

By the Committee on Community Affairs; and Senator Dockery

578-02709-10

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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"; creating s. 119.002, F.S.; requiring
5 all elected and appointed public officials to undergo
6 education and training on the requirements of the Open
7 Government Act; creating s. 119.003, F.S.; defining
8 terms; amending s. 119.07, F.S.; conforming a cross-
9 reference; requiring that the custodian of a public
10 record furnish a copy or certified copy of the record
11 to the person requesting the record after payment of a
12 designated fee; providing that if the nature or volume
13 of the public record requested to be inspected or
14 copied requires less than 30 minutes, the agency may
15 not charge the actual cost of duplication; providing
16 for payment of the actual cost to duplicate a public
17 records stored in an electronic format; authorizing an
18 agency to charge a fee for converting a record into an
19 electronic format; limiting the clerical cost of
20 duplication of a record to the base hourly rate of the
21 lowest paid personnel capable of providing such
22 clerical or supervisory assistance; authorizing an
23 agency to reduce or waive a fee pursuant to consistent
24 policies; prohibiting an agency from charging a fee
25 for the costs associated with redacting information
26 from the record which the agency maintains is not
27 subject to the public-records requirements; amending
28 s. 119.071, F.S.; removing the definitions for the
29 terms "security system plan," "commercial activity,"

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30 and "commercial entity"; creating s. 119.13, F.S.;

31 directing the Division of Library and Information

32 Services of the Department of State to adopt a rule to

33 establish a model policy for providing public access

34 to public records; amending s. 119.15, F.S.; providing

35 that in the 10th year after reenactment of a statutory

36 exemption, the exemption shall be repealed on October

37 2nd of that year, unless the Legislatures acts to

38 reenact the exemption; creating s. 119.20, F.S.;

39 providing that all meetings of any board or commission

40 of any state agency or authority or of any agency or

41 authority of any county, municipal corporation, or

42 political subdivision at which official acts are to be

43 taken are declared to be public meetings that are open

44 to the public at all times; requiring that the minutes

45 of a meeting of any board or commission or any state

46 agency or authority be promptly recorded and open to

47 the public; prohibiting a person or entity subject the

48 open-meetings requirements from holding meetings at

49 any facility or location that discriminates on the

50 basis of sex, age, race, creed, color, origin, or

51 economic status or that operates in such a manner as

52 to unreasonably restrict public access to such a

53 facility; creating s. 119.201, F.S.; providing for

54 certain specified exemptions from open-meeting

55 requirements; setting forth the procedures by which

56 the closed meeting must proceed; providing for future

57 repeal of the exemption and review under the Open

58 Government Sunset Review Act; creating s. 119.202,

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59 F.S.; prohibiting a member of a state, county, or
60 municipal governmental board, commission, or agency
61 who is present at a meeting at which an official
62 decision, ruling, or other official act is to be taken
63 or adopted from abstaining from voting in regard to
64 any such decision; providing for procedures with
65 respect to a possible conflict of interest of the
66 member; creating s. 119.30, F.S.; providing penalties
67 for violations of the Open Government Act; creating s.
68 119.31, F.S.; authorizing the circuit courts of this
69 state to issue injunctions to enforce the act;
70 authorizing any person to petition the court for an
71 injunction; creating s. 119.32, F.S.; providing for
72 attorney's fees under certain circumstances; repealing
73 ss. 119.011, 119.10, 119.12, 286.011, 286.0113, and
74 286.012, F.S., relating to definitions, violations and
75 penalties of public-records requirements, attorney's
76 fees, public meetings, general exemptions from public-
77 meetings requirements, and voting requirements at
78 meetings of governmental bodies, respectively;
79 reenacting s. 27.02(2), F.S., relating to the duties
80 of the state attorney before the circuit court;
81 reenacting s. 119.01(2)(f), F.S., relating to state
82 policy on public records; reenacting s.
83 119.0712(1)(d), F.S., relating to specific exemptions
84 from inspection or copying of public records for
85 executive branch agencies; reenacting s.
86 119.084(2)(a), F.S., relating to the copyright of data
87 processing software created by governmental agencies;

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88 reenacting s. 455.219(6), F.S., relating to licensure
89 fees charged by professional boards; reenacting s.
90 456.025(11), F.S., relating to costs of regulating
91 health care professions and practitioners; reenacting
92 ss. 458.3193(1)(c) and 459.0083(1)(c), F.S., relating
93 to confidentiality of certain information contained in
94 physician workforce surveys; reenacting s.
95 472.011(16), F.S., relating to fees the surveyors and
96 mappers board may charge for application, examination,
97 reexamination, and licensing; reenacting s.
98 1012.31(2)(e), F.S., relating to public school system
99 employee personnel files, to incorporate the
100 amendments made to s. 119.07, F.S., in references
101 thereto; reenacting s. 17.076(5), F.S., relating to
102 the direct deposit of funds for a person who is
103 drawing a salary or retirement benefits from the
104 state; reenacting s. 119.0714, F.S., relating to court
105 files and court records; reenacting s. 1007.35(8)(b),
106 F.S., relating to the Florida Partnership for Minority
107 and Underrepresented Student Achievement Act, to
108 incorporate the amendments made to s. 119.071, F.S.,
109 in references thereto; amending ss. 11.0431, 28.001,
110 28.24, 73.0155, 97.0585, 112.3188, 163.61, 257.34,
111 257.35, 281.301, 364.107, 382.0085, 383.402, 550.0251,
112 607.0505, 617.0503, 636.064, 668.50, 668.6076,
113 713.313, 787.03, 817.568, 817.569, 893.0551, 914.27,
114 943.031, 943.0313, 943.0314, and 943.032, F.S.;

115 conforming cross-references; providing an effective
116 date.

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

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

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

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

119.002 Education and training.—All elected and appointed public officials must undergo education and training on the requirements of the Open Government Act.

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

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

(1) "Actual cost of duplication" means:

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

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

(2) "Agency" means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law, including, for the purposes of this chapter,

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146 the Commission on Ethics, the Public Service Commission, the
147 Office of Public Counsel, and any other public or private
148 agency, person, partnership, corporation, or business entity
149 acting on behalf of any public agency.

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

154 (4) "Commercial activity" means the permissible uses set
155 forth in the federal Driver's Privacy Protection Act of 1994, 18
156 U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15
157 U.S.C. ss. 1681 et seq.; or the Financial Services Modernization
158 Act of 1999, 15 U.S.C. ss. 6801 et seq., or verification of the
159 accuracy of personal information received by a commercial entity
160 in the normal course of its business, including identification
161 or prevention of fraud or matching, verifying, or retrieving
162 information. The term does not include the display or bulk sale
163 of social security numbers to the public or the distribution of
164 such numbers to any customer that is not identifiable by the
165 commercial entity.

166 (5) "Commercial entity" means any corporation, partnership,
167 limited partnership, proprietorship, sole proprietorship, firm,
168 enterprise, franchise, or association that performs a commercial
169 activity in this state.

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

174 (b) "Criminal investigative information" means information

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175 with respect to an identifiable person or group of persons
176 compiled by a criminal justice agency in the course of
177 conducting a criminal investigation of a specific act or
178 omission, including, but not limited to, information derived
179 from laboratory tests, reports of investigators or informants,
180 or any type of surveillance.

181 (c) "Criminal intelligence information" and "criminal
182 investigative information" does not include:

183 1. The time, date, location, and nature of a reported
184 crime.

185 2. The name, gender, age, and address of a person arrested
186 or of the victim of a crime, except as provided in s.
187 119.071(2)(h).

188 3. The time, date, and location of the incident and of the
189 arrest.

190 4. The crime charged.

191 5. Documents given or required by law or agency rule to be
192 given to the person arrested, except as provided in s.

193 119.071(2)(h). However, the court in a criminal case may order
194 that certain information required by law or agency rule to be
195 given to the person arrested be maintained in a confidential
196 manner and exempt from the provisions of s. 119.07(1) until
197 released at trial if it is found that the release of such
198 information would:

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

201 b. Impair the ability of a state attorney to locate or
202 prosecute a codefendant.

203 6. Informations and indictments except as provided in s.

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204 905.26.205 (d) "Active" means:

206 1. Criminal intelligence information shall be considered
207 active as long as it is related to intelligence gathering
208 conducted with a reasonable, good faith belief that it will lead
209 to detection of ongoing or reasonably anticipated criminal
210 activities.

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

215
216 In addition, criminal intelligence and criminal investigative
217 information shall be considered active while such information is
218 directly related to pending prosecutions or appeals. The term
219 "active" does not apply to information in cases that are barred
220 from prosecution under the provisions of s. 775.15 or other
221 statute of limitation.

222 (7) "Criminal justice agency" means:223 (a) Any law enforcement agency, court, or prosecutor;

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

226 (c) Any agency having custody of criminal intelligence
227 information or criminal investigative information for the
228 purpose of assisting the law enforcement agencies in the conduct
229 of active criminal investigation, or prosecution or for the
230 purpose of litigating civil actions under the Racketeer
231 Influenced and Corrupt Organization Act, during the time that
232 the agencies are in possession of criminal intelligence

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233 information or criminal investigative information pursuant to
234 their criminal law enforcement duties; or

235 (d) The Department of Corrections.

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

240 (9) "Data processing software" means the programs and
241 routines used to employ and control the capabilities of data
242 processing hardware, including, but not limited to, operating
243 systems, compilers, assemblers, utilities, library routines,
244 maintenance routines, applications, and computer networking
245 programs.

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

248 (11) "Exemption" means a provision of general law which
249 provides that a specified record or meeting, or portion thereof,
250 is not subject to the access requirements of s. 119.07(1), s.
251 286.011, or s. 24, Art. I of the State Constitution.

252 (12) "Information technology resources" means data
253 processing hardware and software and services, communications,
254 supplies, personnel, facility resources, maintenance, and
255 training.

256 (13) "Paratransit" has the same meaning as provided in s.
257 427.011.

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

260 (15) "Public records" means all documents, papers, letters,
261 maps, books, tapes, photographs, films, sound recordings, data

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262 processing software, or other material, regardless of the
263 physical form, characteristics, or means of transmission, made
264 or received pursuant to law or ordinance or in connection with
265 the transaction of official business by any agency.

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

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

271 (a) Records, information, photographs, audio and visual
272 presentations, schematic diagrams, surveys, recommendations, or
273 consultations or portions thereof relating directly to the
274 physical security of the facility or revealing security systems;

275 (b) Threat assessments conducted by any agency or any
276 private entity;

277 (c) Threat response plans;

278 (d) Emergency evacuation plans;

279 (e) Sheltering arrangements; or

280 (f) Manuals for security personnel, emergency equipment, or
281 security training.

282 (18) "Sensitive," for purposes of defining agency-produced
283 software, means only those portions of data processing software,
284 including the specifications and documentation, which are used
285 to:

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

288 (b) Collect, process, store, and retrieve financial
289 management information of the agency, such as payroll and
290 accounting records; or

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291 (c) Control and direct access authorizations and security
292 measures for automated systems.

293 (19) "Trade secret" has the same meaning as provided in s.
294 688.002.

