

By Senator Dockery

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1 A bill to be entitled
2 An act relating to public records and public meetings;
3 creating s. 119.001, F.S.; creating the "Open
4 Government Act"; amending s. 119.01, F.S.; providing
5 general principles of the act; amending s. 119.011,
6 F.S.; defining the terms "actual cost to duplicate,"
7 "exempt," "confidential and exempt," and "trade
8 secret"; amending s. 119.07, F.S.; requiring that the
9 custodian of a public record furnish a copy or
10 certified copy of the record to the person requesting
11 the record after payment of a designated fee;
12 establishing fee lists for duplicating public records;
13 providing that the actual cost to duplicate a record
14 may be charged for certain specified records;
15 authorizing an agency to reduce or waive a fee
16 pursuant to consistent policies; transferring,
17 renumbering, and amending s. 286.011, F.S.; requiring
18 that all meetings of any collegial body of any agency
19 at which an official act is taken be open to the
20 public at all times except as otherwise provided in
21 the State Constitution; providing that a resolution,
22 rule, or formal action is not binding unless it is
23 adopted or taken at a public meeting; requiring that
24 an agency prepare minutes of a public meeting and make
25 the minutes available to the public; prohibiting an
26 agency from holding a public meeting at a facility or
27 location that discriminates on the basis of sex, age,
28 race, creed, color, origin, or economic status or
29 operates in such a manner as to unreasonably restrict

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30 public access to the facility; transferring provisions
31 governing court jurisdiction, penalties, and
32 discussions of pending litigation involving a
33 governmental entity; repealing s. 286.0111, F.S.,
34 relating to the legislative review of certain
35 exemptions from requirements for public meetings and
36 recordkeeping by governmental entities; transferring,
37 renumbering, and amending s. 286.0113, F.S.; providing
38 that an agency may meet in private with the entity's
39 attorney to discuss pending litigation to which the
40 entity is presently a party before a court or
41 administrative agency; setting forth the conditions
42 that must be followed during such a private
43 discussion; transferring, renumbering, and amending s.
44 286.012, F.S.; requiring that a member of a state,
45 county, or municipal government board or agency vote
46 on official business if he or she is present at a
47 meeting of the body at which the official business,
48 ruling, or other official act is to be decided;
49 providing an exception if there appears to be a
50 possible conflict of interest; transferring,
51 renumbering, and amending s. 286.26, F.S.; providing
52 that a person with a disability must have access to
53 the facility where the public meeting is being held;
54 amending s. 119.15, F.S.; providing for the repeal of
55 a reenacted exemption in the 10th year after each
56 reenactment unless the Legislature reenacts the
57 exemption; transferring, renumbering, and amending s.
58 119.10, F.S.; providing noncriminal and criminal

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59 penalties for violations of the public-records and
60 public-meetings laws; transferring, renumbering, and
61 amending s. 119.11, F.S.; providing that the circuit
62 courts of this state have jurisdiction to issue
63 injunctions to enforce the purposes of the public-
64 records and public-meetings laws; providing for
65 immediate hearings; transferring, renumbering, and
66 amending s. 119.12, F.S.; providing for attorney's
67 fees if the agency has denied or restricted access to
68 public records or public meetings; amending ss.
69 213.732, 282.711, 409.2558, and 921.0022, F.S.;
70 conforming cross-references; providing an effective
71 date.

72
73 WHEREAS, an open and accessible government is the key to
74 establishing and maintaining the people's trust and confidence
75 in their government and its ability to effectively serve its
76 residents, and

77 WHEREAS, the State of Florida has a long history of
78 providing public access to the records and meetings of public
79 entities, and

80 WHEREAS, Florida must continually strive to be a national
81 leader in open government reform, and

82 WHEREAS, on June 19, 2007, Governor Charlie Crist created
83 the Commission on Open Government Reform to review, evaluate,
84 and issue recommendations regarding Florida's public-records and
85 public-meetings laws, and

86 WHEREAS, the Commission on Open Government Reform received
87 public testimony requesting the need for greater ease of access

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88 to public records and public meetings, the need to increase the
89 respect with which our government agencies interact with state
90 residents, and create a culture that will build the public's
91 trust and confidence in their government and its ability to
92 serve the people, and

93 WHEREAS, streamlining and clarifying applicable laws and
94 policies will result in making government more open, accessible,
95 and accountable to the residents of this state, NOW, THEREFORE,

96
97 Be It Enacted by the Legislature of the State of Florida:

98
99 Section 1. Section 119.001, Florida Statutes, is created to
100 read:

101 119.001 Short title.—This chapter may be cited as the "Open
102 Government Act."

103 Section 2. Section 119.01, Florida Statutes, is amended to
104 read:

105 119.01 General state policy on public records; Open
106 Government Bill of Rights.—

107 (1) It is the policy of this state that all state, county,
108 and municipal records are open for personal inspection and
109 copying by any person. Providing access to public records is a
110 duty of each agency.

111 (2) (a) The Open Government Bill of Rights includes the
112 following principles:

113 1. Access to public records and public meetings are rights
114 secured under this chapter and s. 24, Art. I of the State
115 Constitution.

