

By the Committees on Governmental Oversight and Accountability;
and Ethics and Elections

585-01572-13

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1 A bill to be entitled

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

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsection (2) of section 112.324, Florida
21 Statutes, is amended to read:

22 112.324 Procedures on complaints of violations; public
23 records and meeting exemptions.—

24 (2) (a) The complaint and records relating to the complaint
25 or to any preliminary investigation held by the commission or
26 its agents, by a Commission on Ethics and Public Trust
27 established by any county defined in s. 125.011(1) or by any
28 municipality defined in s. 165.031, or by any county or
29 municipality that has established a local investigatory process

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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) ~~(e)~~ 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;

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

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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
86 necessary because the release of such information could
87 potentially be defamatory to an individual under investigation,

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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.