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585-01514A-13

Proposed Committee Substitute by the Committee on Governmental  
Oversight and Accountability

A bill to be entitled

An act relating to public records and meetings;  
amending s. 112.324, F.S.; creating an exemption from  
public records requirements for written referrals and  
related records held by the Commission on Ethics, the  
Governor, the Department of Law Enforcement, or a  
state attorney; creating an exemption for records  
relating to a preliminary investigation held by the  
Commission on Ethics; creating an exemption from  
public meetings requirements for portions of  
proceedings of the Commission on Ethics in which the  
referrals are discussed or acted upon; providing for  
future repeal and legislative review of the exemption  
under the Open Government Sunset Review Act; providing  
a statement of public necessity; providing a  
contingent effective date.

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

Section 1. Subsection (2) of section 112.324, Florida  
Statutes, is amended to read:

112.324 Procedures on complaints of violations; public  
records and meeting exemptions.—

(2) (a) The complaint and records relating to the complaint  
or to any preliminary investigation held by the commission or  
its agents, by a Commission on Ethics and Public Trust  
established by any county defined in s. 125.011(1) or by any



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28 municipality defined in s. 165.031, or by any county or  
29 municipality that has established a local investigatory process  
30 to enforce more stringent standards of conduct and disclosure  
31 requirements as provided in s. 112.326 are confidential and  
32 exempt from ~~the provisions of~~ s. 119.07(1) and s. 24(a), Art. I  
33 of the State Constitution.

34 (b) Written referrals and records relating to such  
35 referrals held by the commission or its agents, the Governor,  
36 the Department of Law Enforcement, or a state attorney, and  
37 records relating to any preliminary investigation of such  
38 referrals held by the commission or its agents, are confidential  
39 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
40 Constitution.

41 (c) ~~(b)~~ Any portion of a proceeding conducted by the  
42 commission, a Commission on Ethics and Public Trust, or a county  
43 or municipality that has established such local investigatory  
44 process, pursuant to a complaint or preliminary investigation,  
45 is exempt from ~~the provisions of~~ s. 286.011, s. 24(b), Art. I of  
46 the State Constitution, and s. 120.525.

47 (d) Any portion of a proceeding of the commission in which  
48 a determination regarding a referral is discussed or acted upon  
49 is exempt from s. 286.011 and s. 24(b), Art. I of the State  
50 Constitution, and s. 120.525.

51 (e) ~~(c)~~ The exemptions in paragraphs (a)-(d) ~~(a) and (b)~~  
52 apply until:

53 1. The complaint is dismissed as legally insufficient;  
54 until

55 2. The alleged violator requests in writing that such  
56 records and proceedings be made public;



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57           3. The commission determines that it will not investigate  
58 the referral; or until

59           4. The commission, a Commission on Ethics and Public Trust,  
60 or a county or municipality that has established such local  
61 investigatory process determines, based on such investigation,  
62 whether probable cause exists to believe that a violation has  
63 occurred.

64           (f) In no event shall a complaint under this part against a  
65 candidate in any general, special, or primary election be filed  
66 or any intention of filing such a complaint be disclosed on the  
67 day of any such election or within the 5 days immediately  
68 preceding the date of the election.

69           (g) ~~(d)~~ This subsection is subject to the Open Government  
70 Sunset Review Act in accordance with s. 119.15 and shall stand  
71 repealed on October 2, 2018 ~~2015~~, unless reviewed and saved from  
72 repeal through reenactment by the Legislature.

73           Section 2. (1) The Legislature finds that it is a public  
74 necessity that written referrals and records relating to such  
75 referrals held by the Commission on Ethics or its agents, the  
76 Governor, the Department of Law Enforcement, or a state  
77 attorney, and records relating to any preliminary investigation  
78 of such referrals held by the Commission on Ethics or its  
79 agents, be confidential and exempt from public records  
80 requirements until the commission determines that it will not  
81 investigate the referral, until the alleged violator requests in  
82 writing that such records be made public, or until it is  
83 determined by the commission based upon a preliminary  
84 investigation of the referral whether probable cause exists to  
85 believe that a violation has occurred. This exemption is



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86 necessary because the release of such information could  
87 potentially be defamatory to an individual under investigation,  
88 cause unwarranted damage to the reputation of such individual,  
89 or significantly impair the integrity of the investigation.

90 (2) The Legislature also finds that it is a public  
91 necessity that portions of proceedings of the Commission on  
92 Ethics at which a determination regarding a referral is  
93 discussed or acted upon be exempt from public meetings  
94 requirements until the commission determines that it will not  
95 investigate the referral, until the alleged violator requests in  
96 writing that such proceedings be made public, or until it is  
97 determined by the Commission on Ethics, based on a preliminary  
98 investigation of the referral, whether probable cause exists to  
99 believe that a violation has occurred. This exemption is  
100 necessary because the release of such information could  
101 potentially be defamatory to an individual under investigation,  
102 cause unwarranted damage to the reputation of such individual,  
103 or significantly impair the integrity of the investigation.

104 Section 3. This act shall take effect on the same date that  
105 SB 2 or similar legislation takes effect, if such legislation is  
106 adopted in the same legislative session or an extension thereof  
107 and becomes a law.