116 2. Every person has the right to:

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117 a. Inspect or copy any public record that is made or
118 received in connection with the official business of any public
119 body, officer, or employee, unless the record is specifically
120 exempt from this requirement.

121 b. Attend any meeting of a collegial public body at which
122 official public business is to be transacted or discussed,
123 unless the meeting is specifically exempt from this requirement.

124 3. Every person is entitled to be treated with respect,
125 courtesy, and professionalism.

126 4. A public-records request need not be made in writing
127 unless otherwise explicitly required by law.

128 5. An agency must promptly acknowledge the receipt of a
129 public-records request.

130 6. Fees to produce public records may not exceed the amount
131 authorized by law. Every person has the right to receive an
132 itemized invoice of the estimated cost to produce the public
133 record that is requested.

134 (b) All agencies must:

135 1. Comply with the Open Government Bill of Rights for the
136 purpose of safeguarding and protecting a resident's right to
137 access public records and meetings.

138 2. Conspicuously post the Open Government Bill of Rights on
139 the agency's website and at the agency's headquarters.

140 3. Promptly acknowledge requests to inspect or copy public
141 records.

142 (c) If a specific statute requires that a request for a
143 public record be made in writing, the statutory citation must be
144 provided to the person requesting the public record.

145 (d) An itemized invoice of the estimated cost to produce

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146 the requested public record must include the statutory citation
147 that authorizes the imposition of fees and that is specifically
148 related to the requested public record.

149 (3)-(2)(a) Automation of public records must not erode the
150 right of access to those records. As each agency increases its
151 use of and dependence on electronic recordkeeping, each agency
152 must provide reasonable public access to records electronically
153 maintained and must ensure that exempt or confidential records
154 are not disclosed except as otherwise permitted by law.

155 (b) When designing or acquiring an electronic recordkeeping
156 system, an agency must consider whether such system is capable
157 of providing data in some common format such as, but not limited
158 to, the American Standard Code for Information Interchange.

159 (c) An agency may not enter into a contract for the
160 creation or maintenance of a public records database if that
161 contract impairs the ability of the public to inspect or copy
162 the public records of the agency, including public records that
163 are online or stored in an electronic recordkeeping system used
164 by the agency.

165 (d) Subject to the restrictions of copyright and trade
166 secret laws and public-records ~~public records~~ exemptions, agency
167 use of proprietary software must not diminish the right of the
168 public to inspect and copy a public record.

169 (e) Providing access to public records by remote electronic
170 means is an additional method of access that agencies should
171 strive to provide to the extent feasible. If an agency provides
172 access to public records by remote electronic means, such access
173 should be provided in the most cost-effective and efficient
174 manner available to the agency providing the information.

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175 (f) Each agency that maintains a public record in an
176 electronic recordkeeping system shall provide to any person,
177 pursuant to this chapter, a copy of any public record in that
178 system which is not exempted by law from public disclosure. An
179 agency must provide a copy of the record in the medium requested
180 if the agency maintains the record in that medium, and the
181 agency may charge a fee in accordance with this chapter. For the
182 purpose of satisfying a public-records ~~public records~~ request,
183 the fee to be charged by an agency if it elects to provide a
184 copy of a public record in a medium not routinely used by the
185 agency, or if it elects to compile information not routinely
186 developed or maintained by the agency or that requires a
187 substantial amount of manipulation or programming, must be in
188 accordance with s. 119.07(4).

189 ~~(4)(3)~~ If public funds are expended by an agency in payment
190 of dues or membership contributions for any person, corporation,
191 foundation, trust, association, group, or other organization,
192 all the financial, business, and membership records of that
193 person, corporation, foundation, trust, association, group, or
194 other organization which pertain to the public agency are public
195 records and subject to the provisions of s. 119.07.

196 Section 3. Subsections (1) and (8) of section 119.011,
197 Florida Statutes, are amended, and subsection (15) is added to
198 that section, to read:

199 119.011 Definitions.—As used in this chapter, the term:

200 (1) "Actual cost to duplicate ~~of duplication~~" means the
201 actual direct cost of the agency's resources used to comply with
202 a public-records request, including the cost of materials and
203 supplies, information technology resources, and staff costs as

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204 provided in this subsection.

205 (a) Staff costs may be charged only for a public-record
206 request that requires more than 30 minutes of the staff member's
207 time to complete. Staff costs must be calculated based on the
208 base hourly rate of the lowest paid staff member who is capable
209 of providing the requested public record, including the cost of
210 any supervisory assistance.

211 (b) For public records that are used, stored, or maintained
212 electronically, if the person requesting the public record
213 requests that the record be provided in a format that is not
214 ordinarily used, stored, or maintained, the cost to produce or
215 convert the information into the requested format may be
216 calculated as part of the actual cost to duplicate ~~cost of the~~
217 ~~material and supplies used to duplicate the public record, but~~
218 ~~does not include labor cost or overhead cost associated with~~
219 ~~such duplication.~~

220 (8) (a) "Exemption" means a provision of general law which
221 provides that a specified record or meeting, or portion thereof,
222 is not subject to the access requirements of s. 119.07(1), s.
223 119.13 ~~s. 286.011~~, or s. 24, Art. I of the State Constitution.