295 Section 4. Section 119.07, Florida Statutes, is amended to
296 read

297 119.07 Inspection and copying of records; photographing
298 public records; fees; exemptions.-

299 (1) (a) Every person who has custody of a public record
300 shall permit the record to be inspected and copied by any person
301 desiring to do so, at any reasonable time, under reasonable
302 conditions, and under supervision by the custodian of the public
303 records.

304 (b) A custodian of public records or a person having
305 custody of public records may designate another officer or
306 employee of the agency to permit the inspection and copying of
307 public records, but must disclose the identity of the designee
308 to the person requesting to inspect or copy public records.

309 (c) A custodian of public records and his or her designee
310 must acknowledge requests to inspect or copy records promptly
311 and respond to such requests in good faith. A good faith
312 response includes making reasonable efforts to determine from
313 other officers or employees within the agency whether such a
314 record exists and, if so, the location at which the record can
315 be accessed.

316 (d) A person who has custody of a public record who asserts
317 that an exemption applies to a part of such record shall redact
318 that portion of the record to which an exemption has been
319 asserted and validly applies, and such person shall produce the

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320 remainder of such record for inspection and copying.

321 (e) If the person who has custody of a public record
322 contends that all or part of the record is exempt from
323 inspection and copying, he or she shall state the basis of the
324 exemption that he or she contends is applicable to the record,
325 including the statutory citation to an exemption created or
326 afforded by statute.

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

331 (g) In any civil action in which an exemption to this
332 section is asserted, if the exemption is alleged to exist under
333 or by virtue of s. 119.071(1)(d) or (f), (2)(d), (e), or (f), or
334 (4)(c), the public record or part thereof in question shall be
335 submitted to the court for an inspection in camera. If an
336 exemption is alleged to exist under or by virtue of s.
337 119.071(2)(c), an inspection in camera is discretionary with the
338 court. If the court finds that the asserted exemption is not
339 applicable, it shall order the public record or part thereof in
340 question to be immediately produced for inspection or copying as
341 requested by the person seeking such access.

342 (h) Even if an assertion is made by the custodian of public
343 records that a requested record is not a public record subject
344 to public inspection or copying under this subsection, the
345 requested record shall, nevertheless, not be disposed of for a
346 period of 30 days after the date on which a written request to
347 inspect or copy the record was served on or otherwise made to
348 the custodian of public records by the person seeking access to

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349 the record. If a civil action is instituted within the 30-day
350 period to enforce the provisions of this section with respect to
351 the requested record, the custodian of public records may not
352 dispose of the record except by order of a court of competent
353 jurisdiction after notice to all affected parties.

354 (i) The absence of a civil action instituted for the
355 purpose stated in paragraph (g) does not relieve the custodian
356 of public records of the duty to maintain the record as a public
357 record if the record is in fact a public record subject to
358 public inspection and copying under this subsection and does not
359 otherwise excuse or exonerate the custodian of public records
360 from any unauthorized or unlawful disposition of such record.

361 (2) (a) As an additional means of inspecting or copying
362 public records, a custodian of public records may provide access
363 to public records by remote electronic means, provided exempt or
364 confidential information is not disclosed.

365 (b) The custodian of public records shall provide
366 safeguards to protect the contents of public records from
367 unauthorized remote electronic access or alteration and to
368 prevent the disclosure or modification of those portions of
369 public records which are exempt or confidential from subsection
370 (1) or s. 24, Art. I of the State Constitution.

371 (c) Unless otherwise required by law, the custodian of
372 public records may charge a fee for remote electronic access,
373 granted under a contractual arrangement with a user, which fee
374 may include the direct and indirect costs of providing such
375 access. Fees for remote electronic access provided to the
376 general public shall be in accordance with the provisions of
377 this section.

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378 (3) (a) Any person shall have the right of access to public
379 records for the purpose of making photographs of the record
380 while such record is in the possession, custody, and control of
381 the custodian of public records.

382 (b) This subsection applies to the making of photographs in
383 the conventional sense by use of a camera device to capture
384 images of public records but excludes the duplication of
385 microfilm in the possession of the clerk of the circuit court
386 where a copy of the microfilm may be made available by the
387 clerk.

388 (c) Photographing public records shall be done under the
389 supervision of the custodian of public records, who may adopt
390 and enforce reasonable rules governing the photographing of such
391 records.

392 (d) Photographing of public records shall be done in the
393 room where the public records are kept. If, in the judgment of
394 the custodian of public records, this is impossible or
395 impracticable, photographing shall be done in another room or
396 place, as nearly adjacent as possible to the room where the
397 public records are kept, to be determined by the custodian of
398 public records. Where provision of another room or place for
399 photographing is required, the expense of providing the same
400 shall be paid by the person desiring to photograph the public
401 record pursuant to paragraph (4) (h) ~~(4) (e)~~.

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

406 (a)1. Up to 15 cents per one-sided copy for duplicated

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407 copies of not more than 14 inches by 8 1/2 inches;

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

410 3. For all other copies, the actual cost of duplication of
411 the public record.

412

413 If the nature or volume of the public records requested to be
414 inspected or copied requires less than 30 minutes, the agency
415 may not charge the actual cost of duplication.

416 (b)1. For a copy of a public record in any electronic
417 medium stored, maintained, or used by an agency, the actual cost
418 of duplication. However, if the volume of the public records
419 requested to be copied requires less than 30 minutes, the agency
420 shall not charge the actual cost of duplication.

421 2. If an agency is able to convert the record into the
422 electronic format requested as a step in the process of copying
423 or exporting the requested record, the agency must provide the
424 record in the format requested and may charge a fee authorized
425 by this subsection.

426 (c) The cost of clerical or supervisory assistance may be
427 no greater than the base hourly rate of the lowest paid
428 personnel capable of providing such clerical or supervisory
429 assistance.

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

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

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

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

444 2. After January 1, 2013, an agency may not charge a fee
445 for costs associated with redaction of exempt or confidential
446 and exempt information from a public record that has been
447 requested to be inspected or copied.

448 ~~(d) If the nature or volume of public records requested to~~
449 ~~be inspected or copied pursuant to this subsection is such as to~~
450 ~~require extensive use of information technology resources or~~
451 ~~extensive clerical or supervisory assistance by personnel of the~~
452 ~~agency involved, or both, the agency may charge, in addition to~~
453 ~~the actual cost of duplication, a special service charge, which~~
454 ~~shall be reasonable and shall be based on the cost incurred for~~
455 ~~such extensive use of information technology resources or the~~
456 ~~labor cost of the personnel providing the service that is~~
457 ~~actually incurred by the agency or attributable to the agency~~
458 ~~for the clerical and supervisory assistance required, or both.~~

459 (h)(e)1. Where provision of another room or place is
460 necessary to photograph public records, the expense of providing
461 the same shall be paid by the person desiring to photograph the
462 public records.

463 2. The custodian of public records may charge the person
464 making the photographs for supervision services at a rate of

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465 compensation to be agreed upon by the person desiring to make
466 the photographs and the custodian of public records. If they
467 fail to agree as to the appropriate charge, the charge shall be
468 determined by the custodian of public records.

469 (5) When ballots are produced under this section for
470 inspection or examination, no persons other than the supervisor
471 of elections or the supervisor's employees shall touch the
472 ballots. If the ballots are being examined before the end of the
473 contest period in s. 102.168, the supervisor of elections shall
474 make a reasonable effort to notify all candidates by telephone
475 or otherwise of the time and place of the inspection or
476 examination. All such candidates, or their representatives,
477 shall be allowed to be present during the inspection or
478 examination.

479 (6) An exemption contained in this chapter or in any other
480 general or special law shall not limit the access of the Auditor
481 General, the Office of Program Policy Analysis and Government
482 Accountability, or any state, county, municipal, university,
483 board of community college, school district, or special district
484 internal auditor to public records when such person states in
485 writing that such records are needed for a properly authorized
486 audit, examination, or investigation. Such person shall maintain
487 the exempt or confidential status of that public record and
488 shall be subject to the same penalties as the custodian of that
489 record for public disclosure of such record.

490 (7) An exemption from this section does not imply an
491 exemption from s. 119.20 ~~s. 286.011~~. The exemption from s.
492 119.20 ~~s. 286.011~~ must be expressly provided.

493 (8) The provisions of this section are not intended to

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494 expand or limit the provisions of Rule 3.220, Florida Rules of
495 Criminal Procedure, regarding the right and extent of discovery
496 by the state or by a defendant in a criminal prosecution or in
497 collateral postconviction proceedings. This section may not be
498 used by any inmate as the basis for failing to timely litigate
499 any postconviction action.

500 Section 5. Paragraph (a) of subsection (3) and paragraph
501 (a) of subsection (5) of section 119.071, Florida Statutes, are
502 amended to read:

503 119.071 General exemptions from inspection or copying of
504 public records.—

505 (3) SECURITY.—

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

508 ~~a. Records, information, photographs, audio and visual~~
509 ~~presentations, schematic diagrams, surveys, recommendations, or~~
510 ~~consultations or portions thereof relating directly to the~~
511 ~~physical security of the facility or revealing security systems;~~

512 ~~b. Threat assessments conducted by any agency or any~~
513 ~~private entity;~~

514 ~~c. Threat response plans;~~

515 ~~d. Emergency evacuation plans;~~

516 ~~e. Sheltering arrangements; or~~

517 ~~f. Manuals for security personnel, emergency equipment, or~~
518 ~~security training.~~

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

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

522 b. Any privately owned or leased property

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524 held by an agency is confidential and exempt from s. 119.07(1)
525 and s. 24(a), Art. I of the State Constitution. This exemption
526 is remedial in nature, and it is the intent of the Legislature
527 that this exemption apply to security system plans held by an
528 agency before, on, or after the effective date of this
529 paragraph.

530 ~~2.3.~~ Information made confidential and exempt by this
531 paragraph may be disclosed by the custodian of public records
532 to:

533 a. The property owner or leaseholder; or

534 b. Another state or federal agency to prevent, detect,
535 guard against, respond to, investigate, or manage the
536 consequences of any attempted or actual act of terrorism, or to
537 prosecute those persons who are responsible for such attempts or
538 acts.

539 (5) OTHER PERSONAL INFORMATION.—

540 (a)1.a. The Legislature acknowledges that the social
541 security number was never intended to be used for business
542 purposes but was intended to be used solely for the
543 administration of the federal Social Security System. The
544 Legislature is further aware that over time this unique numeric
545 identifier has been used extensively for identity verification
546 purposes and other legitimate consensual purposes.

547 b. The Legislature recognizes that the social security
548 number can be used as a tool to perpetuate fraud against an
549 individual and to acquire sensitive personal, financial,
550 medical, and familial information, the release of which could
551 cause great financial or personal harm to an individual.

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552 c. The Legislature intends to monitor the use of social
553 security numbers held by agencies in order to maintain a
554 balanced public policy.

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

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

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

561 b. An agency shall identify in writing the specific federal
562 or state law governing the collection, use, or release of social
563 security numbers for each purpose for which the agency collects
564 the social security number, including any authorized exceptions
565 that apply to such collection, use, or release. Each agency
566 shall ensure that the collection, use, or release of social
567 security numbers complies with the specific applicable federal
568 or state law.

