



808504

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/09/2010	.	
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The Committee on Community Affairs (Storms) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 119.001, Florida Statutes, is created to read:

119.001 Short title.—This chapter may be cited as the "Open Government Act."

Section 2. Section 119.002, Florida Statutes, is created to read:

119.002 Education and training.—All elected and appointed public officials must undergo education and training on the



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13 requirements of the Open Government Act.

14 Section 3. Section 119.003, Florida Statutes, is created to
15 read:

16 119.003 Definitions.—As used in this chapter, the term:

17 (1) "Actual cost of duplication" means:

18 (a) The cost of the material and supplies used to duplicate
19 the public record; and

20 (b) Agency resources, including the cost of clerical or
21 supervisory assistance and costs incurred for the use of agency
22 information technology resources associated with such
23 duplication and actually incurred by the agency in complying
24 with a request for public records as authorized by s. 119.07(4).
25 The actual cost of duplication does not include overhead costs
26 associated with duplication of a public record.

27 (2) "Agency" means any state, county, district, authority,
28 or municipal officer, department, division, board, bureau,
29 commission, or other separate unit of government created or
30 established by law, including, for the purposes of this chapter,
31 the Commission on Ethics, the Public Service Commission, the
32 Office of Public Counsel, and any other public or private
33 agency, person, partnership, corporation, or business entity
34 acting on behalf of any public agency.

35 (3) "Any electronic medium stored, maintained, or used by
36 an agency" means any electronic format that the agency can
37 reasonably provide as part of the standard operation of its
38 electronic recordkeeping system.

39 (4) "Commercial activity" means the permissible uses set
40 forth in the federal Driver's Privacy Protection Act of 1994, 18
41 U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15



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42 U.S.C. ss. 1681 et seq.; or the Financial Services Modernization
43 Act of 1999, 15 U.S.C. ss. 6801 et seq., or verification of the
44 accuracy of personal information received by a commercial entity
45 in the normal course of its business, including identification
46 or prevention of fraud or matching, verifying, or retrieving
47 information. It does not include the display or bulk sale of
48 social security numbers to the public or the distribution of
49 such numbers to any customer that is not identifiable by the
50 commercial entity.

51 (5) "Commercial entity" means any corporation, partnership,
52 limited partnership, proprietorship, sole proprietorship, firm,
53 enterprise, franchise, or association that performs a commercial
54 activity in this state.

55 (6) (a) "Criminal intelligence information" means
56 information with respect to an identifiable person or group of
57 persons collected by a criminal justice agency in an effort to
58 anticipate, prevent, or monitor possible criminal activity.

59 (b) "Criminal investigative information" means information
60 with respect to an identifiable person or group of persons
61 compiled by a criminal justice agency in the course of
62 conducting a criminal investigation of a specific act or
63 omission, including, but not limited to, information derived
64 from laboratory tests, reports of investigators or informants,
65 or any type of surveillance.

66 (c) "Criminal intelligence information" and "criminal
67 investigative information" does not include:

68 1. The time, date, location, and nature of a reported
69 crime.

70 2. The name, gender, age, and address of a person arrested



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71 or of the victim of a crime, except as provided in s.
72 119.071(2)(h).

73 3. The time, date, and location of the incident and of the
74 arrest.

75 4. The crime charged.

76 5. Documents given or required by law or agency rule to be
77 given to the person arrested, except as provided in s.
78 119.071(2)(h). However, the court in a criminal case may order
79 that certain information required by law or agency rule to be
80 given to the person arrested be maintained in a confidential
81 manner and exempt from the provisions of s. 119.07(1) until
82 released at trial if it is found that the release of such
83 information would:

84 a. Be defamatory to the good name of a victim or witness or
85 would jeopardize the safety of such victim or witness; and

86 b. Impair the ability of a state attorney to locate or
87 prosecute a codefendant.

88 6. Informations and indictments except as provided in s.
89 905.26.

90 (d) "Active" means:

91 1. Criminal intelligence information shall be considered
92 active as long as it is related to intelligence gathering
93 conducted with a reasonable, good faith belief that it will lead
94 to detection of ongoing or reasonably anticipated criminal
95 activities.

96 2. Criminal investigative information shall be considered
97 active as long as it is related to an ongoing investigation that
98 is continuing with a reasonable, good faith anticipation of
99 securing an arrest or prosecution in the foreseeable future.



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In addition, criminal intelligence and criminal investigative information shall be considered active while such information is directly related to pending prosecutions or appeals. The term "active" does not apply to information in cases that are barred from prosecution under the provisions of s. 775.15 or other statute of limitation.

(7) "Criminal justice agency" means:

(a) Any law enforcement agency, court, or prosecutor;

(b) Any other agency charged by law with criminal law enforcement duties;

(c) Any agency having custody of criminal intelligence information or criminal investigative information for the purpose of assisting the law enforcement agencies in the conduct of active criminal investigation, or prosecution or for the purpose of litigating civil actions under the Racketeer Influenced and Corrupt Organization Act, during the time that the agencies are in possession of criminal intelligence information or criminal investigative information pursuant to their criminal law enforcement duties; or

(d) The Department of Corrections.

(8) "Custodian of public records" means the elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.

(9) "Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines,



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129 maintenance routines, applications, and computer networking
130 programs.

131 (10) "Duplicated copies" means new copies produced by
132 duplicating, as defined in s. 283.30.

133 (11) "Exemption" means a provision of general law which
134 provides that a specified record or meeting, or portion thereof,
135 is not subject to the access requirements of s. 119.07(1), s.
136 286.011, or s. 24, Art. I of the State Constitution.

137 (12) "Information technology resources" means data
138 processing hardware and software and services, communications,
139 supplies, personnel, facility resources, maintenance, and
140 training.

141 (13) "Paratransit" has the same meaning as provided in s.
142 427.011.

143 (14) "Proprietary software" means data processing software
144 that is protected by copyright or trade secret laws.

145 (15) "Public records" means all documents, papers, letters,
146 maps, books, tapes, photographs, films, sound recordings, data
147 processing software, or other material, regardless of the
148 physical form, characteristics, or means of transmission, made
149 or received pursuant to law or ordinance or in connection with
150 the transaction of official business by any agency.

151 (16) "Redact" means to conceal from a copy of an original
152 public record, or to conceal from an electronic image that is
153 available for public viewing, that portion of the record
154 containing exempt or confidential information.

155 (17) "Security system plan" means all:

156 (a) Records, information, photographs, audio and visual
157 presentations, schematic diagrams, surveys, recommendations, or



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158 consultations or portions thereof relating directly to the
159 physical security of the facility or revealing security systems;

160 (b) Threat assessments conducted by any agency or any
161 private entity;

162 (c) Threat response plans;

163 (d) Emergency evacuation plans;

164 (e) Sheltering arrangements; or

165 (f) Manuals for security personnel, emergency equipment, or
166 security training.

167 (18) "Sensitive," for purposes of defining agency-produced
168 software, means only those portions of data processing software,
169 including the specifications and documentation, which are used
170 to:

171 (a) Collect, process, store, and retrieve information that
172 is exempt from s. 119.07(1);

173 (b) Collect, process, store, and retrieve financial
174 management information of the agency, such as payroll and
175 accounting records; or

176 (c) Control and direct access authorizations and security
177 measures for automated systems.

178 (19) "Trade secret" has the same meaning as provided in s.
179 688.002.

180 Section 4. Section 119.07, Florida Statutes, is amended to
181 read

182 119.07 Inspection and copying of records; photographing
183 public records; fees; exemptions.—

184 (1) (a) Every person who has custody of a public record
185 shall permit the record to be inspected and copied by any person
186 desiring to do so, at any reasonable time, under reasonable



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187 conditions, and under supervision by the custodian of the public
188 records.

189 (b) A custodian of public records or a person having
190 custody of public records may designate another officer or
191 employee of the agency to permit the inspection and copying of
192 public records, but must disclose the identity of the designee
193 to the person requesting to inspect or copy public records.

194 (c) A custodian of public records and his or her designee
195 must acknowledge requests to inspect or copy records promptly
196 and respond to such requests in good faith. A good faith
197 response includes making reasonable efforts to determine from
198 other officers or employees within the agency whether such a
199 record exists and, if so, the location at which the record can
200 be accessed.

201 (d) A person who has custody of a public record who asserts
202 that an exemption applies to a part of such record shall redact
203 that portion of the record to which an exemption has been
204 asserted and validly applies, and such person shall produce the
205 remainder of such record for inspection and copying.

206 (e) If the person who has custody of a public record
207 contends that all or part of the record is exempt from
208 inspection and copying, he or she shall state the basis of the
209 exemption that he or she contends is applicable to the record,
210 including the statutory citation to an exemption created or
211 afforded by statute.

212 (f) If requested by the person seeking to inspect or copy
213 the record, the custodian of public records shall state in
214 writing and with particularity the reasons for the conclusion
215 that the record is exempt or confidential.



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216 (g) In any civil action in which an exemption to this
217 section is asserted, if the exemption is alleged to exist under
218 or by virtue of s. 119.071(1)(d) or (f), (2)(d), (e), or (f), or
219 (4)(c), the public record or part thereof in question shall be
220 submitted to the court for an inspection in camera. If an
221 exemption is alleged to exist under or by virtue of s.
222 119.071(2)(c), an inspection in camera is discretionary with the
223 court. If the court finds that the asserted exemption is not
224 applicable, it shall order the public record or part thereof in
225 question to be immediately produced for inspection or copying as
226 requested by the person seeking such access.

227 (h) Even if an assertion is made by the custodian of public
228 records that a requested record is not a public record subject
229 to public inspection or copying under this subsection, the
230 requested record shall, nevertheless, not be disposed of for a
231 period of 30 days after the date on which a written request to
232 inspect or copy the record was served on or otherwise made to
233 the custodian of public records by the person seeking access to
234 the record. If a civil action is instituted within the 30-day
235 period to enforce the provisions of this section with respect to
236 the requested record, the custodian of public records may not
237 dispose of the record except by order of a court of competent
238 jurisdiction after notice to all affected parties.

239 (i) The absence of a civil action instituted for the
240 purpose stated in paragraph (g) does not relieve the custodian
241 of public records of the duty to maintain the record as a public
242 record if the record is in fact a public record subject to
243 public inspection and copying under this subsection and does not
244 otherwise excuse or exonerate the custodian of public records



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245 from any unauthorized or unlawful disposition of such record.

246 (2) (a) As an additional means of inspecting or copying
247 public records, a custodian of public records may provide access
248 to public records by remote electronic means, provided exempt or
249 confidential information is not disclosed.

250 (b) The custodian of public records shall provide
251 safeguards to protect the contents of public records from
252 unauthorized remote electronic access or alteration and to
253 prevent the disclosure or modification of those portions of
254 public records which are exempt or confidential from subsection
255 (1) or s. 24, Art. I of the State Constitution.

256 (c) Unless otherwise required by law, the custodian of
257 public records may charge a fee for remote electronic access,
258 granted under a contractual arrangement with a user, which fee
259 may include the direct and indirect costs of providing such
260 access. Fees for remote electronic access provided to the
261 general public shall be in accordance with the provisions of
262 this section.

263 (3) (a) Any person shall have the right of access to public
264 records for the purpose of making photographs of the record
265 while such record is in the possession, custody, and control of
266 the custodian of public records.

267 (b) This subsection applies to the making of photographs in
268 the conventional sense by use of a camera device to capture
269 images of public records but excludes the duplication of
270 microfilm in the possession of the clerk of the circuit court
271 where a copy of the microfilm may be made available by the
272 clerk.

273 (c) Photographing public records shall be done under the



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274 supervision of the custodian of public records, who may adopt
275 and enforce reasonable rules governing the photographing of such
276 records.

277 (d) Photographing of public records shall be done in the
278 room where the public records are kept. If, in the judgment of
279 the custodian of public records, this is impossible or
280 impracticable, photographing shall be done in another room or
281 place, as nearly adjacent as possible to the room where the
282 public records are kept, to be determined by the custodian of
283 public records. Where provision of another room or place for
284 photographing is required, the expense of providing the same
285 shall be paid by the person desiring to photograph the public
286 record pursuant to paragraph (4) (h) ~~(4) (e)~~.

