

By the Committee on Criminal Justice; and Senators Oelrich and Lynn

591-03796-11

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

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Paragraph (h) of subsection (2) of section
28 119.071, Florida Statutes, is amended to read:

29 119.071 General exemptions from inspection or copying of

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30 public records.—

31 (2) AGENCY INVESTIGATIONS.—

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

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

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

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

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

51 a. In the furtherance of its official duties and
52 responsibilities.

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

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59 person.

60 c. To another governmental agency in the furtherance of its
61 official duties and responsibilities.

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

66 4. This paragraph is subject to the Open Government Sunset
67 Review Act in accordance with s. 119.15, and shall stand
68 repealed on October 2, 2016 ~~2013~~, unless reviewed and saved from
69 repeal through reenactment by the Legislature.

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

85 Section 3. For the purpose of incorporating the amendment
86 made by this act to section 119.071, Florida Statutes, in a
87 reference thereto, paragraph (a) of subsection (1) of section

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88 92.56, Florida Statutes, is reenacted to read:

89 92.56 Judicial proceedings and court records involving
90 sexual offenses.—

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

96 Section 4. For the purpose of incorporating the amendment
97 made by this act to section 119.071, Florida Statutes, in a
98 reference thereto, paragraph (h) of subsection (1) of section
99 119.0714, Florida Statutes, is reenacted to read:

100 119.0714 Court files; court records; official records.—

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

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

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

112 794.024 Unlawful to disclose identifying information.—

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

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117 knowingly disclose it to a person who is not assisting in the
118 investigation or prosecution of the alleged offense or to any
119 person other than the defendant, the defendant's attorney, a
120 person specified in an order entered by the court having
121 jurisdiction of the alleged offense, or organizations authorized
122 to receive such information made exempt by s. 119.071(2)(h), or
123 to a rape crisis center or sexual assault counselor, as defined
124 in s. 90.5035(1)(b), who will be offering services to the
125 victim.

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