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

572 3. An agency collecting an individual's social security
573 number shall provide that individual with a copy of the written
574 statement required in subparagraph 2. The written statement also
575 shall state whether collection of the individual's social
576 security number is authorized or mandatory under federal or
577 state law.

578 4. Each agency shall review whether its collection of
579 social security numbers is in compliance with subparagraph 2. If
580 the agency determines that collection of a social security

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581 number is not in compliance with subparagraph 2., the agency
582 shall immediately discontinue the collection of social security
583 numbers for that purpose.

584 5. Social security numbers held by an agency are
585 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
586 of the State Constitution. This exemption applies to social
587 security numbers held by an agency before, on, or after the
588 effective date of this exemption. This exemption does not
589 supersede any federal law prohibiting the release of social
590 security numbers or any other applicable public records
591 exemption for social security numbers existing prior to May 13,
592 2002, or created thereafter.

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

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

597 b. The disclosure of the social security number is
598 necessary for the receiving agency or governmental entity to
599 perform its duties and responsibilities.

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

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

605 e. The disclosure of the social security number is made to
606 a commercial entity for the permissible uses set forth in the
607 federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss.
608 2721 et seq.; the Fair Credit Reporting Act, 15 U.S.C. ss. 1681
609 et seq.; or the Financial Services Modernization Act of 1999, 15

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610 U.S.C. ss. 6801 et seq., provided that the authorized commercial
611 entity complies with the requirements of this paragraph.

612 f. The disclosure of the social security number is for the
613 purpose of the administration of health benefits for an agency
614 employee or his or her dependents.

615 g. The disclosure of the social security number is for the
616 purpose of the administration of a pension fund administered for
617 the agency employee's retirement fund, deferred compensation
618 plan, or defined contribution plan.

619 h. The disclosure of the social security number is for the
620 purpose of the administration of the Uniform Commercial Code by
621 the office of the Secretary of State.

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

623 ~~(I) "Commercial activity" means the permissible uses set~~
624 ~~forth in the federal Driver's Privacy Protection Act of 1994, 18~~
625 ~~U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15~~
626 ~~U.S.C. ss. 1681 et seq.; or the Financial Services Modernization~~
627 ~~Act of 1999, 15 U.S.C. ss. 6801 et seq., or verification of the~~
628 ~~accuracy of personal information received by a commercial entity~~
629 ~~in the normal course of its business, including identification~~
630 ~~or prevention of fraud or matching, verifying, or retrieving~~
631 ~~information. It does not include the display or bulk sale of~~
632 ~~social security numbers to the public or the distribution of~~
633 ~~such numbers to any customer that is not identifiable by the~~
634 ~~commercial entity.~~

635 ~~(II) "Commercial entity" means any corporation,~~
636 ~~partnership, limited partnership, proprietorship, sole~~
637 ~~proprietorship, firm, enterprise, franchise, or association that~~
638 ~~performs a commercial activity in this state.~~

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639 a.b. An agency may not deny a commercial entity engaged in
640 the performance of a commercial activity access to social
641 security numbers, provided the social security numbers will be
642 used only in the performance of a commercial activity and
643 provided the commercial entity makes a written request for the
644 social security numbers. The written request must:

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

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

648 (III) Contain the commercial entity's name, business
649 mailing and location addresses, and business telephone number;
650 and

651 (IV) Contain a statement of the specific purposes for which
652 it needs the social security numbers and how the social security
653 numbers will be used in the performance of a commercial
654 activity, including the identification of any specific federal
655 or state law that permits such use.

656 b.e. An agency may request any other information reasonably
657 necessary to verify the identity of a commercial entity
658 requesting the social security numbers and the specific purposes
659 for which the numbers will be used.

660 8.a. Any person who makes a false representation in order
661 to obtain a social security number pursuant to this paragraph,
662 or any person who willfully and knowingly violates this
663 paragraph, commits a felony of the third degree, punishable as
664 provided in s. 775.082 or s. 775.083.

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

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

670 Section 6. Section 119.13, Florida Statutes, is created to
671 read:

672 119.13 Model public access policy.—The Division of Library
673 and Information Services of the Department of State shall adopt
674 a rule to establish a model policy for providing public access
675 to public records in accordance with this part.

676 Section 7. Section 119.15, Florida Statutes, is amended to
677 read:

678 119.15 Legislative review of exemptions from public meeting
679 and public records requirements.—

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

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

686 (a) Is required by federal law; or

687 (b) Applies solely to the Legislature or the State Court
688 System.

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

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

696 (4) (a) A law that enacts a new exemption or substantially

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697 amends an existing exemption must state that the record or
698 meeting is:

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

704 (b) For purposes of this section, an exemption is
705 substantially amended if the amendment expands the scope of the
706 exemption to include more records or information or to include
707 meetings as well as records. An exemption is not substantially
708 amended if the amendment narrows the scope of the exemption.

709 (c) This section is not intended to repeal an exemption
710 that has been amended following legislative review before the
711 scheduled repeal of the exemption if the exemption is not
712 substantially amended as a result of the review.

713 (5) (a) By June 1 in the year before the repeal of an
714 exemption under this section, the Division of Statutory Revision
715 of the Office of Legislative Services shall certify to the
716 President of the Senate and the Speaker of the House of
717 Representatives the language and statutory citation of each
718 exemption scheduled for repeal the following year.

719 (b) Any exemption that is not identified and certified to
720 the President of the Senate and the Speaker of the House of
721 Representatives is not subject to legislative review and repeal
722 under this section. If the division fails to certify an
723 exemption that it subsequently determines should have been
724 certified, it shall include the exemption in the following
725 year's certification after that determination.

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

728 1. What specific records or meetings are affected by the
729 exemption?

730 2. Whom does the exemption uniquely affect, as opposed to
731 the general public?

732 3. What is the identifiable public purpose or goal of the
733 exemption?

734 4. Can the information contained in the records or
735 discussed in the meeting be readily obtained by alternative
736 means? If so, how?

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

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

740 (b) An exemption may be created, revised, or maintained
741 only if it serves an identifiable public purpose, and the
742 exemption may be no broader than is necessary to meet the public
743 purpose it serves. An identifiable public purpose is served if
744 the exemption meets one of the following purposes and the
745 Legislature finds that the purpose is sufficiently compelling to
746 override the strong public policy of open government and cannot
747 be accomplished without the exemption:

748 1. Allows the state or its political subdivisions to
749 effectively and efficiently administer a governmental program,
750 which administration would be significantly impaired without the
751 exemption;

752 2. Protects information of a sensitive personal nature
753 concerning individuals, the release of which information would
754 be defamatory to such individuals or cause unwarranted damage to

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755 the good name or reputation of such individuals or would
756 jeopardize the safety of such individuals. However, in
757 exemptions under this subparagraph, only information that would
758 identify the individuals may be exempted; or

759 3. Protects information of a confidential nature concerning
760 entities, including, but not limited to, a formula, pattern,
761 device, combination of devices, or compilation of information
762 which is used to protect or further a business advantage over
763 those who do not know or use it, the disclosure of which
764 information would injure the affected entity in the marketplace.

765 (7) Records made before the date of a repeal of an
766 exemption under this section may not be made public unless
767 otherwise provided by law. In deciding whether the records shall
768 be made public, the Legislature shall consider whether the
769 damage or loss to persons or entities uniquely affected by the
770 exemption of the type specified in subparagraph (6)(b)2. or
771 subparagraph (6)(b)3. would occur if the records were made
772 public.

773 (8) Notwithstanding s. 768.28 or any other law, neither the
774 state or its political subdivisions nor any other public body
775 shall be made party to any suit in any court or incur any
776 liability for the repeal or revival and reenactment of an
777 exemption under this section. The failure of the Legislature to
778 comply strictly with this section does not invalidate an
779 otherwise valid reenactment.

780 Section 8. Section 119.20, Florida Statutes, is created to
781 read:

782 119.20 Public meetings and records; access to public
783 meetings.-

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784 (1) All meetings of any board or commission of any state
785 agency or authority or of any agency or authority of any county,
786 municipal corporation, or political subdivision, except as
787 otherwise provided in the State Constitution, at which official
788 acts are to be taken are declared to be public meetings open to
789 the public at all times, and no resolution, rule, or formal
790 action shall be considered binding except as taken or made at
791 such meeting. The board or commission must provide reasonable
792 notice of all such meetings.

793 (2) The minutes of a meeting of any such board or
794 commission of any such state agency or authority shall be
795 promptly recorded, and such records shall be open to public
796 inspection.

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

802 Section 9. Section 119.201, Florida Statutes, is created to
803 read:

804 119.201 General exemptions from public meetings.-

805 (1) Any board or commission of any state agency or
806 authority or any agency or authority of any county, municipal
807 corporation, or political subdivision, and the chief
808 administrative or executive officer of the governmental entity,
809 may meet in private with the entity's attorney to discuss
810 pending litigation to which the entity is presently a party
811 before a court or administrative agency if the following
812 conditions are met:

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813 (a) The entity's attorney shall advise the entity at a
814 public meeting that he or she desires advice concerning the
815 litigation.

816 (b) The subject matter of the meeting shall be confined to
817 settlement negotiations or strategy sessions related to
818 litigation expenditures.

819 (c) The entire session shall be recorded by a certified
820 court reporter. The reporter shall record the times of
821 commencement and termination of the session, all discussion and
822 proceedings, the names of all persons present at any time, and
823 the names of all persons speaking. No portion of the session
824 shall be off the record. The court reporter's notes shall be
825 fully transcribed and filed with the entity's clerk within a
826 reasonable time after the meeting.

827 (d) The entity shall give reasonable public notice of the
828 time and date of the attorney-client session and the names of
829 persons who will be attending the session. The session shall
830 commence at an open meeting at which the persons chairing the
831 meeting shall announce the commencement and estimated length of
832 the attorney-client session and the names of the persons
833 attending. At the conclusion of the attorney-client session, the
834 meeting shall be reopened, and the person chairing the meeting
835 shall announce the termination of the session.

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

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

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

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

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

854 3. If the agency rejects all sealed replies, the recording
855 remains exempt from s. 119.07(1) and s. 24(a), Art. I of the
856 State Constitution until such time as the agency provides notice
857 of a decision or intended decision pursuant to s. 120.57(3) (a)
858 concerning the reissued invitation to negotiate or until the
859 agency withdraws the reissued invitation to negotiate. A
860 recording is not exempt for longer than 12 months after the
861 initial agency notice rejecting all replies.

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

866 Section 10. Section 119.202, Florida Statutes, is created
867 to read:

868 119.202 Voting requirement at meetings of governmental
869 bodies.—A member of any state, county, or municipal governmental
870 board, commission, or agency who is present at any meeting of

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871 any such body at which an official decision, ruling, or other
872 official act is to be taken or adopted may not abstain from
873 voting in regard to any such decision, ruling, or act; and a
874 vote shall be recorded or counted for each such member present,
875 except when, with respect to any such member, there is, or
876 appears to be, a possible conflict of interest under the
877 provisions of s. 112.311, s. 112.313, or s. 112.3143. In such
878 case, the member shall comply with the disclosure requirements
879 of s. 112.3143.

880 Section 11. Section 119.30, Florida Statutes, is created to
881 read:

882 119.30 Violation of chapter; penalties.—

883 (1) A violation of any law that relates to access to public
884 records or meetings shall be considered a violation of this
885 chapter.

