

By Senator Detert

28-00986-13

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1 A bill to be entitled
2 An act relating to public records and public meetings;
3 amending s. 112.324, F.S.; expanding the exemption
4 from public records requirements for a written
5 complaint received by the Commission on Ethics of an
6 alleged violation of the Code of Ethics for Public
7 Officers and Employees, or any other alleged breach of
8 the public trust within the jurisdiction of the
9 commission, to include the commission's determination
10 regarding a written referral of a possible violation
11 of the code or other possible breach of the public
12 trust from the Governor, the Chief Financial Officer,
13 a state attorney, or the Executive Director of the
14 Department of Law Enforcement; expanding the exemption
15 from public meeting requirements for a proceeding
16 conducted by the commission to include proceedings
17 conducted pursuant to a referral; providing for
18 specified duration of the exemptions; providing for
19 future legislative review and repeal of the
20 exemptions; providing a statement of public necessity;
21 providing a contingent effective date.

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

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

27 112.324 Procedures on complaints of violations; public
28 records and meeting exemptions.—

29 (2) (a) The following items are confidential and exempt from

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30 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
31 Constitution:

- 32 1. The complaint and records relating to the complaint; ~~or~~
33 2. Records relating to any preliminary investigation; or
34 3. The commission's determination regarding a referral,

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36 which are held by the commission or its agents, by a Commission
37 on Ethics and Public Trust established by any county defined in
38 s. 125.011(1) or by any municipality defined in s. 165.031, or
39 by any county or municipality that has established a local
40 investigatory process to enforce more stringent standards of
41 conduct and disclosure requirements as provided in s. 112.326
42 ~~are confidential and exempt from the provisions of s. 119.07(1)~~
43 ~~and s. 24(a), Art. I of the State Constitution.~~

44 (b) Any proceeding conducted by the commission, a
45 Commission on Ethics and Public Trust, or a county or
46 municipality that has established such local investigatory
47 process, pursuant to a complaint, referral, or preliminary
48 investigation, is exempt from the provisions of s. 286.011, s.
49 24(b), Art. I of the State Constitution, and s. 120.525.

50 (c) The exemptions in paragraphs (a) and (b) apply until
51 the complaint or referral is dismissed as legally insufficient,
52 until the alleged violator requests in writing that such records
53 and proceedings be made public, until the commission determines
54 that it will not investigate the complaint or referral, or until
55 the commission, a Commission on Ethics and Public Trust, or a
56 county or municipality that has established such local
57 investigatory process determines, based on such investigation,
58 whether probable cause exists to believe that a violation has

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59 occurred. In no event shall a complaint under this part against
60 a candidate in any general, special, or primary election be
61 filed or any intention of filing such a complaint be disclosed
62 on the day of any such election or within the 5 days immediately
63 preceding the date of the election.

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

68 Section 2. (1) The Legislature finds that it is a public
69 necessity that a determination of legal sufficiency to conduct
70 an investigation of an alleged breach of the public trust
71 pursuant to a referral from a public official be made
72 confidential and exempt from s. 119.07(1), Florida Statutes, and
73 s. 24(a), Article I of the State Constitution until the
74 Commission on Ethics dismisses such allegation as legally
75 insufficient, determines that it will not conduct an
76 investigation, or determines, based on an investigation, whether
77 probable cause exists to believe that a violation has occurred.
78 This exemption is necessary because the release of information
79 that is subsequently found to be insufficient and without legal
80 basis could potentially be defamatory to the individual under
81 investigation or cause unwarranted damage to his or her good
82 name or reputation. For these reasons, the Legislature finds
83 that it is a public necessity that investigations of an alleged
84 breach of the public trust made pursuant to a referral from a
85 public official be made confidential and exempt from public
86 records requirements.

87 (2) In addition, the Legislature finds that it is a public

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88 necessity that any proceeding conducted by the Commission on
89 Ethics pursuant to a referral from a public official be exempt
90 from s. 286.011, Florida Statutes, and s. 24(b), Article I of
91 the State Constitution so that the administration of such
92 proceedings is not otherwise significantly impaired. The
93 exemption of these proceedings from public meetings requirements
94 minimizes the possibility of unnecessary scrutiny by the public
95 or media of the individual under investigation and his or her
96 family before there is a determination of probable cause.
97 Furthermore, the Legislature has previously recognized the
98 importance of exempting these public records and public meetings
99 by exempting the records and meetings of the Commission on
100 Ethics and other local commissions.

101 Section 3. This act shall take effect on the same date that
102 SB ____ or similar legislation takes effect, if such legislation
103 is adopted in the same legislative session, or an extension
104 thereof, and becomes law.