

HB 581

2015

1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; providing exemptions from public
4 records requirements for an audio or video recording
5 made by a law enforcement officer taken within the
6 interior of a private residence, an audio or video
7 recording made by a law enforcement officer taken
8 within a building of a hospital or health care
9 provider, an audio or video recording made by a law
10 enforcement officer taken at the scene of a medical
11 emergency, an audio or video recording made by a law
12 enforcement officer showing a minor taken while the
13 minor is inside of a school or on school property, and
14 an audio or video recording made by a law enforcement
15 officer showing a minor younger than a specified age
16 at any location; amending ss. 92.56, 119.011,
17 119.0714, 784.046, 794.024, and 794.03, F.S.;
18 conforming cross-references; providing a statement of
19 public necessity; providing an effective date.

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

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23 Section 1. Paragraphs (g) through (k) of subsection (2) of
24 section 119.071, Florida Statutes, are redesignated as
25 paragraphs (k) through (o), respectively, and new paragraphs (g)
26 through (j) are added to that section to read:

27 119.071 General exemptions from inspection or copying of
28 public records.—

29 (2) AGENCY INVESTIGATIONS.—

30 (g) An audio or video recording made by a law enforcement
31 officer taken within the interior of a private residence is
32 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
33 Constitution. This paragraph is subject to the Open Government
34 Sunset Review Act in accordance with s. 119.15 and shall stand
35 repealed on October 2, 2020, unless reviewed and saved from
36 repeal through reenactment by the Legislature.

37 (h) An audio or video recording made by a law enforcement
38 officer taken within a building of a hospital or health care
39 provider is exempt from s. 119.07(1) and s. 24(a), Art. I of the
40 State Constitution. This paragraph is subject to the Open
41 Government Sunset Review Act in accordance with s. 119.15 and
42 shall stand repealed on October 2, 2020, unless reviewed and
43 saved from repeal through reenactment by the Legislature.

44 (i) An audio or video recording made by a law enforcement
45 officer taken at the scene of a medical emergency is exempt from
46 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
47 This paragraph is subject to the Open Government Sunset Review
48 Act in accordance with s. 119.15 and shall stand repealed on
49 October 2, 2020, unless reviewed and saved from repeal through
50 reenactment by the Legislature.

51 (j) An audio or video recording made by a law enforcement
52 officer showing a minor younger than 18 years of age taken while

53 the minor is inside of a school, as defined in s. 1003.01, or on
54 school property, as defined in s. 810.095, and an audio or video
55 recording made by a law enforcement officer showing a minor
56 younger than 14 years of age taken at any location, are exempt
57 from s. 119.07(1) and s. 24(a), Art. I of the State
58 Constitution. This paragraph is subject to the Open Government
59 Sunset Review Act in accordance with s. 119.15 and shall stand
60 repealed on October 2, 2020, unless reviewed and saved from
61 repeal through reenactment by the Legislature.

62 Section 2. Paragraph (a) of subsection (1) of section
63 92.56, Florida Statutes, is amended to read:

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

66 (1)(a) The confidential and exempt status of criminal
67 intelligence information or criminal investigative information
68 made confidential and exempt pursuant to s. 119.071(2)(1)
69 ~~119.071(2)(h)~~ must be maintained in court records pursuant to s.
70 119.0714(1)(h) and in court proceedings, including testimony
71 from witnesses.

72 Section 3. Paragraph (c) of subsection (3) of section
73 119.011, Florida Statutes, is amended to read:

74 119.011 Definitions.—As used in this chapter, the term:

75 (3)

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

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

79 crime.

80 2. The name, sex, age, and address of a person arrested or
 81 of the victim of a crime except as provided in s. 119.071(2)(1)
 82 ~~119.071(2)(h)~~.

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

85 4. The crime charged.

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

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

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

98 6. Informations and indictments except as provided in s.
 99 905.26.

100 Section 4. Paragraph (h) of subsection (1) of section
 101 119.0714, Florida Statutes, is amended to read:

102 119.0714 Court files; court records; official records.—

103 (1) COURT FILES.—Nothing in this chapter shall be
 104 construed to exempt from s. 119.07(1) a public record that was

105 made a part of a court file and that is not specifically closed
 106 by order of court, except:

107 (h) Criminal intelligence information or criminal
 108 investigative information that is confidential and exempt as
 109 provided in s. 119.071(2)(1) ~~119.071(2)(h)~~.