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

889 (3) A person who willfully and knowingly violates any of
890 the provisions of this chapter commits a misdemeanor of the
891 first degree, punishable as provided in s. 775.082 or s.
892 775.083.

893 (4) Conduct that occurs outside the state and that would
894 constitute a knowing violation of this chapter is a misdemeanor
895 of the first degree, punishable as provided in s. 775.082 or s.
896 775.083.

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

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

899 (b) Shown intentional disregard for the public's

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900 constitutional right of access as guaranteed by s. 24, Art. I of
901 the State Constitution; or

902 (c) Exhibited a pattern of abuse of the requirements of
903 this chapter,

904
905 the court may assess a penalty against the agency equal to twice
906 the amount awarded pursuant to this section.

907 Section 12. Section 119.31, Florida Statutes, is created to
908 read:

909 119.31 Injunctions.—The circuit courts of this state have
910 jurisdiction to issue injunctions to enforce this chapter upon
911 application by any person.

912 Section 13. Section 119.32, Florida Statutes, is created to
913 read:

914 119.32 Attorney's fees.—

915 (1) If an action is filed against an agency to enforce the
916 provisions of this chapter or any other law that relates to
917 access to public records or meetings, including those laws that
918 limit public access to such records or meetings, and if the
919 court determines that the agency unlawfully refused to permit a
920 public record to be inspected or copied, or otherwise acted in
921 violation of this chapter, the court shall assess and award
922 against the agency responsible the reasonable costs of
923 enforcement, including reasonable attorney's fees at trial and
924 on appeal.

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

928 (3) Whenever any individual is charged with a violation of

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929 this chapter and is subsequently acquitted, the agency may
930 reimburse the individual for any portion of his or her
931 reasonable attorney's fees.

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

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

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

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

936 Section 18. Section 286.0113, Florida Statutes, is
937 repealed.

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

939 Section 20. For the purpose of incorporating the amendment
940 made by this act to section 119.07, Florida Statutes, in a
941 reference thereto, subsection (2) of section 27.02, Florida
942 Statutes, is reenacted to read:

943 27.02 Duties before court.—

944 (2) The state attorney, when complying with the discovery
945 obligation pursuant to the applicable rule of procedure, may
946 charge the defendant fees as provided for in s. 119.07(4), not
947 to exceed 15 cents per page for a copy of a noncertified copy of
948 a public record. However, these fees may be deferred if the
949 defendant has been determined to be indigent as provided in s.
950 27.52.

951 Section 21. For the purpose of incorporating the amendment
952 made by this act to section 119.07, Florida Statutes, in a
953 reference thereto, paragraph (f) of subsection (2) of section
954 119.01, Florida Statutes, is reenacted to read:

955 119.01 General state policy on public records.—

956 (2)

957 (f) Each agency that maintains a public record in an

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958 electronic recordkeeping system shall provide to any person,
959 pursuant to this chapter, a copy of any public record in that
960 system which is not exempted by law from public disclosure. An
961 agency must provide a copy of the record in the medium requested
962 if the agency maintains the record in that medium, and the
963 agency may charge a fee in accordance with this chapter. For the
964 purpose of satisfying a public records request, the fee to be
965 charged by an agency if it elects to provide a copy of a public
966 record in a medium not routinely used by the agency, or if it
967 elects to compile information not routinely developed or
968 maintained by the agency or that requires a substantial amount
969 of manipulation or programming, must be in accordance with s.
970 119.07(4).

971 Section 22. For the purpose of incorporating the amendment
972 made by this act to section 119.07, Florida Statutes, in a
973 reference thereto, paragraph (d) of subsection (1) of section
974 119.0712, Florida Statutes, is reenacted to read:

975 119.0712 Executive branch agency-specific exemptions from
976 inspection or copying of public records.—

977 (1) DEPARTMENT OF HEALTH.—All personal identifying
978 information contained in records relating to an individual's
979 personal health or eligibility for health-related services held
980 by the Department of Health is confidential and exempt from s.
981 119.07(1) and s. 24(a), Art. I of the State Constitution, except
982 as otherwise provided in this subsection. Information made
983 confidential and exempt by this subsection shall be disclosed:

984 (d) To a health research entity, if the entity seeks the
985 records or data pursuant to a research protocol approved by the
986 department, maintains the records or data in accordance with the

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987 approved protocol, and enters into a purchase and data-use
988 agreement with the department, the fee provisions of which are
989 consistent with s. 119.07(4). The department may deny a request
990 for records or data if the protocol provides for intrusive
991 follow-back contacts, has not been approved by a human studies
992 institutional review board, does not plan for the destruction of
993 confidential records after the research is concluded, is
994 administratively burdensome, or does not have scientific merit.
995 The agreement must restrict the release of any information that
996 would permit the identification of persons, limit the use of
997 records or data to the approved research protocol, and prohibit
998 any other use of the records or data. Copies of records or data
999 issued pursuant to this paragraph remain the property of the
1000 department.

1001 Section 23. For the purpose of incorporating the amendment
1002 made by this act to section 119.07, Florida Statutes, in a
1003 reference thereto, paragraph (a) of subsection (2) of section
1004 119.084, Florida Statutes, is reenacted to read:

1005 119.084 Copyright of data processing software created by
1006 governmental agencies; sale price and licensing fee.—

1007 (2) An agency is authorized to acquire and hold a copyright
1008 for data processing software created by the agency and to
1009 enforce its rights pertaining to such copyright, provided that
1010 the agency complies with the requirements of this subsection.

1011 (a) An agency that has acquired a copyright for data
1012 processing software created by the agency may sell or license
1013 the copyrighted data processing software to any public agency or
1014 private person. The agency may establish a price for the sale
1015 and a licensing fee for the use of such data processing software

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1016 that may be based on market considerations. However, the prices
1017 or fees for the sale or licensing of copyrighted data processing
1018 software to an individual or entity solely for application to
1019 information maintained or generated by the agency that created
1020 the copyrighted data processing software shall be determined
1021 pursuant to s. 119.07(4).

1022 Section 24. For the purpose of incorporating the amendment
1023 made by this act to section 119.07, Florida Statutes, in a
1024 reference thereto, subsection (6) of section 455.219, Florida
1025 Statutes, is reenacted to read:

1026 455.219 Fees; receipts; disposition; periodic management
1027 reports.—

1028 (6) The department or the appropriate board shall charge a
1029 fee not to exceed \$25 for the certification of a public record.
1030 The fee shall be determined by rule of the department. The
1031 department or the appropriate board shall assess a fee for
1032 duplication of a public record as provided in s. 119.07(4).

1033 Section 25. For the purpose of incorporating the amendment
1034 made by this act to section 119.07, Florida Statutes, in a
1035 reference thereto, subsection (11) of section 456.025, Florida
1036 Statutes, is reenacted to read:

1037 456.025 Fees; receipts; disposition.—

1038 (11) The department or the appropriate board shall charge a
1039 fee not to exceed \$25 for the certification of a public record.
1040 The fee shall be determined by rule of the department. The
1041 department or the appropriate board shall assess a fee for
1042 duplicating a public record as provided in s. 119.07(4).

1043 Section 26. For the purpose of incorporating the amendment
1044 made by this act to section 119.07, Florida Statutes, in a

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1045 reference thereto, paragraph (c) of subsection (1) of section
1046 458.3193, Florida Statutes, is reenacted to read:

1047 458.3193 Confidentiality of certain information contained
1048 in physician workforce surveys.—

1049 (1) All personal identifying information contained in
1050 records provided by physicians licensed under this chapter or
1051 chapter 459 in response to physician workforce surveys required
1052 as a condition of license renewal and held by the Department of
1053 Health is confidential and exempt from s. 119.07(1) and s.
1054 24(a), Art. I of the State Constitution, except as otherwise
1055 provided in this subsection. Information made confidential and
1056 exempt by this subsection shall be disclosed:

1057 (c) To a research entity, if the entity seeks the records
1058 or data pursuant to a research protocol approved by the
1059 Department of Health, maintains the records or data in
1060 accordance with the approved protocol, and enters into a
1061 purchase and data-use agreement with the department, the fee
1062 provisions of which are consistent with s. 119.07(4). The
1063 department may deny a request for records or data if the
1064 protocol provides for intrusive follow-back contacts, does not
1065 plan for the destruction of confidential records after the
1066 research is concluded, is administratively burdensome, or does
1067 not have scientific merit. The agreement must restrict the
1068 release of information that would identify individuals, must
1069 limit the use of records or data to the approved research
1070 protocol, and must prohibit any other use of the records or
1071 data. Copies of records or data issued pursuant to this
1072 paragraph remain the property of the department.

1073 Section 27. For the purpose of incorporating the amendment

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1074 made by this act to section 119.07, Florida Statutes, in a
1075 reference thereto, paragraph (c) of subsection (1) of section
1076 459.0083, Florida Statutes, is reenacted to read:

1077 459.0083 Confidentiality of certain information contained
1078 in physician workforce surveys.—

1079 (1) All personal identifying information contained in
1080 records provided by physicians licensed under chapter 458 or
1081 this chapter in response to physician workforce surveys required
1082 as a condition of license renewal and held by the Department of
1083 Health is confidential and exempt from s. 119.07(1) and s.
1084 24(a), Art. I of the State Constitution, except as otherwise
1085 provided in this subsection. Information made confidential and
1086 exempt by this subsection shall be disclosed:

1087 (c) To a research entity, if the entity seeks the records
1088 or data pursuant to a research protocol approved by the
1089 Department of Health, maintains the records or data in
1090 accordance with the approved protocol, and enters into a
1091 purchase and data-use agreement with the department, the fee
1092 provisions of which are consistent with s. 119.07(4). The
1093 department may deny a request for records or data if the
1094 protocol provides for intrusive follow-back contacts, does not
1095 plan for the destruction of confidential records after the
1096 research is concluded, is administratively burdensome, or does
1097 not have scientific merit. The agreement must restrict the
1098 release of information that would identify individuals, must
1099 limit the use of records or data to the approved research
1100 protocol, and must prohibit any other use of the records or
1101 data. Copies of records or data issued pursuant to this
1102 paragraph remain the property of the department.

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1103 Section 28. For the purpose of incorporating the amendment
1104 made by this act to section 119.07, Florida Statutes, in a
1105 reference thereto, subsection (16) of section 472.011, Florida
1106 Statutes, is reenacted to read:

1107 472.011 Fees.—

1108 (16) The department or the board shall charge a fee not to
1109 exceed \$25 for the certification of a public record. The fee
1110 shall be determined by rule of the department. The department or
1111 the appropriate board shall assess a fee for duplication of a
1112 public record as provided in s. 119.07(4).

1113 Section 29. For the purpose of incorporating the amendment
1114 made by this act to section 119.07, Florida Statutes, in a
1115 reference thereto, paragraph (e) of subsection (2) of section
1116 1012.31, Florida Statutes, is reenacted to read:

1117 1012.31 Personnel files.—Public school system employee
1118 personnel files shall be maintained according to the following
1119 provisions:

1120 (2)

1121 (e) Upon request, an employee, or any person designated in
1122 writing by the employee, shall be permitted to examine the
1123 personnel file of such employee. The employee shall be permitted
1124 conveniently to reproduce any materials in the file, at a cost
1125 no greater than the fees prescribed in s. 119.07(4).

