

By Senator Soto

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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 a complaint of misconduct
5 filed against a public employee with a state agency or
6 a political subdivision of the state and all
7 information obtained pursuant to the investigation by
8 the agency or political subdivision of the complaint
9 of misconduct; providing for limited duration of the
10 exemption; providing for future review and repeal of
11 the exemption under the Open Government Sunset Review
12 Act; providing a statement of public necessity;
13 providing an effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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

19 119.071 General exemptions from inspection or copying of
20 public records.—

21 (2) AGENCY INVESTIGATIONS.—

22 (k)1. A complaint of misconduct filed against a public
23 employee with a state agency or a political subdivision of the
24 state and all information obtained pursuant to the investigation
25 by the agency or political subdivision of the complaint of
26 misconduct is confidential and exempt from s. 119.07(1) and s.
27 24(a), Art. I of the State Constitution until the investigation
28 ceases to be active, or until the agency provides written notice
29 to the employee who is the subject of the complaint, either

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30 personally or by mail, that the agency has either:

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

33 b. Concluded the investigation with a finding to proceed
34 with disciplinary action or file charges.

35 2. Subparagraph 1. is subject to the Open Government Sunset
36 Review Act in accordance with s. 119.15 and shall stand repealed
37 on July 1, 2018, unless reviewed and saved from repeal through
38 reenactment by the Legislature.

39 Section 2. The Legislature finds that it is a public
40 necessity that a complaint of misconduct filed against a public
41 employee with a state agency or a political subdivision of the
42 state and all information obtained pursuant to the investigation
43 by the agency or political subdivision of the complaint of
44 misconduct be made confidential and exempt from the requirements
45 of s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
46 the State Constitution. The disclosure of information, such as
47 the nature of the complaint against a public employee and
48 testimony and evidence given in the investigation of the
49 complaint, could injure an individual and deter that person from
50 providing information pertaining to internal investigations,
51 thus impairing the ability of an agency to conduct an
52 investigation that is fair and reasonable. In the performance of
53 its lawful duties and responsibilities, an agency may need to
54 obtain information for the purpose of determining an
55 administrative action. Without an exemption from public records
56 requirements to protect information of a sensitive personal
57 nature provided to an agency in the course of an internal
58 investigation, such information becomes a public record when

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59 received and must be divulged upon request. Disclosure of
60 information obtained during an internal investigation conducted
61 by an agency inhibits voluntary participation of individuals
62 during internal investigations and makes it difficult if not
63 impossible to determine the truth. Therefore, the Legislature
64 declares that it is a public necessity that a complaint of
65 misconduct filed against a public employee with a state agency
66 or a political subdivision of the state and all information
67 obtained pursuant to the investigation by the agency or
68 political subdivision of the complaint of misconduct be held
69 confidential and exempt from public records requirements.

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