224 (b) "Exempt" and "confidential and exempt" mean that a
225 specified record or meeting, or portion thereof, is not subject
226 to the access requirements of s. 119.07(1), s. 119.13(1), or s.
227 24, Art. I of the State Constitution, and that the record or
228 record of the meeting may be released only to those persons and
229 entities who are designated by law to view the record or attend
230 the meeting.

231 (15) "Trade secret" has the same meaning as provided in s.
232 688.002.

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233 Section 4. Subsection (2), paragraph (d) of subsection (3),
234 and subsections (4) and (7) of section 119.07, Florida Statutes,
235 are amended to read:

236 119.07 Inspection and copying of records; photographing
237 public records; fees; exemptions.—

238 (2) (a) As an additional means of inspecting or copying
239 public records, a custodian of public records may provide access
240 to public records by remote electronic means, provided exempt or
241 confidential information is not disclosed.

242 (b) The custodian of public records shall provide
243 safeguards to protect the contents of public records from
244 unauthorized remote electronic access or alteration and to
245 prevent the disclosure or modification of those portions of
246 public records which are exempt or confidential from subsection
247 (1) or s. 24, Art. I of the State Constitution.

248 ~~(c) Unless otherwise required by law, the custodian of~~
249 ~~public records may charge a fee for remote electronic access,~~
250 ~~granted under a contractual arrangement with a user, which fee~~
251 ~~may include the direct and indirect costs of providing such~~
252 ~~access. Fees for remote electronic access provided to the~~
253 ~~general public shall be in accordance with the provisions of~~
254 ~~this section.~~

255 (3)

256 (d) Photographing of public records shall be done in the
257 room where the public records are kept. If, in the judgment of
258 the custodian of public records, this is impossible or
259 impracticable, photographing shall be done in another room or
260 place, as nearly adjacent as possible to the room where the
261 public records are kept, to be determined by the custodian of

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262 public records. Where provision of another room or place for
263 photographing is required, the expense of providing the same
264 shall be paid by the person desiring to photograph the public
265 record pursuant to paragraph (4) (d) ~~(4) (e)~~.

266 (4) The custodian of public records shall furnish a copy or
267 a certified copy of the public record when the person requesting
268 the record pays the fee as provided in this section, or as
269 otherwise specifically provided by law ~~upon payment of the fee~~
270 ~~prescribed by law~~. If a fee is not prescribed by law, the
271 following fees are authorized:

272 (a) For duplicated copies of documents that are sized 14
273 inches by 8 1/2 inches or less:

274 1. Up to 15 cents per page for each one-sided copy. ~~for~~
275 ~~duplicated copies of not more than 14 inches by 8 1/2 inches;~~

276 2. Up to 20 cents per page for each ~~No more than an~~
277 ~~additional 5 cents for each two-sided copy.~~; and

278 3. Up to \$1 for each duplicated copy requested to be
279 certified ~~For all other copies, the actual cost of duplication~~
280 ~~of the public record.~~

281 (b) The actual cost to duplicate may be charged for:

282 1. Duplicated copies of documents that are sized larger
283 than 14 inches by 8 1/2 inches. ~~The charge for~~

284 2. Copies of county maps or aerial photographs supplied by
285 county constitutional officers ~~may also include a reasonable~~
286 ~~charge for the labor and overhead associated with their~~
287 ~~duplication.~~

288 3. Copies of public records that are electronically used,
289 stored, or maintained by an agency, including any cost to
290 convert or export the record into the electronic format

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291 requested.

292 (c) An agency may reduce or waive the fees provided in this
293 section for a valid public purpose, including nonprofit
294 activities and academic research. The agency must develop and
295 implement consistent policies regarding any fee reductions or
296 waivers charge up to \$1 per copy for a certified copy of a
297 public record.

298 ~~(d) If the nature or volume of public records requested to~~
299 ~~be inspected or copied pursuant to this subsection is such as to~~
300 ~~require extensive use of information technology resources or~~
301 ~~extensive clerical or supervisory assistance by personnel of the~~
302 ~~agency involved, or both, the agency may charge, in addition to~~
303 ~~the actual cost of duplication, a special service charge, which~~
304 ~~shall be reasonable and shall be based on the cost incurred for~~
305 ~~such extensive use of information technology resources or the~~
306 ~~labor cost of the personnel providing the service that is~~
307 ~~actually incurred by the agency or attributable to the agency~~
308 ~~for the clerical and supervisory assistance required, or both.~~

309 (d)(e)1. Where provision of another room or place is
310 necessary to photograph public records, the expense of providing
311 the records ~~same~~ shall be paid by the person desiring to
312 photograph the public records.

313 2. The custodian of public records may charge the person
314 making the photographs for supervision services at a rate of
315 compensation to be agreed upon by the person desiring to make
316 the photographs and the custodian of public records. If they
317 fail to agree as to the appropriate charge, the charge shall be
318 determined by the custodian of public records.

319 (7) An exemption from this section does not imply an

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320 exemption from s. 119.13(1) ~~s. 286.011~~. The exemption from s.
321 119.13(1) ~~s. 286.011~~ must be expressly provided.

