

By Senator Braynon

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 28.2221, F.S.; making technical changes; providing an
 4 exemption from public records requirements for certain
 5 official records relating to matters or cases governed
 6 by the Florida Rules of Family Law; providing for
 7 future legislative review and repeal of the exemption;
 8 providing a statement of public necessity; amending s.
 9 119.0714, F.S.; providing an exemption from public
 10 records requirements for a petition for an injunction
 11 that is dismissed and the petition's contents;
 12 providing for removal of petitions that were dismissed
 13 before the effective date of the act from publicly
 14 accessible records; providing for future legislative
 15 review and repeal of the exemption; providing a
 16 statement of public necessity; providing a directive
 17 to the Division of Law Revision and Information;
 18 providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Subsection (5) of section 28.2221, Florida
 23 Statutes, is amended to read:

24 28.2221 Electronic access to official records.—

25 (5) (a) A ~~No~~ county recorder or clerk of the court may not
 26 place an image or copy of a public record, including an official
 27 record, on a publicly available ~~Internet~~ website for general
 28 public display if that image or copy is of a military discharge;
 29 a death certificate; or a court file, record, or paper relating
 30 to matters or cases governed by the Florida Rules of Family Law,
 31 the Florida Rules of Juvenile Procedure, or the Florida Probate
 32 Rules.

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33 (b) Any records specified in this subsection made available
34 by the county recorder or clerk of the court on a publicly
35 available ~~Internet~~ website for general public display before
36 ~~prior to~~ June 5, 2002, must be removed if the affected party
37 identifies the record and requests that it be removed. Such
38 request must be in writing and delivered by mail, facsimile, or
39 electronic transmission, or in person to the county recorder or
40 clerk of the court. The request must specify the identification
41 page number of the document to be removed. A ~~No~~ fee may not be
42 charged for the removal of a document pursuant to such request.

43 (c) No later than 30 days after June 5, 2002, notice of the
44 right of any affected party to request removal of records
45 pursuant to this subsection shall be conspicuously and clearly
46 displayed by the county recorder or clerk of the court on the
47 publicly available ~~Internet~~ website on which images or copies of
48 the county's public records are placed and in the office of each
49 county recorder or clerk of the court. In addition, no later
50 than 30 days after June 5, 2002, the county recorder or the
51 clerk of the court must have published, on two separate dates, a
52 notice of such right in a newspaper of general circulation in
53 the county where the county recorder's office is located as
54 provided for in chapter 50. Such notice must contain appropriate
55 instructions for making the removal request in person, by mail,
56 by facsimile, or by electronic transmission. The notice shall
57 state, in substantially similar form, that any person has a
58 right to request that a county recorder or clerk of the court
59 remove an image or copy of a public record, including an
60 official record, from a publicly available ~~Internet~~ website if
61 that image or copy is of a military discharge; a death

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62 certificate; or a court file, record, or paper relating to
63 matters or cases governed by the Florida Rules of Family Law,
64 the Florida Rules of Juvenile Procedure, or the Florida Probate
65 Rules. Such request must be made in writing and delivered by
66 mail, facsimile, or electronic transmission, or in person to the
67 county recorder or clerk of the court. The request must identify
68 the document identification page number of the document to be
69 removed. A No fee may not ~~will~~ be charged for the removal of a
70 document pursuant to such request.

71 (d) Any affected person may petition the circuit court for
72 an order directing compliance with this subsection.

73 (e) By January 1, 2006, each county recorder or clerk of
74 the court shall provide for electronic retrieval, at a minimum,
75 of images of documents referenced as the index required to be
76 maintained on the county's official records website by this
77 section.

78 (f)1. A public record that relates to a matter or case
79 governed by the Florida Rules of Family Law which may not be
80 placed on a publicly available website or that must be removed
81 from such a website pursuant to this subsection is confidential
82 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
83 Constitution.

84 2. This paragraph is subject to the Open Government Sunset
85 Review Act in accordance with s. 119.15 and shall stand repealed
86 on October 2, 2021, unless reviewed and saved from repeal
87 through reenactment by the Legislature.

88 Section 2. The Legislature finds that it is a public
89 necessity that a public record that relates to a matter or case
90 governed by the Florida Rules of Family Law which may not be

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91 placed on a publicly available website or that must be removed
92 from such a website pursuant to s. 28.2221(5), Florida Statutes,
93 be made confidential and exempt from s. 119.07(1), Florida
94 Statutes, and s. 24(a), Article I of the State Constitution. The
95 Legislature finds that such records often contain material that
96 is of a personal, sensitive nature and that the damage to the
97 privacy interests of persons involved in such matters or cases
98 by making such information public outweighs any public benefit
99 in making such information accessible. Additionally, such
100 records may contain financial information that may facilitate
101 identity theft or other criminal activity, and making such
102 records confidential and exempt would prevent such activity.

103 Section 3. Paragraph (g) is added to subsection (3) of
104 section 119.0714, Florida Statutes, to read:

105 119.0714 Court files; court records; official records.—

106 (3) OFFICIAL RECORDS.—A person who prepares or files a
107 record for recording in the official records as provided in
108 chapter 28 may not include in that record a social security
109 number or a bank account, debit, charge, or credit card number
110 unless otherwise expressly required by law.

111 (g)1. A petition for an injunction that is dismissed
112 without a hearing or at an ex parte hearing due to failure to
113 state a claim, lack of jurisdiction, or any reason having to do
114 with the sufficiency of the petition itself without an
115 injunction being issued, and the contents thereof, are
116 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
117 of the State Constitution.

118 2.a. A petition described in subparagraph 1. dismissed on
119 or after the effective date of this act, and the contents

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120 thereof, must be removed from all publically accessible records
121 upon dismissal.

122 b. A petition described in subparagraph 1. dismissed before
123 the effective date of this act, and the contents thereof, shall
124 be removed upon request by an individual named in the petition
125 as a respondent. The request must be in the form of a signed,
126 legibly written request specifying the case name, case number,
127 document heading, and page number. The request must be delivered
128 by mail, facsimile, electronic transmission, or in person to the
129 clerk of the court. A fee may not be charged for the removal
130 pursuant to the request.

131 3. This paragraph is subject to the Open Government Sunset
132 Review Act in accordance with s. 119.15 and shall stand repealed
133 on October 2, 2021, unless reviewed and saved from repeal
134 through reenactment by the Legislature.

135 Section 4. The Legislature finds that it is a public
136 necessity that a petition for an injunction that is dismissed
137 without a hearing or at an ex parte hearing due to failure to
138 state a claim, lack of jurisdiction, or any reason having to do
139 with the sufficiency of the petition itself without an
140 injunction being issued, and the contents thereof, be made
141 confidential and exempt from s. 119.07(1), Florida Statutes, and
142 s. 24(a), Article I of the State Constitution. The Legislature
143 finds that the existence of such a petition and of the
144 unverified allegations contained in such a petition could be
145 defamatory to an individual and cause unwarranted damage to the
146 reputation of such individual and that correction of the public
147 record by the removal of such a petition is the sole means of
148 protecting the reputation of an individual named in such a

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149 petition.

150 Section 5. The Division of Law Revision and Information is
151 directed to replace the phrase "the effective date of this act"
152 wherever it occurs in this act with such date.

153 Section 6. This act shall take effect upon becoming a law.