287 (4) The custodian of public records shall furnish a copy or
288 a certified copy of the record upon payment of the fee
289 prescribed by law. If a fee is not prescribed by law, the
290 following fees are authorized:

291 (a)1. Up to 15 cents per one-sided copy for duplicated
292 copies of not more than 14 inches by 8 1/2 inches;

293 2. No more than an additional 5 cents for each two-sided
294 copy; and

295 3. For all other copies, the actual cost of duplication of
296 the public record.

297
298 If the nature or volume of the public records requested to be
299 inspected or copied requires less than 30 minutes, the agency
300 may not charge the actual cost of duplication.

301 (b)1. For a copy of a public record in any electronic
302 medium stored, maintained, or used by an agency, the actual cost



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303 of duplication. However, if the volume of the public records
304 requested to be copied requires less than 30 minutes, the agency
305 shall not charge the actual cost of duplication.

306 2. If an agency is able to convert the record into the
307 electronic format requested as a step in the process of copying
308 or exporting the requested record, the agency must provide the
309 record in the format requested and may charge a fee authorized
310 by this subsection.

311 (c) The cost of clerical or supervisory assistance may be
312 no greater than the base hourly rate of the lowest paid
313 personnel capable of providing such clerical or supervisory
314 assistance.

315 (d) ~~(b)~~ The charge for copies of county maps or aerial
316 photographs supplied by county constitutional officers may also
317 include a reasonable charge for the labor and overhead
318 associated with their duplication.

319 (e) ~~(c)~~ An agency may charge up to \$1 per copy for a
320 certified copy of a public record.

321 (f) All fees allowed pursuant to this subsection may be
322 reduced or waived. Fee reductions and waivers must be uniformly
323 applied among persons similarly situated.

324 (g)1. An agency is not authorized to charge a fee for costs
325 associated with redaction of information from a public record
326 that the agency maintains is not subject to the requirements of
327 s. 119.07(1) because such information is personal in nature and
328 is thus not a public record as defined in s. 119.003.

329 2. After January 1, 2013, an agency may not charge a fee
330 for costs associated with redaction of exempt or confidential
331 and exempt information from a public record that has been



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332 requested to be inspected or copied.

333 ~~(d) If the nature or volume of public records requested to~~
334 ~~be inspected or copied pursuant to this subsection is such as to~~
335 ~~require extensive use of information technology resources or~~
336 ~~extensive clerical or supervisory assistance by personnel of the~~
337 ~~agency involved, or both, the agency may charge, in addition to~~
338 ~~the actual cost of duplication, a special service charge, which~~
339 ~~shall be reasonable and shall be based on the cost incurred for~~
340 ~~such extensive use of information technology resources or the~~
341 ~~labor cost of the personnel providing the service that is~~
342 ~~actually incurred by the agency or attributable to the agency~~
343 ~~for the clerical and supervisory assistance required, or both.~~

344 (h)~~(e)~~1. Where provision of another room or place is
345 necessary to photograph public records, the expense of providing
346 the same shall be paid by the person desiring to photograph the
347 public records.

348 2. The custodian of public records may charge the person
349 making the photographs for supervision services at a rate of
350 compensation to be agreed upon by the person desiring to make
351 the photographs and the custodian of public records. If they
352 fail to agree as to the appropriate charge, the charge shall be
353 determined by the custodian of public records.

354 (5) When ballots are produced under this section for
355 inspection or examination, no persons other than the supervisor
356 of elections or the supervisor's employees shall touch the
357 ballots. If the ballots are being examined before the end of the
358 contest period in s. 102.168, the supervisor of elections shall
359 make a reasonable effort to notify all candidates by telephone
360 or otherwise of the time and place of the inspection or



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361 examination. All such candidates, or their representatives,
362 shall be allowed to be present during the inspection or
363 examination.

364 (6) An exemption contained in this chapter or in any other
365 general or special law shall not limit the access of the Auditor
366 General, the Office of Program Policy Analysis and Government
367 Accountability, or any state, county, municipal, university,
368 board of community college, school district, or special district
369 internal auditor to public records when such person states in
370 writing that such records are needed for a properly authorized
371 audit, examination, or investigation. Such person shall maintain
372 the exempt or confidential status of that public record and
373 shall be subject to the same penalties as the custodian of that
374 record for public disclosure of such record.

375 (7) An exemption from this section does not imply an
376 exemption from s. 119.20 ~~s. 286.011~~. The exemption from s.
377 119.20 ~~s. 286.011~~ must be expressly provided.

378 (8) The provisions of this section are not intended to
379 expand or limit the provisions of Rule 3.220, Florida Rules of
380 Criminal Procedure, regarding the right and extent of discovery
381 by the state or by a defendant in a criminal prosecution or in
382 collateral postconviction proceedings. This section may not be
383 used by any inmate as the basis for failing to timely litigate
384 any postconviction action.

385 Section 5. Paragraph (a) of subsection (3) and paragraph
386 (a) of subsection (5) of section 119.071, Florida Statutes, are
387 amended to read:

388 119.071 General exemptions from inspection or copying of
389 public records.—



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390 (3) SECURITY.—
391 ~~(a)1. As used in this paragraph, the term "security system~~
392 ~~plan" includes all:~~
393 ~~a. Records, information, photographs, audio and visual~~
394 ~~presentations, schematic diagrams, surveys, recommendations, or~~
395 ~~consultations or portions thereof relating directly to the~~
396 ~~physical security of the facility or revealing security systems;~~
397 ~~b. Threat assessments conducted by any agency or any~~
398 ~~private entity;~~
399 ~~c. Threat response plans;~~
400 ~~d. Emergency evacuation plans;~~
401 ~~e. Sheltering arrangements; or~~
402 ~~f. Manuals for security personnel, emergency equipment, or~~
403 ~~security training.~~
404 (a)1.2. A security system plan or portion thereof for:
405 a. Any property owned by or leased to the state or any of
406 its political subdivisions; or
407 b. Any privately owned or leased property
408
409 held by an agency is confidential and exempt from s. 119.07(1)
410 and s. 24(a), Art. I of the State Constitution. This exemption
411 is remedial in nature, and it is the intent of the Legislature
412 that this exemption apply to security system plans held by an
413 agency before, on, or after the effective date of this
414 paragraph.
415 2.3. Information made confidential and exempt by this
416 paragraph may be disclosed by the custodian of public records
417 to:
418 a. The property owner or leaseholder; or



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419 b. Another state or federal agency to prevent, detect,
420 guard against, respond to, investigate, or manage the
421 consequences of any attempted or actual act of terrorism, or to
422 prosecute those persons who are responsible for such attempts or
423 acts.

424 (5) OTHER PERSONAL INFORMATION.—

425 (a)1.a. The Legislature acknowledges that the social
426 security number was never intended to be used for business
427 purposes but was intended to be used solely for the
428 administration of the federal Social Security System. The
429 Legislature is further aware that over time this unique numeric
430 identifier has been used extensively for identity verification
431 purposes and other legitimate consensual purposes.

432 b. The Legislature recognizes that the social security
433 number can be used as a tool to perpetuate fraud against an
434 individual and to acquire sensitive personal, financial,
435 medical, and familial information, the release of which could
436 cause great financial or personal harm to an individual.

437 c. The Legislature intends to monitor the use of social
438 security numbers held by agencies in order to maintain a
439 balanced public policy.

440 2.a. An agency may not collect an individual's social
441 security number unless the agency has stated in writing the
442 purpose for its collection and unless it is:

443 (I) Specifically authorized by law to do so; or

444 (II) Imperative for the performance of that agency's duties
445 and responsibilities as prescribed by law.

446 b. An agency shall identify in writing the specific federal
447 or state law governing the collection, use, or release of social



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448 security numbers for each purpose for which the agency collects
449 the social security number, including any authorized exceptions
450 that apply to such collection, use, or release. Each agency
451 shall ensure that the collection, use, or release of social
452 security numbers complies with the specific applicable federal
453 or state law.

454 c. Social security numbers collected by an agency may not
455 be used by that agency for any purpose other than the purpose
456 provided in the written statement.

457 3. An agency collecting an individual's social security
458 number shall provide that individual with a copy of the written
459 statement required in subparagraph 2. The written statement also
460 shall state whether collection of the individual's social
461 security number is authorized or mandatory under federal or
462 state law.

463 4. Each agency shall review whether its collection of
464 social security numbers is in compliance with subparagraph 2. If
465 the agency determines that collection of a social security
466 number is not in compliance with subparagraph 2., the agency
467 shall immediately discontinue the collection of social security
468 numbers for that purpose.

469 5. Social security numbers held by an agency are
470 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
471 of the State Constitution. This exemption applies to social
472 security numbers held by an agency before, on, or after the
473 effective date of this exemption. This exemption does not
474 supersede any federal law prohibiting the release of social
475 security numbers or any other applicable public records
476 exemption for social security numbers existing prior to May 13,



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477 2002, or created thereafter.

478 6. Social security numbers held by an agency may be
479 disclosed if any of the following apply:

480 a. The disclosure of the social security number is
481 expressly required by federal or state law or a court order.

482 b. The disclosure of the social security number is
483 necessary for the receiving agency or governmental entity to
484 perform its duties and responsibilities.

485 c. The individual expressly consents in writing to the
486 disclosure of his or her social security number.

487 d. The disclosure of the social security number is made to
488 comply with the USA Patriot Act of 2001, Pub. L. No. 107-56, or
489 Presidential Executive Order 13224.

490 e. The disclosure of the social security number is made to
491 a commercial entity for the permissible uses set forth in the
492 federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss.
493 2721 et seq.; the Fair Credit Reporting Act, 15 U.S.C. ss. 1681
494 et seq.; or the Financial Services Modernization Act of 1999, 15
495 U.S.C. ss. 6801 et seq., provided that the authorized commercial
496 entity complies with the requirements of this paragraph.

497 f. The disclosure of the social security number is for the
498 purpose of the administration of health benefits for an agency
499 employee or his or her dependents.

500 g. The disclosure of the social security number is for the
501 purpose of the administration of a pension fund administered for
502 the agency employee's retirement fund, deferred compensation
503 plan, or defined contribution plan.

504 h. The disclosure of the social security number is for the
505 purpose of the administration of the Uniform Commercial Code by



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506 the office of the Secretary of State.

507 ~~7.a. For purposes of this subsection, the term:~~

508 ~~(I) "Commercial activity" means the permissible uses set~~
509 ~~forth in the federal Driver's Privacy Protection Act of 1994, 18~~
510 ~~U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15~~
511 ~~U.S.C. ss. 1681 et seq.; or the Financial Services Modernization~~
512 ~~Act of 1999, 15 U.S.C. ss. 6801 et seq., or verification of the~~
513 ~~accuracy of personal information received by a commercial entity~~
514 ~~in the normal course of its business, including identification~~
515 ~~or prevention of fraud or matching, verifying, or retrieving~~
516 ~~information. It does not include the display or bulk sale of~~
517 ~~social security numbers to the public or the distribution of~~
518 ~~such numbers to any customer that is not identifiable by the~~
519 ~~commercial entity.~~

520 ~~(II) "Commercial entity" means any corporation,~~
521 ~~partnership, limited partnership, proprietorship, sole~~
522 ~~proprietorship, firm, enterprise, franchise, or association that~~
523 ~~performs a commercial activity in this state.~~

524 a.b. An agency may not deny a commercial entity engaged in
525 the performance of a commercial activity access to social
526 security numbers, provided the social security numbers will be
527 used only in the performance of a commercial activity and
528 provided the commercial entity makes a written request for the
529 social security numbers. The written request must:

530 (I) Be verified as provided in s. 92.525;

531 (II) Be legibly signed by an authorized officer, employee,
532 or agent of the commercial entity;

533 (III) Contain the commercial entity's name, business
534 mailing and location addresses, and business telephone number;



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535 and

536 (IV) Contain a statement of the specific purposes for which
537 it needs the social security numbers and how the social security
538 numbers will be used in the performance of a commercial
539 activity, including the identification of any specific federal
540 or state law that permits such use.