1126 Section 30. For the purpose of incorporating the amendment
1127 made by this act to section 119.071, Florida Statutes, in a
1128 reference thereto, subsection (5) of section 17.076, Florida
1129 Statutes, is reenacted to read

1130 17.076 Direct deposit of funds.—

1131 (5) All direct deposit records made prior to October 1,

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1132 1986, are exempt from the provisions of s. 119.07(1). With
1133 respect to direct deposit records made on or after October 1,
1134 1986, the names of the authorized financial institutions and the
1135 account numbers of the beneficiaries are confidential and exempt
1136 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the
1137 State Constitution. Notwithstanding this exemption and the
1138 provisions of s. 119.071(5)(b), the department may provide a
1139 state university, upon request, with that university's employee
1140 or vendor direct deposit authorization information on file with
1141 the department in order to accommodate the transition to the
1142 university accounting system. The state university shall
1143 maintain the confidentiality of all such information provided by
1144 the department.

1145 Section 31. For the purpose of incorporating the amendment
1146 made by this act to section 119.071, Florida Statutes, in a
1147 reference thereto, section 119.0714, Florida Statutes, is
1148 reenacted to read:

1149 (1) COURT FILES.—Nothing in this chapter shall be construed
1150 to exempt from s. 119.07(1) a public record that was made a part
1151 of a court file and that is not specifically closed by order of
1152 court, except:

1153 (a) A public record that was prepared by an agency attorney
1154 or prepared at the attorney's express direction as provided in
1155 s. 119.071(1)(d).

1156 (b) Data processing software as provided in s.
1157 119.071(1)(f).

1158 (c) Any information revealing surveillance techniques or
1159 procedures or personnel as provided in s. 119.071(2)(d).

1160 (d) Any comprehensive inventory of state and local law

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1161 enforcement resources, and any comprehensive policies or plans
1162 compiled by a criminal justice agency, as provided in s.
1163 119.071(2)(d).

1164 (e) Any information revealing the substance of a confession
1165 of a person arrested as provided in s. 119.071(2)(e).

1166 (f) Any information revealing the identity of a
1167 confidential informant or confidential source as provided in s.
1168 119.071(2)(f).

1169 (g) Any information revealing undercover personnel of any
1170 criminal justice agency as provided in s. 119.071(4)(c).

1171 (h) Criminal intelligence information or criminal
1172 investigative information that is confidential and exempt as
1173 provided in s. 119.071(2)(h).

1174 (i) Social security numbers as provided in s.
1175 119.071(5)(a).

1176 (j) Bank account numbers and debit, charge, and credit card
1177 numbers as provided in s. 119.071(5)(b).

1178 (2) COURT RECORDS.—

1179 (a) Until January 1, 2011, if a social security number or a
1180 bank account, debit, charge, or credit card number is included
1181 in a court file, such number may be included as part of the
1182 court record available for public inspection and copying unless
1183 redaction is requested by the holder of such number or by the
1184 holder's attorney or legal guardian.

1185 (b) A request for redaction must be a signed, legibly
1186 written request specifying the case name, case number, document
1187 heading, and page number. The request must be delivered by mail,
1188 facsimile, electronic transmission, or in person to the clerk of
1189 the court. The clerk of the court does not have a duty to

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1190 inquire beyond the written request to verify the identity of a
1191 person requesting redaction.

1192 (c) A fee may not be charged for the redaction of a social
1193 security number or a bank account, debit, charge, or credit card
1194 number pursuant to such request.

1195 (d) The clerk of the court has no liability for the
1196 inadvertent release of social security numbers, or bank account,
1197 debit, charge, or credit card numbers, unknown to the clerk of
1198 the court in court records filed on or before January 1, 2011.

1199 (e)1. On January 1, 2011, and thereafter, the clerk of the
1200 court must keep social security numbers confidential and exempt
1201 as provided for in s. 119.071(5)(a), and bank account, debit,
1202 charge, and credit card numbers exempt as provided for in s.
1203 119.071(5)(b), without any person having to request redaction.

1204 2. Section 119.071(5)(a)7. and 8. does not apply to the
1205 clerks of the court with respect to court records.

1206 (3) OFFICIAL RECORDS.—

1207 (a) Any person who prepares or files a record for recording
1208 in the official records as provided in chapter 28 may not
1209 include in that record a social security number or a bank
1210 account, debit, charge, or credit card number unless otherwise
1211 expressly required by law.

1212 (b)1. If a social security number or a bank account, debit,
1213 charge, or credit card number is included in an official record,
1214 such number may be made available as part of the official
1215 records available for public inspection and copying unless
1216 redaction is requested by the holder of such number or by the
1217 holder's attorney or legal guardian.

1218 2. If such record is in electronic format, on January 1,

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1219 2011, and thereafter, the county recorder must use his or her
1220 best effort, as provided in paragraph (h), to keep social
1221 security numbers confidential and exempt as provided for in s.
1222 119.071(5)(a), and to keep complete bank account, debit, charge,
1223 and credit card numbers exempt as provided for in s.
1224 119.071(5)(b), without any person having to request redaction.

1225 3. Section 119.071(5)(a)7. and 8. does not apply to the
1226 county recorder with respect to official records.

1227 (c) The holder of a social security number or a bank
1228 account, debit, charge, or credit card number, or the holder's
1229 attorney or legal guardian, may request that a county recorder
1230 redact from an image or copy of an official record placed on a
1231 county recorder's publicly available Internet website or on a
1232 publicly available Internet website used by a county recorder to
1233 display public records, or otherwise made electronically
1234 available to the public, his or her social security number or
1235 bank account, debit, charge, or credit card number contained in
1236 that official record.

1237 (d) A request for redaction must be a signed, legibly
1238 written request and must be delivered by mail, facsimile,
1239 electronic transmission, or in person to the county recorder.
1240 The request must specify the identification page number of the
1241 record that contains the number to be redacted.

1242 (e) The county recorder does not have a duty to inquire
1243 beyond the written request to verify the identity of a person
1244 requesting redaction.

1245 (f) A fee may not be charged for redacting a social
1246 security number or a bank account, debit, charge, or credit card
1247 number.

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1248 (g) A county recorder shall immediately and conspicuously
1249 post signs throughout his or her offices for public viewing, and
1250 shall immediately and conspicuously post on any Internet website
1251 or remote electronic site made available by the county recorder
1252 and used for the ordering or display of official records or
1253 images or copies of official records, a notice stating, in
1254 substantially similar form, the following:

1255 1. On or after October 1, 2002, any person preparing or
1256 filing a record for recordation in the official records may not
1257 include a social security number or a bank account, debit,
1258 charge, or credit card number in such document unless required
1259 by law.

1260 2. Any person has a right to request a county recorder to
1261 remove from an image or copy of an official record placed on a
1262 county recorder's publicly available Internet website or on a
1263 publicly available Internet website used by a county recorder to
1264 display public records, or otherwise made electronically
1265 available to the general public, any social security number
1266 contained in an official record. Such request must be made in
1267 writing and delivered by mail, facsimile, or electronic
1268 transmission, or delivered in person, to the county recorder.
1269 The request must specify the identification page number that
1270 contains the social security number to be redacted. A fee may
1271 not be charged for the redaction of a social security number
1272 pursuant to such a request.

1273 (h) If the county recorder accepts or stores official
1274 records in an electronic format, the county recorder must use
1275 his or her best efforts to redact all social security numbers
1276 and bank account, debit, charge, or credit card numbers from

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1277 electronic copies of the official record. The use of an
1278 automated program for redaction shall be deemed to be the best
1279 effort in performing the redaction and shall be deemed in
1280 compliance with the requirements of this subsection.

1281 (i) The county recorder is not liable for the inadvertent
1282 release of social security numbers, or bank account, debit,
1283 charge, or credit card numbers, filed with the county recorder.

1284 Section 32. For the purpose of incorporating the amendment
1285 made by this act to section 119.071, Florida Statutes, in a
1286 reference thereto, paragraph (b) of subsection (8) of section
1287 1007.35, Florida Statutes, is reenacted to read:

1288 1007.35 Florida Partnership for Minority and
1289 Underrepresented Student Achievement.—

1290 (8)

1291 (b) The department shall contribute to the evaluation
1292 process by providing access, consistent with s. 119.071(5)(a),
1293 to student and teacher information necessary to match against
1294 databases containing teacher professional development data and
1295 databases containing assessment data for the PSAT/NMSQT, SAT,
1296 AP, and other appropriate measures. The department shall also
1297 provide student-level data on student progress from middle
1298 school through high school and into college and the workforce,
1299 if available, in order to support longitudinal studies. The
1300 partnership shall analyze and report student performance data in
1301 a manner that protects the rights of students and parents as
1302 required in 20 U.S.C. s. 1232g and s. 1002.22.

1303 Section 33. Paragraph (a) of subsection (2) of section
1304 11.0431, Florida Statutes, is amended to read:

1305 11.0431 Legislative records; intent of legislation;

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1306 exemption from public disclosure.—

1307 (2) The following public records are exempt from inspection
1308 and copying:

1309 (a) Records, or information contained therein, held by the
1310 legislative branch of government which, if held by an agency as
1311 defined in s. 119.003 ~~s. 119.011~~, or any other unit of
1312 government, would be confidential or exempt from the provisions
1313 of s. 119.07(1), or otherwise exempt from public disclosure, and
1314 records or information of the same type held by the Legislature.

1315 Section 34. Subsection (2) of section 28.001, Florida
1316 Statutes, is amended to read:

1317 28.001 Definitions.—As used in this chapter:

1318 (2) "Public records" has the same meaning as in s. 119.003
1319 ~~s. 119.011~~ and includes each official record.

1320 Section 35. Paragraph (e) of subsection (12) of section
1321 28.24, Florida Statutes, is amended to read:

1322 28.24 Service charges by clerk of the circuit court.—The
1323 clerk of the circuit court shall charge for services rendered by
1324 the clerk's office in recording documents and instruments and in
1325 performing the duties enumerated in amounts not to exceed those
1326 specified in this section. Notwithstanding any other provision
1327 of this section, the clerk of the circuit court shall provide
1328 without charge to the state attorney, public defender, guardian
1329 ad litem, public guardian, attorney ad litem, criminal conflict
1330 and civil regional counsel, and private court-appointed counsel
1331 paid by the state, and to the authorized staff acting on behalf
1332 of each, access to and a copy of any public record, if the
1333 requesting party is entitled by law to view the exempt or
1334 confidential record, as maintained by and in the custody of the

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1335 clerk of the circuit court as provided in general law and the
1336 Florida Rules of Judicial Administration. The clerk of the
1337 circuit court may provide the requested public record in an
1338 electronic format in lieu of a paper format when capable of
1339 being accessed by the requesting entity.