322 Section 5. Section 286.011, Florida Statutes, is
323 transferred, renumbered as section 119.13, Florida Statutes, and
324 amended to read:

325 119.13 ~~286.011~~ Public meetings and records of meetings;
326 access to public meetings inspection; ~~criminal and civil~~
327 ~~penalties.-~~

328 (1) Except as otherwise provided in the State Constitution,
329 all meetings of any collegial body of any agency board or
330 ~~commission of any state agency or authority or of any agency or~~
331 ~~authority of any county, municipal corporation, or political~~
332 ~~subdivision, except as otherwise provided in the Constitution,~~
333 at which official acts are to be taken are declared to be public
334 meetings open to the public at all times. A, and no resolution,
335 rule, or formal action is not shall be considered binding unless
336 it is adopted or taken at a public meeting except as taken or
337 ~~made at such meeting.~~ The agency board or commission must
338 provide reasonable notice of all such meetings.

339 (2) The agency shall ensure that minutes of a public
340 meeting are taken and of any such board or commission of any
341 ~~such state agency or authority shall be promptly recorded.~~
342 Meeting minutes, and ~~such records~~ shall be open to public
343 inspection. ~~The circuit courts of this state shall have~~
344 ~~jurisdiction to issue injunctions to enforce the purposes of~~
345 ~~this section upon application by any citizen of this state.~~

346 (3) (a) ~~Any public officer who violates any provision of~~
347 ~~this section is guilty of a noncriminal infraction, punishable~~
348 ~~by fine not exceeding \$500.~~

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349 ~~(b) Any person who is a member of a board or commission or~~
350 ~~of any state agency or authority of any county, municipal~~
351 ~~corporation, or political subdivision who knowingly violates the~~
352 ~~provisions of this section by attending a meeting not held in~~
353 ~~accordance with the provisions hereof is guilty of a misdemeanor~~
354 ~~of the second degree, punishable as provided in s. 775.082 or s.~~
355 ~~775.083.~~

356 ~~(c) Conduct which occurs outside the state which would~~
357 ~~constitute a knowing violation of this section is a misdemeanor~~
358 ~~of the second degree, punishable as provided in s. 775.082 or s.~~
359 ~~775.083.~~

360 ~~(4) Whenever an action has been filed against any board or~~
361 ~~commission of any state agency or authority or any agency or~~
362 ~~authority of any county, municipal corporation, or political~~
363 ~~subdivision to enforce the provisions of this section or to~~
364 ~~invalidate the actions of any such board, commission, agency, or~~
365 ~~authority, which action was taken in violation of this section,~~
366 ~~and the court determines that the defendant or defendants to~~
367 ~~such action acted in violation of this section, the court shall~~
368 ~~assess a reasonable attorney's fee against such agency, and may~~
369 ~~assess a reasonable attorney's fee against the individual filing~~
370 ~~such an action if the court finds it was filed in bad faith or~~
371 ~~was frivolous. Any fees so assessed may be assessed against the~~
372 ~~individual member or members of such board or commission;~~
373 ~~provided, that in any case where the board or commission seeks~~
374 ~~the advice of its attorney and such advice is followed, no such~~
375 ~~fees shall be assessed against the individual member or members~~
376 ~~of the board or commission. However, this subsection shall not~~
377 ~~apply to a state attorney or his or her duly authorized~~

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378 ~~assistants or any officer charged with enforcing the provisions~~
379 ~~of this section.~~

380 ~~(5) Whenever any board or commission of any state agency or~~
381 ~~authority or any agency or authority of any county, municipal~~
382 ~~corporation, or political subdivision appeals any court order~~
383 ~~which has found said board, commission, agency, or authority to~~
384 ~~have violated this section, and such order is affirmed, the~~
385 ~~court shall assess a reasonable attorney's fee for the appeal~~
386 ~~against such board, commission, agency, or authority. Any fees~~
387 ~~so assessed may be assessed against the individual member or~~
388 ~~members of such board or commission; provided, that in any case~~
389 ~~where the board or commission seeks the advice of its attorney~~
390 ~~and such advice is followed, no such fees shall be assessed~~
391 ~~against the individual member or members of the board or~~
392 ~~commission.~~

393 ~~(3)-(6) An agency may not hold All persons subject to~~
394 ~~subsection (1) are prohibited from holding meetings at any~~
395 ~~facility or location that: which~~

396 ~~(a) Discriminates on the basis of sex, age, race, creed,~~
397 ~~color, origin, or economic status; or which~~

398 ~~(b) Operates in such a manner as to unreasonably restrict~~
399 ~~public access to the such a facility.~~

400 ~~(7) Whenever any member of any board or commission of any~~
401 ~~state agency or authority or any agency or authority of any~~
402 ~~county, municipal corporation, or political subdivision is~~
403 ~~charged with a violation of this section and is subsequently~~
404 ~~acquitted, the board or commission is authorized to reimburse~~
405 ~~said member for any portion of his or her reasonable attorney's~~
406 ~~fees.~~

