

By Senator Simmons

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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 records requirements for intelligence or investigative
5 information that may reveal the address or place of
6 employment of a person who is a victim of a domestic
7 violence offense; providing for future review and
8 repeal of the exemption under the Open Government
9 Sunset Review Act; providing a statement of public
10 necessity; amending s. 92.56, F.S.; conforming
11 provisions to changes made by the act; reenacting s.
12 119.0714(1)(h), F.S., relating to court files and
13 records, to incorporate the amendments made to s.
14 119.071, F.S., in a reference thereto; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Paragraph (h) of subsection (2) of section
20 119.071, Florida Statutes, is amended to read:

21 119.071 General exemptions from inspection or copying of
22 public records.—

23 (2) AGENCY INVESTIGATIONS.—

24 (h)1. The following criminal intelligence information or
25 criminal investigative information is confidential and exempt
26 from s. 119.07(1) and s. 24(a), Art. I of the State
27 Constitution:

28 a. Any information, including the photograph, name,
29 address, or other fact, which reveals the identity of the victim

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30 of the crime of child abuse as defined by chapter 827.

31 b. Any information that ~~which~~ may reveal the identity of a
32 person who is a victim of any sexual offense, including a sexual
33 offense proscribed in chapter 794, chapter 796, chapter 800,
34 chapter 827, or chapter 847.

35 c. A photograph, videotape, or image of any part of the
36 body of the victim of a sexual offense prohibited under chapter
37 794, chapter 796, chapter 800, s. 810.145, chapter 827, or
38 chapter 847, regardless of whether the photograph, videotape, or
39 image identifies the victim.

40 d. Any information that may reveal the address or place of
41 employment of a person who is a victim of a domestic violence
42 offense as defined in chapter 741.

43 2. Criminal investigative information and criminal
44 intelligence information made confidential and exempt under this
45 paragraph may be disclosed by a law enforcement agency:

46 a. In the furtherance of its official duties and
47 responsibilities.

48 b. For print, publication, or broadcast if the law
49 enforcement agency determines that such release would assist in
50 locating or identifying a person that such agency believes to be
51 missing or endangered. The information provided should be
52 limited to that needed to identify or locate the victim and not
53 include the sexual nature of the offense committed against the
54 person.

55 c. To another governmental agency in the furtherance of its
56 official duties and responsibilities.

57 3. This exemption applies to such confidential and exempt
58 criminal intelligence information or criminal investigative

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59 information held by a law enforcement agency before, on, or
60 after the effective date of the exemption.

61 4. Sub-subparagraphs 1.a.-c. are ~~This paragraph is~~ subject
62 to the Open Government Sunset Review Act in accordance with s.
63 119.15~~7~~ and shall stand repealed on October 2, 2016, unless
64 reviewed and saved from repeal through reenactment by the
65 Legislature. Sub-subparagraph 1.d. is subject to the Open
66 Government Sunset Review Act in accordance with s. 119.15 and
67 shall stand repealed on October 2, 2019, unless reviewed and
68 saved from repeal through reenactment by the Legislature.

69 Section 2. The Legislature finds that it is a public
70 necessity that criminal intelligence information or criminal
71 investigative information that may reveal the address or place
72 of employment of a person who is a victim of a domestic violence
73 offense as defined in chapter 741, Florida Statutes, be made
74 confidential and exempt from s. 119.07(1), Florida Statutes, and
75 s. 24(a), Article I of the State Constitution. The Legislature
76 recognizes the necessity to provide greater protection to
77 victims of domestic violence who attempt to escape from domestic
78 violence by relocating and to prevent harm from assailants or
79 probable assailants who attempt to find the victims. The
80 Legislature intends for such victims to receive protection by
81 making the criminal intelligence information and criminal
82 investigative information referenced in this act confidential
83 and exempt.

84 Section 3. Section 92.56, Florida Statutes, is amended to
85 read:

86 92.56 Judicial proceedings and court records involving
87 sexual offenses and domestic violence.-

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88 (1) (a) The confidential and exempt status of criminal
89 intelligence information or criminal investigative information
90 made confidential and exempt pursuant to s. 119.071(2)(h) must
91 be maintained in court records pursuant to s. 119.0714(1)(h) and
92 in court proceedings, including testimony from witnesses.