Charges

1343 (12) For recording, indexing, and filing any instrument not
1344 more than 14 inches by 8 1/2 inches, including required notice
1345 to property appraiser where applicable:

1346 (e) An additional service charge of \$4 per page shall be
1347 paid to the clerk of the circuit court for each instrument
1348 listed in s. 28.222, except judgments received from the courts
1349 and notices of lis pendens, recorded in the official records.
1350 From the additional \$4 service charge collected:

1351 1. If the counties maintain legal responsibility for the
1352 costs of the court-related technology needs as defined in s.
1353 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
1354 Florida Association of Court Clerks and Comptroller, Inc., for
1355 the cost of development, implementation, operation, and
1356 maintenance of the clerks' Comprehensive Case Information
1357 System, in which system all clerks shall participate on or
1358 before January 1, 2006; \$1.90 shall be retained by the clerk to
1359 be deposited in the Public Records Modernization Trust Fund and
1360 used exclusively for funding court-related technology needs of
1361 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall
1362 be distributed to the board of county commissioners to be used
1363 exclusively to fund court-related technology, and court

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1364 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
1365 state trial courts, state attorney, public defender, and
1366 criminal conflict and civil regional counsel in that county. If
1367 the counties maintain legal responsibility for the costs of the
1368 court-related technology needs as defined in s. 29.008(1)(f)2.
1369 and (h), notwithstanding any other provision of law, the county
1370 is not required to provide additional funding beyond that
1371 provided herein for the court-related technology needs of the
1372 clerk as defined in s. 29.008(1)(f)2. and (h). All court records
1373 and official records are the property of the State of Florida,
1374 including any records generated as part of the Comprehensive
1375 Case Information System funded pursuant to this paragraph and
1376 the clerk of court is designated as the custodian of such
1377 records, except in a county where the duty of maintaining
1378 official records exists in a county office other than the clerk
1379 of court or comptroller, such county office is designated the
1380 custodian of all official records, and the clerk of court is
1381 designated the custodian of all court records. The clerk of
1382 court or any entity acting on behalf of the clerk of court,
1383 including an association, shall not charge a fee to any agency
1384 as defined in s. 119.003 ~~s. 119.011~~, the Legislature, or the
1385 State Court System for copies of records generated by the
1386 Comprehensive Case Information System or held by the clerk of
1387 court or any entity acting on behalf of the clerk of court,
1388 including an association.

1389 2. If the state becomes legally responsible for the costs
1390 of court-related technology needs as defined in s.
1391 29.008(1)(f)2. and (h), whether by operation of general law or
1392 by court order, \$4 shall be remitted to the Department of

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1393 Revenue for deposit into the General Revenue Fund.

1394 Section 36. Subsection (2) of section 73.0155, Florida
1395 Statutes, is amended to read:

1396 73.0155 Confidentiality; business information provided to a
1397 governmental condemning authority.—

1398 (2) An agency as defined in s. 119.003 ~~s. 119.011~~ may
1399 inspect and copy the confidential and exempt business
1400 information exclusively for the transaction of official business
1401 by, or on behalf of, an agency.

1402 Section 37. Subsection (1) of section 97.0585, Florida
1403 Statutes, is amended to read:

1404 97.0585 Public records exemption; information regarding
1405 voters and voter registration; confidentiality.—

1406 (1) The following information concerning voters and voter
1407 registration held by an agency as defined in s. 119.003 ~~s.~~
1408 ~~119.011~~ is confidential and exempt from s. 119.07(1) and s.
1409 24(a), Art. I of the State Constitution and may be used only for
1410 purposes of voter registration:

1411 (a) All declinations to register to vote made pursuant to
1412 ss. 97.057 and 97.058.

1413 (b) Information relating to the place where a person
1414 registered to vote or where a person updated a voter
1415 registration.

1416 (c) The social security number, driver's license number,
1417 and Florida identification number of a voter registration
1418 applicant or voter.

1419 Section 38. Paragraph (c) of subsection (2) of section
1420 112.3188, Florida Statutes, is amended to read:

1421 112.3188 Confidentiality of information given to the Chief

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1422 Inspector General, internal auditors, inspectors general, local
1423 chief executive officers, or other appropriate local officials.-

1424 (2)

1425 (c) Information deemed confidential under this section may
1426 be disclosed by the Chief Inspector General, agency inspector
1427 general, local chief executive officer, or other appropriate
1428 local official receiving the information if the recipient
1429 determines that the disclosure of the information is absolutely
1430 necessary to prevent a substantial and specific danger to the
1431 public's health, safety, or welfare or to prevent the imminent
1432 commission of a crime. Information disclosed under this
1433 subsection may be disclosed only to persons who are in a
1434 position to prevent the danger to the public's health, safety,
1435 or welfare or to prevent the imminent commission of a crime
1436 based on the disclosed information.

1437 1. An investigation is active under this section if:

1438 a. It is an ongoing investigation or inquiry or collection
1439 of information and evidence and is continuing with a reasonable,
1440 good faith anticipation of resolution in the foreseeable future;
1441 or

1442 b. All or a portion of the matters under investigation or
1443 inquiry are active criminal intelligence information or active
1444 criminal investigative information as defined in s. 119.003 ~~s.~~
1445 ~~119.011~~.

1446 2. Notwithstanding sub-subparagraph 1.a., an investigation
1447 ceases to be active when:

1448 a. The written report required under s. 112.3189(9) has
1449 been sent by the Chief Inspector General to the recipients named
1450 in s. 112.3189(9);

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1451 b. It is determined that an investigation is not necessary
1452 under s. 112.3189(5); or

1453 c. A final decision has been rendered by the local
1454 government or by the Division of Administrative Hearings
1455 pursuant to s. 112.3187(8)(b).

1456 3. Notwithstanding paragraphs (a), (b), and this paragraph,
1457 information or records received or produced under this section
1458 which are otherwise confidential under law or exempt from
1459 disclosure under chapter 119 retain their confidentiality or
1460 exemption.

1461 4. Any person who willfully and knowingly discloses
1462 information or records made confidential under this subsection
1463 commits a misdemeanor of the first degree, punishable as
1464 provided in s. 775.082 or s. 775.083.

1465 Section 39. Section 163.61, Florida Statutes, is amended to
1466 read:

1467 163.61 "Agency" defined.—For the purposes of ss. 163.61-
1468 163.65, the word "agency" has the meaning ascribed in s. 119.003
1469 ~~s. 119.011~~.

1470 Section 40. Subsection (1) of section 257.34, Florida
1471 Statutes, is amended to read:

1472 257.34 Florida International Archive and Repository.—

1473 (1) There is created within the Division of Library and
1474 Information Services of the Department of State the Florida
1475 International Archive and Repository for the preservation of
1476 those public records, as defined in s. 119.003 ~~s. 119.011~~,
1477 manuscripts, international judgments involving disputes between
1478 domestic and foreign businesses, and all other public matters
1479 that the department or the Florida Council of International

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1480 Development deems relevant to international issues. It is the
1481 duty and responsibility of the division to:

1482 (a) Organize and administer the Florida International
1483 Archive and Repository.

1484 (b) Preserve and administer records that are transferred to
1485 its custody; accept, arrange, and preserve them, according to
1486 approved archival and repository practices; and permit them, at
1487 reasonable times and under the supervision of the division, to
1488 be inspected and copied. All public records transferred to the
1489 custody of the division are subject to the provisions of s.
1490 119.07(1).

1491 (c) Assist the records and information management program
1492 in the determination of retention values for records.

1493 (d) Cooperate with and assist, insofar as practicable,
1494 state institutions, departments, agencies, counties,
1495 municipalities, and individuals engaged in internationally
1496 related activities.

1497 (e) Provide a public research room where, under rules
1498 established by the division, the materials in the international
1499 archive and repository may be studied.

1500 (f) Conduct, promote, and encourage research in
1501 international trade, government, and culture and maintain a
1502 program of information, assistance, coordination, and guidance
1503 for public officials, educational institutions, libraries, the
1504 scholarly community, and the general public engaged in such
1505 research.

1506 (g) Cooperate with and, insofar as practicable, assist
1507 agencies, libraries, institutions, and individuals in projects
1508 concerned with internationally related issues and preserve

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1509 original materials relating to internationally related issues.

1510 (h) Assist and cooperate with the records and information
1511 management program in the training and information program
1512 described in s. 257.36(1)(g).

1513 Section 41. Subsection (1) of section 257.35, Florida
1514 Statutes, is amended to read:

1515 257.35 Florida State Archives.—

1516 (1) There is created within the Division of Library and
1517 Information Services of the Department of State the Florida
1518 State Archives for the preservation of those public records, as
1519 defined in s. 119.003(15) ~~s. 119.011(12)~~, manuscripts, and other
1520 archival material that have been determined by the division to
1521 have sufficient historical or other value to warrant their
1522 continued preservation and have been accepted by the division
1523 for deposit in its custody. It is the duty and responsibility of
1524 the division to:

1525 (a) Organize and administer the Florida State Archives.

1526 (b) Preserve and administer such records as shall be
1527 transferred to its custody; accept, arrange, and preserve them,
1528 according to approved archival practices; and permit them, at
1529 reasonable times and under the supervision of the division, to
1530 be inspected and copied.

1531 (c) Assist the records and information management program
1532 in the determination of retention values for records.

1533 (d) Cooperate with and assist insofar as practicable state
1534 institutions, departments, agencies, counties, municipalities,
1535 and individuals engaged in activities in the field of state
1536 archives, manuscripts, and history and accept from any person
1537 any paper, book, record, or similar material which in the

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1538 judgment of the division warrants preservation in the state
1539 archives.

1540 (e) Provide a public research room where, under rules
1541 established by the division, the materials in the state archives
1542 may be studied.

1543 (f) Conduct, promote, and encourage research in Florida
1544 history, government, and culture and maintain a program of
1545 information, assistance, coordination, and guidance for public
1546 officials, educational institutions, libraries, the scholarly
1547 community, and the general public engaged in such research.

1548 (g) Cooperate with and, insofar as practicable, assist
1549 agencies, libraries, institutions, and individuals in projects
1550 designed to preserve original source materials relating to
1551 Florida history, government, and culture and prepare and publish
1552 handbooks, guides, indexes, and other literature directed toward
1553 encouraging the preservation and use of the state's documentary
1554 resources.

1555 (h) Encourage and initiate efforts to preserve, collect,
1556 process, transcribe, index, and research the oral history of
1557 Florida government.

1558 (i) Assist and cooperate with the records and information
1559 management program in the training and information program
1560 described in s. 257.36(1)(g).

1561 Section 42. Section 281.301, Florida Statutes, is amended
1562 to read:

1563 281.301 Security systems; records and meetings exempt from
1564 public access or disclosure.—Information relating to the
1565 security systems for any property owned by or leased to the
1566 state or any of its political subdivisions, and information

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1567 relating to the security systems for any privately owned or
1568 leased property which is in the possession of any agency as
1569 defined in s. 119.003(2) ~~s. 119.011(2)~~, including all records,
1570 information, photographs, audio and visual presentations,
1571 schematic diagrams, surveys, recommendations, or consultations
1572 or portions thereof relating directly to or revealing such
1573 systems or information, and all meetings relating directly to or
1574 that would reveal such systems or information are confidential
1575 and exempt from ss. 119.07(1) and 286.011 and other laws and
1576 rules requiring public access or disclosure.

