

HB 7057

2016

1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; expanding the exemption from public
4 records requirements for criminal intelligence
5 information and criminal investigative information to
6 include information, photographs, videotapes, or
7 images of victims of specified offenses; providing for
8 future review and repeal of the exemption; providing a
9 statement of public necessity; reenacting s.
10 92.56(1) (a), F.S., relating to judicial proceedings
11 and court records involving sexual offenses, s.
12 119.011(3) (c), relating to definitions for public
13 records, s. 119.0714(1) (h), F.S., relating to court
14 files and records, s. 794.024(1), F.S., relating to
15 the unlawful disclosure of identifying information,
16 and s. 794.03, F.S., relating to making it unlawful to
17 publish or broadcast information identifying sexual
18 offense victim, to incorporate the amendment made by
19 the act to s. 119.071, F.S., in references thereto;
20 providing a contingent effective date.

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

23
24 Section 1. Paragraphs (h) and (j) of subsection (2) of
25 section 119.071, Florida Statutes, are amended to read:

26 119.071 General exemptions from inspection or copying of

27 public records.—

28 (2) AGENCY INVESTIGATIONS.—

29 (h)1. The following criminal intelligence information or
 30 criminal investigative information is confidential and exempt
 31 from s. 119.07(1) and s. 24(a), Art. I of the State
 32 Constitution:

33 a. Any information that reveals the identity of the victim
 34 of the crime of child abuse as defined by chapter 827 or that
 35 reveals the identity of a person under the age of 18 who is the
 36 victim of the crime of human trafficking proscribed in s.
 37 787.06(3)(a).

38 b. Any information that may reveal the identity of a
 39 person who is a victim of any sexual offense, including a sexual
 40 offense proscribed in s. 787.06(3)(b), (d), (f), or (g), chapter
 41 794, chapter 796, chapter 800, ~~chapter 827~~, or chapter 847.

42 c. A photograph, videotape, or image of any part of the
 43 body of the victim of a sexual offense prohibited under s.
 44 787.06(3)(b), (d), (f), or (g), chapter 794, chapter 796,
 45 chapter 800, s. 810.145, ~~chapter 827~~, or chapter 847, regardless
 46 of whether the photograph, videotape, or image identifies the
 47 victim.

48 2. Criminal investigative information and criminal
 49 intelligence information made confidential and exempt under this
 50 paragraph may be disclosed by a law enforcement agency:

51 a. In the furtherance of its official duties and
 52 responsibilities.

53 b. For print, publication, or broadcast if the law
54 enforcement agency determines that such release would assist in
55 locating or identifying a person that such agency believes to be
56 missing or endangered. The information provided should be
57 limited to that needed to identify or locate the victim and not
58 include the sexual nature of the offense committed against the
59 person.

60 c. To another governmental agency in the furtherance of
61 its official duties and responsibilities.

62 3. This exemption applies to such confidential and exempt
63 criminal intelligence information or criminal investigative
64 information held by a law enforcement agency before, on, or
65 after the effective date of the exemption.

66 4. This paragraph is subject to the Open Government Sunset
67 Review Act in accordance with s. 119.15, and shall stand
68 repealed on October 2, 2021 ~~2020~~, unless reviewed and saved from
69 repeal through reenactment by the Legislature.

70 (j)1. Any document that reveals the identity, home or
71 employment telephone number, home or employment address, or
72 personal assets of the victim of a crime and identifies that
73 person as the victim of a crime, which document is received by
74 any agency that regularly receives information from or
75 concerning the victims of crime, is exempt from s. 119.07(1) and
76 s. 24(a), Art. I of the State Constitution. Any information not
77 otherwise held confidential or exempt from s. 119.07(1) which
78 reveals the home or employment telephone number, home or

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79 employment address, or personal assets of a person who has been
80 the victim of sexual battery, aggravated child abuse, aggravated
81 stalking, harassment, aggravated battery, or domestic violence
82 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State
83 Constitution, upon written request by the victim, which must
84 include official verification that an applicable crime has
85 occurred. Such information shall cease to be exempt 5 years
86 after the receipt of the written request. Any state or federal
87 agency that is authorized to have access to such documents by
88 any provision of law shall be granted such access in the
89 furtherance of such agency's statutory duties, notwithstanding
90 this section.

