

FOR CONSIDERATION By the Committee on Ethics and Elections

582-00978A-14

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1 A bill to be entitled  
2 An act relating to public records and meetings;  
3 amending s. 106.25, F.S.; creating an exemption from  
4 public records requirements for a sworn complaint and  
5 records relating to an investigation, investigative  
6 report, or other paper of the Florida Elections  
7 Commission with respect to violations of limitations  
8 on political activity by candidates for judicial  
9 office; creating an exemption from public meetings  
10 requirements for portions of proceedings of the  
11 Florida Elections Commission in which violations of  
12 limitations on political activity by candidates for  
13 judicial office are discussed or acted upon following  
14 a complaint or relating to an investigation; providing  
15 for future repeal and legislative review of the  
16 exemptions under the Open Government Sunset Review  
17 Act; providing statements of public necessity;  
18 providing a contingent effective date.  
19

20 Be It Enacted by the Legislature of the State of Florida:  
21

22 Section 1. Subsection (7) of section 106.25, Florida  
23 Statutes, is amended to read:

24 106.25 Reports of alleged violations to Florida Elections  
25 Commission; disposition of findings.—

26 (7) (a) Every sworn complaint filed pursuant to this chapter  
27 with the commission, every investigation and investigative  
28 report or other paper of the commission with respect to a  
29 violation of this chapter or chapter 104, and every proceeding

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30 of the commission with respect to a violation of this chapter or  
31 chapter 104 is confidential, is exempt from the provisions of  
32 ss. 119.07(1) and 286.011, and is exempt from publication in the  
33 Florida Administrative Register of any notice or agenda with  
34 respect to any proceeding relating to such violation, ~~except~~  
35 ~~under the following circumstances:~~.

36 (b) A sworn complaint filed with the commission and an  
37 investigation and investigative report or other paper of the  
38 commission with respect to a violation of s. 105.071 is  
39 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
40 of the State Constitution.

41 (c) Any portion of a proceeding of the commission in which  
42 a violation of s. 105.071 is discussed or acted upon pursuant to  
43 a complaint or investigation is exempt from s. 286.011, s.  
44 24(b), Art. I of the State Constitution, and s. 120.525.

45 (d) The exemptions in paragraphs (a)-(c) apply, except  
46 under the following circumstances:

47 1.(a) As provided in subsection (6);

48 2.(b) Upon a determination of probable cause or no probable  
49 cause by the commission; or

50 3.(e) For proceedings conducted with respect to appeals of  
51 finances levied by filing officers for the late filing of reports  
52 required by this chapter.

53 (e) Paragraphs (b) and (c) are subject to the Open  
54 Government Sunset Review Act in accordance with s. 119.15 and  
55 shall stand repealed on October 2, 2019, unless reviewed and  
56 saved from repeal through reenactment by the Legislature.

57  
58 However, a complainant is not bound by the confidentiality

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59 provisions of this section. In addition, confidentiality may be  
60 waived in writing by the person against whom the complaint has  
61 been filed or the investigation has been initiated. If a finding  
62 of probable cause in a case is entered within 30 days prior to  
63 the date of the election with respect to which the alleged  
64 violation occurred, such finding and the proceedings and records  
65 relating to such case may ~~shall~~ not become public until noon of  
66 the day following such election. When two or more persons are  
67 being investigated by the commission with respect to an alleged  
68 violation of s. 105.071, this chapter, or chapter 104, the  
69 commission may not publicly enter a finding of probable cause or  
70 no probable cause in the case until a finding of probable cause  
71 or no probable cause for the entire case has been determined.  
72 However, once the confidentiality of any case has been breached,  
73 the person or persons under investigation have the right to  
74 waive the confidentiality of the case, thereby opening up the  
75 proceedings and records to the public. Any person who discloses  
76 any information or matter made confidential by the provisions of  
77 this subsection commits a misdemeanor of the first degree,  
78 punishable as provided in s. 775.082 or s. 775.083.

79 Section 2. (1) The Legislature finds that it is a public  
80 necessity that a sworn complaint filed with the Florida  
81 Elections Commission, and records relating to an investigation,  
82 investigative report, or other paper of the commission, with  
83 respect to violations on limitations on political activity by  
84 candidates for judicial office be confidential and exempt from  
85 public records requirements. Sworn complaints, and records held  
86 by the commission relating to investigations, of a violation of  
87 chapter 104 or chapter 106, Florida Statutes, relating to

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88 certain violations and penalties of the Florida Election Code  
89 and campaign financing, respectively, have historically been  
90 exempt from public records requirements. This exemption affords  
91 the same confidentiality to such complaints and records relating  
92 to a violation of s. 105.071, Florida Statutes. This exemption  
93 is necessary because the release of such information could be  
94 defamatory to an individual under investigation, cause  
95 unwarranted damage to the reputation of such individual, or  
96 impair the integrity of the investigation. This exemption is  
97 narrowly drawn in that the confidentiality may be waived in  
98 writing by the person against whom the complaint has been filed,  
99 or the investigation has been initiated; or upon the  
100 determination of probable cause or no probable cause by the  
101 commission.

102 (2) The Legislature finds that it is a public necessity  
103 that any portion of a proceeding of the Florida Elections  
104 Commission in which a violation of s. 105.071, Florida Statutes,  
105 is discussed or acted upon following a complaint or relating to  
106 an investigation be exempt from public meetings requirements.  
107 Proceedings of the commission with respect to a violation of  
108 chapter 104 or chapter 106, Florida Statutes, relating to  
109 certain violations and penalties of the Florida Election Code  
110 and campaign financing, respectively, have historically been  
111 exempt from public meetings requirements. This exemption affords  
112 the same protection to discussions or actions pursuant to a  
113 complaint or investigation during any portion of a proceeding of  
114 the commission with respect to an alleged violation of s.  
115 105.071, Florida Statutes. This exemption is necessary because  
116 the release of such information could be defamatory to an

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117 individual under investigation, cause unwarranted damage to the  
118 reputation of such individual, or impair the integrity of the  
119 investigation. This exemption is narrowly drawn in that it  
120 applies only to portions of proceedings of the commission in  
121 which such an alleged violation of s. 105.071, Florida Statutes  
122 pursuant to a complaint or investigation is discussed or acted  
123 upon.

124 Section 3. This act shall take effect on the same date that  
125 SB \_\_\_ or similar legislation takes effect, if such legislation  
126 is adopted in the same legislative session or an extension  
127 thereof and becomes a law.