93 (b) If a petition for access to such confidential and
94 exempt records is filed with the trial court having jurisdiction
95 over the alleged offense, the confidential and exempt status of
96 such information shall be maintained by the court if the state
97 or the victim demonstrates that:

98 1. The identity of the victim is not already known in the
99 community;

100 2. The victim has not voluntarily called public attention
101 to the offense;

102 3. The identity of the victim has not otherwise become a
103 reasonable subject of public concern;

104 4. The disclosure of the victim's identity would be
105 offensive to a reasonable person; and

106 5. The disclosure of the victim's identity would:

107 a. Endanger the victim because the assailant has not been
108 apprehended and is not otherwise known to the victim;

109 b. Endanger the victim because of the likelihood of
110 retaliation, harassment, or intimidation;

111 c. Cause severe emotional or mental harm to the victim;

112 d. Make the victim unwilling to testify as a witness; or

113 e. Be inappropriate for other good cause shown.

114 (2) A defendant charged with a crime described in chapter
115 794 or chapter 800, ~~or~~ with child abuse, aggravated child abuse,
116 or sexual performance by a child as described in chapter 827, or

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117 with a domestic violence offense as described in chapter 741 may
118 apply to the trial court for an order of disclosure of
119 information in court records held confidential and exempt
120 pursuant to s. 119.0714(1)(h) or maintained as confidential and
121 exempt pursuant to court order under this section. Such
122 identifying information concerning the victim may be released to
123 the defendant or his or her attorney in order to prepare the
124 defense. The confidential and exempt status of this information
125 may not be construed to prevent the disclosure of the victim's
126 identity to the defendant; however, the defendant may not
127 disclose the victim's identity to any person other than the
128 defendant's attorney or any other person directly involved in
129 the preparation of the defense. A willful and knowing disclosure
130 of the identity of the victim to any other person by the
131 defendant constitutes contempt.

132 (3) The state may use a pseudonym instead of the victim's
133 name to designate the victim of a crime described in chapter 794
134 or chapter 800, ~~or~~ of child abuse, aggravated child abuse, or
135 sexual performance by a child as described in chapter 827, of a
136 domestic violence offense as described in chapter 741, or of any
137 crime involving the production, possession, or promotion of
138 child pornography as described in chapter 847, in all court
139 records and records of court proceedings, both civil and
140 criminal.

141 (4) The protection of this section may be waived by the
142 victim of the alleged offense in a writing filed with the court,
143 in which the victim consents to the use or release of
144 identifying information during court proceedings and in the
145 records of court proceedings.

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146 (5) This section does not prohibit the publication or
147 broadcast of the substance of trial testimony in a prosecution
148 for an offense described in chapter 794 or chapter 800, ~~or~~ a
149 crime of child abuse, aggravated child abuse, or sexual
150 performance by a child, ~~as described in chapter 827, or a~~
151 domestic violence offense as described in chapter 741, but the
152 publication or broadcast may not include an identifying
153 photograph, an identifiable voice, or the name or address of the
154 victim, unless the victim has consented in writing to the
155 publication and filed such consent with the court or unless the
156 court has declared such records not confidential and exempt as
157 provided for in subsection (1).

158 (6) A willful and knowing violation of this section or a
159 willful and knowing failure to obey any court order issued under
160 this section constitutes contempt.

161 Section 4. For the purpose of incorporating the amendment
162 made by this act to section 119.071, Florida Statutes, in a
163 reference thereto, paragraph (h) of subsection (1) of section
164 119.0714, Florida Statutes, is reenacted to read:

165 119.0714 Court files; court records; official records.—

166 (1) COURT FILES.—Nothing in this chapter shall be construed
167 to exempt from s. 119.07(1) a public record that was made a part
168 of a court file and that is not specifically closed by order of
169 court, except:

170 (h) Criminal intelligence information or criminal
171 investigative information that is confidential and exempt as
172 provided in s. 119.071(2)(h).

173 Section 5. This act shall take effect October 1, 2014.