91 2.a. Any information in a videotaped statement of a minor
92 who is alleged to be or who is a victim of sexual battery, lewd
93 acts, or other sexual misconduct proscribed in chapter 800 or in
94 s. 794.011, former s. 827.071, s. 847.003, s. 847.012, s.
95 847.0125, s. 847.013, s. 847.0133, s. 847.0137, or s. 847.0145,
96 which reveals that minor's identity, including, but not limited
97 to, the minor's face; the minor's home, school, church, or
98 employment telephone number; the minor's home, school, church,
99 or employment address; the name of the minor's school, church,
100 or place of employment; or the personal assets of the minor; and
101 which identifies that minor as the victim of a crime described
102 in this subparagraph, held by a law enforcement agency, is
103 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
104 of the State Constitution. Any governmental agency that is

105 authorized to have access to such statements by any provision of
106 law shall be granted such access in the furtherance of the
107 agency's statutory duties, notwithstanding the provisions of
108 this section.

109 b. A public employee or officer who has access to a
110 videotaped statement of a minor who is alleged to be or who is a
111 victim of sexual battery, lewd acts, or other sexual misconduct
112 proscribed in chapter 800 or in s. 794.011, former s. 827.071,
113 s. 847.003, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, s.
114 847.0137, or s. 847.0145 may not willfully and knowingly
115 disclose videotaped information that reveals the minor's
116 identity to a person who is not assisting in the investigation
117 or prosecution of the alleged offense or to any person other
118 than the defendant, the defendant's attorney, or a person
119 specified in an order entered by the court having jurisdiction
120 of the alleged offense. A person who violates this provision
121 commits a misdemeanor of the first degree, punishable as
122 provided in s. 775.082 or s. 775.083.

123 c. This subparagraph is subject to the Open Government
124 Sunset Review Act in accordance with s. 119.15 and shall stand
125 repealed on October 2, 2021, unless reviewed and saved from
126 repeal through reenactment by the Legislature.

127 Section 2. The Legislature finds that it is a public
128 necessity that criminal intelligence information or criminal
129 investigative information that may reveal the identity of a
130 person who is a victim of former s. 827.071, s. 847.003, or s.

131 847.0137, Florida Statutes, which is a photograph, videotape, or
132 image of any part of the body of the victim of those provisions
133 or which is information in a videotaped statement of a minor who
134 is alleged to be or who is a victim of those provisions, be made
135 confidential and exempt from s. 119.07(1), Florida Statutes, and
136 s. 24(a), Article I of the State Constitution. The Legislature
137 finds that such information, photographs, videotapes, or images
138 often depict the victim in graphic fashion, frequently nude.
139 Such highly sensitive photographs, videotapes, or images of a
140 victim of these sexual offenses, if viewed, copied, or
141 publicized, could result in trauma, sorrow, humiliation, or
142 emotional injury to the victim and the victim's family.

143 Section 3. For the purpose of incorporating the amendment
144 made by this act to section 119.071, Florida Statutes, in a
145 reference thereto, paragraph (a) of subsection (1) of section
146 92.56, Florida Statutes, is reenacted to read:

147 92.56 Judicial proceedings and court records involving
148 sexual offenses and human trafficking.—

149 (1)(a) The confidential and exempt status of criminal
150 intelligence information or criminal investigative information
151 made confidential and exempt pursuant to s. 119.071(2)(h) must
152 be maintained in court records pursuant to s. 119.0714(1)(h) and
153 in court proceedings, including testimony from witnesses.

