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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Ethics and Elections (Soto) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (k) is added to subsection (2) of section 119.071, Florida Statutes, to read:

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

(2) AGENCY INVESTIGATIONS.—

(k)1. A complaint of misconduct filed with an agency against an agency employee and all information obtained pursuant to an investigation by the agency of the complaint of misconduct



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13 is confidential and exempt from s. 119.07(1) and s. 24(a), Art.
14 I of the State Constitution until the investigation ceases to be
15 active, or until the agency provides written notice to the
16 employee who is the subject of the complaint, either personally
17 or by mail, that the agency has either:

18 a. Concluded the investigation with a finding not to
19 proceed with disciplinary action or file charges; or

20 b. Concluded the investigation with a finding to proceed
21 with disciplinary action or file charges.

22 2. Subparagraph 1. is subject to the Open Government Sunset
23 Review Act in accordance with s. 119.15 and shall stand repealed
24 on October 2, 2018, unless reviewed and saved from repeal
25 through reenactment by the Legislature.

26 Section 2. The Legislature finds that it is a public
27 necessity that a complaint of misconduct filed with an agency
28 against an agency employee and all information obtained pursuant
29 to an investigation by the agency of the complaint of misconduct
30 be made confidential and exempt from the requirements of s.
31 119.07(1), Florida Statutes, and s. 24(a), Article I of the
32 State Constitution. The disclosure of information, such as the
33 nature of the complaint against an agency employee and testimony
34 and evidence given in the investigation of the complaint, could
35 injure an individual and deter that person from providing
36 information pertaining to internal investigations, thus
37 impairing the ability of an agency to conduct an investigation
38 that is fair and reasonable. In the performance of its lawful
39 duties and responsibilities, an agency may need to obtain
40 information for the purpose of determining an administrative
41 action. Without an exemption from public record requirements to



42 protect information of a sensitive personal nature provided to
43 an agency in the course of an internal investigation, such
44 information becomes a public record when received and must be
45 divulged upon request. Disclosure of information obtained during
46 an internal investigation conducted by an agency inhibits
47 voluntary participation of individuals during internal
48 investigations and makes it difficult if not impossible to
49 determine the truth. Therefore, the Legislature declares that it
50 is a public necessity that a complaint of misconduct filed with
51 an agency against an agency employee and all information
52 obtained pursuant to an investigation by the agency of the
53 complaint of misconduct be held confidential and exempt from
54 public record requirements.

55 Section 3. This act shall take effect July 1, 2013.

56
57 ===== T I T L E A M E N D M E N T =====

58 And the title is amended as follows:

59 Delete everything before the enacting clause
60 and insert:

61 A bill to be entitled
62 An act relating to public records; amending s.
63 119.071, F.S.; providing an exemption from public
64 record requirements for a complaint of misconduct
65 filed with an agency against an agency employee and
66 all information obtained pursuant to an investigation
67 of the complaint by the agency; providing for limited
68 duration of the exemption; providing for future review
69 and repeal of the exemption under the Open Government
70 Sunset Review Act; providing a statement of public



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necessity; providing an effective date.