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407 ~~(8) Notwithstanding the provisions of subsection (1), any~~
408 ~~board or commission of any state agency or authority or any~~
409 ~~agency or authority of any county, municipal corporation, or~~
410 ~~political subdivision, and the chief administrative or executive~~
411 ~~officer of the governmental entity, may meet in private with the~~
412 ~~entity's attorney to discuss pending litigation to which the~~
413 ~~entity is presently a party before a court or administrative~~
414 ~~agency, provided that the following conditions are met:~~

415 ~~(a) The entity's attorney shall advise the entity at a~~
416 ~~public meeting that he or she desires advice concerning the~~
417 ~~litigation.~~

418 ~~(b) The subject matter of the meeting shall be confined to~~
419 ~~settlement negotiations or strategy sessions related to~~
420 ~~litigation expenditures.~~

421 ~~(c) The entire session shall be recorded by a certified~~
422 ~~court reporter. The reporter shall record the times of~~
423 ~~commencement and termination of the session, all discussion and~~
424 ~~proceedings, the names of all persons present at any time, and~~
425 ~~the names of all persons speaking. No portion of the session~~
426 ~~shall be off the record. The court reporter's notes shall be~~
427 ~~fully transcribed and filed with the entity's clerk within a~~
428 ~~reasonable time after the meeting.~~

429 ~~(d) The entity shall give reasonable public notice of the~~
430 ~~time and date of the attorney-client session and the names of~~
431 ~~persons who will be attending the session. The session shall~~
432 ~~commence at an open meeting at which the persons chairing the~~
433 ~~meeting shall announce the commencement and estimated length of~~
434 ~~the attorney-client session and the names of the persons~~
435 ~~attending. At the conclusion of the attorney-client session, the~~

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436 ~~meeting shall be reopened, and the person chairing the meeting~~
437 ~~shall announce the termination of the session.~~

438 ~~(c) The transcript shall be made part of the public record~~
439 ~~upon conclusion of the litigation.~~

440 Section 6. Section 286.0111, Florida Statutes, is repealed.

441 Section 7. Section 286.0113, Florida Statutes, is
442 transferred, renumbered as section 119.131, Florida Statutes,
443 and amended to read:

444 119.131 ~~286.0113~~ Public meetings ~~General exemptions from~~
445 ~~public meetings.~~

446 (1) SECURITY SYSTEM PLANS.—That portion of a meeting that
447 would reveal a security system plan or portion thereof made
448 confidential and exempt by s. 119.071(3) (a) is exempt from s.
449 119.13(1) ~~s. 286.011~~ and s. 24(b), Art. I of the State
450 Constitution.

451 (2) COMPETITIVE PROCUREMENTS.—

452 (a) A meeting at which a negotiation with a vendor is
453 conducted pursuant to s. 287.057(3) is exempt from s. 119.13(1)
454 ~~s. 286.011~~ and s. 24(b), Art. I of the State Constitution.

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

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

464 3. If the agency rejects all sealed replies, the recording

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465 remains exempt from s. 119.07(1) and s. 24(a), Art. I of the
466 State Constitution until such time as the agency provides notice
467 of a decision or intended decision pursuant to s. 120.57(3) (a)
468 concerning the reissued invitation to negotiate or until the
469 agency withdraws the reissued invitation to negotiate. A
470 recording is not exempt for longer than 12 months after the
471 initial agency notice rejecting all replies.

472 (c) This subsection is subject to the Open Government
473 Sunset Review Act in accordance with s. 119.15 and shall stand
474 repealed on October 2, 2011, unless reviewed and saved from
475 repeal through reenactment by the Legislature.

476 (3) PENDING LITIGATION.—Notwithstanding s. 119.13(1), any
477 board or commission of any state agency or authority or any
478 agency or authority of any county, municipal corporation, or
479 political subdivision, and the chief administrative or executive
480 officer of the governmental entity, may meet in private with the
481 entity's attorney to discuss pending litigation to which the
482 entity is presently a party before a court or administrative
483 agency if the following conditions are met:

484 (a) The entity's attorney must advise the entity at a
485 public meeting that he or she desires advice concerning the
486 litigation.

487 (b) The subject matter of the meeting must be confined to
488 settlement negotiations or strategy sessions that are related to
489 litigation expenditures.

490 (c) The entire session must be recorded by a certified
491 court reporter. The reporter shall record the times of
492 commencement and termination of the session, all discussion and
493 proceedings, the names of all persons present at any time, and

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494 the names of all persons speaking. Any portion of the session
495 may not be made off the record. The court reporter's notes shall
496 be fully transcribed and filed with the entity's clerk within a
497 reasonable time after the meeting.

498 (d) The entity must give reasonable public notice of the
499 time and date of the attorney-client session and the names of
500 persons who will be attending the session. The session shall
501 commence at an open meeting at which the persons chairing the
502 meeting shall announce the commencement and estimated length of
503 the attorney-client session and the names of the persons
504 attending. At the conclusion of the attorney-client session, the
505 meeting shall be reopened, and the person chairing the meeting
506 shall announce the termination of the session.

507 (e) The transcript must be made part of the public record
508 upon conclusion of the litigation.

