



856682

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2010	.	
	.	
	.	
	.	

The Committee on Judiciary (Peaden) 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
“Sunshine in 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
requirements of the Open Government Act. A violation of this



856682

14 section is not subject to the penalty provisions in s. 119.30.

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

17 119.003 Definitions.—As used in this chapter, the term:

18 (1) "Actual cost of duplication" means the cost of the
19 material and supplies used to duplicate the public record but
20 does not include labor cost or overhead associated with the
21 duplication.

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

30 (3) "Agency resources" means the cost of clerical or
31 supervisory assistance or agency information technology
32 resources actually incurred by the agency in complying with a
33 request for public records as authorized by s. 119.07(4). Costs
34 for clerical or supervisory assistance must be charged at the
35 base hourly rate of the lowest-paid personnel capable of
36 providing the assistance.

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

41 (5) "Commercial activity" means the permissible uses set
42 forth in the federal Driver's Privacy Protection Act of 1994, 18



856682

43 U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15
44 U.S.C. ss. 1681 et seq.; or the Financial Services Modernization
45 Act of 1999, 15 U.S.C. ss. 6801 et seq., or verification of the
46 accuracy of personal information received by a commercial entity
47 in the normal course of its business, including identification
48 or prevention of fraud or matching, verifying, or retrieving
49 information. The term does not include the display or bulk sale
50 of social security numbers to the public or the distribution of
51 such numbers to any customer that is not identifiable by the
52 commercial entity.

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

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

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

68 (c) "Criminal intelligence information" and "criminal
69 investigative information" does not include:

70 1. The time, date, location, and nature of a reported
71 crime.



856682

72 2. The name, gender, age, and address of a person arrested
73 or of the victim of a crime, except as provided in s.
74 119.071(2)(h).

75 3. The time, date, and location of the incident and of the
76 arrest.

77 4. The crime charged.

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

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

88 b. Impair the ability of a state attorney to locate or
89 prosecute a codefendant.

90 6. Informations and indictments except as provided in s.
91 905.26.

92 (d) "Active" means:

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

98 2. Criminal investigative information shall be considered
99 active as long as it is related to an ongoing investigation that
100 is continuing with a reasonable, good faith anticipation of



856682

101 securing an arrest or prosecution in the foreseeable future.

102
103 In addition, criminal intelligence and criminal investigative
104 information shall be considered active while such information is
105 directly related to pending prosecutions or appeals. The term
106 "active" does not apply to information in cases that are barred
107 from prosecution under the provisions of s. 775.15 or other
108 statute of limitation.

109 (8) "Criminal justice agency" means:

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

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

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

122 (d) The Department of Corrections.

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

127 (10) "Data processing software" means the programs and
128 routines used to employ and control the capabilities of data
129 processing hardware, including, but not limited to, operating



856682

130 systems, compilers, assemblers, utilities, library routines,
131 maintenance routines, applications, and computer networking
132 programs.

133 (11) "Duplicated copies" means new copies produced by
134 duplicating, as defined in s. 283.30.

135 (12) "Exemption" means a provision of general law which
136 provides that a specified record or meeting, or portion thereof,
137 is not subject to the access requirements of s. 119.07(1), s.
138 119.20, or s. 24, Art. I of the State Constitution.

139 (13) "Information technology resources" means data
140 processing hardware and software and services, communications,
141 supplies, personnel, facility resources, maintenance, and
142 training.

143 (14) "Paratransit" has the same meaning as provided in s.
144 427.011.

145 (15) "Proprietary software" means data processing software
146 that is protected by copyright or trade secret laws.

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

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

157 (18) "Security system plan" means all:

158 (a) Records, information, photographs, audio and visual



856682

159 presentations, schematic diagrams, surveys, recommendations, or
160 consultations or portions thereof relating directly to the
161 physical security of the facility or revealing security systems;

162 (b) Threat assessments conducted by any agency or any
163 private entity;

164 (c) Threat response plans;

165 (d) Emergency evacuation plans;

166 (e) Sheltering arrangements; or

167 (f) Manuals for security personnel, emergency equipment, or
168 security training.

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

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

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

178 (c) Control and direct access authorizations and security
179 measures for automated systems.

180 (20) "Trade secret" has the same meaning as provided in s.
181 688.002.

182 Section 4. Paragraph (b) of subsection (2) of section
183 119.01, Florida Statutes, is amended to read:

184 119.01 General state policy on public records.—

185 (2)

186 (b) When designing, ~~or~~ acquiring, or upgrading an
187 electronic recordkeeping system, an agency must consider whether



856682

188 such system is capable of:

189 1. Providing data in some common format such as, but not
190 limited to, the American Standard Code for Information
191 Interchange; and

192 2. Redacting information that is exempt or confidential and
193 exempt contained in the public records that are on-line or
194 stored in such system.

195 Section 5. Section 119.07, Florida Statutes, is amended to
196 read

197 119.07 Inspection and copying of records; photographing
198 public records; fees; exemptions.-

199 (1) (a) Every person who has custody of a public record
200 shall permit the record to be inspected and copied by any person
201 desiring to do so, at any reasonable time, under reasonable
202 conditions, and under supervision by the custodian of the public
203 records.

204 (b) A custodian of public records or a person having
205 custody of public records may designate another officer or
206 employee of the agency to permit the inspection and copying of
207 public records, but must disclose the identity of the designee
208 to the person requesting to inspect or copy public records.

209 (c) A custodian of public records and his or her designee
210 must acknowledge requests to inspect or copy records promptly
211 and respond to such requests in good faith. A good faith
212 response includes making reasonable efforts to determine from
213 other officers or employees within the agency whether such a
214 record exists and, if so, the location at which the record can
215 be accessed.

216 (d) A person who has custody of a public record who asserts



856682

217 that an exemption applies to a part of such record shall redact
218 that portion of the record to which an exemption has been
219 asserted and validly applies, and such person shall produce the
220 remainder of such record for inspection and copying.

221 (e) If the person who has custody of a public record
222 contends that all or part of the record is exempt from
223 inspection and copying, he or she shall state the basis of the
224 exemption that he or she contends is applicable to the record,
225 including the statutory citation to an exemption created or
226 afforded by statute.

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

231 (g) In any civil action in which an exemption to this
232 section is asserted, if the exemption is alleged to exist under
233 or by virtue of s. 119.071(1)(d) or (f), (2)(d), (e), or (f), or
234 (4)(c), the public record or part thereof in question shall be
235 submitted to the court for an inspection in camera. If an
236 exemption is alleged to exist under or by virtue of s.
237 119.071(2)(c), an inspection in camera is discretionary with the
238 court. If the court finds that the asserted exemption is not
239 applicable, it shall order the public record or part thereof in
240 question to be immediately produced for inspection or copying as
241 requested by the person seeking such access.

242 (h) Even if an assertion is made by the custodian of public
243 records that a requested record is not a public record subject
244 to public inspection or copying under this subsection, the
245 requested record shall, nevertheless, not be disposed of for a



856682

246 period of 30 days after the date on which a written request to
247 inspect or copy the record was served on or otherwise made to
248 the custodian of public records by the person seeking access to
249 the record. If a civil action is instituted within the 30-day
250 period to enforce the provisions of this section with respect to
251 the requested record, the custodian of public records may not
252 dispose of the record except by order of a court of competent
253 jurisdiction after notice to all affected parties.

254 (i) The absence of a civil action instituted for the
255 purpose stated in paragraph (g) does not relieve the custodian
256 of public records of the duty to maintain the record as a public
257 record if the record is in fact a public record subject to
258 public inspection and copying under this subsection and does not
259 otherwise excuse or exonerate the custodian of public records
260 from any unauthorized or unlawful disposition of such record.

261 (2) (a) As an additional means of inspecting or copying
262 public records, a custodian of public records may provide access
263 to public records by remote electronic means, provided exempt or
264 confidential information is not disclosed.

265 (b) The custodian of public records shall provide
266 safeguards to protect the contents of public records from
267 unauthorized remote electronic access or alteration and to
268 prevent the disclosure or modification of those portions of
269 public records which are exempt or confidential from subsection
270 (1) or s. 24, Art. I of the State Constitution.

271 (c) Unless otherwise required by law, the custodian of
272 public records may charge a fee for remote electronic access,
273 granted under a contractual arrangement with a user, which fee
274 may include the direct and indirect costs of providing such



856682

275 access. Fees for remote electronic access provided to the
276 general public shall be in accordance with the provisions of
277 this section.

278 (3) (a) Any person shall have the right of access to public
279 records for the purpose of making photographs of the record
280 while such record is in the possession, custody, and control of
281 the custodian of public records.

282 (b) This subsection applies to the making of photographs in
283 the conventional sense by use of a camera device to capture
284 images of public records but excludes the duplication of
285 microfilm in the possession of the clerk of the circuit court
286 where a copy of the microfilm may be made available by the
287 clerk.

288 (c) Photographing public records shall be done under the
289 supervision of the custodian of public records, who may adopt
290 and enforce reasonable rules governing the photographing of such
291 records.

292 (d) Photographing of public records shall be done in the
293 room where the public records are kept. If, in the judgment of
294 the custodian of public records, this is impossible or
295 impracticable, photographing shall be done in another room or
296 place, as nearly adjacent as possible to the room where the
297 public records are kept, to be determined by the custodian of
298 public records. Where provision of another room or place for
299 photographing is required, the expense of providing the same
300 shall be paid by the person desiring to photograph the public
301 record pursuant to paragraph (4) (h) ~~(4) (e)~~.

302 (4) The custodian of public records shall furnish a copy or
303 a certified copy of the record upon payment of the fee



856682

304 prescribed by law. If a fee is not prescribed by law, the
305 following fees are authorized:

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

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

310 3. For all other copies, the actual cost of duplication of
311 the public record.

312

313 If the nature or volume of the public records requested to be
314 inspected or copied requires more than 30 minutes of agency
315 resources, the agency may charge an additional fee for such
316 resources incurred by the agency for the portion of a request
317 requiring more than 30 minutes.

318 (b)1. For a copy of a public record in any electronic
319 medium stored, maintained, or used by an agency, the actual cost
320 of duplication. However, if the nature or volume of the public
321 records requested to be copied requires more than 30 minutes,
322 the agency may charge an additional fee for such resources
323 incurred by the agency for the portion of a request requiring
324 more than 30 minutes.

325 2. If an agency has the software and hardware necessary to
326 convert the record into the electronic format requested as a
327 step in the process of copying or exporting the requested
328 record, the agency must provide the record in the format
329 requested and may charge a fee authorized by this subsection.

330 (c) The cost of clerical or supervisory assistance may be
331 no greater than the base hourly rate of the lowest paid
332 personnel capable of providing such clerical or supervisory



856682

333 assistance.

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

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

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

343 (g)1. An agency is not authorized to charge a fee for costs
344 associated with redaction of information from a public record
345 that the agency maintains is not subject to the requirements of
346 s. 119.07(1) because such information is not a public record as
347 defined in s. 119.003.

348 2. An agency is not authorized to charge a fee for costs
349 associated with redaction of exempt or confidential and exempt
350 information that is stored in an electronic recordkeeping system
351 that has been acquired or upgraded.