541 ~~b.e.~~ An agency may request any other information reasonably
542 necessary to verify the identity of a commercial entity
543 requesting the social security numbers and the specific purposes
544 for which the numbers will be used.

545 8.a. Any person who makes a false representation in order
546 to obtain a social security number pursuant to this paragraph,
547 or any person who willfully and knowingly violates this
548 paragraph, commits a felony of the third degree, punishable as
549 provided in s. 775.082 or s. 775.083.

550 b. Any public officer who violates this paragraph commits a
551 noncriminal infraction, punishable by a fine not exceeding \$500
552 per violation.

553 9. Any affected person may petition the circuit court for
554 an order directing compliance with this paragraph.

555 Section 6. Section 119.13, Florida Statutes, is created to
556 read:

557 119.13 Model public access policy.—The Division of Library
558 and Information Services of the Department of State shall adopt
559 a rule to establish a model policy for providing public access
560 to public records in accordance with this part.

561 Section 7. Section 119.15, Florida Statutes, is amended to
562 read:

563 119.15 Legislative review of exemptions from public meeting



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564 and public records requirements.-

565 (1) This section may be cited as the "Open Government
566 Sunset Review Act."

567 (2) This section provides for the review and repeal or
568 reenactment of an exemption from s. 24, Art. I of the State
569 Constitution and s. 119.07(1) or s. 119.20 ~~s. 286.011~~. This act
570 does not apply to an exemption that:

571 (a) Is required by federal law; or

572 (b) Applies solely to the Legislature or the State Court
573 System.

574 (3) (a) In the 5th year after enactment of a new exemption
575 or substantial amendment of an existing exemption, the exemption
576 shall be repealed on October 2nd of the 5th year, unless the
577 Legislature acts to reenact the exemption.

578 (b) In the 10th year after reenactment, the exemption shall
579 be repealed on October 2nd of the 10th year, unless the
580 Legislatures acts to reenact the exemption.

581 (4) (a) A law that enacts a new exemption or substantially
582 amends an existing exemption must state that the record or
583 meeting is:

584 1. Exempt from s. 24, Art. I of the State Constitution;

585 2. Exempt from s. 119.07(1) or s. 119.20 ~~s. 286.011~~; and

586 3. Repealed at the end of 5 years and that the exemption
587 must be reviewed by the Legislature before the scheduled repeal
588 date and every 10 years thereafter.

589 (b) For purposes of this section, an exemption is
590 substantially amended if the amendment expands the scope of the
591 exemption to include more records or information or to include
592 meetings as well as records. An exemption is not substantially



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593 amended if the amendment narrows the scope of the exemption.

594 (c) This section is not intended to repeal an exemption
595 that has been amended following legislative review before the
596 scheduled repeal of the exemption if the exemption is not
597 substantially amended as a result of the review.

598 (5) (a) By June 1 in the year before the repeal of an
599 exemption under this section, the Division of Statutory Revision
600 of the Office of Legislative Services shall certify to the
601 President of the Senate and the Speaker of the House of
602 Representatives the language and statutory citation of each
603 exemption scheduled for repeal the following year.

604 (b) Any exemption that is not identified and certified to
605 the President of the Senate and the Speaker of the House of
606 Representatives is not subject to legislative review and repeal
607 under this section. If the division fails to certify an
608 exemption that it subsequently determines should have been
609 certified, it shall include the exemption in the following
610 year's certification after that determination.

611 (6) (a) As part of the review process, the Legislature shall
612 consider the following:

613 1. What specific records or meetings are affected by the
614 exemption?

615 2. Whom does the exemption uniquely affect, as opposed to
616 the general public?

617 3. What is the identifiable public purpose or goal of the
618 exemption?

619 4. Can the information contained in the records or
620 discussed in the meeting be readily obtained by alternative
621 means? If so, how?



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622 5. Is the record or meeting protected by another exemption?

623 6. Are there multiple exemptions for the same type of
624 record or meeting that it would be appropriate to merge?

625 (b) An exemption may be created, revised, or maintained
626 only if it serves an identifiable public purpose, and the
627 exemption may be no broader than is necessary to meet the public
628 purpose it serves. An identifiable public purpose is served if
629 the exemption meets one of the following purposes and the
630 Legislature finds that the purpose is sufficiently compelling to
631 override the strong public policy of open government and cannot
632 be accomplished without the exemption:

633 1. Allows the state or its political subdivisions to
634 effectively and efficiently administer a governmental program,
635 which administration would be significantly impaired without the
636 exemption;

637 2. Protects information of a sensitive personal nature
638 concerning individuals, the release of which information would
639 be defamatory to such individuals or cause unwarranted damage to
640 the good name or reputation of such individuals or would
641 jeopardize the safety of such individuals. However, in
642 exemptions under this subparagraph, only information that would
643 identify the individuals may be exempted; or

644 3. Protects information of a confidential nature concerning
645 entities, including, but not limited to, a formula, pattern,
646 device, combination of devices, or compilation of information
647 which is used to protect or further a business advantage over
648 those who do not know or use it, the disclosure of which
649 information would injure the affected entity in the marketplace.

650 (7) Records made before the date of a repeal of an



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651 exemption under this section may not be made public unless
652 otherwise provided by law. In deciding whether the records shall
653 be made public, the Legislature shall consider whether the
654 damage or loss to persons or entities uniquely affected by the
655 exemption of the type specified in subparagraph (6) (b)2. or
656 subparagraph (6) (b)3. would occur if the records were made
657 public.

658 (8) Notwithstanding s. 768.28 or any other law, neither the
659 state or its political subdivisions nor any other public body
660 shall be made party to any suit in any court or incur any
661 liability for the repeal or revival and reenactment of an
662 exemption under this section. The failure of the Legislature to
663 comply strictly with this section does not invalidate an
664 otherwise valid reenactment.

665 Section 8. Section 119.20, Florida Statutes, is created to
666 read:

667 119.20 Public meetings and records; access to public
668 meetings.-

669 (1) All meetings of any board or commission of any state
670 agency or authority or of any agency or authority of any county,
671 municipal corporation, or political subdivision, except as
672 otherwise provided in the State Constitution, at which official
673 acts are to be taken are declared to be public meetings open to
674 the public at all times, and no resolution, rule, or formal
675 action shall be considered binding except as taken or made at
676 such meeting. The board or commission must provide reasonable
677 notice of all such meetings.

678 (2) The minutes of a meeting of any such board or
679 commission of any such state agency or authority shall be



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680 promptly recorded, and such records shall be open to public
681 inspection.

682 (3) All persons subject to subsection (1) are prohibited
683 from holding meetings at any facility or location that
684 discriminates on the basis of sex, age, race, creed, color,
685 origin, or economic status or that operates in such a manner as
686 to unreasonably restrict public access to such a facility.

687 Section 9. Section 119.201, Florida Statutes, is created to
688 read:

689 119.201 General exemptions from public meetings.-

690 (1) Any board or commission of any state agency or
691 authority or any agency or authority of any county, municipal
692 corporation, or political subdivision, and the chief
693 administrative or executive officer of the governmental entity,
694 may meet in private with the entity's attorney to discuss
695 pending litigation to which the entity is presently a party
696 before a court or administrative agency if the following
697 conditions are met:

698 (a) The entity's attorney shall advise the entity at a
699 public meeting that he or she desires advice concerning the
700 litigation.

701 (b) The subject matter of the meeting shall be confined to
702 settlement negotiations or strategy sessions related to
703 litigation expenditures.

704 (c) The entire session shall be recorded by a certified
705 court reporter. The reporter shall record the times of
706 commencement and termination of the session, all discussion and
707 proceedings, the names of all persons present at any time, and
708 the names of all persons speaking. No portion of the session



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709 shall be off the record. The court reporter's notes shall be
710 fully transcribed and filed with the entity's clerk within a
711 reasonable time after the meeting.

712 (d) The entity shall give reasonable public notice of the
713 time and date of the attorney-client session and the names of
714 persons who will be attending the session. The session shall
715 commence at an open meeting at which the persons chairing the
716 meeting shall announce the commencement and estimated length of
717 the attorney-client session and the names of the persons
718 attending. At the conclusion of the attorney-client session, the
719 meeting shall be reopened, and the person chairing the meeting
720 shall announce the termination of the session.

721 (e) The transcript shall be made part of the public record
722 upon conclusion of the litigation.

723 (2) That portion of a meeting that would reveal a security
724 system plan or portion thereof made confidential and exempt by
725 s. 119.071(3)(a) is exempt from s. 286.011 and s. 24(b), Art. I
726 of the State Constitution.

727 (3)(a) A meeting at which a negotiation with a vendor is
728 conducted pursuant to s. 287.057(3) is exempt from s. 286.011
729 and s. 24(b), Art. I of the State Constitution.

730 (b)1. A complete recording shall be made of any meeting
731 made exempt in paragraph (a). No portion of the meeting may be
732 held off the record.

733 2. The recording required under subparagraph 1. is exempt
734 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
735 until such time as the agency provides notice of a decision or
736 intended decision pursuant to s. 120.57(3)(a) or until 20 days
737 after the final competitive sealed replies are all opened,



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738 whichever occurs earlier.

739 3. If the agency rejects all sealed replies, the recording
740 remains exempt from s. 119.07(1) and s. 24(a), Art. I of the
741 State Constitution until such time as the agency provides notice
742 of a decision or intended decision pursuant to s. 120.57(3)(a)
743 concerning the reissued invitation to negotiate or until the
744 agency withdraws the reissued invitation to negotiate. A
745 recording is not exempt for longer than 12 months after the
746 initial agency notice rejecting all replies.

747 (c) This subsection is subject to the Open Government
748 Sunset Review Act in accordance with s. 119.15 and shall stand
749 repealed on October 2, 2015, unless reviewed and saved from
750 repeal through reenactment by the Legislature.

751 Section 10. Section 119.202, Florida Statutes, is created
752 to read:

753 119.202 Voting requirement at meetings of governmental
754 bodies.—A member of any state, county, or municipal governmental
755 board, commission, or agency who is present at any meeting of
756 any such body at which an official decision, ruling, or other
757 official act is to be taken or adopted may not abstain from
758 voting in regard to any such decision, ruling, or act; and a
759 vote shall be recorded or counted for each such member present,
760 except when, with respect to any such member, there is, or
761 appears to be, a possible conflict of interest under the
762 provisions of s. 112.311, s. 112.313, or s. 112.3143. In such
763 case, the member shall comply with the disclosure requirements
764 of s. 112.3143.

765 Section 11. Section 119.30, Florida Statutes, is created to
766 read:



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767 119.30 Violation of chapter; penalties.-

768 (1) A violation of any law that relates to access to public
769 records or meetings shall be considered a violation of this
770 chapter.

771 (2) A person who violates any of the provisions of this
772 chapter commits a noncriminal infraction, punishable by a fine
773 not exceeding \$500.

774 (3) A person who willfully and knowingly violates any of
775 the provisions of this chapter commits a misdemeanor of the
776 first degree, punishable as provided in s. 775.082 or s.
777 775.083.

778 (4) Conduct that occurs outside the state and that would
779 constitute a knowing violation of this chapter is a misdemeanor
780 of the first degree, punishable as provided in s. 775.082 or s.
781 775.083.

782 (5) If a court determines that an agency has:

783 (a) Violated s. 119.07(1) or s. 119.20;

784 (b) Shown intentional disregard for the public's
785 constitutional right of access as guaranteed by s. 24, Art. I of
786 the State Constitution; or

787 (c) Exhibited a pattern of abuse of the requirements of
788 this chapter,

789
790 the court may assess a penalty against the agency equal to twice
791 the amount awarded pursuant to this section.

792 Section 12. Section 119.31, Florida Statutes, is created to
793 read:

794 119.31 Injunctions.-The circuit courts of this state have
795 jurisdiction to issue injunctions to enforce this chapter upon



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796 application by any person.

797 Section 13. Section 119.32, Florida Statutes, is created to
798 read:

799 119.32 Attorney's fees.-

800 (1) If an action is filed against an agency to enforce the
801 provisions of this chapter or any other law that relates to
802 access to public records or meetings, including those laws that
803 limit public access to such records or meetings, and if the
804 court determines that the agency unlawfully refused to permit a
805 public record to be inspected or copied, or otherwise acted in
806 violation of this chapter, the court shall assess and award
807 against the agency responsible the reasonable costs of
808 enforcement, including reasonable attorney's fees at trial and
809 on appeal.

