

By Senator Oelrich

14-00667-11

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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.—

14-00667-11

20111168

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

14-00667-11

20111168

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

14-00667-11

20111168

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

14-00667-11

20111168\_\_

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.