

By Senator Oelrich

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; exempting from public-records
4 requirements the dissemination of a photograph,
5 videotape, or other image of any part of the body of a
6 victim of a sexual offense which is made or broadcast
7 by a video voyeur and which constitutes criminal
8 investigation information or criminal intelligence
9 information in an agency investigation; providing a
10 finding of public necessity; reenacting s.
11 92.56(1)(a), F.S., relating to judicial proceedings
12 and court records involving sexual offenders, to
13 incorporate the amendment made to s. 119.071, F.S., in
14 a reference thereto; reenacting s. 119.0714(1)(h),
15 F.S., relating to court files and records, to
16 incorporate the amendment made to s. 119.071, F.S., in
17 a reference thereto; reenacting s. 794.024(1), F.S.,
18 relating to the unlawful disclosure of identifying
19 information, to incorporate the amendment made to s.
20 119.071, F.S., in a reference thereto; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Paragraph (h) of subsection (2) of section
26 119.071, Florida Statutes, is amended to read:

27 119.071 General exemptions from inspection or copying of
28 public records.—

29 (2) AGENCY INVESTIGATIONS.—

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30 (h)1. The following criminal intelligence information or
31 criminal investigative information is confidential and exempt
32 from s. 119.07(1) and s. 24(a), Art. I of the State
33 Constitution:

34 a. Any information, including the photograph, name,
35 address, or other fact, which reveals the identity of the victim
36 of the crime of child abuse as defined by chapter 827.

37 b. Any information that ~~which~~ may reveal the identity of a
38 person who is a victim of any sexual offense, including a sexual
39 offense proscribed in chapter 794, chapter 796, chapter 800,
40 chapter 827, or chapter 847.

41 c. A photograph, videotape, or image of any part of the
42 body of the victim of a sexual offense prohibited under chapter
43 794, chapter 796, chapter 800, s. 810.145, chapter 827, or
44 chapter 847, regardless of whether the photograph, videotape, or
45 image identifies the victim.

46 2. Criminal investigative information and criminal
47 intelligence information made confidential and exempt under this
48 paragraph may be disclosed by a law enforcement agency:

49 a. In the furtherance of its official duties and
50 responsibilities.

51 b. For print, publication, or broadcast if the law
52 enforcement agency determines that such release would assist in
53 locating or identifying a person that such agency believes to be
54 missing or endangered. The information provided should be
55 limited to that needed to identify or locate the victim and not
56 include the sexual nature of the offense committed against the
57 person.

58 c. To another governmental agency in the furtherance of its

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59 official duties and responsibilities.

60 3. This exemption applies to such confidential and exempt
61 criminal intelligence information or criminal investigative
62 information held by a law enforcement agency before, on, or
63 after the effective date of the exemption.

64 4. This paragraph is subject to the Open Government Sunset
65 Review Act in accordance with s. 119.15, and shall stand
66 repealed on October 2, 2013, unless reviewed and saved from
67 repeal through reenactment by the Legislature.

68 Section 2. The Legislature finds that it is a public
69 necessity that images of any part of the body of a victim of a
70 sexual offense recorded or broadcast by a video voyeur not be
71 disseminated to the public. Such displays, even if they do not
72 identify the victim, are inappropriate for public access. Under
73 current law, it is possible for persons to obtain access to
74 photographs or videos of victims of video voyeurism crimes
75 through a public-records request. These illegally and
76 surreptitiously taken photographs or videos are usually of
77 women, and commonly show the victims undressed or engaged in
78 private acts of personal hygiene or sexual conduct. These
79 activities are not intended for public view or inspection. This
80 restriction of public access recognizes the basic privacy rights
81 of these victims by preventing access to or possible public
82 dissemination of such photographs or videotapes.

83 Section 3. For the purpose of incorporating the amendment
84 made by this act to section 119.071, Florida Statutes, in a
85 reference thereto, paragraph (a) of subsection (1) of section
86 92.56, Florida Statutes, is reenacted to read:

87 92.56 Judicial proceedings and court records involving

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88 sexual offenses.—

89 (1) (a) The confidential and exempt status of criminal
90 intelligence information or criminal investigative information
91 made confidential and exempt pursuant to s. 119.071(2) (h) must
92 be maintained in court records pursuant to s. 119.0714(1) (h) and
93 in court proceedings, including testimony from witnesses.

94 Section 4. For the purpose of incorporating the amendment
95 made by this act to section 119.071, Florida Statutes, in a
96 reference thereto, paragraph (h) of subsection (1) of section
97 119.0714, Florida Statutes, is reenacted to read:

98 119.0714 Court files; court records; official records.—

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

103 (h) Criminal intelligence information or criminal
104 investigative information that is confidential and exempt as
105 provided in s. 119.071(2) (h).

106 Section 5. For the purpose of incorporating the amendment
107 made by this act to section 119.071, Florida Statutes, in a
108 reference thereto, subsection (1) of section 794.024, Florida
109 Statutes, is reenacted to read:

110 794.024 Unlawful to disclose identifying information.—

111 (1) A public employee or officer who has access to the
112 photograph, name, or address of a person who is alleged to be
113 the victim of an offense described in this chapter, chapter 800,
114 s. 827.03, s. 827.04, or s. 827.071 may not willfully and
115 knowingly disclose it to a person who is not assisting in the
116 investigation or prosecution of the alleged offense or to any

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117 person other than the defendant, the defendant's attorney, a
118 person specified in an order entered by the court having
119 jurisdiction of the alleged offense, or organizations authorized
120 to receive such information made exempt by s. 119.071(2)(h), or
121 to a rape crisis center or sexual assault counselor, as defined
122 in s. 90.5035(1)(b), who will be offering services to the
123 victim.

124 Section 6. This act shall take effect July 1, 2011.