810 (2) Fees assessed pursuant to subsection (1) may not be
811 assessed against any individual acting on the advice of an
812 agency attorney, but shall be assessed against the agency.

813 (3) Whenever any individual is charged with a violation of
814 this chapter and is subsequently acquitted, the agency may
815 reimburse the individual for any portion of his or her
816 reasonable attorney's fees.

817 Section 14. Section 119.011, Florida Statutes, is repealed.

818 Section 15. Section 119.10, Florida Statutes, is repealed.

819 Section 16. Section 119.12, Florida Statutes, is repealed.

820 Section 17. Section 286.011, Florida Statutes, is repealed.

821 Section 18. Section 286.0113, Florida Statutes, is
822 repealed.

823 Section 19. Section 286.012, Florida Statutes, is repealed.

824 Section 20. For the purpose of incorporating the amendment



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825 made by this act to section 119.07, Florida Statutes, in a
826 reference thereto, subsection (2) of section 27.02, Florida
827 Statutes, is reenacted to read:

828 27.02 Duties before court.—

829 (2) The state attorney, when complying with the discovery
830 obligation pursuant to the applicable rule of procedure, may
831 charge the defendant fees as provided for in s. 119.07(4), not
832 to exceed 15 cents per page for a copy of a noncertified copy of
833 a public record. However, these fees may be deferred if the
834 defendant has been determined to be indigent as provided in s.
835 27.52.

836 Section 21. For the purpose of incorporating the amendment
837 made by this act to section 119.07, Florida Statutes, in a
838 reference thereto, paragraph (f) of subsection (2) of section
839 119.01, Florida Statutes, is reenacted to read:

840 119.01 General state policy on public records.—

841 (2)

842 (f) Each agency that maintains a public record in an
843 electronic recordkeeping system shall provide to any person,
844 pursuant to this chapter, a copy of any public record in that
845 system which is not exempted by law from public disclosure. An
846 agency must provide a copy of the record in the medium requested
847 if the agency maintains the record in that medium, and the
848 agency may charge a fee in accordance with this chapter. For the
849 purpose of satisfying a public records request, the fee to be
850 charged by an agency if it elects to provide a copy of a public
851 record in a medium not routinely used by the agency, or if it
852 elects to compile information not routinely developed or
853 maintained by the agency or that requires a substantial amount



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854 of manipulation or programming, must be in accordance with s.
855 119.07(4).

856 Section 22. For the purpose of incorporating the amendment
857 made by this act to section 119.07, Florida Statutes, in a
858 reference thereto, paragraph (d) of subsection (1) of section
859 119.0712, Florida Statutes, is reenacted to read:

860 119.0712 Executive branch agency-specific exemptions from
861 inspection or copying of public records.—

862 (1) DEPARTMENT OF HEALTH.—All personal identifying
863 information contained in records relating to an individual's
864 personal health or eligibility for health-related services held
865 by the Department of Health is confidential and exempt from s.
866 119.07(1) and s. 24(a), Art. I of the State Constitution, except
867 as otherwise provided in this subsection. Information made
868 confidential and exempt by this subsection shall be disclosed:

869 (d) To a health research entity, if the entity seeks the
870 records or data pursuant to a research protocol approved by the
871 department, maintains the records or data in accordance with the
872 approved protocol, and enters into a purchase and data-use
873 agreement with the department, the fee provisions of which are
874 consistent with s. 119.07(4). The department may deny a request
875 for records or data if the protocol provides for intrusive
876 follow-back contacts, has not been approved by a human studies
877 institutional review board, does not plan for the destruction of
878 confidential records after the research is concluded, is
879 administratively burdensome, or does not have scientific merit.
880 The agreement must restrict the release of any information that
881 would permit the identification of persons, limit the use of
882 records or data to the approved research protocol, and prohibit



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883 any other use of the records or data. Copies of records or data
884 issued pursuant to this paragraph remain the property of the
885 department.

886 Section 23. For the purpose of incorporating the amendment
887 made by this act to section 119.07, Florida Statutes, in a
888 reference thereto, paragraph (a) of subsection (2) of section
889 119.084, Florida Statutes, is reenacted to read:

890 119.084 Copyright of data processing software created by
891 governmental agencies; sale price and licensing fee.—

892 (2) An agency is authorized to acquire and hold a copyright
893 for data processing software created by the agency and to
894 enforce its rights pertaining to such copyright, provided that
895 the agency complies with the requirements of this subsection.

896 (a) An agency that has acquired a copyright for data
897 processing software created by the agency may sell or license
898 the copyrighted data processing software to any public agency or
899 private person. The agency may establish a price for the sale
900 and a licensing fee for the use of such data processing software
901 that may be based on market considerations. However, the prices
902 or fees for the sale or licensing of copyrighted data processing
903 software to an individual or entity solely for application to
904 information maintained or generated by the agency that created
905 the copyrighted data processing software shall be determined
906 pursuant to s. 119.07(4).

907 Section 24. For the purpose of incorporating the amendment
908 made by this act to section 119.07, Florida Statutes, in a
909 reference thereto, subsection (6) of section 455.219, Florida
910 Statutes, is reenacted to read:

911 455.219 Fees; receipts; disposition; periodic management



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912 reports.-

913 (6) The department or the appropriate board shall charge a
914 fee not to exceed \$25 for the certification of a public record.
915 The fee shall be determined by rule of the department. The
916 department or the appropriate board shall assess a fee for
917 duplication of a public record as provided in s. 119.07(4).

918 Section 25. For the purpose of incorporating the amendment
919 made by this act to section 119.07, Florida Statutes, in a
920 reference thereto, subsection (11) of section 456.025, Florida
921 Statutes, is reenacted to read:

922 456.025 Fees; receipts; disposition.-

923 (11) The department or the appropriate board shall charge a
924 fee not to exceed \$25 for the certification of a public record.
925 The fee shall be determined by rule of the department. The
926 department or the appropriate board shall assess a fee for
927 duplicating a public record as provided in s. 119.07(4).

928 Section 26. For the purpose of incorporating the amendment
929 made by this act to section 119.07, Florida Statutes, in a
930 reference thereto, paragraph (c) of subsection (1) of section
931 458.3193, Florida Statutes, is reenacted to read:

932 458.3193 Confidentiality of certain information contained
933 in physician workforce surveys.-

934 (1) All personal identifying information contained in
935 records provided by physicians licensed under this chapter or
936 chapter 459 in response to physician workforce surveys required
937 as a condition of license renewal and held by the Department of
938 Health is confidential and exempt from s. 119.07(1) and s.
939 24(a), Art. I of the State Constitution, except as otherwise
940 provided in this subsection. Information made confidential and



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941 exempt by this subsection shall be disclosed:

942 (c) To a research entity, if the entity seeks the records
943 or data pursuant to a research protocol approved by the
944 Department of Health, maintains the records or data in
945 accordance with the approved protocol, and enters into a
946 purchase and data-use agreement with the department, the fee
947 provisions of which are consistent with s. 119.07(4). The
948 department may deny a request for records or data if the
949 protocol provides for intrusive follow-back contacts, does not
950 plan for the destruction of confidential records after the
951 research is concluded, is administratively burdensome, or does
952 not have scientific merit. The agreement must restrict the
953 release of information that would identify individuals, must
954 limit the use of records or data to the approved research
955 protocol, and must prohibit any other use of the records or
956 data. Copies of records or data issued pursuant to this
957 paragraph remain the property of the department.

958 Section 27. For the purpose of incorporating the amendment
959 made by this act to section 119.07, Florida Statutes, in a
960 reference thereto, paragraph (c) of subsection (1) of section
961 459.0083, Florida Statutes, is reenacted to read:

962 459.0083 Confidentiality of certain information contained
963 in physician workforce surveys.-

964 (1) All personal identifying information contained in
965 records provided by physicians licensed under chapter 458 or
966 this chapter in response to physician workforce surveys required
967 as a condition of license renewal and held by the Department of
968 Health is confidential and exempt from s. 119.07(1) and s.
969 24(a), Art. I of the State Constitution, except as otherwise



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970 provided in this subsection. Information made confidential and
971 exempt by this subsection shall be disclosed:

972 (c) To a research entity, if the entity seeks the records
973 or data pursuant to a research protocol approved by the
974 Department of Health, maintains the records or data in
975 accordance with the approved protocol, and enters into a
976 purchase and data-use agreement with the department, the fee
977 provisions of which are consistent with s. 119.07(4). The
978 department may deny a request for records or data if the
979 protocol provides for intrusive follow-back contacts, does not
980 plan for the destruction of confidential records after the
981 research is concluded, is administratively burdensome, or does
982 not have scientific merit. The agreement must restrict the
983 release of information that would identify individuals, must
984 limit the use of records or data to the approved research
985 protocol, and must prohibit any other use of the records or
986 data. Copies of records or data issued pursuant to this
987 paragraph remain the property of the department.

988 Section 28. For the purpose of incorporating the amendment
989 made by this act to section 119.07, Florida Statutes, in a
990 reference thereto, subsection (16) of section 472.011, Florida
991 Statutes, is reenacted to read:

992 472.011 Fees.—

993 (16) The department or the board shall charge a fee not to
994 exceed \$25 for the certification of a public record. The fee
995 shall be determined by rule of the department. The department or
996 the appropriate board shall assess a fee for duplication of a
997 public record as provided in s. 119.07(4).

998 Section 29. For the purpose of incorporating the amendment



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999 made by this act to section 119.07, Florida Statutes, in a
1000 reference thereto, paragraph (e) of subsection (2) of section
1001 1012.31, Florida Statutes, is reenacted to read:

1002 1012.31 Personnel files.—Public school system employee
1003 personnel files shall be maintained according to the following
1004 provisions:

1005 (2)

1006 (e) Upon request, an employee, or any person designated in
1007 writing by the employee, shall be permitted to examine the
1008 personnel file of such employee. The employee shall be permitted
1009 conveniently to reproduce any materials in the file, at a cost
1010 no greater than the fees prescribed in s. 119.07(4).

1011 Section 30. For the purpose of incorporating the amendment
1012 made by this act to section 119.071, Florida Statutes, in a
1013 reference thereto, subsection (5) of section 17.076, Florida
1014 Statutes, is reenacted to read

1015 17.076 Direct deposit of funds.—

1016 (5) All direct deposit records made prior to October 1,
1017 1986, are exempt from the provisions of s. 119.07(1). With
1018 respect to direct deposit records made on or after October 1,
1019 1986, the names of the authorized financial institutions and the
1020 account numbers of the beneficiaries are confidential and exempt
1021 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the
1022 State Constitution. Notwithstanding this exemption and the
1023 provisions of s. 119.071(5)(b), the department may provide a
1024 state university, upon request, with that university's employee
1025 or vendor direct deposit authorization information on file with
1026 the department in order to accommodate the transition to the
1027 university accounting system. The state university shall



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1028 maintain the confidentiality of all such information provided by
1029 the department.

1030 Section 31. For the purpose of incorporating the amendment
1031 made by this act to section 119.071, Florida Statutes, in a
1032 reference thereto, section 119.0714, Florida Statutes, is
1033 reenacted to read:

1034 (1) COURT FILES.—Nothing in this chapter shall be construed
1035 to exempt from s. 119.07(1) a public record that was made a part
1036 of a court file and that is not specifically closed by order of
1037 court, except:

1038 (a) A public record that was prepared by an agency attorney
1039 or prepared at the attorney's express direction as provided in
1040 s. 119.071(1) (d).

1041 (b) Data processing software as provided in s.
1042 119.071(1) (f).

1043 (c) Any information revealing surveillance techniques or
1044 procedures or personnel as provided in s. 119.071(2) (d).

1045 (d) Any comprehensive inventory of state and local law
1046 enforcement resources, and any comprehensive policies or plans
1047 compiled by a criminal justice agency, as provided in s.
1048 119.071(2) (d).

1049 (e) Any information revealing the substance of a confession
1050 of a person arrested as provided in s. 119.071(2) (e).

