

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act regarding active criminal intelligence
 4 information and active criminal investigative information;
 5 amending s. 119.071, F.S., which provides an exemption
 6 from public records requirements for a request made by a
 7 law enforcement agency to inspect or copy a public record
 8 that is in the custody of another agency and the
 9 custodian's response to the request, and any information
 10 that would identify whether a law enforcement agency has
 11 requested or received such public record; clarifying and
 12 reorganizing the exemption; removing the scheduled repeal
 13 of the exemption under the Open Government Sunset Review
 14 Act; reenacting s. 119.07(1)(e), F.S., relating to
 15 inspection of a public record in a civil action in which
 16 an exemption from public records requirements is asserted
 17 under or by virtue of s. 119.071(2)(c), to incorporate the
 18 amendment to s. 119.071, F.S., in a reference thereto;
 19 providing an effective date.

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

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 23 Section 1. Paragraph (c) of subsection (2) of section
 24 119.071, Florida Statutes, is amended to read:

25 119.071 General exemptions from inspection or copying of
 26 public records.--

27 (2) AGENCY INVESTIGATIONS.--

28 (c)1. Active criminal intelligence information and active
 29 criminal investigative information are exempt from s. 119.07(1)
 30 and s. 24(a), Art. I of the State Constitution.

31 2.a. A request made by ~~of~~ a law enforcement agency to
 32 inspect or copy a public record that is in the custody of
 33 another agency, the custodian's response to the request, and any
 34 information that would identify whether a law enforcement agency
 35 has requested or received that ~~the public record that was~~
 36 ~~requested by the law enforcement agency or provided by the~~
 37 ~~custodian~~ are exempt from s. 119.07(1) and s. 24(a), Art. I of
 38 the State Constitution, during the period in which the
 39 information constitutes active criminal intelligence information
 40 or active criminal investigative information ~~that is active~~.
 41 ~~This exemption is remedial in nature, and it is the intent of~~
 42 ~~the Legislature that the exemption be applied to requests for~~
 43 ~~information received before, on, or after the effective date of~~
 44 ~~this subparagraph.~~

45 b. The law enforcement agency that made the request to
 46 inspect or copy a public record shall give notice to the
 47 custodial agency when the criminal intelligence information or
 48 criminal investigative information is no longer active, so that
 49 the request made by the law enforcement agency, the custodian's
 50 response to the request, and information that would identify
 51 whether the law enforcement agency had requested or received
 52 that the public record requested are available to the public.

53 c. This exemption is remedial in nature, and it is the
 54 intent of the Legislature that the exemption be applied to
 55 requests to inspect or copy public records received by the

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56 custodial agency before, on, or after the effective date of this
57 subparagraph. ~~This subparagraph is subject to the Open~~
58 ~~Government Sunset Review Act in accordance with s. 119.15 and~~
59 ~~shall stand repealed October 2, 2007, unless reviewed and saved~~
60 ~~from repeal through reenactment by the Legislature.~~

61 Section 2. For the purpose of incorporating the amendment
62 made by this act to section 119.071, Florida Statutes, in a
63 reference thereto, paragraph (e) of subsection (1) of section
64 119.07, Florida Statutes, is reenacted to read:

65 119.07 Inspection and copying of records; photographing
66 public records; fees; exemptions.--

67 (1)

68 (e) In any civil action in which an exemption to this
69 section is asserted, if the exemption is alleged to exist under
70 or by virtue of s. 119.071(1)(d) or (f), (2)(d), (e), or (f), or
71 (4)(c), the public record or part thereof in question shall be
72 submitted to the court for an inspection in camera. If an
73 exemption is alleged to exist under or by virtue of s.
74 119.071(2)(c), an inspection in camera is discretionary with the
75 court. If the court finds that the asserted exemption is not
76 applicable, it shall order the public record or part thereof in
77 question to be immediately produced for inspection or copying as
78 requested by the person seeking such access.

79 Section 3. This act shall take effect October 1, 2007.