352 ~~(d) If the nature or volume of public records requested to~~
353 ~~be inspected or copied pursuant to this subsection is such as to~~
354 ~~require extensive use of information technology resources or~~
355 ~~extensive clerical or supervisory assistance by personnel of the~~
356 ~~agency involved, or both, the agency may charge, in addition to~~
357 ~~the actual cost of duplication, a special service charge, which~~
358 ~~shall be reasonable and shall be based on the cost incurred for~~
359 ~~such extensive use of information technology resources or the~~
360 ~~labor cost of the personnel providing the service that is~~
361 ~~actually incurred by the agency or attributable to the agency~~



856682

362 ~~for the clerical and supervisory assistance required, or both.~~

363 (h)~~(e)~~1. Where provision of another room or place is
364 necessary to photograph public records, the expense of providing
365 the same shall be paid by the person desiring to photograph the
366 public records.

367 2. The custodian of public records may charge the person
368 making the photographs for supervision services at a rate of
369 compensation to be agreed upon by the person desiring to make
370 the photographs and the custodian of public records. If they
371 fail to agree as to the appropriate charge, the charge shall be
372 determined by the custodian of public records.

373 (5) When ballots are produced under this section for
374 inspection or examination, no persons other than the supervisor
375 of elections or the supervisor's employees shall touch the
376 ballots. If the ballots are being examined before the end of the
377 contest period in s. 102.168, the supervisor of elections shall
378 make a reasonable effort to notify all candidates by telephone
379 or otherwise of the time and place of the inspection or
380 examination. All such candidates, or their representatives,
381 shall be allowed to be present during the inspection or
382 examination.

383 (6) An exemption contained in this chapter or in any other
384 general or special law shall not limit the access of the Auditor
385 General, the Office of Program Policy Analysis and Government
386 Accountability, or any state, county, municipal, university,
387 board of community college, school district, or special district
388 internal auditor to public records when such person states in
389 writing that such records are needed for a properly authorized
390 audit, examination, or investigation. Such person shall maintain



856682

391 the exempt or confidential status of that public record and
392 shall be subject to the same penalties as the custodian of that
393 record for public disclosure of such record.

394 (7) An exemption from this section does not imply an
395 exemption from s. 119.20 ~~s. 286.011~~. The exemption from s.
396 119.20 ~~s. 286.011~~ must be expressly provided.

397 (8) The provisions of this section are not intended to
398 expand or limit the provisions of Rule 3.220, Florida Rules of
399 Criminal Procedure, regarding the right and extent of discovery
400 by the state or by a defendant in a criminal prosecution or in
401 collateral postconviction proceedings. This section may not be
402 used by any inmate as the basis for failing to timely litigate
403 any postconviction action.

404 Section 6. Paragraph (a) of subsection (3) and paragraph
405 (a) of subsection (5) of section 119.071, Florida Statutes, are
406 amended to read:

407 119.071 General exemptions from inspection or copying of
408 public records.—

409 (3) SECURITY.—

410 ~~(a)1. As used in this paragraph, the term "security system~~
411 ~~plan" includes all:~~

412 ~~a. Records, information, photographs, audio and visual~~
413 ~~presentations, schematic diagrams, surveys, recommendations, or~~
414 ~~consultations or portions thereof relating directly to the~~
415 ~~physical security of the facility or revealing security systems;~~

416 ~~b. Threat assessments conducted by any agency or any~~
417 ~~private entity;~~

418 ~~c. Threat response plans;~~

419 ~~d. Emergency evacuation plans;~~



856682

420 ~~e. Sheltering arrangements; or~~

421 ~~f. Manuals for security personnel, emergency equipment, or~~
422 ~~security training.~~

423 (a)1.2. A security system plan or portion thereof for:

424 a. Any property owned by or leased to the state or any of
425 its political subdivisions; or

426 b. Any privately owned or leased property

427
428 held by an agency is confidential and exempt from s. 119.07(1)
429 and s. 24(a), Art. I of the State Constitution. This exemption
430 is remedial in nature, and it is the intent of the Legislature
431 that this exemption apply to security system plans held by an
432 agency before, on, or after the effective date of this
433 paragraph.

434 ~~2.3-~~ Information made confidential and exempt by this
435 paragraph may be disclosed by the custodian of public records
436 to:

437 a. The property owner or leaseholder; or

438 b. Another state or federal agency to prevent, detect,
439 guard against, respond to, investigate, or manage the
440 consequences of any attempted or actual act of terrorism, or to
441 prosecute those persons who are responsible for such attempts or
442 acts.

443 (5) OTHER PERSONAL INFORMATION.-

444 (a)1.a. The Legislature acknowledges that the social
445 security number was never intended to be used for business
446 purposes but was intended to be used solely for the
447 administration of the federal Social Security System. The
448 Legislature is further aware that over time this unique numeric



856682

449 identifier has been used extensively for identity verification
450 purposes and other legitimate consensual purposes.

451 b. The Legislature recognizes that the social security
452 number can be used as a tool to perpetuate fraud against an
453 individual and to acquire sensitive personal, financial,
454 medical, and familial information, the release of which could
455 cause great financial or personal harm to an individual.

456 c. The Legislature intends to monitor the use of social
457 security numbers held by agencies in order to maintain a
458 balanced public policy.

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

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

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

465 b. An agency shall identify in writing the specific federal
466 or state law governing the collection, use, or release of social
467 security numbers for each purpose for which the agency collects
468 the social security number, including any authorized exceptions
469 that apply to such collection, use, or release. Each agency
470 shall ensure that the collection, use, or release of social
471 security numbers complies with the specific applicable federal
472 or state law.

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

476 3. An agency collecting an individual's social security
477 number shall provide that individual with a copy of the written



856682

478 statement required in subparagraph 2. The written statement also
479 shall state whether collection of the individual's social
480 security number is authorized or mandatory under federal or
481 state law.

482 4. Each agency shall review whether its collection of
483 social security numbers is in compliance with subparagraph 2. If
484 the agency determines that collection of a social security
485 number is not in compliance with subparagraph 2., the agency
486 shall immediately discontinue the collection of social security
487 numbers for that purpose.

488 5. Social security numbers held by an agency are
489 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
490 of the State Constitution. This exemption applies to social
491 security numbers held by an agency before, on, or after the
492 effective date of this exemption. This exemption does not
493 supersede any federal law prohibiting the release of social
494 security numbers or any other applicable public records
495 exemption for social security numbers existing prior to May 13,
496 2002, or created thereafter.

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

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

501 b. The disclosure of the social security number is
502 necessary for the receiving agency or governmental entity to
503 perform its duties and responsibilities.

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

506 d. The disclosure of the social security number is made to



856682

507 comply with the USA Patriot Act of 2001, Pub. L. No. 107-56, or
508 Presidential Executive Order 13224.

509 e. The disclosure of the social security number is made to
510 a commercial entity for the permissible uses set forth in the
511 federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss.
512 2721 et seq.; the Fair Credit Reporting Act, 15 U.S.C. ss. 1681
513 et seq.; or the Financial Services Modernization Act of 1999, 15
514 U.S.C. ss. 6801 et seq., provided that the authorized commercial
515 entity complies with the requirements of this paragraph.

516 f. The disclosure of the social security number is for the
517 purpose of the administration of health benefits for an agency
518 employee or his or her dependents.

519 g. The disclosure of the social security number is for the
520 purpose of the administration of a pension fund administered for
521 the agency employee's retirement fund, deferred compensation
522 plan, or defined contribution plan.

523 h. The disclosure of the social security number is for the
524 purpose of the administration of the Uniform Commercial Code by
525 the office of the Secretary of State.

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

527 ~~(I) "Commercial activity" means the permissible uses set~~
528 ~~forth in the federal Driver's Privacy Protection Act of 1994, 18~~
529 ~~U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15~~
530 ~~U.S.C. ss. 1681 et seq.; or the Financial Services Modernization~~
531 ~~Act of 1999, 15 U.S.C. ss. 6801 et seq., or verification of the~~
532 ~~accuracy of personal information received by a commercial entity~~
533 ~~in the normal course of its business, including identification~~
534 ~~or prevention of fraud or matching, verifying, or retrieving~~
535 ~~information. It does not include the display or bulk sale of~~



856682

536 ~~social security numbers to the public or the distribution of~~
537 ~~such numbers to any customer that is not identifiable by the~~
538 ~~commercial entity.~~

539 ~~(II) "Commercial entity" means any corporation,~~
540 ~~partnership, limited partnership, proprietorship, sole~~
541 ~~proprietorship, firm, enterprise, franchise, or association that~~
542 ~~performs a commercial activity in this state.~~

543 a. ~~b.~~ An agency may not deny a commercial entity engaged in
544 the performance of a commercial activity access to social
545 security numbers, provided the social security numbers will be
546 used only in the performance of a commercial activity and
547 provided the commercial entity makes a written request for the
548 social security numbers. The written request must:

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

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

552 (III) Contain the commercial entity's name, business
553 mailing and location addresses, and business telephone number;
554 and

555 (IV) Contain a statement of the specific purposes for which
556 it needs the social security numbers and how the social security
557 numbers will be used in the performance of a commercial
558 activity, including the identification of any specific federal
559 or state law that permits such use.

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

564 8.a. Any person who makes a false representation in order



856682

565 to obtain a social security number pursuant to this paragraph,
566 or any person who willfully and knowingly violates this
567 paragraph, commits a felony of the third degree, punishable as
568 provided in s. 775.082 or s. 775.083.

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

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

574 Section 7. Section 119.13, Florida Statutes, is created to
575 read:

576 119.13 Model public access policy.—The Division of Library
577 and Information Services of the Department of State shall adopt
578 a rule to establish a model policy for providing public access
579 to public records in accordance with this part.

580 Section 8. Section 119.15, Florida Statutes, is amended to
581 read:

582 119.15 Legislative review of exemptions from public meeting
583 and public records requirements.—

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

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

590 (a) Is required by federal law; or

591 (b) Applies solely to the Legislature or the State Court
592 System.

593 (3) (a) In the 5th year after enactment of a new exemption



856682

594 or substantial amendment of an existing exemption, the exemption
595 shall be repealed on October 2nd of the 5th year, unless the
596 Legislature acts to reenact the exemption.

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

600 (4) (a) A law that enacts a new exemption or substantially
601 amends an existing exemption must state that the record or
602 meeting is:

- 603 1. Exempt from s. 24, Art. I of the State Constitution;
- 604 2. Exempt from s. 119.07(1) or s. 119.20 ~~s. 286.011~~; and
- 605 3. Repealed at the end of 5 years and that the exemption
606 must be reviewed by the Legislature before the scheduled repeal
607 date and every 10 years thereafter.

608 (b) For purposes of this section, an exemption is
609 substantially amended if the amendment expands the scope of the
610 exemption to include more records or information or to include
611 meetings as well as records. An exemption is not substantially
612 amended if the amendment narrows the scope of the exemption.

613 (c) This section is not intended to repeal an exemption
614 that has been amended following legislative review before the
615 scheduled repeal of the exemption if the exemption is not
616 substantially amended as a result of the review.

617 (5) (a) By June 1 in the year before the repeal of an
618 exemption under this section, the Division of Statutory Revision
619 of the Office of Legislative Services shall certify to the
620 President of the Senate and the Speaker of the House of
621 Representatives the language and statutory citation of each
622 exemption scheduled for repeal the following year.



856682

623 (b) Any exemption that is not identified and certified to
624 the President of the Senate and the Speaker of the House of
625 Representatives is not subject to legislative review and repeal
626 under this section. If the division fails to certify an
627 exemption that it subsequently determines should have been
628 certified, it shall include the exemption in the following
629 year's certification after that determination.

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

632 1. What specific records or meetings are affected by the
633 exemption?