1051 (f) Any information revealing the identity of a
1052 confidential informant or confidential source as provided in s.
1053 119.071(2) (f).

1054 (g) Any information revealing undercover personnel of any
1055 criminal justice agency as provided in s. 119.071(4) (c).

1056 (h) Criminal intelligence information or criminal



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1057 investigative information that is confidential and exempt as
1058 provided in s. 119.071(2)(h).

1059 (i) Social security numbers as provided in s.
1060 119.071(5)(a).

1061 (j) Bank account numbers and debit, charge, and credit card
1062 numbers as provided in s. 119.071(5)(b).

1063 (2) COURT RECORDS.—

1064 (a) Until January 1, 2011, if a social security number or a
1065 bank account, debit, charge, or credit card number is included
1066 in a court file, such number may be included as part of the
1067 court record available for public inspection and copying unless
1068 redaction is requested by the holder of such number or by the
1069 holder's attorney or legal guardian.

1070 (b) A request for redaction must be a signed, legibly
1071 written request specifying the case name, case number, document
1072 heading, and page number. The request must be delivered by mail,
1073 facsimile, electronic transmission, or in person to the clerk of
1074 the court. The clerk of the court does not have a duty to
1075 inquire beyond the written request to verify the identity of a
1076 person requesting redaction.

1077 (c) A fee may not be charged for the redaction of a social
1078 security number or a bank account, debit, charge, or credit card
1079 number pursuant to such request.

1080 (d) The clerk of the court has no liability for the
1081 inadvertent release of social security numbers, or bank account,
1082 debit, charge, or credit card numbers, unknown to the clerk of
1083 the court in court records filed on or before January 1, 2011.

1084 (e)1. On January 1, 2011, and thereafter, the clerk of the
1085 court must keep social security numbers confidential and exempt



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1086 as provided for in s. 119.071(5) (a), and bank account, debit,
1087 charge, and credit card numbers exempt as provided for in s.
1088 119.071(5) (b), without any person having to request redaction.

1089 2. Section 119.071(5) (a) 7. and 8. does not apply to the
1090 clerks of the court with respect to court records.

1091 (3) OFFICIAL RECORDS.—

1092 (a) Any person who prepares or files a record for recording
1093 in the official records as provided in chapter 28 may not
1094 include in that record a social security number or a bank
1095 account, debit, charge, or credit card number unless otherwise
1096 expressly required by law.

1097 (b) 1. If a social security number or a bank account, debit,
1098 charge, or credit card number is included in an official record,
1099 such number may be made available as part of the official
1100 records available for public inspection and copying unless
1101 redaction is requested by the holder of such number or by the
1102 holder's attorney or legal guardian.

1103 2. If such record is in electronic format, on January 1,
1104 2011, and thereafter, the county recorder must use his or her
1105 best effort, as provided in paragraph (h), to keep social
1106 security numbers confidential and exempt as provided for in s.
1107 119.071(5) (a), and to keep complete bank account, debit, charge,
1108 and credit card numbers exempt as provided for in s.
1109 119.071(5) (b), without any person having to request redaction.

1110 3. Section 119.071(5) (a) 7. and 8. does not apply to the
1111 county recorder with respect to official records.

1112 (c) The holder of a social security number or a bank
1113 account, debit, charge, or credit card number, or the holder's
1114 attorney or legal guardian, may request that a county recorder



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1115 redact from an image or copy of an official record placed on a
1116 county recorder's publicly available Internet website or on a
1117 publicly available Internet website used by a county recorder to
1118 display public records, or otherwise made electronically
1119 available to the public, his or her social security number or
1120 bank account, debit, charge, or credit card number contained in
1121 that official record.

1122 (d) A request for redaction must be a signed, legibly
1123 written request and must be delivered by mail, facsimile,
1124 electronic transmission, or in person to the county recorder.
1125 The request must specify the identification page number of the
1126 record that contains the number to be redacted.

1127 (e) The county recorder does not have a duty to inquire
1128 beyond the written request to verify the identity of a person
1129 requesting redaction.

1130 (f) A fee may not be charged for redacting a social
1131 security number or a bank account, debit, charge, or credit card
1132 number.

1133 (g) A county recorder shall immediately and conspicuously
1134 post signs throughout his or her offices for public viewing, and
1135 shall immediately and conspicuously post on any Internet website
1136 or remote electronic site made available by the county recorder
1137 and used for the ordering or display of official records or
1138 images or copies of official records, a notice stating, in
1139 substantially similar form, the following:

1140 1. On or after October 1, 2002, any person preparing or
1141 filing a record for recordation in the official records may not
1142 include a social security number or a bank account, debit,
1143 charge, or credit card number in such document unless required



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1144 by law.

1145 2. Any person has a right to request a county recorder to
1146 remove from an image or copy of an official record placed on a
1147 county recorder's publicly available Internet website or on a
1148 publicly available Internet website used by a county recorder to
1149 display public records, or otherwise made electronically
1150 available to the general public, any social security number
1151 contained in an official record. Such request must be made in
1152 writing and delivered by mail, facsimile, or electronic
1153 transmission, or delivered in person, to the county recorder.
1154 The request must specify the identification page number that
1155 contains the social security number to be redacted. A fee may
1156 not be charged for the redaction of a social security number
1157 pursuant to such a request.

1158 (h) If the county recorder accepts or stores official
1159 records in an electronic format, the county recorder must use
1160 his or her best efforts to redact all social security numbers
1161 and bank account, debit, charge, or credit card numbers from
1162 electronic copies of the official record. The use of an
1163 automated program for redaction shall be deemed to be the best
1164 effort in performing the redaction and shall be deemed in
1165 compliance with the requirements of this subsection.

1166 (i) The county recorder is not liable for the inadvertent
1167 release of social security numbers, or bank account, debit,
1168 charge, or credit card numbers, filed with the county recorder.

1169 Section 32. For the purpose of incorporating the amendment
1170 made by this act to section 119.071, Florida Statutes, in a
1171 reference thereto, paragraph (b) of subsection (8) of section
1172 1007.35, Florida Statutes, is reenacted to read:



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1173 1007.35 Florida Partnership for Minority and
1174 Underrepresented Student Achievement.—

1175 (8)

1176 (b) The department shall contribute to the evaluation
1177 process by providing access, consistent with s. 119.071(5)(a),
1178 to student and teacher information necessary to match against
1179 databases containing teacher professional development data and
1180 databases containing assessment data for the PSAT/NMSQT, SAT,
1181 AP, and other appropriate measures. The department shall also
1182 provide student-level data on student progress from middle
1183 school through high school and into college and the workforce,
1184 if available, in order to support longitudinal studies. The
1185 partnership shall analyze and report student performance data in
1186 a manner that protects the rights of students and parents as
1187 required in 20 U.S.C. s. 1232g and s. 1002.22.

1188 Section 33. Paragraph (a) of subsection (2) of section
1189 11.0431, Florida Statutes, is amended to read:

1190 11.0431 Legislative records; intent of legislation;
1191 exemption from public disclosure.—

1192 (2) The following public records are exempt from inspection
1193 and copying:

1194 (a) Records, or information contained therein, held by the
1195 legislative branch of government which, if held by an agency as
1196 defined in s. 119.003 ~~s. 119.011~~, or any other unit of
1197 government, would be confidential or exempt from the provisions
1198 of s. 119.07(1), or otherwise exempt from public disclosure, and
1199 records or information of the same type held by the Legislature.

1200 Section 34. Subsection (2) of section 28.001, Florida
1201 Statutes, is amended to read:



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1202 28.001 Definitions.—As used in this chapter:

1203 (2) "Public records" has the same meaning as in s. 119.003
1204 ~~s. 119.011~~ and includes each official record.

1205 Section 35. Paragraph (e) of subsection (12) of section
1206 28.24, Florida Statutes, is amended to read:

1207 28.24 Service charges by clerk of the circuit court.—The
1208 clerk of the circuit court shall charge for services rendered by
1209 the clerk's office in recording documents and instruments and in
1210 performing the duties enumerated in amounts not to exceed those
1211 specified in this section. Notwithstanding any other provision
1212 of this section, the clerk of the circuit court shall provide
1213 without charge to the state attorney, public defender, guardian
1214 ad litem, public guardian, attorney ad litem, criminal conflict
1215 and civil regional counsel, and private court-appointed counsel
1216 paid by the state, and to the authorized staff acting on behalf
1217 of each, access to and a copy of any public record, if the
1218 requesting party is entitled by law to view the exempt or
1219 confidential record, as maintained by and in the custody of the
1220 clerk of the circuit court as provided in general law and the
1221 Florida Rules of Judicial Administration. The clerk of the
1222 circuit court may provide the requested public record in an
1223 electronic format in lieu of a paper format when capable of
1224 being accessed by the requesting entity.

1225
1226 Charges

1227
1228 (12) For recording, indexing, and filing any instrument not
1229 more than 14 inches by 8 1/2 inches, including required notice
1230 to property appraiser where applicable:



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1231 (e) An additional service charge of \$4 per page shall be
1232 paid to the clerk of the circuit court for each instrument
1233 listed in s. 28.222, except judgments received from the courts
1234 and notices of lis pendens, recorded in the official records.
1235 From the additional \$4 service charge collected:

1236 1. If the counties maintain legal responsibility for the
1237 costs of the court-related technology needs as defined in s.
1238 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
1239 Florida Association of Court Clerks and Comptroller, Inc., for
1240 the cost of development, implementation, operation, and
1241 maintenance of the clerks' Comprehensive Case Information
1242 System, in which system all clerks shall participate on or
1243 before January 1, 2006; \$1.90 shall be retained by the clerk to
1244 be deposited in the Public Records Modernization Trust Fund and
1245 used exclusively for funding court-related technology needs of
1246 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall
1247 be distributed to the board of county commissioners to be used
1248 exclusively to fund court-related technology, and court
1249 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
1250 state trial courts, state attorney, public defender, and
1251 criminal conflict and civil regional counsel in that county. If
1252 the counties maintain legal responsibility for the costs of the
1253 court-related technology needs as defined in s. 29.008(1)(f)2.
1254 and (h), notwithstanding any other provision of law, the county
1255 is not required to provide additional funding beyond that
1256 provided herein for the court-related technology needs of the
1257 clerk as defined in s. 29.008(1)(f)2. and (h). All court records
1258 and official records are the property of the State of Florida,
1259 including any records generated as part of the Comprehensive



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1260 Case Information System funded pursuant to this paragraph and
1261 the clerk of court is designated as the custodian of such
1262 records, except in a county where the duty of maintaining
1263 official records exists in a county office other than the clerk
1264 of court or comptroller, such county office is designated the
1265 custodian of all official records, and the clerk of court is
1266 designated the custodian of all court records. The clerk of
1267 court or any entity acting on behalf of the clerk of court,
1268 including an association, shall not charge a fee to any agency
1269 as defined in s. 119.003 ~~s. 119.011~~, the Legislature, or the
1270 State Court System for copies of records generated by the
1271 Comprehensive Case Information System or held by the clerk of
1272 court or any entity acting on behalf of the clerk of court,
1273 including an association.

1274 2. If the state becomes legally responsible for the costs
1275 of court-related technology needs as defined in s.
1276 29.008(1)(f)2. and (h), whether by operation of general law or
1277 by court order, \$4 shall be remitted to the Department of
1278 Revenue for deposit into the General Revenue Fund.

1279 Section 36. Subsection (2) of section 73.0155, Florida
1280 Statutes, is amended to read:

1281 73.0155 Confidentiality; business information provided to a
1282 governmental condemning authority.—

1283 (2) An agency as defined in s. 119.003 ~~s. 119.011~~ may
1284 inspect and copy the confidential and exempt business
1285 information exclusively for the transaction of official business
1286 by, or on behalf of, an agency.

1287 Section 37. Subsection (1) of section 97.0585, Florida
1288 Statutes, is amended to read:



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1289 97.0585 Public records exemption; information regarding
1290 voters and voter registration; confidentiality.—

1291 (1) The following information concerning voters and voter
1292 registration held by an agency as defined in s. 119.003 ~~s.~~
1293 ~~119.011~~ is confidential and exempt from s. 119.07(1) and s.
1294 24(a), Art. I of the State Constitution and may be used only for
1295 purposes of voter registration:

1296 (a) All declinations to register to vote made pursuant to
1297 ss. 97.057 and 97.058.

