from public disclosure all information
81 contained in the private or personal records of any law
82 enforcement officer or correctional officer held by a law
83 enforcement agency or correctional agency because of a complaint
84 filed against the officer. The Legislature finds that it is good
85 public policy to protect the personal and private records of law
86 enforcement officers or correctional officers accused in a
87 complaint filed with their law enforcement agency or
88 correctional agency. The Legislature finds that protecting the
89 confidentiality and preventing the disclosure of the information
90 contained in the law enforcement officer's or correctional
91 officer's personal or private records will encourage accused
92 officers to fully cooperate with the law enforcement agency or
93 correctional agency with whom they are employed to quickly and
94 effectively resolve the complaint. The Legislature also finds
95 that the confidentiality and exemption from public disclosure
96 provided by this act prevents unnecessary and unwarranted
97 intrusion into the right of privacy of personal and sensitive
98 information about the officer and his or her family. Disclosure
99 of information in the officer's personal or private records may
100 also deter the collection of information integral to the
101 investigation of the complaint filed against the officer.
102 Therefore, the Legislature finds that any benefit that could
103 occur from public disclosure of the information in the personal
104 or private records of an accused law enforcement officer or
105 correctional officer is outweighed by the unwarranted intrusion
106 into the privacy of the officer and his or her family.

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107 Section 4. This act shall take effect on the same date
108 that HB 431 or similar legislation takes effect, if such
109 legislation is adopted in the same legislative session or an
110 extension thereof and becomes law.