

By Senator Broxson

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 744.20042, F.S.; creating an exemption from public
4 records requirements for certain personal identifying
5 information, personal health and financial records,
6 and photographs and video recordings held by the
7 Department of Elderly Affairs in connection with a
8 complaint filed or an investigation conducted pursuant
9 to part II of ch. 744, F.S.; specifying that
10 information retains its confidential and exempt status
11 for the duration of an investigation; authorizing
12 disclosure to specified entities and officers;
13 providing for future legislative review and repeal;
14 providing a statement of public necessity; providing
15 an effective date.

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

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19 Section 1. Section 744.20042, Florida Statutes, is created
20 to read:

21 744.20042 Confidentiality.-

22 (1) The following are confidential and exempt from s.
23 119.07(1) and s. 24(a), Art. I of the State Constitution when
24 held by the Department of Elderly Affairs in connection with a
25 complaint filed and any subsequent investigation conducted
26 pursuant to this part, unless the disclosure is required by
27 court order:

28 (a) The names or identities of the complainants and the
29 ward involved in a complaint or subsequent investigation.

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30 (b) All personal health and financial records of the ward
31 related to a complaint or obtained during the course of an
32 investigation.

33 (c) All photographs and video recordings related to a
34 complaint or obtained during the course of an investigation.

35 (2) Except as otherwise provided in this section,
36 information held by the department pursuant to an investigation
37 under this part is confidential and exempt from s. 119.07(1) and
38 s. 24(a), Art. I of the State Constitution until the
39 investigation is completed or ceases to be active, unless
40 disclosure is required by court order.

41 (3) This section does not prohibit the department from
42 providing such information to any law enforcement agency, any
43 other regulatory agency in the performance of its official
44 duties and responsibilities, or the clerk of the circuit court
45 pursuant to s. 744.368.

46 (4) This section is subject to the Open Government Sunset
47 Review Act in accordance with s. 119.15 and shall stand repealed
48 on October 2, 2022, unless reviewed and saved from repeal
49 through reenactment by the Legislature.

50 Section 2. The Legislature finds that it is a public
51 necessity that information held by the Department of Elderly
52 Affairs pursuant to an investigation conducted under part II of
53 chapter 744, Florida Statutes, be made confidential and exempt
54 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
55 the State Constitution for the following reasons:

56 (1) If the complainants are identifiable, the disclosure of
57 their identity to the public could cause unwarranted damage to
58 their good name or reputation, especially if the information

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59 associated with them is inaccurate. Furthermore, if the
60 complainants are identifiable, public access to such information
61 could jeopardize the safety of such individuals by placing them
62 at risk for retaliation.

63 (2) An investigation of a complaint conducted by the
64 Department of Elderly Affairs may lead to the filing of an
65 administrative, civil, or criminal proceeding or to the denial
66 or conditional granting of a registration. The release could
67 frustrate or thwart the investigation and impair the ability of
68 the department to effectively and efficiently administer part II
69 of chapter 744, Florida Statutes. Information held by the
70 Department of Elderly Affairs that is provided to a law
71 enforcement agency, any other regulatory agency in the
72 performance of its official duties and responsibilities, or the
73 clerk of the circuit court pursuant to s. 744.368, Florida
74 Statutes, should remain confidential and exempt from public
75 records requirements. The release of this information could
76 jeopardize the integrity of the investigation and impair the
77 ability of other entities to carry out their statutory duties.

78 Section 3. This act shall take effect July 1, 2017.