634 2. Whom does the exemption uniquely affect, as opposed to
635 the general public?

636 3. What is the identifiable public purpose or goal of the
637 exemption?

638 4. Can the information contained in the records or
639 discussed in the meeting be readily obtained by alternative
640 means? If so, how?

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

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

644 (b) An exemption may be created, revised, or maintained
645 only if it serves an identifiable public purpose, and the
646 exemption may be no broader than is necessary to meet the public
647 purpose it serves. An identifiable public purpose is served if
648 the exemption meets one of the following purposes and the
649 Legislature finds that the purpose is sufficiently compelling to
650 override the strong public policy of open government and cannot
651 be accomplished without the exemption:



856682

652 1. Allows the state or its political subdivisions to
653 effectively and efficiently administer a governmental program,
654 which administration would be significantly impaired without the
655 exemption;

656 2. Protects information of a sensitive personal nature
657 concerning individuals, the release of which information would
658 be defamatory to such individuals or cause unwarranted damage to
659 the good name or reputation of such individuals or would
660 jeopardize the safety of such individuals. However, in
661 exemptions under this subparagraph, only information that would
662 identify the individuals may be exempted; or

663 3. Protects information of a confidential nature concerning
664 entities, including, but not limited to, a formula, pattern,
665 device, combination of devices, or compilation of information
666 which is used to protect or further a business advantage over
667 those who do not know or use it, the disclosure of which
668 information would injure the affected entity in the marketplace.

669 (7) Records made before the date of a repeal of an
670 exemption under this section may not be made public unless
671 otherwise provided by law. In deciding whether the records shall
672 be made public, the Legislature shall consider whether the
673 damage or loss to persons or entities uniquely affected by the
674 exemption of the type specified in subparagraph (6) (b) 2. or
675 subparagraph (6) (b) 3. would occur if the records were made
676 public.

677 (8) Notwithstanding s. 768.28 or any other law, neither the
678 state or its political subdivisions nor any other public body
679 shall be made party to any suit in any court or incur any
680 liability for the repeal or revival and reenactment of an



856682

681 exemption under this section. The failure of the Legislature to
682 comply strictly with this section does not invalidate an
683 otherwise valid reenactment.

684 Section 9. Section 119.20, Florida Statutes, is created to
685 read:

686 119.20 Public meetings and records; access to public
687 meetings.-

688 (1) All meetings of any board or commission of any state
689 agency or authority or of any agency or authority of any county,
690 municipal corporation, or political subdivision, except as
691 otherwise provided in the State Constitution, at which official
692 acts are to be taken are declared to be public meetings open to
693 the public at all times, and no resolution, rule, or formal
694 action shall be considered binding except as taken or made at
695 such meeting. The board or commission must provide reasonable
696 notice of all such meetings.

697 (2) The minutes of a meeting of any such board or
698 commission of any such state agency or authority shall be
699 promptly recorded, and such records shall be open to public
700 inspection.

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

706 Section 10. Section 119.201, Florida Statutes, is created
707 to read:

708 119.201 General exemptions from public meetings.-

709 (1) Any board or commission of any state agency or



856682

710 authority or any agency or authority of any county, municipal
711 corporation, or political subdivision, and the chief
712 administrative or executive officer of the governmental entity,
713 may meet in private with the entity's attorney to discuss
714 pending litigation to which the entity is presently a party
715 before a court or administrative agency if the following
716 conditions are met:

717 (a) The entity's attorney shall advise the entity at a
718 public meeting that he or she desires advice concerning the
719 litigation.

720 (b) The subject matter of the meeting shall be confined to
721 settlement negotiations or strategy sessions related to
722 litigation expenditures.

723 (c) The entire session shall be recorded by a certified
724 court reporter. The reporter shall record the times of
725 commencement and termination of the session, all discussion and
726 proceedings, the names of all persons present at any time, and
727 the names of all persons speaking. No portion of the session
728 shall be off the record. The court reporter's notes shall be
729 fully transcribed and filed with the entity's clerk within a
730 reasonable time after the meeting.

731 (d) The entity shall give reasonable public notice of the
732 time and date of the attorney-client session and the names of
733 persons who will be attending the session. The session shall
734 commence at an open meeting at which the persons chairing the
735 meeting shall announce the commencement and estimated length of
736 the attorney-client session and the names of the persons
737 attending. At the conclusion of the attorney-client session, the
738 meeting shall be reopened, and the person chairing the meeting



856682

739 shall announce the termination of the session.

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

742 (2) That portion of a meeting that would reveal a security
743 system plan or portion thereof made confidential and exempt by
744 s. 119.071(3) (a) is exempt from s. 119.20 and s. 24(b), Art. I
745 of the State Constitution.

746 (3) (a) A meeting at which a negotiation with a vendor is
747 conducted pursuant to s. 287.057(3) is exempt from s. 119.20 and
748 s. 24(b), Art. I of the State Constitution.

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

752 2. The recording required under subparagraph 1. is exempt
753 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
754 until such time as the agency provides notice of a decision or
755 intended decision pursuant to s. 120.57(3) (a) or until 20 days
756 after the final competitive sealed replies are all opened,
757 whichever occurs earlier.

758 3. If the agency rejects all sealed replies, the recording
759 remains exempt from s. 119.07(1) and s. 24(a), Art. I of the
760 State Constitution until such time as the agency provides notice
761 of a decision or intended decision pursuant to s. 120.57(3) (a)
762 concerning the reissued invitation to negotiate or until the
763 agency withdraws the reissued invitation to negotiate. A
764 recording is not exempt for longer than 12 months after the
765 initial agency notice rejecting all replies.

766 (c) This subsection is subject to the Open Government
767 Sunset Review Act in accordance with s. 119.15 and shall stand



856682

768 repealed on October 2, 2015, unless reviewed and saved from
769 repeal through reenactment by the Legislature.

770 Section 11. Section 119.202, Florida Statutes, is created
771 to read:

772 119.202 Voting requirement at meetings of governmental
773 bodies.—A member of any state, county, or municipal governmental
774 board, commission, or agency who is present at any meeting of
775 any such body at which an official decision, ruling, or other
776 official act is to be taken or adopted may not abstain from
777 voting in regard to any such decision, ruling, or act; and a
778 vote shall be recorded or counted for each such member present,
779 except when, with respect to any such member, there is, or
780 appears to be, a possible conflict of interest under the
781 provisions of s. 112.311, s. 112.313, or s. 112.3143. In such
782 case, the member shall comply with the disclosure requirements
783 of s. 112.3143.

784 Section 12. Section 119.30, Florida Statutes, is created to
785 read:

786 119.30 Violation of chapter; penalties.—

787 (1) A violation of any law that relates to access to public
788 records or meetings shall be considered a violation of this
789 chapter.

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

793 (3) A person who willfully and knowingly violates any of
794 the provisions of this chapter commits a misdemeanor of the
795 first degree, punishable as provided in s. 775.082 or s.
796 775.083.



856682

797 (4) Conduct that occurs outside the state and that would
798 constitute a knowing violation of this chapter is a misdemeanor
799 of the first degree, punishable as provided in s. 775.082 or s.
800 775.083.

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

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

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

806 (c) Exhibited a pattern of abuse of the requirements of
807 this chapter,

808
809 the court may assess a penalty against the agency equal to twice
810 the amount awarded pursuant to this section.

811 Section 13. Section 119.31, Florida Statutes, is created to
812 read:

813 119.31 Injunctions.—The circuit courts of this state have
814 jurisdiction to issue injunctions to enforce this chapter upon
815 application by any person.

816 Section 14. Section 119.32, Florida Statutes, is created to
817 read:

818 119.32 Attorney's fees.—

819 (1) If an action is filed against an agency to enforce the
820 provisions of this chapter or any other law that relates to
821 access to public records or meetings, including those laws that
822 limit public access to such records or meetings, and if the
823 court determines that the agency unlawfully refused to permit a
824 public record to be inspected or copied, or otherwise acted in
825 violation of this chapter, the court shall assess and award



856682

826 against the agency responsible the reasonable costs of
827 enforcement, including reasonable attorney's fees at trial and
828 on appeal.

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

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

836 Section 15. Section 119.011, Florida Statutes, is repealed.

837 Section 16. Section 119.10, Florida Statutes, is repealed.

838 Section 17. Section 119.12, Florida Statutes, is repealed.

839 Section 18. Section 286.011, Florida Statutes, is repealed.

840 Section 19. Section 286.0113, Florida Statutes, is
841 repealed.

842 Section 20. Section 286.012, Florida Statutes, is repealed.

843 Section 21. For the purpose of incorporating the amendment
844 made by this act to section 119.07, Florida Statutes, in a
845 reference thereto, subsection (2) of section 27.02, Florida
846 Statutes, is reenacted to read:

847 27.02 Duties before court.—

848 (2) The state attorney, when complying with the discovery
849 obligation pursuant to the applicable rule of procedure, may
850 charge the defendant fees as provided for in s. 119.07(4), not
851 to exceed 15 cents per page for a copy of a noncertified copy of
852 a public record. However, these fees may be deferred if the
853 defendant has been determined to be indigent as provided in s.
854 27.52.



856682

855 Section 22. For the purpose of incorporating the amendment
856 made by this act to section 119.07, Florida Statutes, in a
857 reference thereto, paragraph (f) of subsection (2) of section
858 119.01, Florida Statutes, is reenacted to read:

859 119.01 General state policy on public records.—

860 (2)

861 (f) Each agency that maintains a public record in an
862 electronic recordkeeping system shall provide to any person,
863 pursuant to this chapter, a copy of any public record in that
864 system which is not exempted by law from public disclosure. An
865 agency must provide a copy of the record in the medium requested
866 if the agency maintains the record in that medium, and the
867 agency may charge a fee in accordance with this chapter. For the
868 purpose of satisfying a public records request, the fee to be
869 charged by an agency if it elects to provide a copy of a public
870 record in a medium not routinely used by the agency, or if it
871 elects to compile information not routinely developed or
872 maintained by the agency or that requires a substantial amount
873 of manipulation or programming, must be in accordance with s.
874 119.07(4).

875 Section 23. For the purpose of incorporating the amendment
876 made by this act to section 119.07, Florida Statutes, in a
877 reference thereto, paragraph (d) of subsection (1) of section
878 119.0712, Florida Statutes, is reenacted to read:

879 119.0712 Executive branch agency-specific exemptions from
880 inspection or copying of public records.—

881 (1) DEPARTMENT OF HEALTH.—All personal identifying
882 information contained in records relating to an individual's
883 personal health or eligibility for health-related services held



856682

884 by the Department of Health is confidential and exempt from s.
885 119.07(1) and s. 24(a), Art. I of the State Constitution, except
886 as otherwise provided in this subsection. Information made
887 confidential and exempt by this subsection shall be disclosed:

888 (d) To a health research entity, if the entity seeks the
889 records or data pursuant to a research protocol approved by the
890 department, maintains the records or data in accordance with the
891 approved protocol, and enters into a purchase and data-use
892 agreement with the department, the fee provisions of which are
893 consistent with s. 119.07(4). The department may deny a request
894 for records or data if the protocol provides for intrusive
895 follow-back contacts, has not been approved by a human studies
896 institutional review board, does not plan for the destruction of
897 confidential records after the research is concluded, is
898 administratively burdensome, or does not have scientific merit.
899 The agreement must restrict the release of any information that
900 would permit the identification of persons, limit the use of
901 records or data to the approved research protocol, and prohibit
902 any other use of the records or data. Copies of records or data
903 issued pursuant to this paragraph remain the property of the
904 department.

