



252982

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/17/2015	.	
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The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (g) through (k) of subsection (2) of
section 119.071, Florida Statutes, are redesignated as
paragraphs (h) through (l), respectively, and a new paragraph
(g) is added to that subsection, to read:

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



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11 (2) AGENCY INVESTIGATIONS.-

12 (g)1. An audio or video recording made by a law enforcement
13 officer in the course of the officer performing his or her
14 official duties and responsibilities is exempt from 119.07(1)
15 and s. 24(a), Art. 1 of the State Constitution, if the
16 recording:

17 a. Is taken within the interior of a private residence;

18 b. Is taken on the property of a facility that offers
19 health care, mental health care, or social services;

20 c. Is taken at the scene of a medical emergency; or

21 d. Is taken in a place where a person recorded or depicted
22 in the recording has a reasonable expectation of privacy.

23 2. If the audio or video recording or a portion of such
24 recording is exempt or confidential and exempt pursuant to
25 another law, that exemption applies and determines under which
26 circumstances, if any, the recording or a portion of the
27 recording may be disclosed to the public.

28 3. The law enforcement agency having custody of an audio or
29 video recording described in subparagraph 1. may disclose the
30 recording to another law enforcement agency in furtherance of
31 that agency's official duties and responsibilities.

32 4.a. In accordance with s. 119.07, the following persons
33 may inspect an audio or video recording described in
34 subparagraph 1.:

35 (I) A person recorded or depicted in the recording.

36 (II) The agent or attorney of a person recorded or depicted
37 in the recording, if inspection is authorized by that person or
38 his or her legal representative.

39 (III) A person not recorded or depicted in the recording,



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40 if inspection is authorized by all persons recorded or depicted
41 in the recording.

42 b. This subparagraph does not apply to information in the
43 recording that is exempt or confidential and exempt pursuant to
44 another provision of law.

45 5. A law enforcement agency under this paragraph must have
46 a retention policy of not shorter than 4 years for audio or
47 video recordings unless the audio or video recording is part of
48 an active criminal investigation or criminal intelligence
49 operation or a court orders its retention for a longer period. A
50 law enforcement agency must disclose its records retention
51 policy for audio or video recordings under this paragraph.

52 6. This exemption shall be given retroactive application
53 unless the audio or video recording or a portion of such
54 recording is exempt or confidential and exempt pursuant to
55 another exemption, then that exemption determines if
56 retroactivity applies.

57 7. This paragraph is subject to the Open Government Sunset
58 Review Act in accordance with s. 119.15 and shall stand repealed
59 on October 2, 2020, unless reviewed and saved from repeal
60 through reenactment by the Legislature.

61 Section 2. Paragraph (a) of subsection (1) of section
62 92.56, Florida Statutes, is amended to read:

63 92.56 Judicial proceedings and court records involving
64 sexual offenses and human trafficking.—

65 (1) (a) The confidential and exempt status of criminal
66 intelligence information or criminal investigative information
67 made confidential and exempt pursuant to s. 119.071(2)(i) ~~s.~~
68 ~~119.071(2)(h)~~ must be maintained in court records pursuant to s.



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69 119.0714(1) (h) and in court proceedings, including testimony
70 from witnesses.

71 Section 3. Paragraph (c) of subsection (3) of section
72 119.011, Florida Statutes, is amended to read:

73 119.011 Definitions.—As used in this chapter, the term:

74 (3)

75 (c) "Criminal intelligence information" and "criminal
76 investigative information" shall not include:

77 1. The time, date, location, and nature of a reported
78 crime.

79 2. The name, sex, age, and address of a person arrested or
80 of the victim of a crime except as provided in s. 119.071(2) (i)
81 ~~s. 119.071(2) (h)~~.

82 3. The time, date, and location of the incident and of the
83 arrest.

84 4. The crime charged.