1298 (b) Information relating to the place where a person
1299 registered to vote or where a person updated a voter
1300 registration.

1301 (c) The social security number, driver's license number,
1302 and Florida identification number of a voter registration
1303 applicant or voter.

1304 Section 38. Paragraph (c) of subsection (2) of section
1305 112.3188, Florida Statutes, is amended to read:

1306 112.3188 Confidentiality of information given to the Chief
1307 Inspector General, internal auditors, inspectors general, local
1308 chief executive officers, or other appropriate local officials.—

1309 (2)

1310 (c) Information deemed confidential under this section may
1311 be disclosed by the Chief Inspector General, agency inspector
1312 general, local chief executive officer, or other appropriate
1313 local official receiving the information if the recipient
1314 determines that the disclosure of the information is absolutely
1315 necessary to prevent a substantial and specific danger to the
1316 public's health, safety, or welfare or to prevent the imminent
1317 commission of a crime. Information disclosed under this



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1318 subsection may be disclosed only to persons who are in a
1319 position to prevent the danger to the public's health, safety,
1320 or welfare or to prevent the imminent commission of a crime
1321 based on the disclosed information.

1322 1. An investigation is active under this section if:

1323 a. It is an ongoing investigation or inquiry or collection
1324 of information and evidence and is continuing with a reasonable,
1325 good faith anticipation of resolution in the foreseeable future;
1326 or

1327 b. All or a portion of the matters under investigation or
1328 inquiry are active criminal intelligence information or active
1329 criminal investigative information as defined in s. 119.003 ~~s.~~
1330 ~~119.011~~.

1331 2. Notwithstanding sub-subparagraph 1.a., an investigation
1332 ceases to be active when:

1333 a. The written report required under s. 112.3189(9) has
1334 been sent by the Chief Inspector General to the recipients named
1335 in s. 112.3189(9);

1336 b. It is determined that an investigation is not necessary
1337 under s. 112.3189(5); or

1338 c. A final decision has been rendered by the local
1339 government or by the Division of Administrative Hearings
1340 pursuant to s. 112.3187(8)(b).

1341 3. Notwithstanding paragraphs (a), (b), and this paragraph,
1342 information or records received or produced under this section
1343 which are otherwise confidential under law or exempt from
1344 disclosure under chapter 119 retain their confidentiality or
1345 exemption.

1346 4. Any person who willfully and knowingly discloses



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1347 information or records made confidential under this subsection
1348 commits a misdemeanor of the first degree, punishable as
1349 provided in s. 775.082 or s. 775.083.

1350 Section 39. Section 163.61, Florida Statutes, is amended to
1351 read:

1352 163.61 "Agency" defined.—For the purposes of ss. 163.61-
1353 163.65, the word "agency" has the meaning ascribed in s. 119.003
1354 ~~s. 119.011~~.

1355 Section 40. Subsection (1) of section 257.34, Florida
1356 Statutes, is amended to read:

1357 257.34 Florida International Archive and Repository.—

1358 (1) There is created within the Division of Library and
1359 Information Services of the Department of State the Florida
1360 International Archive and Repository for the preservation of
1361 those public records, as defined in s. 119.003 ~~s. 119.011~~,
1362 manuscripts, international judgments involving disputes between
1363 domestic and foreign businesses, and all other public matters
1364 that the department or the Florida Council of International
1365 Development deems relevant to international issues. It is the
1366 duty and responsibility of the division to:

1367 (a) Organize and administer the Florida International
1368 Archive and Repository.

1369 (b) Preserve and administer records that are transferred to
1370 its custody; accept, arrange, and preserve them, according to
1371 approved archival and repository practices; and permit them, at
1372 reasonable times and under the supervision of the division, to
1373 be inspected and copied. All public records transferred to the
1374 custody of the division are subject to the provisions of s.
1375 119.07(1).



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1376 (c) Assist the records and information management program
1377 in the determination of retention values for records.

1378 (d) Cooperate with and assist, insofar as practicable,
1379 state institutions, departments, agencies, counties,
1380 municipalities, and individuals engaged in internationally
1381 related activities.

1382 (e) Provide a public research room where, under rules
1383 established by the division, the materials in the international
1384 archive and repository may be studied.

1385 (f) Conduct, promote, and encourage research in
1386 international trade, government, and culture and maintain a
1387 program of information, assistance, coordination, and guidance
1388 for public officials, educational institutions, libraries, the
1389 scholarly community, and the general public engaged in such
1390 research.

1391 (g) Cooperate with and, insofar as practicable, assist
1392 agencies, libraries, institutions, and individuals in projects
1393 concerned with internationally related issues and preserve
1394 original materials relating to internationally related issues.

1395 (h) Assist and cooperate with the records and information
1396 management program in the training and information program
1397 described in s. 257.36(1)(g).

1398 Section 41. Subsection (1) of section 257.35, Florida
1399 Statutes, is amended to read:

1400 257.35 Florida State Archives.—

1401 (1) There is created within the Division of Library and
1402 Information Services of the Department of State the Florida
1403 State Archives for the preservation of those public records, as
1404 defined in s. 119.003(15) ~~s. 119.011(12)~~, manuscripts, and other



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1405 archival material that have been determined by the division to
1406 have sufficient historical or other value to warrant their
1407 continued preservation and have been accepted by the division
1408 for deposit in its custody. It is the duty and responsibility of
1409 the division to:

1410 (a) Organize and administer the Florida State Archives.

1411 (b) Preserve and administer such records as shall be
1412 transferred to its custody; accept, arrange, and preserve them,
1413 according to approved archival practices; and permit them, at
1414 reasonable times and under the supervision of the division, to
1415 be inspected and copied.

1416 (c) Assist the records and information management program
1417 in the determination of retention values for records.

1418 (d) Cooperate with and assist insofar as practicable state
1419 institutions, departments, agencies, counties, municipalities,
1420 and individuals engaged in activities in the field of state
1421 archives, manuscripts, and history and accept from any person
1422 any paper, book, record, or similar material which in the
1423 judgment of the division warrants preservation in the state
1424 archives.

1425 (e) Provide a public research room where, under rules
1426 established by the division, the materials in the state archives
1427 may be studied.

1428 (f) Conduct, promote, and encourage research in Florida
1429 history, government, and culture and maintain a program of
1430 information, assistance, coordination, and guidance for public
1431 officials, educational institutions, libraries, the scholarly
1432 community, and the general public engaged in such research.

1433 (g) Cooperate with and, insofar as practicable, assist



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1434 agencies, libraries, institutions, and individuals in projects
1435 designed to preserve original source materials relating to
1436 Florida history, government, and culture and prepare and publish
1437 handbooks, guides, indexes, and other literature directed toward
1438 encouraging the preservation and use of the state's documentary
1439 resources.

1440 (h) Encourage and initiate efforts to preserve, collect,
1441 process, transcribe, index, and research the oral history of
1442 Florida government.

1443 (i) Assist and cooperate with the records and information
1444 management program in the training and information program
1445 described in s. 257.36(1)(g).

1446 Section 42. Section 281.301, Florida Statutes, is amended
1447 to read:

1448 281.301 Security systems; records and meetings exempt from
1449 public access or disclosure.—Information relating to the
1450 security systems for any property owned by or leased to the
1451 state or any of its political subdivisions, and information
1452 relating to the security systems for any privately owned or
1453 leased property which is in the possession of any agency as
1454 defined in s. 119.003(2) ~~s. 119.011(2)~~, including all records,
1455 information, photographs, audio and visual presentations,
1456 schematic diagrams, surveys, recommendations, or consultations
1457 or portions thereof relating directly to or revealing such
1458 systems or information, and all meetings relating directly to or
1459 that would reveal such systems or information are confidential
1460 and exempt from ss. 119.07(1) and 286.011 and other laws and
1461 rules requiring public access or disclosure.

1462 Section 43. Paragraph (a) of subsection (3) of section



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1463 364.107, Florida Statutes, is amended to read:

1464 364.107 Public records exemption; Lifeline Assistance Plan
1465 participants.—

1466 (3) (a) An officer or employee of a telecommunications
1467 carrier shall not intentionally disclose information made
1468 confidential and exempt under subsection (1), except as:

1469 1. Authorized by the customer;

1470 2. Necessary for billing purposes;

1471 3. Required by subpoena, court order, or other process of
1472 court;

1473 4. Necessary to disclose to an agency as defined in s.

1474 119.003 ~~s. 119.011~~ or a governmental entity for purposes

1475 directly connected with implementing service for, or verifying
1476 eligibility of, a participant in a Lifeline Assistance Plan or
1477 auditing a Lifeline Assistance Plan; or

1478 5. Otherwise authorized by law.

1479 Section 44. Paragraph (d) of subsection (2) and subsection
1480 (5) of section 382.0085, Florida Statutes, are amended to read:

1481 382.0085 Stillbirth registration.—

1482 (2) The person who is required to file a fetal death
1483 certificate under this chapter shall advise the parent of a
1484 stillborn child:

1485 (d) That a copy of the original certificate of birth
1486 resulting in stillbirth is a document that is available as a
1487 public record when held by an agency as defined under s.

1488 119.003(2) ~~s. 119.011(2)~~.

1489 (5) A certificate of birth resulting in stillbirth shall be
1490 a public record when held by an agency as defined under s.

1491 119.003(2) ~~s. 119.011(2)~~. The Office of Vital Statistics must



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1492 inform any parent who requests a certificate of birth resulting
1493 in stillbirth that a copy of the document is available as a
1494 public record.

1495 Section 45. Subsection (9) of section 383.402, Florida
1496 Statutes, is amended to read:

1497 383.402 Child abuse death review; State Child Abuse Death
1498 Review Committee; local child abuse death review committees.—

1499 (9) The State Child Abuse Death Review Committee or a local
1500 committee shall have access to all information of a law
1501 enforcement agency which is not the subject of an active
1502 investigation and which pertains to the review of the death of a
1503 child. A committee may not disclose any information that is not
1504 subject to public disclosure by the law enforcement agency, and
1505 active criminal intelligence information or criminal
1506 investigative information, as defined in s. 119.003(6) ~~s.~~
1507 ~~119.011(3)~~, may not be made available for review or access under
1508 this section.

1509 Section 46. Subsection (9) of section 550.0251, Florida
1510 Statutes, is amended to read:

1511 550.0251 The powers and duties of the Division of Pari-
1512 mutuel Wagering of the Department of Business and Professional
1513 Regulation.—The division shall administer this chapter and
1514 regulate the pari-mutuel industry under this chapter and the
1515 rules adopted pursuant thereto, and:

1516 (9) The division may conduct investigations in enforcing
1517 this chapter, except that all information obtained pursuant to
1518 an investigation by the division for an alleged violation of
1519 this chapter or rules of the division is exempt from s.
1520 119.07(1) and from s. 24(a), Art. I of the State Constitution



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1521 until an administrative complaint is issued or the investigation
1522 is closed or ceases to be active. This subsection does not
1523 prohibit the division from providing such information to any law
1524 enforcement agency or to any other regulatory agency. For the
1525 purposes of this subsection, an investigation is considered to
1526 be active while it is being conducted with reasonable dispatch
1527 and with a reasonable, good faith belief that it could lead to
1528 an administrative, civil, or criminal action by the division or
1529 another administrative or law enforcement agency. Except for
1530 active criminal intelligence or criminal investigative
1531 information, as defined in s. 119.003 ~~s. 119.011~~, and any other
1532 information that, if disclosed, would jeopardize the safety of
1533 an individual, all information, records, and transcriptions
1534 become public when the investigation is closed or ceases to be
1535 active.