905 Section 24. For the purpose of incorporating the amendment
906 made by this act to section 119.07, Florida Statutes, in a
907 reference thereto, paragraph (a) of subsection (2) of section
908 119.084, Florida Statutes, is reenacted to read:

909 119.084 Copyright of data processing software created by
910 governmental agencies; sale price and licensing fee.—

911 (2) An agency is authorized to acquire and hold a copyright
912 for data processing software created by the agency and to



856682

913 enforce its rights pertaining to such copyright, provided that
914 the agency complies with the requirements of this subsection.

915 (a) An agency that has acquired a copyright for data
916 processing software created by the agency may sell or license
917 the copyrighted data processing software to any public agency or
918 private person. The agency may establish a price for the sale
919 and a licensing fee for the use of such data processing software
920 that may be based on market considerations. However, the prices
921 or fees for the sale or licensing of copyrighted data processing
922 software to an individual or entity solely for application to
923 information maintained or generated by the agency that created
924 the copyrighted data processing software shall be determined
925 pursuant to s. 119.07(4).

926 Section 25. For the purpose of incorporating the amendment
927 made by this act to section 119.07, Florida Statutes, in a
928 reference thereto, subsection (6) of section 455.219, Florida
929 Statutes, is reenacted to read:

930 455.219 Fees; receipts; disposition; periodic management
931 reports.—

932 (6) The department or the appropriate board shall charge a fee
933 not to exceed \$25 for the certification of a public record. The
934 fee shall be determined by rule of the department. The
935 department or the appropriate board shall assess a fee for
936 duplication of a public record as provided in s. 119.07(4).

937 Section 26. For the purpose of incorporating the amendment
938 made by this act to section 119.07, Florida Statutes, in a
939 reference thereto, subsection (11) of section 456.025, Florida
940 Statutes, is reenacted to read:

941 456.025 Fees; receipts; disposition.—



856682

942 (11) The department or the appropriate board shall charge a
943 fee not to exceed \$25 for the certification of a public record.
944 The fee shall be determined by rule of the department. The
945 department or the appropriate board shall assess a fee for
946 duplicating a public record as provided in s. 119.07(4).

947 Section 27. For the purpose of incorporating the amendment
948 made by this act to section 119.07, Florida Statutes, in a
949 reference thereto, paragraph (c) of subsection (1) of section
950 458.3193, Florida Statutes, is reenacted to read:

951 458.3193 Confidentiality of certain information contained
952 in physician workforce surveys.-

953 (1) All personal identifying information contained in
954 records provided by physicians licensed under this chapter or
955 chapter 459 in response to physician workforce surveys required
956 as a condition of license renewal and held by the Department of
957 Health is confidential and exempt from s. 119.07(1) and s.
958 24(a), Art. I of the State Constitution, except as otherwise
959 provided in this subsection. Information made confidential and
960 exempt by this subsection shall be disclosed:

961 (c) To a research entity, if the entity seeks the records
962 or data pursuant to a research protocol approved by the
963 Department of Health, maintains the records or data in
964 accordance with the approved protocol, and enters into a
965 purchase and data-use agreement with the department, the fee
966 provisions of which are consistent with s. 119.07(4). The
967 department may deny a request for records or data if the
968 protocol provides for intrusive follow-back contacts, does not
969 plan for the destruction of confidential records after the
970 research is concluded, is administratively burdensome, or does



856682

971 not have scientific merit. The agreement must restrict the
972 release of information that would identify individuals, must
973 limit the use of records or data to the approved research
974 protocol, and must prohibit any other use of the records or
975 data. Copies of records or data issued pursuant to this
976 paragraph remain the property of the department.

977 Section 28. For the purpose of incorporating the amendment
978 made by this act to section 119.07, Florida Statutes, in a
979 reference thereto, paragraph (c) of subsection (1) of section
980 459.0083, Florida Statutes, is reenacted to read:

981 459.0083 Confidentiality of certain information contained
982 in physician workforce surveys.-

983 (1) All personal identifying information contained in
984 records provided by physicians licensed under chapter 458 or
985 this chapter in response to physician workforce surveys required
986 as a condition of license renewal and held by the Department of
987 Health is confidential and exempt from s. 119.07(1) and s.
988 24(a), Art. I of the State Constitution, except as otherwise
989 provided in this subsection. Information made confidential and
990 exempt by this subsection shall be disclosed:

991 (c) To a research entity, if the entity seeks the records
992 or data pursuant to a research protocol approved by the
993 Department of Health, maintains the records or data in
994 accordance with the approved protocol, and enters into a
995 purchase and data-use agreement with the department, the fee
996 provisions of which are consistent with s. 119.07(4). The
997 department may deny a request for records or data if the
998 protocol provides for intrusive follow-back contacts, does not
999 plan for the destruction of confidential records after the



856682

1000 research is concluded, is administratively burdensome, or does
1001 not have scientific merit. The agreement must restrict the
1002 release of information that would identify individuals, must
1003 limit the use of records or data to the approved research
1004 protocol, and must prohibit any other use of the records or
1005 data. Copies of records or data issued pursuant to this
1006 paragraph remain the property of the department.

1007 Section 29. For the purpose of incorporating the amendment
1008 made by this act to section 119.07, Florida Statutes, in a
1009 reference thereto, subsection (16) of section 472.011, Florida
1010 Statutes, is reenacted to read:

1011 472.011 Fees.—

1012 (16) The department or the board shall charge a fee not to
1013 exceed \$25 for the certification of a public record. The fee
1014 shall be determined by rule of the department. The department or
1015 the appropriate board shall assess a fee for duplication of a
1016 public record as provided in s. 119.07(4).

1017 Section 30. For the purpose of incorporating the amendment
1018 made by this act to section 119.07, Florida Statutes, in a
1019 reference thereto, paragraph (e) of subsection (2) of section
1020 1012.31, Florida Statutes, is reenacted to read:

1021 1012.31 Personnel files.—Public school system employee
1022 personnel files shall be maintained according to the following
1023 provisions:

1024 (2)

1025 (e) Upon request, an employee, or any person designated in
1026 writing by the employee, shall be permitted to examine the
1027 personnel file of such employee. The employee shall be permitted
1028 conveniently to reproduce any materials in the file, at a cost



856682

1029 no greater than the fees prescribed in s. 119.07(4).

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, subsection (5) of section 17.076, Florida
1033 Statutes, is reenacted to read

1034 17.076 Direct deposit of funds.—

1035 (5) All direct deposit records made prior to October 1,
1036 1986, are exempt from the provisions of s. 119.07(1). With
1037 respect to direct deposit records made on or after October 1,
1038 1986, the names of the authorized financial institutions and the
1039 account numbers of the beneficiaries are confidential and exempt
1040 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the
1041 State Constitution. Notwithstanding this exemption and the
1042 provisions of s. 119.071(5)(b), the department may provide a
1043 state university, upon request, with that university's employee
1044 or vendor direct deposit authorization information on file with
1045 the department in order to accommodate the transition to the
1046 university accounting system. The state university shall
1047 maintain the confidentiality of all such information provided by
1048 the department.

1049 Section 32. For the purpose of incorporating the amendment
1050 made by this act to section 119.071, Florida Statutes, in a
1051 reference thereto, section 119.0714, Florida Statutes, is
1052 reenacted to read:

1053 (1) COURT FILES.—Nothing in this chapter shall be construed
1054 to exempt from s. 119.07(1) a public record that was made a part
1055 of a court file and that is not specifically closed by order of
1056 court, except:

1057 (a) A public record that was prepared by an agency attorney



856682

1058 or prepared at the attorney's express direction as provided in
1059 s. 119.071(1) (d).

1060 (b) Data processing software as provided in s.
1061 119.071(1) (f).

1062 (c) Any information revealing surveillance techniques or
1063 procedures or personnel as provided in s. 119.071(2) (d).

1064 (d) Any comprehensive inventory of state and local law
1065 enforcement resources, and any comprehensive policies or plans
1066 compiled by a criminal justice agency, as provided in s.
1067 119.071(2) (d).

1068 (e) Any information revealing the substance of a confession
1069 of a person arrested as provided in s. 119.071(2) (e).

1070 (f) Any information revealing the identity of a
1071 confidential informant or confidential source as provided in s.
1072 119.071(2) (f).

1073 (g) Any information revealing undercover personnel of any
1074 criminal justice agency as provided in s. 119.071(4) (c).

1075 (h) Criminal intelligence information or criminal
1076 investigative information that is confidential and exempt as
1077 provided in s. 119.071(2) (h).

1078 (i) Social security numbers as provided in s.
1079 119.071(5) (a).

1080 (j) Bank account numbers and debit, charge, and credit card
1081 numbers as provided in s. 119.071(5) (b).

1082 (2) COURT RECORDS.—

1083 (a) Until January 1, 2011, if a social security number or a
1084 bank account, debit, charge, or credit card number is included
1085 in a court file, such number may be included as part of the
1086 court record available for public inspection and copying unless



856682

1087 redaction is requested by the holder of such number or by the
1088 holder's attorney or legal guardian.

1089 (b) A request for redaction must be a signed, legibly
1090 written request specifying the case name, case number, document
1091 heading, and page number. The request must be delivered by mail,
1092 facsimile, electronic transmission, or in person to the clerk of
1093 the court. The clerk of the court does not have a duty to
1094 inquire beyond the written request to verify the identity of a
1095 person requesting redaction.

1096 (c) A fee may not be charged for the redaction of a social
1097 security number or a bank account, debit, charge, or credit card
1098 number pursuant to such request.

1099 (d) The clerk of the court has no liability for the
1100 inadvertent release of social security numbers, or bank account,
1101 debit, charge, or credit card numbers, unknown to the clerk of
1102 the court in court records filed on or before January 1, 2011.

1103 (e)1. On January 1, 2011, and thereafter, the clerk of the
1104 court must keep social security numbers confidential and exempt
1105 as provided for in s. 119.071(5)(a), and bank account, debit,
1106 charge, and credit card numbers exempt as provided for in s.
1107 119.071(5)(b), without any person having to request redaction.

1108 2. Section 119.071(5)(a)7. and 8. does not apply to the
1109 clerks of the court with respect to court records.

1110 (3) OFFICIAL RECORDS.—

1111 (a) Any person who prepares or files a record for recording
1112 in the official records as provided in chapter 28 may not
1113 include in that record a social security number or a bank
1114 account, debit, charge, or credit card number unless otherwise
1115 expressly required by law.



856682

1116 (b)1. If a social security number or a bank account, debit,
1117 charge, or credit card number is included in an official record,
1118 such number may be made available as part of the official
1119 records available for public inspection and copying unless
1120 redaction is requested by the holder of such number or by the
1121 holder's attorney or legal guardian.

1122 2. If such record is in electronic format, on January 1,
1123 2011, and thereafter, the county recorder must use his or her
1124 best effort, as provided in paragraph (h), to keep social
1125 security numbers confidential and exempt as provided for in s.
1126 119.071(5)(a), and to keep complete bank account, debit, charge,
1127 and credit card numbers exempt as provided for in s.
1128 119.071(5)(b), without any person having to request redaction.

1129 3. Section 119.071(5)(a)7. and 8. does not apply to the
1130 county recorder with respect to official records.

