

By the Committee on Ethics and Elections; and Senator Soto

582-03327-13

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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 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.

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

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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:

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

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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 Sunset
33 Review Act in accordance with s. 119.15 and shall stand repealed
34 on October 2, 2018, unless reviewed and saved from repeal
35 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
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

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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.