1577 Section 43. Paragraph (a) of subsection (3) of section
1578 364.107, Florida Statutes, is amended to read:

1579 364.107 Public records exemption; Lifeline Assistance Plan
1580 participants.—

1581 (3) (a) An officer or employee of a telecommunications
1582 carrier shall not intentionally disclose information made
1583 confidential and exempt under subsection (1), except as:

- 1584 1. Authorized by the customer;
- 1585 2. Necessary for billing purposes;
- 1586 3. Required by subpoena, court order, or other process of
1587 court;
- 1588 4. Necessary to disclose to an agency as defined in s.
1589 119.003 ~~s. 119.011~~ or a governmental entity for purposes
1590 directly connected with implementing service for, or verifying
1591 eligibility of, a participant in a Lifeline Assistance Plan or
1592 auditing a Lifeline Assistance Plan; or
- 1593 5. Otherwise authorized by law.

1594 Section 44. Paragraph (d) of subsection (2) and subsection
1595 (5) of section 382.0085, Florida Statutes, are amended to read:

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1596 382.0085 Stillbirth registration.—

1597 (2) The person who is required to file a fetal death
1598 certificate under this chapter shall advise the parent of a
1599 stillborn child:

1600 (d) That a copy of the original certificate of birth
1601 resulting in stillbirth is a document that is available as a
1602 public record when held by an agency as defined under s.
1603 119.003(2) ~~s. 119.011(2)~~.

1604 (5) A certificate of birth resulting in stillbirth shall be
1605 a public record when held by an agency as defined under s.
1606 119.003(2) ~~s. 119.011(2)~~. The Office of Vital Statistics must
1607 inform any parent who requests a certificate of birth resulting
1608 in stillbirth that a copy of the document is available as a
1609 public record.

1610 Section 45. Subsection (9) of section 383.402, Florida
1611 Statutes, is amended to read:

1612 383.402 Child abuse death review; State Child Abuse Death
1613 Review Committee; local child abuse death review committees.—

1614 (9) The State Child Abuse Death Review Committee or a local
1615 committee shall have access to all information of a law
1616 enforcement agency which is not the subject of an active
1617 investigation and which pertains to the review of the death of a
1618 child. A committee may not disclose any information that is not
1619 subject to public disclosure by the law enforcement agency, and
1620 active criminal intelligence information or criminal
1621 investigative information, as defined in s. 119.003(6) ~~s.~~
1622 ~~119.011(3)~~, may not be made available for review or access under
1623 this section.

1624 Section 46. Subsection (9) of section 550.0251, Florida

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1625 Statutes, is amended to read:

1626 550.0251 The powers and duties of the Division of Pari-
1627 mutuel Wagering of the Department of Business and Professional
1628 Regulation.—The division shall administer this chapter and
1629 regulate the pari-mutuel industry under this chapter and the
1630 rules adopted pursuant thereto, and:

1631 (9) The division may conduct investigations in enforcing
1632 this chapter, except that all information obtained pursuant to
1633 an investigation by the division for an alleged violation of
1634 this chapter or rules of the division is exempt from s.
1635 119.07(1) and from s. 24(a), Art. I of the State Constitution
1636 until an administrative complaint is issued or the investigation
1637 is closed or ceases to be active. This subsection does not
1638 prohibit the division from providing such information to any law
1639 enforcement agency or to any other regulatory agency. For the
1640 purposes of this subsection, an investigation is considered to
1641 be active while it is being conducted with reasonable dispatch
1642 and with a reasonable, good faith belief that it could lead to
1643 an administrative, civil, or criminal action by the division or
1644 another administrative or law enforcement agency. Except for
1645 active criminal intelligence or criminal investigative
1646 information, as defined in s. 119.003 ~~s. 119.011~~, and any other
1647 information that, if disclosed, would jeopardize the safety of
1648 an individual, all information, records, and transcriptions
1649 become public when the investigation is closed or ceases to be
1650 active.

1651 Section 47. Subsection (6) of section 607.0505, Florida
1652 Statutes, is amended to read:

1653 607.0505 Registered agent; duties.—

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1654 (6) Information provided to, and records and transcriptions
1655 of testimony obtained by, the Department of Legal Affairs
1656 pursuant to this section are confidential and exempt from the
1657 provisions of s. 119.07(1) while the investigation is active.
1658 For purposes of this section, an investigation shall be
1659 considered "active" while such investigation is being conducted
1660 with a reasonable, good faith belief that it may lead to the
1661 filing of an administrative, civil, or criminal proceeding. An
1662 investigation does not cease to be active so long as the
1663 department is proceeding with reasonable dispatch and there is a
1664 good faith belief that action may be initiated by the department
1665 or other administrative or law enforcement agency. Except for
1666 active criminal intelligence or criminal investigative
1667 information, as defined in s. 119.003 ~~s. 119.011~~, and
1668 information which, if disclosed, would reveal a trade secret, as
1669 defined in s. 688.002, or would jeopardize the safety of an
1670 individual, all information, records, and transcriptions become
1671 public record when the investigation is completed or ceases to
1672 be active. The department shall not disclose confidential
1673 information, records, or transcriptions of testimony except
1674 pursuant to the authorization by the Attorney General in any of
1675 the following circumstances:

1676 (a) To a law enforcement agency participating in or
1677 conducting a civil investigation under chapter 895, or
1678 participating in or conducting a criminal investigation.

1679 (b) In the course of filing, participating in, or
1680 conducting a judicial proceeding instituted pursuant to this
1681 section or chapter 895.

1682 (c) In the course of filing, participating in, or

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1683 conducting a judicial proceeding to enforce an order or judgment
1684 entered pursuant to this section or chapter 895.

1685 (d) In the course of a criminal or civil proceeding.

1686
1687 A person or law enforcement agency which receives any
1688 information, record, or transcription of testimony that has been
1689 made confidential by this subsection shall maintain the
1690 confidentiality of such material and shall not disclose such
1691 information, record, or transcription of testimony except as
1692 provided for herein. Any person who willfully discloses any
1693 information, record, or transcription of testimony that has been
1694 made confidential by this subsection, except as provided for
1695 herein, is guilty of a misdemeanor of the first degree,
1696 punishable as provided in s. 775.082 or s. 775.083. If any
1697 information, record, or testimony obtained pursuant to
1698 subsection (2) is offered in evidence in any judicial
1699 proceeding, the court may, in its discretion, seal that portion
1700 of the record to further the policies of confidentiality set
1701 forth herein.

1702 Section 48. Subsection (6) of section 617.0503, Florida
1703 Statutes, is amended to read:

1704 617.0503 Registered agent; duties; confidentiality of
1705 investigation records.—

1706 (6) Information provided to, and records and transcriptions
1707 of testimony obtained by, the Department of Legal Affairs
1708 pursuant to this section are confidential and exempt from the
1709 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
1710 Constitution while the investigation is active. For purposes of
1711 this section, an investigation shall be considered "active"

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1712 while such investigation is being conducted with a reasonable,
1713 good faith belief that it may lead to the filing of an
1714 administrative, civil, or criminal proceeding. An investigation
1715 does not cease to be active so long as the department is
1716 proceeding with reasonable dispatch and there is a good faith
1717 belief that action may be initiated by the department or other
1718 administrative or law enforcement agency. Except for active
1719 criminal intelligence or criminal investigative information, as
1720 defined in s. 119.003 ~~s. 119.011~~, and information which, if
1721 disclosed, would reveal a trade secret, as defined in s.
1722 688.002, or would jeopardize the safety of an individual, all
1723 information, records, and transcriptions become available to the
1724 public when the investigation is completed or ceases to be
1725 active. The department shall not disclose confidential
1726 information, records, or transcriptions of testimony except
1727 pursuant to authorization by the Attorney General in any of the
1728 following circumstances:

1729 (a) To a law enforcement agency participating in or
1730 conducting a civil investigation under chapter 895, or
1731 participating in or conducting a criminal investigation.

1732 (b) In the course of filing, participating in, or
1733 conducting a judicial proceeding instituted pursuant to this
1734 section or chapter 895.

1735 (c) In the course of filing, participating in, or
1736 conducting a judicial proceeding to enforce an order or judgment
1737 entered pursuant to this section or chapter 895.

1738 (d) In the course of a criminal proceeding.

1739

1740 A person or law enforcement agency that receives any

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1741 information, record, or transcription of testimony that has been
1742 made confidential by this subsection shall maintain the
1743 confidentiality of such material and shall not disclose such
1744 information, record, or transcription of testimony except as
1745 provided for herein. Any person who willfully discloses any
1746 information, record, or transcription of testimony that has been
1747 made confidential by this subsection, except as provided for in
1748 this subsection, commits a misdemeanor of the first degree,
1749 punishable as provided in s. 775.082 or s. 775.083. If any
1750 information, record, or testimony obtained pursuant to
1751 subsection (2) is offered in evidence in any judicial
1752 proceeding, the court may, in its discretion, seal that portion
1753 of the record to further the policies of confidentiality set
1754 forth in this subsection.

1755 Section 49. Subsection (3) of section 636.064, Florida
1756 Statutes, is amended to read:

1757 636.064 Confidentiality.—

1758 (3) Any information obtained or produced by the department
1759 or office pursuant to an examination or investigation is
1760 confidential and exempt from the provisions of s. 119.07(1) and
1761 s. 24(a), Art. I of the State Constitution until the examination
1762 report has been filed pursuant to s. 624.319 or until such
1763 investigation is completed or ceases to be active. For purposes
1764 of this subsection, an investigation is considered "active"
1765 while such investigation is being conducted by the department or
1766 office with a reasonable, good faith belief that it may lead to
1767 the filing of administrative, civil, or criminal proceedings. An
1768 investigation does not cease to be active if the department or
1769 office is proceeding with reasonable dispatch and there is a

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1770 good faith belief that action may be initiated by the department
1771 or office or other administrative or law enforcement agency.
1772 Except for active criminal intelligence or criminal
1773 investigative information, as defined in s. 119.003 ~~s. 119.011~~;
1774 personal financial and medical information; information that
1775 would defame or cause unwarranted damage to the good name or
1776 reputation of an individual; information that would impair the
1777 safety and financial soundness of the licensee or affiliated
1778 party; proprietary financial information; or information that
1779 would reveal the identity of a confidential source, all
1780 information obtained by the department or office pursuant to an
1781 examination or investigation shall be available after the
1782 examination report has been filed or the investigation is
1783 completed or ceases to be active.

1784 Section 50. Paragraph (m) of subsection (2) of section
1785 668.50, Florida Statutes, is amended to read:

1786 668.50 Uniform Electronic Transaction Act.—

1787 (2) DEFINITIONS.—As used in this section:

1788 (m) "Record" means information that is inscribed on a
1789 tangible medium or that is stored in an electronic or other
1790 medium and is retrievable in perceivable form, including public
1791 records as defined in s. 119.003 ~~s. 119.011~~.

1792 Section 51. Section 668.6076, Florida Statutes, is amended
1793 to read:

1794 668.6076 Public records status of e-mail addresses; agency
1795 website notice.—Any agency, as defined in s. 119.003 ~~s. 119.011~~,
1796 or legislative entity that operates a website and uses
1797 electronic mail shall post the following statement in a
1798 conspicuous location on its website:

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1799

1800 Under Florida law, e-mail addresses are public
1801 records. If you do not want your e-mail address
1802 released in response to a public records request, do
1803 not send electronic mail to this entity. Instead,
1804 contact this office by phone or in writing.