509 Section 8. Section 286.012, Florida Statutes, is
510 transferred, renumbered as section 119.132, Florida Statutes,
511 and amended to read:

512 119.132 ~~286.012~~ Voting requirement at meetings of
513 governmental bodies.—

514 (1) A ~~No~~ member of any state, county, or municipal
515 governmental board, commission, or agency who is present at any
516 meeting of any such body at which an official decision, ruling,
517 or other official act is to be taken or adopted may not abstain
518 from voting in regard to any such decision, ruling, or act. ~~;~~ ~~and~~

519 (2) A vote shall be recorded or counted for each ~~such~~
520 member present, except when, with respect to any such member,
521 there is, or appears to be, a possible conflict of interest
522 under the provisions of s. 112.311, s. 112.313, or s. 112.3143.

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523 In such cases, the ~~said~~ member shall comply with the disclosure
524 requirements of s. 112.3143.

525 Section 9. Section 286.26, Florida Statutes, is
526 transferred, renumbered as section 119.133, Florida Statutes,
527 and amended to read:

528 119.133 ~~286.26~~ Accessibility of public meetings to a person
529 with a disability ~~the physically handicapped~~.—

530 (1) Whenever any board or commission of any state agency or
531 authority, or of any agency or authority of any county,
532 municipal corporation, or other political subdivision, which has
533 scheduled a meeting at which official acts are to be taken
534 receives, at least 48 hours before ~~prior to~~ the meeting, a
535 written request by a ~~physically handicapped~~ person with a
536 disability to attend the meeting, directed to the chairperson or
537 director of the ~~such~~ board, commission, agency, or authority,
538 such chairperson or director shall provide a manner by which the
539 ~~such~~ person with a disability may attend the meeting at its
540 scheduled site or reschedule the meeting to a site that ~~which~~
541 would be accessible to the ~~such~~ person with a disability.

542 (2) If the ~~an~~ ~~affected handicapped~~ person with a disability
543 objects in the written request, ~~nothing contained in the~~
544 ~~provisions of this section does not permit~~ ~~shall be construed or~~
545 ~~interpreted to permit~~ the use of human physical assistance to
546 the person with a disability ~~physically handicapped~~ in lieu of
547 the construction or use of ramps or other mechanical devices in
548 order to comply with ~~the provisions of~~ this section.

549 Section 10. Subsections (2), (3), and (4) of section
550 119.15, Florida Statutes, are amended to read:

551 119.15 Legislative review of exemptions from public meeting

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552 and public records requirements.-

553 (2) This section provides for the review and repeal or
554 reenactment of an exemption from s. 24, Art. I of the State
555 Constitution and s. 119.07(1) or s. 119.13(1) ~~s. 286.011~~. This
556 act does not apply to an exemption that:

557 (a) Is required by federal law; or

558 (b) Applies solely to the Legislature or the State Court
559 System.

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

564 (b) In the 10th year after reenactment, the exemption shall
565 be repealed on October 2nd of the 10th year, unless the
566 Legislature acts to reenact the exemption.

567 (4) (a) A law that enacts a new exemption or substantially
568 amends an existing exemption must state that the record or
569 meeting is:

- 570 1. Exempt from s. 24, Art. I of the State Constitution;
571 2. Exempt from s. 119.07(1) or s. 119.13(1) ~~s. 286.011~~; and
572 3. Repealed at the end of 5 years and that the exemption
573 must be reviewed by the Legislature before the scheduled repeal
574 date, and every 10 years thereafter.

575 (b) For purposes of this section, an exemption is
576 substantially amended if the amendment expands the scope of the
577 exemption to include more records or information or to include
578 meetings as well as records. An exemption is not substantially
579 amended if the amendment narrows the scope of the exemption.

580 (c) This section is not intended to repeal an exemption

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581 that has been amended following legislative review before the
582 scheduled repeal of the exemption if the exemption is not
583 substantially amended as a result of the review.

584 Section 11. Section 119.10, Florida Statutes, is
585 transferred, renumbered as section 119.20, Florida Statutes, and
586 amended to read:

587 119.20 ~~119.10~~ Violation of public-records and public-
588 meetings requirements chapter; penalties.-

589 (1) Any person ~~public officer~~ who violates:

590 (a) ~~Violates~~ Any provision of this chapter; or

591 (b) Any other law that relates to access to public records
592 or public meetings, including those that limit public access to
593 such records or meetings,

594
595 commits a noncriminal infraction, punishable by fine not
596 exceeding \$500.

597 (2) ~~(b)~~ Any person who willfully and knowingly violates the
598 provisions of s. 119.07(1) or s. 119.13(1) is subject to
599 suspension and removal or impeachment and, in addition, commits
600 a misdemeanor of the first degree, punishable as provided in s.
601 775.082 or s. 775.083.

602 (3) ~~(2)~~ Any person who willfully and knowingly violates:

603 (a) Any of the provisions of this chapter; or

604 (b) Any other law that relates to access to public records
605 or public meetings, including those that limit public access to
606 such records or meetings,

607
608 commits a misdemeanor of the first degree, punishable as
609 provided in s. 775.082 or s. 775.083.