85 5. Documents given or required by law or agency rule to be
86 given to the person arrested, except as provided in s.
87 119.071(2) (i) ~~s. 119.071(2) (h)~~, and, except that the court in a
88 criminal case may order that certain information required by law
89 or agency rule to be given to the person arrested be maintained
90 in a confidential manner and exempt from the provisions of s.
91 119.07(1) until released at trial if it is found that the
92 release of such information would:

93 a. Be defamatory to the good name of a victim or witness or
94 would jeopardize the safety of such victim or witness; and

95 b. Impair the ability of a state attorney to locate or
96 prosecute a codefendant.

97 6. Informations and indictments except as provided in s.



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98 905.26.

99 Section 4. Paragraph (h) of subsection (1) of section
100 119.0714, Florida Statutes, is amended to read:

101 119.0714 Court files; court records; official records.—

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

106 (h) Criminal intelligence information or criminal
107 investigative information that is confidential and exempt as
108 provided in s. 119.071(2)(i) ~~s. 119.071(2)(h)~~.

109 Section 5. Paragraph (b) of subsection (4) of section
110 784.046, Florida Statutes, is amended to read:

111 784.046 Action by victim of repeat violence, sexual
112 violence, or dating violence for protective injunction; dating
113 violence investigations, notice to victims, and reporting;
114 pretrial release violations; public records exemption.—

115 (4)

116 (b) The sworn petition must be in substantially the
117 following form:

118

119 PETITION FOR INJUNCTION FOR PROTECTION
120 AGAINST REPEAT VIOLENCE, SEXUAL
121 VIOLENCE, OR DATING VIOLENCE
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123 Before me, the undersigned authority, personally appeared
124 Petitioner ...(Name)..., who has been sworn and says that the
125 following statements are true:
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127 1. Petitioner resides at ...(address)... (A petitioner for
128 an injunction for protection against sexual violence may furnish
129 an address to the court in a separate confidential filing if,
130 for safety reasons, the petitioner requires the location of his
131 or her current residence to be confidential pursuant to s.
132 119.071(2)(k) ~~s. 119.071(2)(j)~~, Florida Statutes.)

133 2. Respondent resides at ...(address)....

134 3.a. Petitioner has suffered repeat violence as
135 demonstrated by the fact that the respondent has:

136 ...(enumerate incidents of violence)...

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142 b. Petitioner has suffered sexual violence as demonstrated
143 by the fact that the respondent has: ...(enumerate incident of
144 violence and include incident report number from law enforcement
145 agency or attach notice of inmate release.)...

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151 c. Petitioner is a victim of dating violence and has
152 reasonable cause to believe that he or she is in imminent danger
153 of becoming the victim of another act of dating violence or has
154 reasonable cause to believe that he or she is in imminent danger
155 of becoming a victim of dating violence, as demonstrated by the



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156 fact that the respondent has: ...(list the specific incident or
157 incidents of violence and describe the length of time of the
158 relationship, whether it has been in existence during the last 6
159 months, the nature of the relationship of a romantic or intimate
160 nature, the frequency and type of interaction, and any other
161 facts that characterize the relationship.)...

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167 4. Petitioner genuinely fears repeat violence by the
168 respondent.

169 5. Petitioner seeks: an immediate injunction against the
170 respondent, enjoining him or her from committing any further
171 acts of violence; an injunction enjoining the respondent from
172 committing any further acts of violence; and an injunction
173 providing any terms the court deems necessary for the protection
174 of the petitioner and the petitioner's immediate family,
175 including any injunctions or directives to law enforcement
176 agencies.

177 Section 6. Subsection (1) of section 794.024, Florida
178 Statutes, is amended to read:

179 794.024 Unlawful to disclose identifying information.—

180 (1) A public employee or officer who has access to the
181 photograph, name, or address of a person who is alleged to be
182 the victim of an offense described in this chapter, chapter 800,
183 s. 827.03, s. 827.04, or s. 827.071 may not willfully and
184 knowingly disclose it to a person who is not assisting in the



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185 investigation or prosecution of the alleged offense or to any
186 person other than the defendant, the defendant's attorney, a
187 person specified in an order entered by the court having
188 jurisdiction of the alleged offense, or organizations authorized
189 to receive such information made exempt by s. 119.071(2)(i) ~~s.~~
190 ~~119.071(2)(h)~~, or to a rape crisis center or sexual assault
191 counselor, as defined in s. 90.5035(1)(b), who will be offering
192 services to the victim.