1536 Section 47. Subsection (6) of section 607.0505, Florida
1537 Statutes, is amended to read:

1538 607.0505 Registered agent; duties.—

1539 (6) Information provided to, and records and transcriptions
1540 of testimony obtained by, the Department of Legal Affairs
1541 pursuant to this section are confidential and exempt from the
1542 provisions of s. 119.07(1) while the investigation is active.
1543 For purposes of this section, an investigation shall be
1544 considered "active" while such investigation is being conducted
1545 with a reasonable, good faith belief that it may lead to the
1546 filing of an administrative, civil, or criminal proceeding. An
1547 investigation does not cease to be active so long as the
1548 department is proceeding with reasonable dispatch and there is a
1549 good faith belief that action may be initiated by the department



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1550 or other administrative or law enforcement agency. Except for
1551 active criminal intelligence or criminal investigative
1552 information, as defined in s. 119.003 ~~s. 119.011~~, and
1553 information which, if disclosed, would reveal a trade secret, as
1554 defined in s. 688.002, or would jeopardize the safety of an
1555 individual, all information, records, and transcriptions become
1556 public record when the investigation is completed or ceases to
1557 be active. The department shall not disclose confidential
1558 information, records, or transcriptions of testimony except
1559 pursuant to the authorization by the Attorney General in any of
1560 the following circumstances:

1561 (a) To a law enforcement agency participating in or
1562 conducting a civil investigation under chapter 895, or
1563 participating in or conducting a criminal investigation.

1564 (b) In the course of filing, participating in, or
1565 conducting a judicial proceeding instituted pursuant to this
1566 section or chapter 895.

1567 (c) In the course of filing, participating in, or
1568 conducting a judicial proceeding to enforce an order or judgment
1569 entered pursuant to this section or chapter 895.

1570 (d) In the course of a criminal or civil proceeding.

1571
1572 A person or law enforcement agency which receives any
1573 information, record, or transcription of testimony that has been
1574 made confidential by this subsection shall maintain the
1575 confidentiality of such material and shall not disclose such
1576 information, record, or transcription of testimony except as
1577 provided for herein. Any person who willfully discloses any
1578 information, record, or transcription of testimony that has been



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1579 made confidential by this subsection, except as provided for
1580 herein, is guilty of a misdemeanor of the first degree,
1581 punishable as provided in s. 775.082 or s. 775.083. If any
1582 information, record, or testimony obtained pursuant to
1583 subsection (2) is offered in evidence in any judicial
1584 proceeding, the court may, in its discretion, seal that portion
1585 of the record to further the policies of confidentiality set
1586 forth herein.

1587 Section 48. Subsection (6) of section 617.0503, Florida
1588 Statutes, is amended to read:

1589 617.0503 Registered agent; duties; confidentiality of
1590 investigation records.—

1591 (6) Information provided to, and records and transcriptions
1592 of testimony obtained by, the Department of Legal Affairs
1593 pursuant to this section are confidential and exempt from the
1594 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
1595 Constitution while the investigation is active. For purposes of
1596 this section, an investigation shall be considered "active"
1597 while such investigation is being conducted with a reasonable,
1598 good faith belief that it may lead to the filing of an
1599 administrative, civil, or criminal proceeding. An investigation
1600 does not cease to be active so long as the department is
1601 proceeding with reasonable dispatch and there is a good faith
1602 belief that action may be initiated by the department or other
1603 administrative or law enforcement agency. Except for active
1604 criminal intelligence or criminal investigative information, as
1605 defined in s. 119.003 ~~s. 119.011~~, and information which, if
1606 disclosed, would reveal a trade secret, as defined in s.
1607 688.002, or would jeopardize the safety of an individual, all



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1608 information, records, and transcriptions become available to the
1609 public when the investigation is completed or ceases to be
1610 active. The department shall not disclose confidential
1611 information, records, or transcriptions of testimony except
1612 pursuant to authorization by the Attorney General in any of the
1613 following circumstances:

1614 (a) To a law enforcement agency participating in or
1615 conducting a civil investigation under chapter 895, or
1616 participating in or conducting a criminal investigation.

1617 (b) In the course of filing, participating in, or
1618 conducting a judicial proceeding instituted pursuant to this
1619 section or chapter 895.

1620 (c) In the course of filing, participating in, or
1621 conducting a judicial proceeding to enforce an order or judgment
1622 entered pursuant to this section or chapter 895.

1623 (d) In the course of a criminal proceeding.

1624

1625 A person or law enforcement agency that receives any
1626 information, record, or transcription of testimony that has been
1627 made confidential by this subsection shall maintain the
1628 confidentiality of such material and shall not disclose such
1629 information, record, or transcription of testimony except as
1630 provided for herein. Any person who willfully discloses any
1631 information, record, or transcription of testimony that has been
1632 made confidential by this subsection, except as provided for in
1633 this subsection, commits a misdemeanor of the first degree,
1634 punishable as provided in s. 775.082 or s. 775.083. If any
1635 information, record, or testimony obtained pursuant to
1636 subsection (2) is offered in evidence in any judicial



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1637 proceeding, the court may, in its discretion, seal that portion
1638 of the record to further the policies of confidentiality set
1639 forth in this subsection.

1640 Section 49. Subsection (3) of section 636.064, Florida
1641 Statutes, is amended to read:

1642 636.064 Confidentiality.—

1643 (3) Any information obtained or produced by the department
1644 or office pursuant to an examination or investigation is
1645 confidential and exempt from the provisions of s. 119.07(1) and
1646 s. 24(a), Art. I of the State Constitution until the examination
1647 report has been filed pursuant to s. 624.319 or until such
1648 investigation is completed or ceases to be active. For purposes
1649 of this subsection, an investigation is considered "active"
1650 while such investigation is being conducted by the department or
1651 office with a reasonable, good faith belief that it may lead to
1652 the filing of administrative, civil, or criminal proceedings. An
1653 investigation does not cease to be active if the department or
1654 office is proceeding with reasonable dispatch and there is a
1655 good faith belief that action may be initiated by the department
1656 or office or other administrative or law enforcement agency.
1657 Except for active criminal intelligence or criminal
1658 investigative information, as defined in s. 119.003 ~~s. 119.011~~;
1659 personal financial and medical information; information that
1660 would defame or cause unwarranted damage to the good name or
1661 reputation of an individual; information that would impair the
1662 safety and financial soundness of the licensee or affiliated
1663 party; proprietary financial information; or information that
1664 would reveal the identity of a confidential source, all
1665 information obtained by the department or office pursuant to an



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1666 examination or investigation shall be available after the
1667 examination report has been filed or the investigation is
1668 completed or ceases to be active.

1669 Section 50. Paragraph (m) of subsection (2) of section
1670 668.50, Florida Statutes, is amended to read:

1671 668.50 Uniform Electronic Transaction Act.—

1672 (2) DEFINITIONS.—As used in this section:

1673 (m) "Record" means information that is inscribed on a
1674 tangible medium or that is stored in an electronic or other
1675 medium and is retrievable in perceivable form, including public
1676 records as defined in s. 119.003 ~~s. 119.011~~.

1677 Section 51. Section 668.6076, Florida Statutes, is amended
1678 to read:

1679 668.6076 Public records status of e-mail addresses; agency
1680 website notice.—Any agency, as defined in s. 119.003 ~~s. 119.011~~,
1681 or legislative entity that operates a website and uses
1682 electronic mail shall post the following statement in a
1683 conspicuous location on its website:

1684
1685 Under Florida law, e-mail addresses are public
1686 records. If you do not want your e-mail address
1687 released in response to a public records request, do
1688 not send electronic mail to this entity. Instead,
1689 contact this office by phone or in writing.

1690 Section 52. Paragraph (c) of subsection (4) of section
1691 741.313, Florida Statutes, is amended to read:

1692 741.313 Unlawful action against employees seeking
1693 protection.—

1694 (4)



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1695 (c)1. A private employer must keep all information relating
1696 to the employee's leave under this section confidential.

1697 2. An agency, as defined in s. 119.003 ~~s. 119.011~~, must
1698 keep information relating to the employee's leave under this
1699 section confidential and exempt from disclosure to the extent
1700 authorized by subsection (7).

1701 Section 53. Paragraph (c) of subsection (6) of section
1702 787.03, Florida Statutes, is amended to read:

1703 787.03 Interference with custody.—

1704 (6)

1705 (c)1. The current address and telephone number of the
1706 person and the minor or incompetent person which are contained
1707 in the report made to a sheriff or state attorney under
1708 paragraph (b) are confidential and exempt from s. 119.07(1) and
1709 s. 24(a), Art. I of the State Constitution.

1710 2. A sheriff or state attorney may allow an agency, as
1711 defined in s. 119.003 ~~s. 119.011~~, to inspect and copy records
1712 made confidential and exempt under this paragraph in the
1713 furtherance of that agency's duties and responsibilities.

1714 3. This paragraph is subject to the Open Government Sunset
1715 Review Act in accordance with s. 119.15 and is repealed on
1716 October 2, 2011, unless reviewed and saved from repeal through
1717 reenactment by the Legislature.

1718 Section 54. Subsection (5) of section 817.568, Florida
1719 Statutes, is amended to read:

1720 817.568 Criminal use of personal identification
1721 information.—

1722 (5) If an offense prohibited under this section was
1723 facilitated or furthered by the use of a public record, as



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1724 defined in s. 119.003 ~~s. 119.011~~, the offense is reclassified to
1725 the next higher degree as follows:

1726 (a) A misdemeanor of the first degree is reclassified as a
1727 felony of the third degree.

1728 (b) A felony of the third degree is reclassified as a
1729 felony of the second degree.

1730 (c) A felony of the second degree is reclassified as a
1731 felony of the first degree.

1732

1733 For purposes of sentencing under chapter 921 and incentive gain-
1734 time eligibility under chapter 944, a felony offense that is
1735 reclassified under this subsection is ranked one level above the
1736 ranking under s. 921.0022 of the felony offense committed, and a
1737 misdemeanor offense that is reclassified under this subsection
1738 is ranked in level 2 of the offense severity ranking chart in s.
1739 921.0022.

1740 Section 55. Section 817.569, Florida Statutes, is amended
1741 to read:

1742 817.569 Criminal use of a public record or public records
1743 information; penalties.—A person who knowingly uses any public
1744 record, as defined in s. 119.003 ~~s. 119.011~~, or who knowingly
1745 uses information obtainable only through such public record, to
1746 facilitate or further the commission of:

1747 (1) A misdemeanor of the first degree, commits a
1748 misdemeanor of the first degree, punishable as provided in s.
1749 775.082 or s. 775.083.

1750 (2) A felony, commits a felony of the third degree,
1751 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1752 Section 56. Paragraphs (a) and (c) of subsection (3) of



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1753 section 893.0551, Florida Statutes, are amended to read:
1754 893.0551 Public records exemption for the prescription drug
1755 monitoring program.—

1756 (3) The department shall disclose such confidential and
1757 exempt information to the following entities after using a
1758 verification process to ensure the legitimacy of that person's
1759 or entity's request for the information:

1760 (a) The Attorney General and his or her designee when
1761 working on Medicaid fraud cases involving prescription drugs or
1762 when the Attorney General has initiated a review of specific
1763 identifiers of Medicaid fraud regarding prescription drugs. The
1764 Attorney General or his or her designee may disclose the
1765 confidential and exempt information received from the department
1766 to a criminal justice agency as defined in s. 119.003 ~~s. 119.011~~
1767 as part of an active investigation that is specific to a
1768 violation of prescription drug abuse or prescription drug
1769 diversion law as it relates to controlled substances. The
1770 Attorney General's Medicaid fraud investigators may not have
1771 direct access to the department's database.

1772 (c) A law enforcement agency that has initiated an active
1773 investigation involving a specific violation of law regarding
1774 prescription drug abuse or diversion of prescribed controlled
1775 substances. The law enforcement agency may disclose the
1776 confidential and exempt information received from the department
1777 to a criminal justice agency as defined in s. 119.003 ~~s. 119.011~~
1778 as part of an active investigation that is specific to a
1779 violation of prescription drug abuse or prescription drug
1780 diversion law as it relates to controlled substances. A law
1781 enforcement agency may request information from the department



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1782 but may not have direct access to its database.

