

By the Committee on Judiciary; and 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 Family Law Rules of Procedure;
7 providing for future legislative review and repeal of
8 the exemption; providing a statement of public
9 necessity; amending s. 119.0714, F.S.; providing an
10 exemption from public records requirements for a
11 petition for an injunction that is dismissed and the
12 petition's contents; providing for removal of
13 petitions that were dismissed before the effective
14 date of the act from publicly accessible records;
15 providing for future legislative review and repeal of
16 the exemption; providing a statement of public
17 necessity; providing a directive to the Division of
18 Law Revision and Information; providing an effective
19 date.

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

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

25 28.2221 Electronic access to official records.—

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

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33 the Florida Probate Rules.

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

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

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

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

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

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

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

89 Section 2. The Legislature finds that it is a public
90 necessity that a public record that relates to a matter or case

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91 governed by the Florida Family Law Rules of Procedure which may
92 not be placed on a publicly available website or that must be
93 removed from such a website pursuant to s. 28.2221(5), Florida
94 Statutes, be made confidential and exempt from s. 119.07(1),
95 Florida Statutes, and s. 24(a), Article I of the State
96 Constitution. The Legislature finds that such records often
97 contain material that is of a personal, sensitive nature and
98 that the damage to the privacy interests of persons involved in
99 such matters or cases by making such information public
100 outweighs any public benefit in making such information
101 accessible. Additionally, such records may contain financial
102 information that may facilitate identity theft or other criminal
103 activity, and making such records confidential and exempt would
104 prevent such activity.

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

107 119.0714 Court files; court records; official records.—

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

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

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120 2.a. A petition described in subparagraph 1. dismissed on
121 or after the effective date of this act, and the contents
122 thereof, must be removed from all publically accessible records
123 upon dismissal.

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

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

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

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149 record by the removal of such a petition is the sole means of
150 protecting the reputation of an individual named in such a
151 petition.

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

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