

By Senator Crist

12-1707-07

See HB

1 A bill to be entitled

2 An act relating to a public-records exemption;

3 amending s. 119.071, F.S.; creating an

4 additional general exemption from requirements

5 governing the inspection and copying of public

6 records; providing legislative findings;

7 defining "personal identification information"

8 for purposes of the act; providing that any

9 portion of a public record held by an agency

10 that contains personal identification

11 information of an individual is confidential

12 and exempt from public-records requirements;

13 providing for retroactive application of the

14 exemption; providing for nonapplicability;

15 providing for the release of personal

16 identification information upon specific

17 written authorization; providing options for

18 limiting or qualifying the authorized release

19 of such information; providing exceptions;

20 providing restrictions; providing for review

21 and repeal; providing a statement of public

22 necessity; providing an effective date.

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

26 Section 1. Subsection (6) is added to section 119.071,
27 Florida Statutes, to read:

28 119.071 General exemptions from inspection or copying
29 of public records.--

30 (6) PERSONAL IDENTIFICATION INFORMATION; OPTION TO
31 RELEASE.--

1 (a) The Legislature finds that personal identification
2 information pertaining to an individual should always remain
3 private, even when collected legally. The Legislature also
4 finds that it is in the public interest of the citizens of the
5 state to protect individuals from misuse of their personal
6 identification information and from identity theft. The
7 enactment into law of a requirement that would give
8 individuals the option of choosing whether or not to have
9 personal identification information released when requested by
10 a state agency to supply such information would help to
11 increase consumer security by giving consumers control over
12 access to their personal identification information. Such an
13 option should provide for variable forms of the release of
14 personal identification information which would allow the
15 consumer to limit or qualify his or her release to certain
16 types of information, specify particular agencies that are
17 authorized to release his or her personal identification
18 information, and limit a release to either a single release of
19 information or a continuing release of information, with the
20 authority to terminate a continuing release of information at
21 the consumer's discretion. It is the finding of the
22 Legislature that providing this option would allow individuals
23 to define the extent to which their personal information is
24 protected.

25 (b) For purposes of this subsection, the term
26 "personal identification information" means any name or number
27 that may be used, either alone or in conjunction with any
28 other information, to identify an individual, including any:
29 1. Name, postal or electronic mail address, telephone
30 number, social security number, date of birth, mother's maiden
31 name, official state-issued or federally issued driver's

1 license or identification number, alien registration number,
2 government passport number, employer or taxpayer
3 identification number, Medicaid or food stamp account number,
4 bank account number, credit or debit card number, or personal
5 identification number or code assigned to the holder of a
6 debit card by the issuer to permit authorized electronic use
7 of such card.

8 2. Unique biometric data, such as fingerprint, voice
9 print, retina or iris image, or other unique physical
10 representation.

11 3. Unique electronic identification number, address,
12 or routing code.

13 4. Medical records.

14 5. Telecommunication identifying information or access
15 device.

16 6. Other number or information that can be used to
17 access a person's financial resources.

18 (c) Any portion of a public record held by an agency
19 that contains personal identification information of an
20 individual as defined in paragraph (b) is confidential and
21 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
22 I of the State Constitution. This exemption applies to
23 personal identification information held by an agency before,
24 on, or after the effective date of this act. This exemption
25 does not apply to personal identification information
26 contained in:

27 1. A record when the subject of the personal
28 identification information contained in the record has elected
29 in writing to authorize the release of his or her personal
30 identification information for public disclosure.

31 2. Records shared between agencies.

1 3. Records distributed pursuant to chapter 943.
2 4. Official records as defined in s. 28.001.
3 (d) An individual authorizing the release of
4 information pursuant to subparagraph (c)1. shall have the
5 option of limiting or qualifying the release of information so
6 that the release:
7 1. Applies only to specific types of information as
8 identified by the individual.
9 2. Authorizes the release of information only to a
10 specific agency or agencies.
11 3. Authorizes a single release of information.
12 4. Authorizes multiple releases of information but
13 does not authorize a continuing release of information. Any
14 authorization for multiple releases of information may be
15 rescinded at any time by the person making the authorization.
16 5. Authorizes a continuing release of information. Any
17 authorization for a continuing release of information may be
18 rescinded at any time by the person making the authorization.
19 (e)1. Nothing in this subsection shall prevent the
20 release of specific information related to an individual when
21 the individual or the individual's natural or legal guardian
22 has directed an agency to release the specific information to
23 a specified person.
24 2. Nothing in this subsection shall prevent the
25 release by an agency of personal identification information to
26 a law enforcement agency or pursuant to a lawful subpoena.
27 3. A release executed by an individual under this
28 subsection may not be assigned or transferred by the person
29 receiving the release.
30 4. A person receiving personal identification
31 information from an agency pursuant to a release under this

1 subsection may not share or distribute such personal
2 identification information with any other person unless the
3 relevant individual authorizes release of the information to
4 such other person.

5 (f) This subsection is subject to the Open Government
6 Sunset Review Act in accordance with s. 119.15 and shall stand
7 repealed on October 2, 2012, unless reviewed and saved from
8 repeal through reenactment by the Legislature.

9 Section 2. The Legislature finds that it is a public
10 necessity that any portion of a public record held by an
11 agency that contains personal identification information of an
12 individual as defined in this act be made confidential and
13 exempt from public disclosure. The Legislature also finds that
14 there is no necessity to allow commercial entities access to
15 such personal identification information held by any agency.
16 Commercial entities have stated that access to such
17 information held by a public agency is a necessity for the
18 operation of their businesses. Commercial entities also have
19 cited a number of reasons for needing access to personal
20 identification information held by public agencies. The
21 prevailing needs are for verification by commercial entities
22 of the accuracy of personal information received by such
23 entities and for their use in matching, verifying, or
24 retrieving information. However, a number of businesses
25 already provide verification and matching services. A
26 commercial entity seeking to verify a person's identity may
27 utilize another business providing such services instead of
28 relying upon state government. In addition, government records
29 are not the only source of information a commercial entity can
30 utilize for matching, verifying, or retrieving information. As
31 such, a commercial entity's performance will not be hampered

1 if it no longer has access to personal identification
2 information held by a public agency. In the recent past,
3 commercial entity databases have been compromised, in some
4 cases by unauthorized persons gaining access to computer
5 databases by "hacking" into them and, in other cases, through
6 the creation of corporate entities that were created to gain
7 fraudulent access. As a result, the identities of hundreds of
8 thousands of citizens have been jeopardized and over 10,000
9 Florida citizens have had their identities compromised.
10 Further, personal identification information is information of
11 a sensitive personal nature and is often the link to an
12 individual's personal, financial, medical, or familial
13 records. Access of commercial entities to such information is
14 likely to lead to misuse of that information. Such misuse
15 could lead to increased opportunities for fraud and identity
16 theft. It is the finding of the Legislature that the harm from
17 disclosing to commercial entities personal identification
18 information held by an agency outweighs any public benefit
19 that can be derived from the access of a commercial entity to
20 such information. However, the Legislature recognizes that, in
21 limited circumstances, access to personal identification
22 information in public records may be necessary or advantageous
23 to the individual or to society, and thus limited exceptions
24 should be enacted into law whereby the relevant individual may
25 grant commercial entities limited access to personal
26 identification information contained in public records. The
27 Legislature further finds that such limited access satisfies
28 the need of commercial entities to access personal
29 identification information in public records.

30 Section 3. This act shall take effect July 1, 2007.
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