1783 Section 57. Subsection (5) of section 914.27, Florida
1784 Statutes, is amended to read:

1785 914.27 Confidentiality of victim and witness information.—

1786 (5) For the purposes of effectively implementing s. 914.25,
1787 any state or local law enforcement agency, state attorney, or
1788 the statewide prosecutor may provide written notification to an
1789 agency as defined in s. 119.003 ~~s. 119.011~~ or to a business
1790 entity operating under contract with, licensed by, or having any
1791 other business relationship with an agency, or providing
1792 services pursuant to s. 914.25, that information described in
1793 subsection (1) held by that agency or business is confidential
1794 and exempt from public disclosure. The state or local law
1795 enforcement agency, state attorney, or the statewide prosecutor
1796 providing such written notification shall also provide written
1797 notification to the agency or business as to when, in accordance
1798 with this section, identity and location information exempted
1799 pursuant to paragraphs (1)(a) and (b) can be made publicly
1800 available.

1801 Section 58. Paragraphs (a) and (b) of subsection (9) of
1802 section 943.031, Florida Statutes, are amended to read:

1803 943.031 Florida Violent Crime and Drug Control Council.—

1804 (9) CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL MEETINGS
1805 AND RECORDS.—

1806 (a) The Legislature finds that during limited portions of
1807 the meetings of the Florida Violent Crime and Drug Control
1808 Council it is necessary that the council be presented with and
1809 discuss details, information, and documents related to active
1810 criminal investigations or matters constituting active criminal



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1811 intelligence, as those concepts are defined by s. 119.003 ~~s.~~
1812 ~~119.011~~. These presentations and discussions are necessary for
1813 the council to make its funding decisions as required by the
1814 Legislature. The Legislature finds that to reveal the contents
1815 of documents containing active criminal investigative or
1816 intelligence information or to allow active criminal
1817 investigative or active criminal intelligence matters to be
1818 discussed in a meeting open to the public negatively impacts the
1819 ability of law enforcement agencies to efficiently continue
1820 their investigative or intelligence gathering activities. The
1821 Legislature finds that information coming before the council
1822 that pertains to active criminal investigations or intelligence
1823 should remain confidential and exempt from public disclosure.
1824 The Legislature finds that the Florida Violent Crime and Drug
1825 Control Council may, by declaring only those portions of council
1826 meetings in which active criminal investigative or active
1827 criminal intelligence information is to be presented or
1828 discussed closed to the public, assure an appropriate balance
1829 between the policy of this state that meetings be public and the
1830 policy of this state to facilitate efficient law enforcement
1831 efforts.

1832 (b) The Florida Violent Crime and Drug Control Council
1833 shall be considered a "criminal justice agency" within the
1834 definition of s. 119.003(7) ~~s. 119.011(4)~~.

1835 Section 59. Subsection (7) of section 943.0313, Florida
1836 Statutes, is amended to read:

1837 943.0313 Domestic Security Oversight Council.—The
1838 Legislature finds that there exists a need to provide executive
1839 direction and leadership with respect to terrorism prevention,



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1840 preparation, protection, response, and recovery efforts by state
1841 and local agencies in this state. In recognition of this need,
1842 the Domestic Security Oversight Council is hereby created. The
1843 council shall serve as an advisory council pursuant to s.
1844 20.03(7) to provide guidance to the state's regional domestic
1845 security task forces and other domestic security working groups
1846 and to make recommendations to the Governor and the Legislature
1847 regarding the expenditure of funds and allocation of resources
1848 related to counter-terrorism and domestic security efforts.

1849 (7) AGENCY DESIGNATION.—For purposes of this section, the
1850 Domestic Security Oversight Council shall be considered a
1851 criminal justice agency within the definition of s. 119.003(7)
1852 ~~s. 119.011(4)~~.

1853 Section 60. Paragraph (a) of subsection (1) of section
1854 943.0314, Florida Statutes, is amended to read:

1855 943.0314 Public records and public meetings exemptions;
1856 Domestic Security Oversight Council.—

1857 (1) (a) That portion of a meeting of the Domestic Security
1858 Oversight Council at which the council will hear or discuss
1859 active criminal investigative information or active criminal
1860 intelligence information as defined in s. 119.003 ~~s. 119.011~~ is
1861 exempt from s. 286.011 and s. 24(b), Art. I of the State
1862 Constitution, if:

1863 1. The chair of the council announces at a public meeting
1864 that, in connection with the performance of the council's
1865 duties, it is necessary that active criminal investigative
1866 information or active criminal intelligence information be
1867 discussed.

1868 2. The chair declares the specific reasons that it is



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1869 necessary to close the meeting, or portion thereof, in a
1870 document that is a public record and filed with the official
1871 records of the council.

1872 3. The entire closed meeting is recorded. The recording
1873 must include the times of commencement and termination of the
1874 closed meeting or portion thereof, all discussion and
1875 proceedings, and the names of the persons present. No portion of
1876 the closed meeting shall be off the record. The recording shall
1877 be maintained by the council.

1878 Section 61. Subsection (2) of section 943.032, Florida
1879 Statutes, is amended to read:

1880 943.032 Financial Crime Analysis Center and Financial
1881 Transaction Database.—

1882 (2) The department shall compile information and data
1883 available from financial transaction reports required to be
1884 submitted by state or federal law that are provided to the
1885 Department of Financial Services, to the Office of Financial
1886 Regulation of the Financial Services Commission, to the
1887 Department of Revenue, or to which the department otherwise has
1888 access. Information and data so received shall be utilized by
1889 the department in the Financial Transaction Database. The
1890 department shall implement a system utilizing the database that
1891 allows data review and processing to reveal patterns, trends,
1892 and correlations that are indicative of money laundering or
1893 other financial transactions indicative of criminal activity.
1894 The department shall, in consultation with the Department of
1895 Financial Services, the Office of Financial Regulation of the
1896 Financial Services Commission, and the Department of Revenue,
1897 establish the methods and parameters by which information and



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1898 data received by such agencies are transferred to the department
1899 for inclusion in the database. Information developed in or
1900 through the use of the database shall be made available to law
1901 enforcement agencies and prosecutors in this state in a manner
1902 defined by the department and as allowed by state or federal law
1903 or regulation. All information contained in the database shall
1904 be considered "active criminal intelligence" or "active criminal
1905 investigative information" as defined in s. 119.003 ~~s. 119.011~~.

1906 Section 62. This act shall take effect October 1, 2010.

1907

1908

1909 ===== T I T L E A M E N D M E N T =====

1910 And the title is amended as follows:

1911

1912 Delete everything before the enacting clause
1913 and insert:

1914

1915 A bill to be entitled
1916 An act relating to public records and public meetings;
1917 creating s. 119.001, F.S.; creating the "Open
1918 Government Act"; creating s. 119.002, F.S.; requiring
1919 all elected and appointed public officials to undergo
1920 education and training on the requirements of the Open
1921 Government Act; creating s. 119.003, F.S.; defining
1922 terms; amending s. 119.07, F.S.; conforming a cross-
1923 reference; requiring that the custodian of a public
1924 record furnish a copy or certified copy of the record
1925 to the person requesting the record after payment of a
1926 designated fee; providing that if the nature or volume
of the public record requested to be inspected or



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1927 copied requires less than 30 minutes, the agency may
1928 not charge the actual cost of duplication; providing
1929 for the actual cost to duplicate a public records
1930 stored in an electronic format; authorizing an agency
1931 to charge a fee for converting a record into an
1932 electronic format; limiting the clerical cost of
1933 duplication of a record to the base hourly rate of the
1934 lowest paid personnel capable of providing such
1935 clerical or supervisory assistance; authorizing an
1936 agency to reduce or waive a fee pursuant to consistent
1937 policies; prohibiting an agency from charging a fee
1938 for the costs associated with redacting information
1939 from the record that the agency maintains is not
1940 subject to the public-records requirements; amending
1941 s. 119.071, F.S.; removing the definitions for the
1942 terms "security system plan," "commercial activity,"
1943 and "commercial entity"; creating s. 119.13, F.S.;
1944 directing the Division of Library and Information
1945 Services of the Department of State to adopt a rule to
1946 establish a model policy for providing public access
1947 to public records; amending s. 119.15, F.S.; providing
1948 that in the 10th year after reenactment of a statutory
1949 exemption, the exemption shall be repealed on October
1950 2nd of that year, unless the Legislatures acts to
1951 reenact the exemption; creating s. 119.20, F.S.;
1952 providing that all meetings of any board or commission
1953 of any state agency or authority or of any agency or
1954 authority of any county, municipal corporation, or
1955 political subdivision at which official acts are to be



1956 taken are declared to be public meetings that are open
1957 to the public at all times; requiring that the minutes
1958 of a meeting of any board or commission or any state
1959 agency or authority be promptly recorded and open to
1960 the public; prohibiting a person or entity subject the
1961 open-meetings requirements from holding meetings at
1962 any facility or location that discriminates on the
1963 basis of sex, age, race, creed, color, origin, or
1964 economic status or that operates in such a manner as
1965 to unreasonably restrict public access to such a
1966 facility; creating s. 119.201, F.S.; providing for
1967 certain specified exemptions from open-meeting
1968 requirements; setting forth the procedures by which
1969 the closed meeting must proceed; providing for future
1970 repeal of the exemption and review under the Open
1971 Government Sunset Review Act; creating s. 119.202,
1972 F.S.; prohibiting a member of a state, county, or
1973 municipal governmental board, commission, or agency
1974 who is present at a meeting at which an official
1975 decision, ruling, or other official act is to be taken
1976 or adopted from abstaining from voting in regard to
1977 any such decision; providing for procedures with
1978 respect to a possible conflict of interest of the
1979 member; creating s. 119.30, F.S.; providing penalties
1980 for violations of the Open Government Act; creating s.
1981 119.31, F.S.; authorizing the circuit courts of this
1982 state to issue injunctions to enforce the act;
1983 authorizing any person to petition the court for an
1984 injunction; creating s. 119.32, F.S.; providing for



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1985 attorney's fees under certain circumstances; repealing
1986 ss. 119.011, 119.10, 119.12, 286.011, 286.0113, and
1987 286.012, F.S., relating to definitions, violations and
1988 penalties of public-records requirements, attorney's
1989 fees, public meetings, general exemptions from public-
1990 meetings requirements, and voting requirements at
1991 meetings of governmental bodies, respectively;
1992 reenacting s.27.02(2), F.S., relating to the duties of
1993 the state attorney before the circuit court;
1994 reenacting s. 119.01(2)(f), F.S., relating to state
1995 policy on public records; reenacting s.
1996 119.0712(1)(d), F.S., relating to specific exemptions
1997 from inspection or copying of public records for
1998 executive branch agencies; reenacting s.
1999 119.084(2)(a), F.S., relating to the copyright of data
2000 processing software created by governmental agencies;
2001 reenacting s. 455.219(6), F.S., relating to licensure
2002 fees charged by professional boards; reenacting s.
2003 456.025(11), F.S., relating to costs of regulating
2004 health care professions and practitioners; reenacting
2005 s. 458.3193(1)(c) and 459.0083(1)(c), F.S., relating
2006 to confidentiality of certain information contained in
2007 physician workforce surveys; reenacting s.
2008 472.011(16), F.S., relating to fees the surveyors and
2009 mappers board may charge applications, examination,
2010 reexamination, and licensing; reenacting s.
2011 1012.31(2)(e), F.S., relating to public school system
2012 employee personnel files, to incorporate the
2013 amendments made to s. 119.07, F.S., in references



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2014 thereto; reenacting s. 17.076(5), F.S., relating to
2015 the direct deposit of funds for a person who is
2016 drawing salary or retirement benefits from the state;
2017 reenacting s. 119.0714, F.S., relating to relating to
2018 court files and court records; reenacting s.
2019 1007.35(8)(b), F.S., relating to the Florida
2020 Partnership for Minority and Underrepresented Student
2021 Achievement Act, to incorporate the amendments made to
2022 s. 119.071, F.S., in references thereto; amending ss.
2023 11.0431, 28.001, 28.24, 73.0155, 97.0585, 112.3188,
2024 163.61, 257.34, 257.35, 281.301, 364.107, 382.0085,
2025 383.402, 550.0251, 607.0505, 617.0503, 636.064,
2026 668.50, 668.6076, 713.313, 787.03, 817.568, 817.569,
2027 893.0551, 914.27, 943.031, 943.0313, 943.0314, and
2028 943.032; conforming cross-references; providing an
2029 effective date.