110 Section 5. Paragraph (b) of subsection (4) of section
 111 784.046, Florida Statutes, is amended to read:

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

116 (4)

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

119 PETITION FOR INJUNCTION FOR PROTECTION
 120 AGAINST REPEAT VIOLENCE, SEXUAL
 121 VIOLENCE, OR DATING VIOLENCE

122 Before me, the undersigned authority, personally appeared
 123 Petitioner ...(Name)..., who has been sworn and says that the
 124 following statements are true:

125 1. Petitioner resides at ...(address)... (A petitioner for
 126 an injunction for protection against sexual violence may furnish
 127 an address to the court in a separate confidential filing if,
 128 for safety reasons, the petitioner requires the location of his
 129 or her current residence to be confidential pursuant to s.
 130 119.071(2)(n) ~~119.071(2)(j)~~, Florida Statutes.)

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

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

134 ...(enumerate incidents of violence)...

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

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145 c. Petitioner is a victim of dating violence and has
146 reasonable cause to believe that he or she is in imminent danger
147 of becoming the victim of another act of dating violence or has
148 reasonable cause to believe that he or she is in imminent danger
149 of becoming a victim of dating violence, as demonstrated by the
150 fact that the respondent has: ...(list the specific incident or
151 incidents of violence and describe the length of time of the
152 relationship, whether it has been in existence during the last 6
153 months, the nature of the relationship of a romantic or intimate
154 nature, the frequency and type of interaction, and any other
155 facts that characterize the relationship.)...

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159 4. Petitioner genuinely fears repeat violence by the
160 respondent.

161 5. Petitioner seeks: an immediate injunction against the
162 respondent, enjoining him or her from committing any further
163 acts of violence; an injunction enjoining the respondent from
164 committing any further acts of violence; and an injunction
165 providing any terms the court deems necessary for the protection
166 of the petitioner and the petitioner's immediate family,
167 including any injunctions or directives to law enforcement
168 agencies.

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

171 794.024 Unlawful to disclose identifying information.—

172 (1) A public employee or officer who has access to the
173 photograph, name, or address of a person who is alleged to be
174 the victim of an offense described in this chapter, chapter 800,
175 s. 827.03, s. 827.04, or s. 827.071 may not willfully and
176 knowingly disclose it to a person who is not assisting in the
177 investigation or prosecution of the alleged offense or to any
178 person other than the defendant, the defendant's attorney, a
179 person specified in an order entered by the court having
180 jurisdiction of the alleged offense, or organizations authorized
181 to receive such information made exempt by s. 119.071(2)(l)
182 ~~119.071(2)(h)~~, or to a rape crisis center or sexual assault

183 counselor, as defined in s. 90.5035(1)(b), who will be offering
 184 services to the victim.

185 Section 7. Section 794.03, Florida Statutes, is amended to
 186 read:

187 794.03 Unlawful to publish or broadcast information
 188 identifying sexual offense victim.—No person shall print,
 189 publish, or broadcast, or cause or allow to be printed,
 190 published, or broadcast, in any instrument of mass communication
 191 the name, address, or other identifying fact or information of
 192 the victim of any sexual offense within this chapter, except as
 193 provided in s. 119.071(2)(l) ~~119.071(2)(h)~~ or unless the court
 194 determines that such information is no longer confidential and
 195 exempt pursuant to s. 92.56. An offense under this section shall
 196 constitute a misdemeanor of the second degree, punishable as
 197 provided in s. 775.082 or s. 775.083.

198 Section 8. The Legislature finds that an audio or video
 199 recording made by a law enforcement officer taken within the
 200 interior of a private residence, an audio or video recording
 201 made by a law enforcement officer taken within a building of a
 202 hospital or health care provider, an audio or video recording
 203 made by a law enforcement officer taken at the scene of a
 204 medical emergency, an audio or video recording made by a law
 205 enforcement officer showing a minor younger than 18 years of age
 206 taken while the minor is inside of a school, as defined in s.
 207 1003.01, Florida Statutes, or on school property, as defined in
 208 s. 810.095, Florida Statutes, and an audio or video recording

209 made by a law enforcement officer showing a minor younger than
210 14 years of age taken at any location, should be included within
211 the information relating to agency investigations that are
212 exempt from the public records requirements of s. 119.07(1) and
213 s. 24(a), Article I of the State Constitution. The Legislature
214 also finds that it is a public necessity to exempt such
215 information from public records requirements to protect the
216 privacy of individuals who are inside their homes, who are
217 within a building of a hospital or health care provider, who are
218 involved in a medical emergency, who are minors younger than 18
219 years of age inside of a school or on school property, or who
220 are minors younger than 14 years of age at any location, because
221 the failure to protect an individual's privacy may have an
222 undesirable, chilling effect on the willingness of the
223 individual to cooperate with law enforcement or to make calls
224 for the services of law enforcement officers. Protecting an
225 individual's privacy and preventing any potential chilling
226 effects outweighs any public benefit that may be derived from
227 the disclosure of such information.

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