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610 (4) ~~(b)~~ Any person who willfully and knowingly violates
611 section 119.105 commits a felony of the third degree, punishable
612 as provided in s. 775.082, s. 775.083, or s. 775.084.

613 (5) Conduct that occurs outside the state which would
614 constitute a knowing violation of this chapter is a misdemeanor
615 of the second degree, punishable as provided in s. 775.082 or s.
616 775.083.

617 Section 12. Section 119.11, Florida Statutes, is
618 transferred, renumbered as section 119.21, Florida Statutes, and
619 amended to read:

620 119.21 ~~119.11~~ Accelerated hearing; immediate compliance.-

621 (1) (a) The circuit courts of this state have jurisdiction
622 to issue injunctions to enforce the purposes of this chapter
623 upon application by any person.

624 (b) Whenever an action is filed to enforce ~~the provisions~~
625 ~~of~~ this chapter, the court shall set an immediate hearing,
626 giving the case priority over other pending cases.

627 (2) Whenever a court orders an agency to open its records
628 for inspection in accordance with this chapter, the agency shall
629 comply with the ~~such~~ order within 48 hours, unless otherwise
630 provided by the court issuing the ~~such~~ order, or unless the
631 appellate court issues a stay order within the ~~such~~ 48-hour
632 period.

633 (3) ~~The court may not issue~~ a stay order ~~shall not be~~
634 ~~issued~~ unless it ~~the court~~ determines that there is a
635 substantial probability that opening the records for inspection
636 will result in significant damage.

637 (4) Upon service of a complaint, counterclaim, or cross-
638 claim in a civil action brought to enforce ~~the provisions of~~

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639 this chapter, the custodian of the public record that is the
640 subject matter of the ~~such~~ civil action may ~~shall~~ not transfer
641 custody, alter, destroy, or otherwise dispose of the public
642 record sought to be inspected and examined, notwithstanding the
643 applicability of an exemption or the assertion that the
644 requested record is not a public record subject to inspection
645 and examination under s. 119.07(1), until the court directs
646 otherwise. The person who has custody of the ~~such~~ public record
647 may, however, at any time permit inspection of the requested
648 record as provided in s. 119.07(1) and other provisions of law.

649 Section 13. Section 119.12, Florida Statutes, is
650 transferred, renumbered as section 119.22, Florida Statutes, and
651 amended to read:

652 119.22 ~~119.12~~ Attorney's fees.—If a civil action is filed
653 against an agency to enforce the provisions of this chapter or
654 any other law that relates to access to public records or public
655 meetings, including those that restrict public access to such
656 records or meetings, and if the court determines that the ~~such~~
657 agency violated such provision ~~unlawfully refused to permit a~~
658 ~~public record to be inspected or copied,~~ the court shall assess
659 and award, against the agency responsible, the reasonable costs
660 of enforcement including reasonable attorney's ~~attorneys'~~ fees
661 at trial and on appeal.

662 Section 14. Subsection (7) of section 213.732, Florida
663 Statutes, is amended to read:

664 213.732 Jeopardy findings and assessments.—

665 (7) If the department proceeds to seize or freeze the
666 assets of a taxpayer upon a determination of jeopardy, the
667 taxpayer shall have a right to a meeting with the department, as

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668 provided by subsection (3), immediately or within 24 hours after
669 requesting such meeting. The department shall, within 24 hours
670 after such meeting, determine whether to release the seizure or
671 freeze. If the department does not release such seizure or
672 freeze of property, the taxpayer shall have a right to request a
673 hearing within 5 days before the circuit court, at which hearing
674 the taxpayer and the department may present evidence with
675 respect to the issue of jeopardy. Venue in such an action shall
676 lie in the county in which the seizure was effected or, if there
677 are multiple seizures based upon the same assessment, venue
678 shall also lie in Leon County. Whenever an action is filed to
679 seek review of a jeopardy finding under this subsection, the
680 court shall set an immediate hearing and shall give the case
681 priority over other pending cases other than those filed
682 pursuant to s. 119.21 ~~s. 119.11~~.

683 Section 15. Section 282.711, Florida Statutes, is amended
684 to read:

685 282.711 Remote electronic access services.—The department
686 may collect fees for providing remote electronic access pursuant
687 to s. 119.07(4) ~~s. 119.07(2)~~. The fees may be imposed on
688 individual transactions or as a fixed subscription for a
689 designated period of time. All fees collected under this section
690 shall be deposited in the appropriate trust fund of the program
691 or activity that made the remote electronic access available.

692 Section 16. Paragraph (a) of subsection (3) of section
693 409.2558, Florida Statutes, is amended to read:

694 409.2558 Support distribution and disbursement.—

695 (3) UNDISTRIBUTABLE COLLECTIONS.—

696 (a) The department shall establish by rule the method for

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697 determining a collection or refund to be undistributable to the
 698 final intended recipient. Before determining a collection or
 699 refund to be undistributable, the department shall make
 700 reasonable efforts to locate persons to whom collections or
 701 refunds are owed so that payment can be made. Location efforts
 702 may include disclosure through a searchable database of the
 703 names of obligees, obligors, and depository account numbers on
 704 the Internet in compliance with the requirements of s.
 705 119.01(3)(a) ~~s. 119.01(2)(a)~~.

