

1 A bill to be entitled
 2 An act relating to a public records exemption; amending s.
 3 119.071, F.S.; creating an additional general exemption
 4 from requirements governing the inspection and copying of
 5 public records; providing legislative findings; defining
 6 "personal identification information" for purposes of the
 7 act; providing that any portion of a public record held by
 8 an agency that contains personal identification
 9 information of an individual is confidential and exempt
 10 from public records requirements; providing for
 11 retroactive application of the exemption; providing for
 12 nonapplicability; providing for the release of personal
 13 identification information upon specific written
 14 authorization; providing options for limiting or
 15 qualifying the authorized release of such information;
 16 providing exceptions; providing restrictions; providing
 17 for review and repeal; providing a statement of public
 18 necessity; providing an effective date.

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

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

24 119.071 General exemptions from inspection or copying of
 25 public records.--

26 (6) PERSONAL IDENTIFICATION INFORMATION; OPTION TO
 27 RELEASE.--

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28 (a) The Legislature finds that personal identification
29 information pertaining to an individual should always remain
30 private, even when collected legally. The Legislature also finds
31 that it is in the public interest of the citizens of the state
32 to protect individuals from misuse of their personal
33 identification information and from identity theft. The
34 enactment into law of a requirement that would give individuals
35 the option of choosing whether or not to have personal
36 identification information released when requested by a state
37 agency to supply such information would help to increase
38 consumer security by giving consumers control over access to
39 their personal identification information. Such an option should
40 provide for variable forms of the release of personal
41 identification information that would allow the consumer to
42 limit or qualify his or her release to certain types of
43 information, specify particular agencies that are authorized to
44 release his or her personal identification information, and
45 limit a release to either a single release of information or a
46 continuing release of information, with the authority to
47 terminate a continuing release of information at the consumer's
48 discretion. It is the finding of the Legislature that providing
49 this option would allow individuals to define the extent to
50 which their personal information is protected.

51 (b) For purposes of this subsection, the term "personal
52 identification information" means any name or number that may be
53 used, either alone or in conjunction with any other information,
54 to identify an individual, including any:

55 1. Name, postal or electronic mail address, telephone
56 number, social security number, date of birth, mother's maiden
57 name, official state-issued or federally issued driver's license
58 or identification number, alien registration number, government
59 passport number, employer or taxpayer identification number,
60 Medicaid or food stamp account number, bank account number,
61 credit or debit card number, or personal identification number
62 or code assigned to the holder of a debit card by the issuer to
63 permit authorized electronic use of such card.

64 2. Unique biometric data, such as fingerprint, voice
65 print, retina or iris image, or other unique physical
66 representation.

67 3. Unique electronic identification number, address, or
68 routing code.

69 4. Medical records.

70 5. Telecommunication identifying information or access
71 device.

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

74 (c) Any portion of a public record held by an agency that
75 contains personal identification information of an individual as
76 defined in paragraph (b) is confidential and exempt from the
77 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
78 Constitution. This exemption applies to personal identification
79 information held by an agency before, on, or after the effective
80 date of this act. This exemption does not apply to personal
81 identification information contained in:

82 1. A record when the subject of the personal
83 identification information contained in the record has elected
84 in writing to authorize the release of his or her personal
85 identification information for public disclosure.

86 2. Records shared between agencies.

87 3. Records distributed pursuant to chapter 943.

88 4. Official records as defined in s. 28.001.

89 (d) An individual authorizing the release of information
90 pursuant to subparagraph (c)1. shall have the option of limiting
91 or qualifying the release of information so that the release:

92 1. Applies only to specific types of information as
93 identified by the individual.

94 2. Authorizes the release of information only to a
95 specific agency or agencies.

96 3. Authorizes a single release of information.

97 4. Authorizes multiple releases of information but does
98 not authorize a continuing release of information. Any
99 authorization for multiple releases of information may be
100 rescinded at any time by the person making the authorization.

101 5. Authorizes a continuing release of information. Any
102 authorization for a continuing release of information may be
103 rescinded at any time by the person making the authorization.

104 (e)1. Nothing in this subsection shall prevent the release
105 of specific information related to an individual when the
106 individual or the individual's natural or legal guardian has
107 directed an agency to release the specific information to a
108 specified person.

109 2. Nothing in this subsection shall prevent the release by
110 an agency of personal identification information to a law
111 enforcement agency or pursuant to a lawful subpoena.

112 3. A release executed by an individual under this
113 subsection may not be assigned or transferred by the person
114 receiving the release.

115 4. A person receiving personal identification information
116 from an agency pursuant to a release under this subsection may
117 not share or distribute such personal identification information
118 with any other person unless the relevant individual authorizes
119 release of the information to such other person.

120 (f) This subsection is subject to the Open Government
121 Sunset Review Act in accordance with s. 119.15 and shall stand
122 repealed on October 2, 2013, unless reviewed and saved from
123 repeal through reenactment by the Legislature.

124 Section 2. The Legislature finds that it is a public
125 necessity that any portion of a public record held by an agency
126 that contains personal identification information of an
127 individual as defined in this act be made confidential and
128 exempt from public disclosure. The Legislature also finds that
129 there is no necessity to allow commercial entities access to
130 such personal identification information held by any agency.
131 Commercial entities have stated that access to such information
132 held by a public agency is a necessity for the operation of
133 their businesses. Commercial entities also have cited a number
134 of reasons for needing access to personal identification
135 information held by public agencies. The prevailing needs are
136 for verification by commercial entities of the accuracy of

137 personal information received by such entities and for their use
138 in matching, verifying, or retrieving information. However, a
139 number of businesses already provide verification and matching
140 services. A commercial entity seeking to verify a person's
141 identity may utilize another business providing such services
142 instead of relying upon state government. In addition,
143 government records are not the only source of information a
144 commercial entity can utilize for matching, verifying, or
145 retrieving information. As such, a commercial entity's
146 performance will not be hampered if it no longer has access to
147 personal identification information held by a public agency. In
148 the recent past, commercial entity databases have been
149 compromised, in some cases by unauthorized persons gaining
150 access to computer databases by "hacking" into them and, in
151 other cases, through the creation of corporate entities that
152 were created to gain fraudulent access. As a result, the
153 identities of hundreds of thousands of citizens have been
154 jeopardized and over 10,000 Florida citizens have had their
155 identities compromised. Further, personal identification
156 information is information of a sensitive personal nature and is
157 often the link to an individual's personal, financial, medical,
158 or familial records. Access of commercial entities to such
159 information is likely to lead to misuse of that information.
160 Such misuse could lead to increased opportunities for fraud and
161 identity theft. It is the finding of the Legislature that the
162 harm from disclosing to commercial entities personal
163 identification information held by an agency outweighs any
164 public benefit that can be derived from the access of a

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165 commercial entity to such information. However, the Legislature
166 recognizes that, in limited circumstances, access to personal
167 identification information in public records may be necessary or
168 advantageous to the individual or to society, and thus limited
169 exceptions should be enacted into law whereby the relevant
170 individual may grant commercial entities limited access to
171 personal identification information contained in public records.
172 The Legislature further finds that such limited access satisfies
173 the need of commercial entities to access personal
174 identification information in public records.

175 Section 3. This act shall take effect July 1, 2008.