1
2   An act relating to public records; amending s.
3   119.071, F.S.; providing an exemption from public
4   record requirements for a complaint of misconduct
5   filed with an agency against an agency employee and
6   all information obtained pursuant to an investigation
7   of the complaint by the agency; providing for limited
8   duration of the exemption; providing for future review
9   and repeal of the exemption under the Open Government
10   Sunset Review Act; providing a statement of public
11   necessity; providing an effective date.
12
13   Be It Enacted by the Legislature of the State of Florida:
14
15   Section 1. Paragraph (k) is added to subsection (2) of
16   section 119.071, Florida Statutes, to read:
17   119.071 General exemptions from inspection or copying of
18   public records.—
19   (2) AGENCY INVESTIGATIONS.—
20   (k)1. A complaint of misconduct filed with an agency
21   against an agency employee and all information obtained pursuant
22   to an investigation by the agency of the complaint of misconduct
23   is confidential and exempt from s. 119.07(1) and s. 24(a), Art.
24   I of the State Constitution until the investigation ceases to be
25   active, or until the agency provides written notice to the
26   employee who is the subject of the complaint, either personally
27   or by mail, that the agency has either:

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28   a. Concluded the investigation with a finding not to

29 proceed with disciplinary action or file charges; or

30   b. Concluded the investigation with a finding to proceed

31 with disciplinary action or file charges.

32   2. Subparagraph 1. is subject to the Open Government

33 Sunset Review Act in accordance with s. 119.15 and shall stand

34 repealed on October 2, 2018, unless reviewed and saved from

35 repeal through reenactment by the Legislature.

36   Section 2. The Legislature finds that it is a public

37 necessity that a complaint of misconduct filed with an agency

38 against an agency employee and all information obtained pursuant

39 to an investigation by the agency of the complaint of misconduct

40 be made confidential and exempt from the requirements of s.

41 119.07(1), Florida Statutes, and s. 24(a), Article I of the

42 State Constitution. The disclosure of information, such as the

43 nature of the complaint against an agency employee and testimony

44 and evidence given in the investigation of the complaint, could

45 injure an individual and deter that person from providing

46 information pertaining to internal investigations, thus

47 impairing the ability of an agency to conduct an investigation

48 that is fair and reasonable. In the performance of its lawful

49 duties and responsibilities, an agency may need to obtain

50 information for the purpose of determining an administrative

51 action. Without an exemption from public record requirements to

52 protect information of a sensitive personal nature provided to

53 an agency in the course of an internal investigation, such

54 information becomes a public record when received and must be

55 divulged upon request. Disclosure of information obtained during

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56 | an internal investigation conducted by an agency inhibits
57 | voluntary participation of individuals during internal
58 | investigations and makes it difficult if not impossible to
59 | determine the truth. Therefore, the Legislature declares that it
60 | is a public necessity that a complaint of misconduct filed with
61 | an agency against an agency employee and all information
62 | obtained pursuant to an investigation by the agency of the
63 | complaint of misconduct be held confidential and exempt from
64 | public record requirements.
65 | Section 3.   This act shall take effect July 1, 2013.

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