154 Section 4. For the purpose of incorporating the amendment
155 made by this act to section 119.071, Florida Statutes, in a
156 reference thereto, paragraph (c) of subsection (3) of section

157 | 119.011, Florida Statutes, is reenacted to read:
 158 | 119.011 Definitions.—As used in this chapter, the term:
 159 | (3)
 160 | (c) "Criminal intelligence information" and "criminal
 161 | investigative information" shall not include:
 162 | 1. The time, date, location, and nature of a reported
 163 | crime.
 164 | 2. The name, sex, age, and address of a person arrested or
 165 | of the victim of a crime except as provided in s. 119.071(2) (h).
 166 | 3. The time, date, and location of the incident and of the
 167 | arrest.
 168 | 4. The crime charged.
 169 | 5. Documents given or required by law or agency rule to be
 170 | given to the person arrested, except as provided in s.
 171 | 119.071(2) (h), and, except that the court in a criminal case may
 172 | order that certain information required by law or agency rule to
 173 | be given to the person arrested be maintained in a confidential
 174 | manner and exempt from the provisions of s. 119.07(1) until
 175 | released at trial if it is found that the release of such
 176 | information would:
 177 | a. Be defamatory to the good name of a victim or witness
 178 | or would jeopardize the safety of such victim or witness; and
 179 | b. Impair the ability of a state attorney to locate or
 180 | prosecute a codefendant.
 181 | 6. Informations and indictments except as provided in s.
 182 | 905.26.

183 Section 5. For the purpose of incorporating the amendment
 184 made by this act to section 119.071, Florida Statutes, in a
 185 reference thereto, paragraph (h) of subsection (1) of section
 186 119.0714, Florida Statutes, is reenacted to read:

187 119.0714 Court files; court records; official records.—

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

192 (h) Criminal intelligence information or criminal
 193 investigative information that is confidential and exempt as
 194 provided in s. 119.071(2)(h).

195 Section 6. For the purpose of incorporating the amendment
 196 made by this act to section 119.071, Florida Statutes, in a
 197 reference thereto, subsection (1) of section 794.024, Florida
 198 Statutes, is reenacted to read:

199 794.024 Unlawful to disclose identifying information.—

200 (1) A public employee or officer who has access to the
 201 photograph, name, or address of a person who is alleged to be
 202 the victim of an offense described in this chapter, chapter 800,
 203 s. 827.03, s. 827.04, or s. 827.071 may not willfully and
 204 knowingly disclose it to a person who is not assisting in the
 205 investigation or prosecution of the alleged offense or to any
 206 person other than the defendant, the defendant's attorney, a
 207 person specified in an order entered by the court having
 208 jurisdiction of the alleged offense, or organizations authorized

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209 | to receive such information made exempt by s. 119.071(2)(h), or
210 | to a rape crisis center or sexual assault counselor, as defined
211 | in s. 90.5035(1)(b), who will be offering services to the
212 | victim.

213 | Section 7. For the purpose of incorporating the amendment
214 | made by this act to section 119.071, Florida Statutes, in a
215 | reference thereto, Section 794.03, Florida Statutes, is
216 | reenacted to read:

217 | 794.03 Unlawful to publish or broadcast information
218 | identifying sexual offense victim.—No person shall print,
219 | publish, or broadcast, or cause or allow to be printed,
220 | published, or broadcast, in any instrument of mass communication
221 | the name, address, or other identifying fact or information of
222 | the victim of any sexual offense within this chapter, except as
223 | provided in s. 119.071(2)(h) or unless the court determines that
224 | such information is no longer confidential and exempt pursuant
225 | to s. 92.56. An offense under this section shall constitute a
226 | misdemeanor of the second degree, punishable as provided in s.
227 | 775.082 or s. 775.083.

228 | Section 8. This act shall take effect on the same date
229 | that HB 7055 or similar legislation takes effect, if such
230 | legislation is adopted in the same legislative session or an
231 | extension thereof and becomes a law.