1805 Section 52. Paragraph (c) of subsection (4) of section
1806 741.313, Florida Statutes, is amended to read:

1807 741.313 Unlawful action against employees seeking
1808 protection.—

1809 (4)

1810 (c)1. A private employer must keep all information relating
1811 to the employee's leave under this section confidential.

1812 2. An agency, as defined in s. 119.003 ~~s. 119.011~~, must
1813 keep information relating to the employee's leave under this
1814 section confidential and exempt from disclosure to the extent
1815 authorized by subsection (7).

1816 Section 53. Paragraph (c) of subsection (6) of section
1817 787.03, Florida Statutes, is amended to read:

1818 787.03 Interference with custody.—

1819 (6)

1820 (c)1. The current address and telephone number of the
1821 person and the minor or incompetent person which are contained
1822 in the report made to a sheriff or state attorney under
1823 paragraph (b) are confidential and exempt from s. 119.07(1) and
1824 s. 24(a), Art. I of the State Constitution.

1825 2. A sheriff or state attorney may allow an agency, as
1826 defined in s. 119.003 ~~s. 119.011~~, to inspect and copy records
1827 made confidential and exempt under this paragraph in the

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1828 furtherance of that agency's duties and responsibilities.

1829 3. This paragraph is subject to the Open Government Sunset
1830 Review Act in accordance with s. 119.15 and is repealed on
1831 October 2, 2011, unless reviewed and saved from repeal through
1832 reenactment by the Legislature.

1833 Section 54. Subsection (5) of section 817.568, Florida
1834 Statutes, is amended to read:

1835 817.568 Criminal use of personal identification
1836 information.—

1837 (5) If an offense prohibited under this section was
1838 facilitated or furthered by the use of a public record, as
1839 defined in s. 119.003 ~~s. 119.011~~, the offense is reclassified to
1840 the next higher degree as follows:

1841 (a) A misdemeanor of the first degree is reclassified as a
1842 felony of the third degree.

1843 (b) A felony of the third degree is reclassified as a
1844 felony of the second degree.

1845 (c) A felony of the second degree is reclassified as a
1846 felony of the first degree.

1847
1848 For purposes of sentencing under chapter 921 and incentive gain-
1849 time eligibility under chapter 944, a felony offense that is
1850 reclassified under this subsection is ranked one level above the
1851 ranking under s. 921.0022 of the felony offense committed, and a
1852 misdemeanor offense that is reclassified under this subsection
1853 is ranked in level 2 of the offense severity ranking chart in s.
1854 921.0022.

1855 Section 55. Section 817.569, Florida Statutes, is amended
1856 to read:

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1857 817.569 Criminal use of a public record or public records
1858 information; penalties.—A person who knowingly uses any public
1859 record, as defined in s. 119.003 ~~s. 119.011~~, or who knowingly
1860 uses information obtainable only through such public record, to
1861 facilitate or further the commission of:

1862 (1) A misdemeanor of the first degree, commits a
1863 misdemeanor of the first degree, punishable as provided in s.
1864 775.082 or s. 775.083.

1865 (2) A felony, commits a felony of the third degree,
1866 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1867 Section 56. Paragraphs (a) and (c) of subsection (3) of
1868 section 893.0551, Florida Statutes, are amended to read:

1869 893.0551 Public records exemption for the prescription drug
1870 monitoring program.—

1871 (3) The department shall disclose such confidential and
1872 exempt information to the following entities after using a
1873 verification process to ensure the legitimacy of that person's
1874 or entity's request for the information:

1875 (a) The Attorney General and his or her designee when
1876 working on Medicaid fraud cases involving prescription drugs or
1877 when the Attorney General has initiated a review of specific
1878 identifiers of Medicaid fraud regarding prescription drugs. The
1879 Attorney General or his or her designee may disclose the
1880 confidential and exempt information received from the department
1881 to a criminal justice agency as defined in s. 119.003 ~~s. 119.011~~
1882 as part of an active investigation that is specific to a
1883 violation of prescription drug abuse or prescription drug
1884 diversion law as it relates to controlled substances. The
1885 Attorney General's Medicaid fraud investigators may not have

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1886 direct access to the department's database.

1887 (c) A law enforcement agency that has initiated an active
1888 investigation involving a specific violation of law regarding
1889 prescription drug abuse or diversion of prescribed controlled
1890 substances. The law enforcement agency may disclose the
1891 confidential and exempt information received from the department
1892 to a criminal justice agency as defined in s. 119.003 ~~s. 119.011~~
1893 as part of an active investigation that is specific to a
1894 violation of prescription drug abuse or prescription drug
1895 diversion law as it relates to controlled substances. A law
1896 enforcement agency may request information from the department
1897 but may not have direct access to its database.

1898 Section 57. Subsection (5) of section 914.27, Florida
1899 Statutes, is amended to read:

1900 914.27 Confidentiality of victim and witness information.—

1901 (5) For the purposes of effectively implementing s. 914.25,
1902 any state or local law enforcement agency, state attorney, or
1903 the statewide prosecutor may provide written notification to an
1904 agency as defined in s. 119.003 ~~s. 119.011~~ or to a business
1905 entity operating under contract with, licensed by, or having any
1906 other business relationship with an agency, or providing
1907 services pursuant to s. 914.25, that information described in
1908 subsection (1) held by that agency or business is confidential
1909 and exempt from public disclosure. The state or local law
1910 enforcement agency, state attorney, or the statewide prosecutor
1911 providing such written notification shall also provide written
1912 notification to the agency or business as to when, in accordance
1913 with this section, identity and location information exempted
1914 pursuant to paragraphs (1) (a) and (b) can be made publicly

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1915 available.

1916 Section 58. Paragraphs (a) and (b) of subsection (9) of
1917 section 943.031, Florida Statutes, are amended to read:

1918 943.031 Florida Violent Crime and Drug Control Council.—

1919 (9) CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL MEETINGS
1920 AND RECORDS.—

1921 (a) The Legislature finds that during limited portions of
1922 the meetings of the Florida Violent Crime and Drug Control
1923 Council it is necessary that the council be presented with and
1924 discuss details, information, and documents related to active
1925 criminal investigations or matters constituting active criminal
1926 intelligence, as those concepts are defined by s. 119.003 ~~s.~~
1927 ~~119.011~~. These presentations and discussions are necessary for
1928 the council to make its funding decisions as required by the
1929 Legislature. The Legislature finds that to reveal the contents
1930 of documents containing active criminal investigative or
1931 intelligence information or to allow active criminal
1932 investigative or active criminal intelligence matters to be
1933 discussed in a meeting open to the public negatively impacts the
1934 ability of law enforcement agencies to efficiently continue
1935 their investigative or intelligence gathering activities. The
1936 Legislature finds that information coming before the council
1937 that pertains to active criminal investigations or intelligence
1938 should remain confidential and exempt from public disclosure.
1939 The Legislature finds that the Florida Violent Crime and Drug
1940 Control Council may, by declaring only those portions of council
1941 meetings in which active criminal investigative or active
1942 criminal intelligence information is to be presented or
1943 discussed closed to the public, assure an appropriate balance

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1944 between the policy of this state that meetings be public and the
1945 policy of this state to facilitate efficient law enforcement
1946 efforts.

1947 (b) The Florida Violent Crime and Drug Control Council
1948 shall be considered a "criminal justice agency" within the
1949 definition of s. 119.003(7) ~~s. 119.011(4)~~.

1950 Section 59. Subsection (7) of section 943.0313, Florida
1951 Statutes, is amended to read:

1952 943.0313 Domestic Security Oversight Council.—The
1953 Legislature finds that there exists a need to provide executive
1954 direction and leadership with respect to terrorism prevention,
1955 preparation, protection, response, and recovery efforts by state
1956 and local agencies in this state. In recognition of this need,
1957 the Domestic Security Oversight Council is hereby created. The
1958 council shall serve as an advisory council pursuant to s.
1959 20.03(7) to provide guidance to the state's regional domestic
1960 security task forces and other domestic security working groups
1961 and to make recommendations to the Governor and the Legislature
1962 regarding the expenditure of funds and allocation of resources
1963 related to counter-terrorism and domestic security efforts.

1964 (7) AGENCY DESIGNATION.—For purposes of this section, the
1965 Domestic Security Oversight Council shall be considered a
1966 criminal justice agency within the definition of s. 119.003(7)
1967 ~~s. 119.011(4)~~.

1968 Section 60. Paragraph (a) of subsection (1) of section
1969 943.0314, Florida Statutes, is amended to read:

1970 943.0314 Public records and public meetings exemptions;
1971 Domestic Security Oversight Council.—

1972 (1) (a) That portion of a meeting of the Domestic Security

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1973 Oversight Council at which the council will hear or discuss
1974 active criminal investigative information or active criminal
1975 intelligence information as defined in s. 119.003 ~~s. 119.011~~ is
1976 exempt from s. 286.011 and s. 24(b), Art. I of the State
1977 Constitution, if:

1978 1. The chair of the council announces at a public meeting
1979 that, in connection with the performance of the council's
1980 duties, it is necessary that active criminal investigative
1981 information or active criminal intelligence information be
1982 discussed.

1983 2. The chair declares the specific reasons that it is
1984 necessary to close the meeting, or portion thereof, in a
1985 document that is a public record and filed with the official
1986 records of the council.

1987 3. The entire closed meeting is recorded. The recording
1988 must include the times of commencement and termination of the
1989 closed meeting or portion thereof, all discussion and
1990 proceedings, and the names of the persons present. No portion of
1991 the closed meeting shall be off the record. The recording shall
1992 be maintained by the council.

1993 Section 61. Subsection (2) of section 943.032, Florida
1994 Statutes, is amended to read:

1995 943.032 Financial Crime Analysis Center and Financial
1996 Transaction Database.—

1997 (2) The department shall compile information and data
1998 available from financial transaction reports required to be
1999 submitted by state or federal law that are provided to the
2000 Department of Financial Services, to the Office of Financial
2001 Regulation of the Financial Services Commission, to the

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2002 Department of Revenue, or to which the department otherwise has
2003 access. Information and data so received shall be utilized by
2004 the department in the Financial Transaction Database. The
2005 department shall implement a system utilizing the database that
2006 allows data review and processing to reveal patterns, trends,
2007 and correlations that are indicative of money laundering or
2008 other financial transactions indicative of criminal activity.
2009 The department shall, in consultation with the Department of
2010 Financial Services, the Office of Financial Regulation of the
2011 Financial Services Commission, and the Department of Revenue,
2012 establish the methods and parameters by which information and
2013 data received by such agencies are transferred to the department
2014 for inclusion in the database. Information developed in or
2015 through the use of the database shall be made available to law
2016 enforcement agencies and prosecutors in this state in a manner
2017 defined by the department and as allowed by state or federal law
2018 or regulation. All information contained in the database shall
2019 be considered "active criminal intelligence" or "active criminal
2020 investigative information" as defined in s. 119.003 ~~s. 119.011~~.
2021 Section 62. This act shall take effect October 1, 2010.