193 Section 7. Section 794.03, Florida Statutes, is amended to
194 read:

195 794.03 Unlawful to publish or broadcast information
196 identifying sexual offense victim.—No person shall print,
197 publish, or broadcast, or cause or allow to be printed,
198 published, or broadcast, in any instrument of mass communication
199 the name, address, or other identifying fact or information of
200 the victim of any sexual offense within this chapter, except as
201 provided in s. 119.071(2)(i) ~~s. 119.071(2)(h)~~ or unless the
202 court determines that such information is no longer confidential
203 and exempt pursuant to s. 92.56. An offense under this section
204 shall constitute a misdemeanor of the second degree, punishable
205 as provided in s. 775.082 or s. 775.083.

206 Section 8. The Legislature finds that it is a public
207 necessity that an audio or video recording made by a law
208 enforcement officer in the course of the officer performing his
209 or her official duties and responsibilities be made exempt from
210 the public records requirements of s. 119.07(1), Florida
211 Statutes, and s. 24(a), Article I of the State Constitution, if
212 the recording: is taken within the interior of a private
213 residence; is taken on the property of a facility that offers



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214 health care, mental health care, or social services; is taken at
215 the scene of a medical emergency; is taken at a place where a
216 person recorded or depicted in the recording has a reasonable
217 expectation of privacy. The Legislature finds that information
218 recorded by these devices in these circumstances is
219 significantly more likely to include highly sensitive personal
220 information regarding the persons recorded than in other
221 circumstances. The Legislature finds that public disclosure of
222 these recordings could have an undesirable, chilling effect:
223 persons who know sensitive personal information about them is
224 being or may be recorded may be unwilling to cooperate with law
225 enforcement officers and make calls for the services of law
226 enforcement officers. This exemption allows law enforcement
227 officers to more effectively and efficiently administer their
228 duties, which would otherwise be significantly impaired. In the
229 case of minors, information about those minors could jeopardize
230 their safety if the minors' identities and whereabouts are
231 recorded and open for anyone to request and keep. The
232 Legislature recognizes an individual's right to be free of
233 government intrusion as codified in s. 23, Article I of the
234 State Constitution and finds that these exemptions to the public
235 records laws do not limit the public's right to open government.
236 The Legislature finds that these interests or concerns not only
237 necessitate the exemption of the recordings but outweigh any
238 public benefit that may be derived from their disclosure.

239 Section 9. This act shall take effect July 1, 2015.

241 ===== T I T L E A M E N D M E N T =====

242 And the title is amended as follows:



243 Delete everything before the enacting clause
244 and insert:

245 A bill to be entitled
246 An act relating to public records; amending s.
247 119.071, F.S.; providing an exemption from public
248 record requirements for an audio or video recording
249 made by a law enforcement officer in the course of the
250 officer performing his or her official duties and
251 responsibilities, if the recording is taken within
252 certain locations; specifying how the exemption
253 operates in relation to other exemptions that may
254 apply to the recording; authorizing the law
255 enforcement agency with custody over the recording to
256 disclose the recording to another law enforcement
257 agency in furtherance of that agency's official duties
258 and responsibilities; specifying persons who may
259 inspect the recording; requiring a law enforcement
260 agency to have a retention policy for audio or video
261 recordings of not shorter than 4 years; providing an
262 exception; requiring a law enforcement agency to
263 disclose its records retention policy for audio or
264 video recordings; providing retroactive application of
265 the exemption; providing an exception; providing for
266 future legislative review and repeal of the exemption
267 under the Open Government Sunset Review Act; amending
268 ss. 92.56, 119.011, 119.0714, 784.046, 794.024, and
269 794.03, F.S.; conforming cross-references; providing a
270 statement of public necessity; providing an effective
271 date.