1131 (c) The holder of a social security number or a bank
1132 account, debit, charge, or credit card number, or the holder's
1133 attorney or legal guardian, may request that a county recorder
1134 redact from an image or copy of an official record placed on a
1135 county recorder's publicly available Internet website or on a
1136 publicly available Internet website used by a county recorder to
1137 display public records, or otherwise made electronically
1138 available to the public, his or her social security number or
1139 bank account, debit, charge, or credit card number contained in
1140 that official record.

1141 (d) A request for redaction must be a signed, legibly
1142 written request and must be delivered by mail, facsimile,
1143 electronic transmission, or in person to the county recorder.
1144 The request must specify the identification page number of the



856682

1145 record that contains the number to be redacted.

1146 (e) The county recorder does not have a duty to inquire
1147 beyond the written request to verify the identity of a person
1148 requesting redaction.

1149 (f) A fee may not be charged for redacting a social
1150 security number or a bank account, debit, charge, or credit card
1151 number.

1152 (g) A county recorder shall immediately and conspicuously
1153 post signs throughout his or her offices for public viewing, and
1154 shall immediately and conspicuously post on any Internet website
1155 or remote electronic site made available by the county recorder
1156 and used for the ordering or display of official records or
1157 images or copies of official records, a notice stating, in
1158 substantially similar form, the following:

1159 1. On or after October 1, 2002, any person preparing or
1160 filing a record for recordation in the official records may not
1161 include a social security number or a bank account, debit,
1162 charge, or credit card number in such document unless required
1163 by law.

1164 2. Any person has a right to request a county recorder to
1165 remove from an image or copy of an official record placed on a
1166 county recorder's publicly available Internet website or on a
1167 publicly available Internet website used by a county recorder to
1168 display public records, or otherwise made electronically
1169 available to the general public, any social security number
1170 contained in an official record. Such request must be made in
1171 writing and delivered by mail, facsimile, or electronic
1172 transmission, or delivered in person, to the county recorder.
1173 The request must specify the identification page number that



856682

1174 contains the social security number to be redacted. A fee may
1175 not be charged for the redaction of a social security number
1176 pursuant to such a request.

1177 (h) If the county recorder accepts or stores official
1178 records in an electronic format, the county recorder must use
1179 his or her best efforts to redact all social security numbers
1180 and bank account, debit, charge, or credit card numbers from
1181 electronic copies of the official record. The use of an
1182 automated program for redaction shall be deemed to be the best
1183 effort in performing the redaction and shall be deemed in
1184 compliance with the requirements of this subsection.

1185 (i) The county recorder is not liable for the inadvertent
1186 release of social security numbers, or bank account, debit,
1187 charge, or credit card numbers, filed with the county recorder.

1188 Section 33. For the purpose of incorporating the amendment
1189 made by this act to section 119.071, Florida Statutes, in a
1190 reference thereto, paragraph (b) of subsection (8) of section
1191 1007.35, Florida Statutes, is reenacted to read:

1192 1007.35 Florida Partnership for Minority and
1193 Underrepresented Student Achievement.—

1194 (8)

1195 (b) The department shall contribute to the evaluation
1196 process by providing access, consistent with s. 119.071(5)(a),
1197 to student and teacher information necessary to match against
1198 databases containing teacher professional development data and
1199 databases containing assessment data for the PSAT/NMSQT, SAT,
1200 AP, and other appropriate measures. The department shall also
1201 provide student-level data on student progress from middle
1202 school through high school and into college and the workforce,



856682

1203 if available, in order to support longitudinal studies. The
1204 partnership shall analyze and report student performance data in
1205 a manner that protects the rights of students and parents as
1206 required in 20 U.S.C. s. 1232g and s. 1002.22.

1207 Section 34. Paragraph (a) of subsection (2) of section
1208 11.0431, Florida Statutes, is amended to read:

1209 11.0431 Legislative records; intent of legislation;
1210 exemption from public disclosure.—

1211 (2) The following public records are exempt from inspection
1212 and copying:

1213 (a) Records, or information contained therein, held by the
1214 legislative branch of government which, if held by an agency as
1215 defined in s. 119.003 ~~s. 119.011~~, or any other unit of
1216 government, would be confidential or exempt from the provisions
1217 of s. 119.07(1), or otherwise exempt from public disclosure, and
1218 records or information of the same type held by the Legislature.

1219 Section 35. Subsection (2) of section 28.001, Florida
1220 Statutes, is amended to read:

1221 28.001 Definitions.—As used in this chapter:

1222 (2) "Public records" has the same meaning as in s. 119.003
1223 ~~s. 119.011~~ and includes each official record.

1224 Section 36. Paragraph (e) of subsection (12) of section
1225 28.24, Florida Statutes, is amended to read:

1226 28.24 Service charges by clerk of the circuit court.—The
1227 clerk of the circuit court shall charge for services rendered by
1228 the clerk's office in recording documents and instruments and in
1229 performing the duties enumerated in amounts not to exceed those
1230 specified in this section. Notwithstanding any other provision
1231 of this section, the clerk of the circuit court shall provide



856682

1232 without charge to the state attorney, public defender, guardian
1233 ad litem, public guardian, attorney ad litem, criminal conflict
1234 and civil regional counsel, and private court-appointed counsel
1235 paid by the state, and to the authorized staff acting on behalf
1236 of each, access to and a copy of any public record, if the
1237 requesting party is entitled by law to view the exempt or
1238 confidential record, as maintained by and in the custody of the
1239 clerk of the circuit court as provided in general law and the
1240 Florida Rules of Judicial Administration. The clerk of the
1241 circuit court may provide the requested public record in an
1242 electronic format in lieu of a paper format when capable of
1243 being accessed by the requesting entity.

1244
1245 Charges

1246
1247 (12) For recording, indexing, and filing any instrument not
1248 more than 14 inches by 8 1/2 inches, including required notice
1249 to property appraiser where applicable:

1250 (e) An additional service charge of \$4 per page shall be
1251 paid to the clerk of the circuit court for each instrument
1252 listed in s. 28.222, except judgments received from the courts
1253 and notices of lis pendens, recorded in the official records.
1254 From the additional \$4 service charge collected:

1255 1. If the counties maintain legal responsibility for the
1256 costs of the court-related technology needs as defined in s.
1257 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
1258 Florida Association of Court Clerks and Comptroller, Inc., for
1259 the cost of development, implementation, operation, and
1260 maintenance of the clerks' Comprehensive Case Information



856682

1261 System, in which system all clerks shall participate on or
1262 before January 1, 2006; \$1.90 shall be retained by the clerk to
1263 be deposited in the Public Records Modernization Trust Fund and
1264 used exclusively for funding court-related technology needs of
1265 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall
1266 be distributed to the board of county commissioners to be used
1267 exclusively to fund court-related technology, and court
1268 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
1269 state trial courts, state attorney, public defender, and
1270 criminal conflict and civil regional counsel in that county. If
1271 the counties maintain legal responsibility for the costs of the
1272 court-related technology needs as defined in s. 29.008(1)(f)2.
1273 and (h), notwithstanding any other provision of law, the county
1274 is not required to provide additional funding beyond that
1275 provided herein for the court-related technology needs of the
1276 clerk as defined in s. 29.008(1)(f)2. and (h). All court records
1277 and official records are the property of the State of Florida,
1278 including any records generated as part of the Comprehensive
1279 Case Information System funded pursuant to this paragraph and
1280 the clerk of court is designated as the custodian of such
1281 records, except in a county where the duty of maintaining
1282 official records exists in a county office other than the clerk
1283 of court or comptroller, such county office is designated the
1284 custodian of all official records, and the clerk of court is
1285 designated the custodian of all court records. The clerk of
1286 court or any entity acting on behalf of the clerk of court,
1287 including an association, shall not charge a fee to any agency
1288 as defined in s. 119.003 ~~s. 119.011~~, the Legislature, or the
1289 State Court System for copies of records generated by the



856682

1290 Comprehensive Case Information System or held by the clerk of
1291 court or any entity acting on behalf of the clerk of court,
1292 including an association.

1293 2. If the state becomes legally responsible for the costs of
1294 court-related technology needs as defined in s. 29.008(1)(f)2.
1295 and (h), whether by operation of general law or by court order,
1296 \$4 shall be remitted to the Department of Revenue for deposit
1297 into the General Revenue Fund.

1298 Section 37. Subsection (2) of section 73.0155, Florida
1299 Statutes, is amended to read:

1300 73.0155 Confidentiality; business information provided to a
1301 governmental condemning authority.—

1302 (2) An agency as defined in s. 119.003 ~~s. 119.011~~ may
1303 inspect and copy the confidential and exempt business
1304 information exclusively for the transaction of official business
1305 by, or on behalf of, an agency.

1306 Section 38. Subsection (1) of section 97.0585, Florida
1307 Statutes, is amended to read:

1308 97.0585 Public records exemption; information regarding
1309 voters and voter registration; confidentiality.—

1310 (1) The following information concerning voters and voter
1311 registration held by an agency as defined in s. 119.003 ~~s.~~
1312 ~~119.011~~ is confidential and exempt from s. 119.07(1) and s.
1313 24(a), Art. I of the State Constitution and may be used only for
1314 purposes of voter registration:

1315 (a) All declinations to register to vote made pursuant to
1316 ss. 97.057 and 97.058.

1317 (b) Information relating to the place where a person
1318 registered to vote or where a person updated a voter



856682

1319 registration.

1320 (c) The social security number, driver's license number,
1321 and Florida identification number of a voter registration
1322 applicant or voter.

1323 Section 39. Paragraph (c) of subsection (2) of section
1324 112.3188, Florida Statutes, is amended to read:

1325 112.3188 Confidentiality of information given to the Chief
1326 Inspector General, internal auditors, inspectors general, local
1327 chief executive officers, or other appropriate local officials.—

1328 (2)

1329 (c) Information deemed confidential under this section may
1330 be disclosed by the Chief Inspector General, agency inspector
1331 general, local chief executive officer, or other appropriate
1332 local official receiving the information if the recipient
1333 determines that the disclosure of the information is absolutely
1334 necessary to prevent a substantial and specific danger to the
1335 public's health, safety, or welfare or to prevent the imminent
1336 commission of a crime. Information disclosed under this
1337 subsection may be disclosed only to persons who are in a
1338 position to prevent the danger to the public's health, safety,
1339 or welfare or to prevent the imminent commission of a crime
1340 based on the disclosed information.

1341 1. An investigation is active under this section if:

1342 a. It is an ongoing investigation or inquiry or collection
1343 of information and evidence and is continuing with a reasonable,
1344 good faith anticipation of resolution in the foreseeable future;
1345 or

1346 b. All or a portion of the matters under investigation or
1347 inquiry are active criminal intelligence information or active



856682

1348 criminal investigative information as defined in s. 119.003 ~~s.~~
1349 ~~119.011~~.

1350 2. Notwithstanding sub-subparagraph 1.a., an investigation
1351 ceases to be active when:

1352 a. The written report required under s. 112.3189(9) has
1353 been sent by the Chief Inspector General to the recipients named
1354 in s. 112.3189(9);

1355 b. It is determined that an investigation is not necessary
1356 under s. 112.3189(5); or

1357 c. A final decision has been rendered by the local
1358 government or by the Division of Administrative Hearings
1359 pursuant to s. 112.3187(8) (b).

1360 3. Notwithstanding paragraphs (a), (b), and this paragraph,
1361 information or records received or produced under this section
1362 which are otherwise confidential under law or exempt from
1363 disclosure under chapter 119 retain their confidentiality or
1364 exemption.

