

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; creating an exemption from public meetings
 10 requirements for portions of proceedings of the
 11 commission in which the referrals are discussed or
 12 acted upon; revising applicability of such exemptions;
 13 providing for future repeal and legislative review of
 14 the exemptions under the Open Government Sunset Review
 15 Act; providing a statement of public necessity;
 16 providing a contingent effective date.

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

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 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
 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, 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; τ
- 54 ~~until~~
- 55 2. The alleged violator requests in writing that such
- 56 records and proceedings be made public; τ

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
 60 Trust, or a county or municipality that has established such
 61 local investigatory process determines, based on such
 62 investigation, whether probable cause exists to believe that a
 63 violation has occurred.

64 (f) In no event shall a complaint under this part against
 65 a candidate in any general, special, or primary election be
 66 filed or any intention of filing such a complaint be disclosed
 67 on the 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 or its agents, be
 79 confidential and exempt from public records requirements until
 80 the commission determines that it will not investigate the
 81 referral, until the alleged violator requests in writing that
 82 such records be made public, or until it is determined by the
 83 commission, based upon a preliminary investigation of the
 84 referral, whether probable cause exists to believe that a

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85 violation has occurred. This exemption is necessary because the
86 release of such information could potentially be defamatory to
87 an individual under investigation, cause unwarranted damage to
88 the reputation of such individual, or significantly impair the
89 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, 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
105 that HB 7131 or similar legislation takes effect, if such
106 legislation is adopted in the same legislative session or an
107 extension thereof and becomes law.