706 Section 17. Paragraph (c) of subsection (3) of section
 707 921.0022, Florida Statutes, is amended to read:

708 921.0022 Criminal Punishment Code; offense severity ranking
 709 chart.—

710 (3) OFFENSE SEVERITY RANKING CHART

711 (c) LEVEL 3

Florida Statute	Felony Degree	Description
<u>119.20(4)</u> 119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066(6)(b)- (d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle

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716
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723
724

with siren and lights activated.

319.30(4) 3rd Possession by junkyard of motor vehicle with identification number plate removed.

319.33(1)(a) 3rd Alter or forge any certificate of title to a motor vehicle or mobile home.

319.33(1)(c) 3rd Procure or pass title on stolen vehicle.

319.33(4) 3rd With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.

327.35(2)(b) 3rd Felony BUI.

328.05(2) 3rd Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.

328.07(4) 3rd Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

376.302(5) 3rd Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

379.2431(1)(e)5. 3rd Taking, disturbing, mutilating,

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destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

725

379.2431(1)(e)6. 3rd

Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.

726

400.9935(4) 3rd

Operating a clinic without a license or filing false license application or other required information.

727

440.1051(3) 3rd

False report of workers' compensation fraud or retaliation for making such a report.

728

501.001(2)(b) 2nd

Tampers with a consumer product or the container using materially false/misleading information.

729

624.401(4)(a) 3rd

Transacting insurance without a certificate of authority.

730

624.401(4)(b)1. 3rd

Transacting insurance without a certificate of authority; premium collected less than \$20,000.

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731

626.902 (1) (a) 3rd Representing an unauthorized insurer.
& (b)

732

697.08 3rd Equity skimming.

733

790.15 (3) 3rd Person directs another to discharge
firearm from a vehicle.

734

796.05 (1) 3rd Live on earnings of a prostitute.

735

806.10 (1) 3rd Maliciously injure, destroy, or
interfere with vehicles or equipment
used in firefighting.

736

806.10 (2) 3rd Interferes with or assaults firefighter
in performance of duty.

737

810.09 (2) (c) 3rd Trespass on property other than
structure or conveyance armed with
firearm or dangerous weapon.

738

812.014 (2) (c) 2. 3rd Grand theft; \$5,000 or more but less
than \$10,000.

739

812.0145 (2) (c) 3rd Theft from person 65 years of age or
older; \$300 or more but less than
\$10,000.

740

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741	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
742	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
743	817.233	3rd	Burning to defraud insurer.
744	817.234(8)(b)-(c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
745	817.234(11)(a)	3rd	Insurance fraud; property value less than \$20,000.
746	817.236	3rd	Filing a false motor vehicle insurance application.
747	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
748	817.413(2)	3rd	Sale of used goods as new.
749	817.505(4)	3rd	Patient brokering.
	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.

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750

831.28(2)(a) 3rd Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.

751

831.29 2nd Possession of instruments for counterfeiting drivers' licenses or identification cards.

752

838.021(3)(b) 3rd Threatens unlawful harm to public servant.

753

843.19 3rd Injure, disable, or kill police dog or horse.

754

860.15(3) 3rd Overcharging for repairs and parts.

755

870.01(2) 3rd Riot; inciting or encouraging.

756

893.13(1)(a)2. 3rd Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).

757

893.13(1)(d)2. 2nd Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs

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within 1,000 feet of university.

758

893.13(1)(f)2. 2nd

Sell, manufacture, or deliver s.
 893.03(1)(c), (2)(c)1., (2)(c)2.,
 (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,
 (2)(c)8., (2)(c)9., (3), or (4) drugs
 within 1,000 feet of public housing
 facility.

759

893.13(6)(a) 3rd

Possession of any controlled substance
 other than felony possession of
 cannabis.

760

893.13(7)(a)8. 3rd

Withhold information from practitioner
 regarding previous receipt of or
 prescription for a controlled substance.

761

893.13(7)(a)9. 3rd

Obtain or attempt to obtain controlled
 substance by fraud, forgery,
 misrepresentation, etc.

762

893.13(7)(a)10. 3rd

Affix false or forged label to package
 of controlled substance.

763

893.13(7)(a)11. 3rd

Furnish false or fraudulent material
 information on any document or record
 required by chapter 893.

764

893.13(8)(a)1. 3rd

Knowingly assist a patient, other

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person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.

765

893.13(8)(a)2. 3rd

Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.

766

893.13(8)(a)3. 3rd

Knowingly write a prescription for a controlled substance for a fictitious person.

767

893.13(8)(a)4. 3rd

Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

768

918.13(1)(a) 3rd

Alter, destroy, or conceal investigation evidence.

769

944.47(1)(a)1.- 3rd
2.

Introduce contraband to correctional facility.

770

944.47(1)(c) 2nd

Possess contraband while upon the

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grounds of a correctional institution.

771

985.721

3rd

Escapes from a juvenile facility (secure
detention or residential commitment
facility).

772

773

Section 18. This act shall take effect July 1, 2010.