1365 4. Any person who willfully and knowingly discloses
1366 information or records made confidential under this subsection
1367 commits a misdemeanor of the first degree, punishable as
1368 provided in s. 775.082 or s. 775.083.

1369 Section 40. Section 163.61, Florida Statutes, is amended to
1370 read:

1371 163.61 "Agency" defined.—For the purposes of ss. 163.61-
1372 163.65, the word "agency" has the meaning ascribed in s. 119.003
1373 ~~s. 119.011~~.

1374 Section 41. Subsection (1) of section 257.34, Florida
1375 Statutes, is amended to read:

1376 257.34 Florida International Archive and Repository.—



856682

1377 (1) There is created within the Division of Library and
1378 Information Services of the Department of State the Florida
1379 International Archive and Repository for the preservation of
1380 those public records, as defined in s. 119.003 ~~s. 119.011~~,
1381 manuscripts, international judgments involving disputes between
1382 domestic and foreign businesses, and all other public matters
1383 that the department or the Florida Council of International
1384 Development deems relevant to international issues. It is the
1385 duty and responsibility of the division to:

1386 (a) Organize and administer the Florida International
1387 Archive and Repository.

1388 (b) Preserve and administer records that are transferred to
1389 its custody; accept, arrange, and preserve them, according to
1390 approved archival and repository practices; and permit them, at
1391 reasonable times and under the supervision of the division, to
1392 be inspected and copied. All public records transferred to the
1393 custody of the division are subject to the provisions of s.
1394 119.07(1).

1395 (c) Assist the records and information management program
1396 in the determination of retention values for records.

1397 (d) Cooperate with and assist, insofar as practicable,
1398 state institutions, departments, agencies, counties,
1399 municipalities, and individuals engaged in internationally
1400 related activities.

1401 (e) Provide a public research room where, under rules
1402 established by the division, the materials in the international
1403 archive and repository may be studied.

1404 (f) Conduct, promote, and encourage research in
1405 international trade, government, and culture and maintain a



856682

1406 program of information, assistance, coordination, and guidance
1407 for public officials, educational institutions, libraries, the
1408 scholarly community, and the general public engaged in such
1409 research.

1410 (g) Cooperate with and, insofar as practicable, assist
1411 agencies, libraries, institutions, and individuals in projects
1412 concerned with internationally related issues and preserve
1413 original materials relating to internationally related issues.

1414 (h) Assist and cooperate with the records and information
1415 management program in the training and information program
1416 described in s. 257.36(1) (g).

1417 Section 42. Subsection (1) of section 257.35, Florida
1418 Statutes, is amended to read:

1419 257.35 Florida State Archives.—

1420 (1) There is created within the Division of Library and
1421 Information Services of the Department of State the Florida
1422 State Archives for the preservation of those public records, as
1423 defined in s. 119.003(16) ~~s. 119.011(12)~~, manuscripts, and other
1424 archival material that have been determined by the division to
1425 have sufficient historical or other value to warrant their
1426 continued preservation and have been accepted by the division
1427 for deposit in its custody. It is the duty and responsibility of
1428 the division to:

1429 (a) Organize and administer the Florida State Archives.

1430 (b) Preserve and administer such records as shall be
1431 transferred to its custody; accept, arrange, and preserve them,
1432 according to approved archival practices; and permit them, at
1433 reasonable times and under the supervision of the division, to
1434 be inspected and copied.



856682

1435 (c) Assist the records and information management program
1436 in the determination of retention values for records.

1437 (d) Cooperate with and assist insofar as practicable state
1438 institutions, departments, agencies, counties, municipalities,
1439 and individuals engaged in activities in the field of state
1440 archives, manuscripts, and history and accept from any person
1441 any paper, book, record, or similar material which in the
1442 judgment of the division warrants preservation in the state
1443 archives.

1444 (e) Provide a public research room where, under rules
1445 established by the division, the materials in the state archives
1446 may be studied.

1447 (f) Conduct, promote, and encourage research in Florida
1448 history, government, and culture and maintain a program of
1449 information, assistance, coordination, and guidance for public
1450 officials, educational institutions, libraries, the scholarly
1451 community, and the general public engaged in such research.

1452 (g) Cooperate with and, insofar as practicable, assist
1453 agencies, libraries, institutions, and individuals in projects
1454 designed to preserve original source materials relating to
1455 Florida history, government, and culture and prepare and publish
1456 handbooks, guides, indexes, and other literature directed toward
1457 encouraging the preservation and use of the state's documentary
1458 resources.

1459 (h) Encourage and initiate efforts to preserve, collect,
1460 process, transcribe, index, and research the oral history of
1461 Florida government.

1462 (i) Assist and cooperate with the records and information
1463 management program in the training and information program



856682

1464 described in s. 257.36(1)(g).

1465 Section 43. Section 281.301, Florida Statutes, is amended
1466 to read:

1467 281.301 Security systems; records and meetings exempt from
1468 public access or disclosure.—Information relating to the
1469 security systems for any property owned by or leased to the
1470 state or any of its political subdivisions, and information
1471 relating to the security systems for any privately owned or
1472 leased property which is in the possession of any agency as
1473 defined in s. 119.003(2) ~~s. 119.011(2)~~, including all records,
1474 information, photographs, audio and visual presentations,
1475 schematic diagrams, surveys, recommendations, or consultations
1476 or portions thereof relating directly to or revealing such
1477 systems or information, and all meetings relating directly to or
1478 that would reveal such systems or information are confidential
1479 and exempt from ss. 119.07(1) and 119.20 ~~286.011~~ and other laws
1480 and rules requiring public access or disclosure.

1481 Section 44. Paragraph (a) of subsection (3) of section
1482 364.107, Florida Statutes, is amended to read:

1483 364.107 Public records exemption; Lifeline Assistance Plan
1484 participants.—

1485 (3)(a) An officer or employee of a telecommunications
1486 carrier shall not intentionally disclose information made
1487 confidential and exempt under subsection (1), except as:

- 1488 1. Authorized by the customer;
- 1489 2. Necessary for billing purposes;
- 1490 3. Required by subpoena, court order, or other process of
1491 court;
- 1492 4. Necessary to disclose to an agency as defined in s.



856682

1493 119.003 ~~s. 119.011~~ or a governmental entity for purposes
1494 directly connected with implementing service for, or verifying
1495 eligibility of, a participant in a Lifeline Assistance Plan or
1496 auditing a Lifeline Assistance Plan; or

1497 5. Otherwise authorized by law.

1498 Section 45. Paragraph (d) of subsection (2) and subsection
1499 (5) of section 382.0085, Florida Statutes, are amended to read:
1500 382.0085 Stillbirth registration.—

1501 (2) The person who is required to file a fetal death
1502 certificate under this chapter shall advise the parent of a
1503 stillborn child:

1504 (d) That a copy of the original certificate of birth
1505 resulting in stillbirth is a document that is available as a
1506 public record when held by an agency as defined under s.
1507 119.003(2) ~~s. 119.011(2)~~.

1508 (5) A certificate of birth resulting in stillbirth shall be
1509 a public record when held by an agency as defined under s.
1510 119.003(2) ~~s. 119.011(2)~~. The Office of Vital Statistics must
1511 inform any parent who requests a certificate of birth resulting
1512 in stillbirth that a copy of the document is available as a
1513 public record.

1514 Section 46. Subsection (9) of section 383.402, Florida
1515 Statutes, is amended to read:

1516 383.402 Child abuse death review; State Child Abuse Death
1517 Review Committee; local child abuse death review committees.—

1518 (9) The State Child Abuse Death Review Committee or a local
1519 committee shall have access to all information of a law
1520 enforcement agency which is not the subject of an active
1521 investigation and which pertains to the review of the death of a



856682

1522 child. A committee may not disclose any information that is not
1523 subject to public disclosure by the law enforcement agency, and
1524 active criminal intelligence information or criminal
1525 investigative information, as defined in s. 119.003(6) ~~s.~~
1526 ~~119.011(3)~~, may not be made available for review or access under
1527 this section.

1528 Section 47. Subsection (9) of section 550.0251, Florida
1529 Statutes, is amended to read:

1530 550.0251 The powers and duties of the Division of Pari-
1531 mutuel Wagering of the Department of Business and Professional
1532 Regulation.—The division shall administer this chapter and
1533 regulate the pari-mutuel industry under this chapter and the
1534 rules adopted pursuant thereto, and:

1535 (9) The division may conduct investigations in enforcing
1536 this chapter, except that all information obtained pursuant to
1537 an investigation by the division for an alleged violation of
1538 this chapter or rules of the division is exempt from s.
1539 119.07(1) and from s. 24(a), Art. I of the State Constitution
1540 until an administrative complaint is issued or the investigation
1541 is closed or ceases to be active. This subsection does not
1542 prohibit the division from providing such information to any law
1543 enforcement agency or to any other regulatory agency. For the
1544 purposes of this subsection, an investigation is considered to
1545 be active while it is being conducted with reasonable dispatch
1546 and with a reasonable, good faith belief that it could lead to
1547 an administrative, civil, or criminal action by the division or
1548 another administrative or law enforcement agency. Except for
1549 active criminal intelligence or criminal investigative
1550 information, as defined in s. 119.003 ~~s. 119.011~~, and any other



856682

1551 information that, if disclosed, would jeopardize the safety of
1552 an individual, all information, records, and transcriptions
1553 become public when the investigation is closed or ceases to be
1554 active.

1555 Section 48. Subsection (6) of section 607.0505, Florida
1556 Statutes, is amended to read:

1557 607.0505 Registered agent; duties.—

1558 (6) Information provided to, and records and transcriptions
1559 of testimony obtained by, the Department of Legal Affairs
1560 pursuant to this section are confidential and exempt from the
1561 provisions of s. 119.07(1) while the investigation is active.
1562 For purposes of this section, an investigation shall be
1563 considered "active" while such investigation is being conducted
1564 with a reasonable, good faith belief that it may lead to the
1565 filing of an administrative, civil, or criminal proceeding. An
1566 investigation does not cease to be active so long as the
1567 department is proceeding with reasonable dispatch and there is a
1568 good faith belief that action may be initiated by the department
1569 or other administrative or law enforcement agency. Except for
1570 active criminal intelligence or criminal investigative
1571 information, as defined in s. 119.003 ~~s. 119.011~~, and
1572 information which, if disclosed, would reveal a trade secret, as
1573 defined in s. 688.002, or would jeopardize the safety of an
1574 individual, all information, records, and transcriptions become
1575 public record when the investigation is completed or ceases to
1576 be active. The department shall not disclose confidential
1577 information, records, or transcriptions of testimony except
1578 pursuant to the authorization by the Attorney General in any of
1579 the following circumstances:



856682

1580 (a) To a law enforcement agency participating in or
1581 conducting a civil investigation under chapter 895, or
1582 participating in or conducting a criminal investigation.

1583 (b) In the course of filing, participating in, or
1584 conducting a judicial proceeding instituted pursuant to this
1585 section or chapter 895.

1586 (c) In the course of filing, participating in, or
1587 conducting a judicial proceeding to enforce an order or judgment
1588 entered pursuant to this section or chapter 895.

1589 (d) In the course of a criminal or civil proceeding.

1590

1591 A person or law enforcement agency which receives any
1592 information, record, or transcription of testimony that has been
1593 made confidential by this subsection shall maintain the
1594 confidentiality of such material and shall not disclose such
1595 information, record, or transcription of testimony except as
1596 provided for herein. Any person who willfully discloses any
1597 information, record, or transcription of testimony that has been
1598 made confidential by this subsection, except as provided for
1599 herein, is guilty of a misdemeanor of the first degree,
1600 punishable as provided in s. 775.082 or s. 775.083. If any
1601 information, record, or testimony obtained pursuant to
1602 subsection (2) is offered in evidence in any judicial
1603 proceeding, the court may, in its discretion, seal that portion
1604 of the record to further the policies of confidentiality set
1605 forth herein.

1606 Section 49. Subsection (6) of section 617.0503, Florida
1607 Statutes, is amended to read:

1608 617.0503 Registered agent; duties; confidentiality of



856682

1609 investigation records.-

1610 (6) Information provided to, and records and transcriptions
1611 of testimony obtained by, the Department of Legal Affairs
1612 pursuant to this section are confidential and exempt from the
1613 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
1614 Constitution while the investigation is active. For purposes of
1615 this section, an investigation shall be considered "active"
1616 while such investigation is being conducted with a reasonable,
1617 good faith belief that it may lead to the filing of an
1618 administrative, civil, or criminal proceeding. An investigation
1619 does not cease to be active so long as the department is
1620 proceeding with reasonable dispatch and there is a good faith
1621 belief that action may be initiated by the department or other
1622 administrative or law enforcement agency. Except for active
1623 criminal intelligence or criminal investigative information, as
1624 defined in s. 119.003 ~~s. 119.011~~, and information which, if
1625 disclosed, would reveal a trade secret, as defined in s.
1626 688.002, or would jeopardize the safety of an individual, all
1627 information, records, and transcriptions become available to the
1628 public when the investigation is completed or ceases to be
1629 active. The department shall not disclose confidential
1630 information, records, or transcriptions of testimony except
1631 pursuant to authorization by the Attorney General in any of the
1632 following circumstances:

1633 (a) To a law enforcement agency participating in or
1634 conducting a civil investigation under chapter 895, or
1635 participating in or conducting a criminal investigation.

1636 (b) In the course of filing, participating in, or
1637 conducting a judicial proceeding instituted pursuant to this



856682

1638 section or chapter 895.

1639 (c) In the course of filing, participating in, or
1640 conducting a judicial proceeding to enforce an order or judgment
1641 entered pursuant to this section or chapter 895.

1642 (d) In the course of a criminal proceeding.

1643
1644 A person or law enforcement agency that receives any
1645 information, record, or transcription of testimony that has been
1646 made confidential by this subsection shall maintain the
1647 confidentiality of such material and shall not disclose such
1648 information, record, or transcription of testimony except as
1649 provided for herein. Any person who willfully discloses any
1650 information, record, or transcription of testimony that has been
1651 made confidential by this subsection, except as provided for in
1652 this subsection, commits a misdemeanor of the first degree,
1653 punishable as provided in s. 775.082 or s. 775.083. If any
1654 information, record, or testimony obtained pursuant to
1655 subsection (2) is offered in evidence in any judicial
1656 proceeding, the court may, in its discretion, seal that portion
1657 of the record to further the policies of confidentiality set
1658 forth in this subsection.

1659 Section 50. Subsection (3) of section 636.064, Florida
1660 Statutes, is amended to read:

1661 636.064 Confidentiality.—

1662 (3) Any information obtained or produced by the department
1663 or office pursuant to an examination or investigation is
1664 confidential and exempt from the provisions of s. 119.07(1) and
1665 s. 24(a), Art. I of the State Constitution until the examination
1666 report has been filed pursuant to s. 624.319 or until such



856682

1667 investigation is completed or ceases to be active. For purposes
1668 of this subsection, an investigation is considered "active"
1669 while such investigation is being conducted by the department or
1670 office with a reasonable, good faith belief that it may lead to
1671 the filing of administrative, civil, or criminal proceedings. An
1672 investigation does not cease to be active if the department or
1673 office is proceeding with reasonable dispatch and there is a
1674 good faith belief that action may be initiated by the department
1675 or office or other administrative or law enforcement agency.
1676 Except for active criminal intelligence or criminal
1677 investigative information, as defined in s. 119.003 ~~s. 119.011~~;
1678 personal financial and medical information; information that
1679 would defame or cause unwarranted damage to the good name or
1680 reputation of an individual; information that would impair the
1681 safety and financial soundness of the licensee or affiliated
1682 party; proprietary financial information; or information that
1683 would reveal the identity of a confidential source, all
1684 information obtained by the department or office pursuant to an
1685 examination or investigation shall be available after the
1686 examination report has been filed or the investigation is
1687 completed or ceases to be active.

1688 Section 51. Paragraph (m) of subsection (2) of section
1689 668.50, Florida Statutes, is amended to read:

1690 668.50 Uniform Electronic Transaction Act.—

1691 (2) DEFINITIONS.—As used in this section:

1692 (m) "Record" means information that is inscribed on a tangible
1693 medium or that is stored in an electronic or other medium and is
1694 retrievable in perceivable form, including public records as
1695 defined in s. 119.003 ~~s. 119.011~~.



856682

1696 Section 52. Section 668.6076, Florida Statutes, is amended
1697 to read:

1698 668.6076 Public records status of e-mail addresses; agency
1699 website notice.—Any agency, as defined in s. 119.003 ~~s. 119.011~~,
1700 or legislative entity that operates a website and uses
1701 electronic mail shall post the following statement in a
1702 conspicuous location on its website:

1703

1704 Under Florida law, e-mail addresses are public
1705 records. If you do not want your e-mail address
1706 released in response to a public records request, do
1707 not send electronic mail to this entity. Instead,
1708 contact this office by phone or in writing.

1709 Section 53. Paragraph (c) of subsection (4) of section
1710 741.313, Florida Statutes, is amended to read:

1711 741.313 Unlawful action against employees seeking
1712 protection.—

1713 (4)

1714 (c)1. A private employer must keep all information relating
1715 to the employee's leave under this section confidential.

1716 2. An agency, as defined in s. 119.003 ~~s. 119.011~~, must
1717 keep information relating to the employee's leave under this
1718 section confidential and exempt from disclosure to the extent
1719 authorized by subsection (7).

1720 Section 54. Paragraph (c) of subsection (6) of section
1721 787.03, Florida Statutes, is amended to read:

1722 787.03 Interference with custody.—

1723 (6)

1724 (c)1. The current address and telephone number of the



856682

1725 person and the minor or incompetent person which are contained
1726 in the report made to a sheriff or state attorney under
1727 paragraph (b) are confidential and exempt from s. 119.07(1) and
1728 s. 24(a), Art. I of the State Constitution.

1729 2. A sheriff or state attorney may allow an agency, as
1730 defined in s. 119.003 ~~s. 119.011~~, to inspect and copy records
1731 made confidential and exempt under this paragraph in the
1732 furtherance of that agency's duties and responsibilities.

1733 3. This paragraph is subject to the Open Government Sunset
1734 Review Act in accordance with s. 119.15 and is repealed on
1735 October 2, 2011, unless reviewed and saved from repeal through
1736 reenactment by the Legislature.

1737 Section 55. Subsection (5) of section 817.568, Florida
1738 Statutes, is amended to read:

1739 817.568 Criminal use of personal identification
1740 information.—

1741 (5) If an offense prohibited under this section was
1742 facilitated or furthered by the use of a public record, as
1743 defined in s. 119.003 ~~s. 119.011~~, the offense is reclassified to
1744 the next higher degree as follows:

1745 (a) A misdemeanor of the first degree is reclassified as a
1746 felony of the third degree.

1747 (b) A felony of the third degree is reclassified as a
1748 felony of the second degree.

1749 (c) A felony of the second degree is reclassified as a
1750 felony of the first degree.

1751
1752 For purposes of sentencing under chapter 921 and incentive gain-
1753 time eligibility under chapter 944, a felony offense that is



856682

1754 reclassified under this subsection is ranked one level above the
1755 ranking under s. 921.0022 of the felony offense committed, and a
1756 misdemeanor offense that is reclassified under this subsection
1757 is ranked in level 2 of the offense severity ranking chart in s.
1758 921.0022.

1759 Section 56. Section 817.569, Florida Statutes, is amended
1760 to read:

1761 817.569 Criminal use of a public record or public records
1762 information; penalties.—A person who knowingly uses any public
1763 record, as defined in s. 119.003 ~~s. 119.011~~, or who knowingly
1764 uses information obtainable only through such public record, to
1765 facilitate or further the commission of:

1766 (1) A misdemeanor of the first degree, commits a
1767 misdemeanor of the first degree, punishable as provided in s.
1768 775.082 or s. 775.083.

1769 (2) A felony, commits a felony of the third degree,
1770 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1771 Section 57. Paragraphs (a) and (c) of subsection (3) of
1772 section 893.0551, Florida Statutes, are amended to read:

1773 893.0551 Public records exemption for the prescription drug
1774 monitoring program.—

1775 (3) The department shall disclose such confidential and
1776 exempt information to the following entities after using a
1777 verification process to ensure the legitimacy of that person's
1778 or entity's request for the information:

1779 (a) The Attorney General and his or her designee when
1780 working on Medicaid fraud cases involving prescription drugs or
1781 when the Attorney General has initiated a review of specific
1782 identifiers of Medicaid fraud regarding prescription drugs. The



856682

1783 Attorney General or his or her designee may disclose the
1784 confidential and exempt information received from the department
1785 to a criminal justice agency as defined in s. 119.003 ~~s. 119.011~~
1786 as part of an active investigation that is specific to a
1787 violation of prescription drug abuse or prescription drug
1788 diversion law as it relates to controlled substances. The
1789 Attorney General's Medicaid fraud investigators may not have
1790 direct access to the department's database.

1791 (c) A law enforcement agency that has initiated an active
1792 investigation involving a specific violation of law regarding
1793 prescription drug abuse or diversion of prescribed controlled
1794 substances. The law enforcement agency may disclose the
1795 confidential and exempt information received from the department
1796 to a criminal justice agency as defined in s. 119.003 ~~s. 119.011~~
1797 as part of an active investigation that is specific to a
1798 violation of prescription drug abuse or prescription drug
1799 diversion law as it relates to controlled substances. A law
1800 enforcement agency may request information from the department
1801 but may not have direct access to its database.

1802 Section 58. Subsection (5) of section 914.27, Florida
1803 Statutes, is amended to read:

1804 914.27 Confidentiality of victim and witness information.—

1805 (5) For the purposes of effectively implementing s. 914.25,
1806 any state or local law enforcement agency, state attorney, or
1807 the statewide prosecutor may provide written notification to an
1808 agency as defined in s. 119.003 ~~s. 119.011~~ or to a business
1809 entity operating under contract with, licensed by, or having any
1810 other business relationship with an agency, or providing
1811 services pursuant to s. 914.25, that information described in



856682

1812 subsection (1) held by that agency or business is confidential
1813 and exempt from public disclosure. The state or local law
1814 enforcement agency, state attorney, or the statewide prosecutor
1815 providing such written notification shall also provide written
1816 notification to the agency or business as to when, in accordance
1817 with this section, identity and location information exempted
1818 pursuant to paragraphs (1) (a) and (b) can be made publicly
1819 available.

1820 Section 59. Paragraphs (a) and (b) of subsection (9) of
1821 section 943.031, Florida Statutes, are amended to read:

1822 943.031 Florida Violent Crime and Drug Control Council.—

1823 (9) CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL MEETINGS
1824 AND RECORDS.—

1825 (a) The Legislature finds that during limited portions of
1826 the meetings of the Florida Violent Crime and Drug Control
1827 Council it is necessary that the council be presented with and
1828 discuss details, information, and documents related to active
1829 criminal investigations or matters constituting active criminal
1830 intelligence, as those concepts are defined by s. 119.003 ~~s.~~
1831 ~~119.011~~. These presentations and discussions are necessary for
1832 the council to make its funding decisions as required by the
1833 Legislature. The Legislature finds that to reveal the contents
1834 of documents containing active criminal investigative or
1835 intelligence information or to allow active criminal
1836 investigative or active criminal intelligence matters to be
1837 discussed in a meeting open to the public negatively impacts the
1838 ability of law enforcement agencies to efficiently continue
1839 their investigative or intelligence gathering activities. The
1840 Legislature finds that information coming before the council



856682

1841 that pertains to active criminal investigations or intelligence
1842 should remain confidential and exempt from public disclosure.
1843 The Legislature finds that the Florida Violent Crime and Drug
1844 Control Council may, by declaring only those portions of council
1845 meetings in which active criminal investigative or active
1846 criminal intelligence information is to be presented or
1847 discussed closed to the public, assure an appropriate balance
1848 between the policy of this state that meetings be public and the
1849 policy of this state to facilitate efficient law enforcement
1850 efforts.

1851 (b) The Florida Violent Crime and Drug Control Council
1852 shall be considered a "criminal justice agency" within the
1853 definition of s. 119.003(8) ~~s. 119.011(4)~~.

1854 Section 60. Subsection (7) of section 943.0313, Florida
1855 Statutes, is amended to read:

1856 943.0313 Domestic Security Oversight Council.—The
1857 Legislature finds that there exists a need to provide executive
1858 direction and leadership with respect to terrorism prevention,
1859 preparation, protection, response, and recovery efforts by state
1860 and local agencies in this state. In recognition of this need,
1861 the Domestic Security Oversight Council is hereby created. The
1862 council shall serve as an advisory council pursuant to s.
1863 20.03(7) to provide guidance to the state's regional domestic
1864 security task forces and other domestic security working groups
1865 and to make recommendations to the Governor and the Legislature
1866 regarding the expenditure of funds and allocation of resources
1867 related to counter-terrorism and domestic security efforts.

1868 (7) AGENCY DESIGNATION.—For purposes of this section, the
1869 Domestic Security Oversight Council shall be considered a



856682

1870 criminal justice agency within the definition of s. 119.003(8)
1871 ~~s. 119.011(4)~~.

1872 Section 61. Paragraph (a) of subsection (1) of section
1873 943.0314, Florida Statutes, is amended to read:

1874 943.0314 Public records and public meetings exemptions;
1875 Domestic Security Oversight Council.—

1876 (1) (a) That portion of a meeting of the Domestic Security
1877 Oversight Council at which the council will hear or discuss
1878 active criminal investigative information or active criminal
1879 intelligence information as defined in s. 119.003 ~~s. 119.011~~ is
1880 exempt from s. 119.20 ~~s. 286.011~~ and s. 24(b), Art. I of the
1881 State Constitution, if:

1882 1. The chair of the council announces at a public meeting
1883 that, in connection with the performance of the council's
1884 duties, it is necessary that active criminal investigative
1885 information or active criminal intelligence information be
1886 discussed.

1887 2. The chair declares the specific reasons that it is
1888 necessary to close the meeting, or portion thereof, in a
1889 document that is a public record and filed with the official
1890 records of the council.

1891 3. The entire closed meeting is recorded. The recording
1892 must include the times of commencement and termination of the
1893 closed meeting or portion thereof, all discussion and
1894 proceedings, and the names of the persons present. No portion of
1895 the closed meeting shall be off the record. The recording shall
1896 be maintained by the council.

1897 Section 62. Subsection (2) of section 943.032, Florida
1898 Statutes, is amended to read:



856682

1899 943.032 Financial Crime Analysis Center and Financial
1900 Transaction Database.—
1901 (2) The department shall compile information and data available
1902 from financial transaction reports required to be submitted by
1903 state or federal law that are provided to the Department of
1904 Financial Services, to the Office of Financial Regulation of the
1905 Financial Services Commission, to the Department of Revenue, or
1906 to which the department otherwise has access. Information and
1907 data so received shall be utilized by the department in the
1908 Financial Transaction Database. The department shall implement a
1909 system utilizing the database that allows data review and
1910 processing to reveal patterns, trends, and correlations that are
1911 indicative of money laundering or other financial transactions
1912 indicative of criminal activity. The department shall, in
1913 consultation with the Department of Financial Services, the
1914 Office of Financial Regulation of the Financial Services
1915 Commission, and the Department of Revenue, establish the methods
1916 and parameters by which information and data received by such
1917 agencies are transferred to the department for inclusion in the
1918 database. Information developed in or through the use of the
1919 database shall be made available to law enforcement agencies and
1920 prosecutors in this state in a manner defined by the department
1921 and as allowed by state or federal law or regulation. All
1922 information contained in the database shall be considered
1923 "active criminal intelligence" or "active criminal investigative
1924 information" as defined in s. 119.003 ~~s. 119.011~~.

1925 Section 63. This act shall take effect October 1, 2010.

1926
1927



856682

1928 ===== T I T L E A M E N D M E N T =====

1929 And the title is amended as follows:

1930

1931 Delete everything before the enacting clause

1932 and insert:

1933

A bill to be entitled

1934

An act relating to public records and public meetings;

1935

creating s. 119.001, F.S.; creating the "Open

1936

Government Act"; creating s. 119.002, F.S.; requiring

1937

all elected and appointed public officials to undergo

1938

education and training on the requirements of the Open

1939

Government Act; creating s. 119.003, F.S.; defining

1940

terms; amending s. 119.07, F.S.; conforming a cross-

1941

reference; requiring that the custodian of a public

1942

record furnish a copy or certified copy of the record

1943

to the person requesting the record after payment of a

1944

designated fee; providing that if the nature or volume

1945

of the public record requested to be inspected or

1946

copied requires more than 30 minutes, the agency may

1947

charge a fee for the agency resources incurred;

1948

providing for payment of the actual cost to duplicate

1949

a public records stored in an electronic format;

1950

authorizing an agency to charge a fee for converting a

1951

record into an electronic format; limiting the

1952

clerical cost of duplication of a record to the base

1953

hourly rate of the lowest paid personnel capable of

1954

providing such clerical or supervisory assistance;

1955

authorizing an agency to reduce or waive a fee

1956

pursuant to consistent policies; prohibiting an agency



856682

1957 from charging a fee for the costs associated with
1958 redacting information from the record which the agency
1959 maintains is not subject to the public-records
1960 requirements; amending s. 119.071, F.S.; removing the
1961 definitions for the terms "security system plan,"
1962 "commercial activity," and "commercial entity";
1963 creating s. 119.13, F.S.; directing the Division of
1964 Library and Information Services of the Department of
1965 State to adopt a rule to establish a model policy for
1966 providing public access to public records; amending s.
1967 119.15, F.S.; providing that in the 10th year after
1968 reenactment of a statutory exemption, the exemption
1969 shall be repealed on October 2nd of that year, unless
1970 the Legislatures acts to reenact the exemption;
1971 creating s. 119.20, F.S.; providing that all meetings
1972 of any board or commission of any state agency or
1973 authority or of any agency or authority of any county,
1974 municipal corporation, or political subdivision at
1975 which official acts are to be taken are declared to be
1976 public meetings that are open to the public at all
1977 times; requiring that the minutes of a meeting of any
1978 board or commission or any state agency or authority
1979 be promptly recorded and open to the public;
1980 prohibiting a person or entity subject the open-
1981 meetings requirements from holding meetings at any
1982 facility or location that discriminates on the basis
1983 of sex, age, race, creed, color, origin, or economic
1984 status or that operates in such a manner as to
1985 unreasonably restrict public access to such a



856682

1986 facility; creating s. 119.201, F.S.; providing for
1987 certain specified exemptions from open-meeting
1988 requirements; setting forth the procedures by which
1989 the closed meeting must proceed; providing for future
1990 repeal of the exemption and review under the Open
1991 Government Sunset Review Act; creating s. 119.202,
1992 F.S.; prohibiting a member of a state, county, or
1993 municipal governmental board, commission, or agency
1994 who is present at a meeting at which an official
1995 decision, ruling, or other official act is to be taken
1996 or adopted from abstaining from voting in regard to
1997 any such decision; providing for procedures with
1998 respect to a possible conflict of interest of the
1999 member; creating s. 119.30, F.S.; providing penalties
2000 for violations of the Open Government Act; creating s.
2001 119.31, F.S.; authorizing the circuit courts of this
2002 state to issue injunctions to enforce the act;
2003 authorizing any person to petition the court for an
2004 injunction; creating s. 119.32, F.S.; providing for
2005 attorney's fees under certain circumstances; repealing
2006 ss. 119.011, 119.10, 119.12, 286.011, 286.0113, and
2007 286.012, F.S., relating to definitions, violations and
2008 penalties of public-records requirements, attorney's
2009 fees, public meetings, general exemptions from public-
2010 meetings requirements, and voting requirements at
2011 meetings of governmental bodies, respectively;
2012 reenacting s. 27.02(2), F.S., relating to the duties
2013 of the state attorney before the circuit court;
2014 reenacting s. 119.01(2)(f), F.S., relating to state



856682

2015 policy on public records; reenacting s.
2016 119.0712(1)(d), F.S., relating to specific exemptions
2017 from inspection or copying of public records for
2018 executive branch agencies; reenacting s.
2019 119.084(2)(a), F.S., relating to the copyright of data
2020 processing software created by governmental agencies;
2021 reenacting s. 455.219(6), F.S., relating to licensure
2022 fees charged by professional boards; reenacting s.
2023 456.025(11), F.S., relating to costs of regulating
2024 health care professions and practitioners; reenacting
2025 ss. 458.3193(1)(c) and 459.0083(1)(c), F.S., relating
2026 to confidentiality of certain information contained in
2027 physician workforce surveys; reenacting s.
2028 472.011(16), F.S., relating to fees the surveyors and
2029 mappers board may charge for application, examination,
2030 reexamination, and licensing; reenacting s.
2031 1012.31(2)(e), F.S., relating to public school system
2032 employee personnel files, to incorporate the
2033 amendments made to s. 119.07, F.S., in references
2034 thereto; reenacting s. 17.076(5), F.S., relating to
2035 the direct deposit of funds for a person who is
2036 drawing a salary or retirement benefits from the
2037 state; reenacting s. 119.0714, F.S., relating to court
2038 files and court records; reenacting s. 1007.35(8)(b),
2039 F.S., relating to the Florida Partnership for Minority
2040 and Underrepresented Student Achievement Act, to
2041 incorporate the amendments made to s. 119.071, F.S.,
2042 in references thereto; amending ss. 11.0431, 28.001,
2043 28.24, 73.0155, 97.0585, 112.3188, 163.61, 257.34,



856682

2044 257.35, 281.301, 364.107, 382.0085, 383.402, 550.0251,
2045 607.0505, 617.0503, 636.064, 668.50, 668.6076,
2046 713.313, 787.03, 817.568, 817.569, 893.0551, 914.27,
2047 943.031, 943.0313, 943.0314, and 943.032, F.S. ;
2048 conforming cross-references;; providing an effective
2049 date.