

By Senator Brandes

24-00623-17

2017450\_\_

1 A bill to be entitled  
2 An act relating to public records; amending s. 901.40,  
3 F.S.; requiring that a civil citation, documentation  
4 of a prearrest diversion program, and any other  
5 reports or documents concerning a civil citation or a  
6 prearrest diversion program which are held by a law  
7 enforcement agency, a public or private educational  
8 institution, or a program service provider are exempt  
9 from public record requirements; providing for future  
10 review and repeal of the exemption; providing an  
11 exception; providing a statement of public necessity;  
12 providing a contingent effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

15  
16 Section 1. Subsection (6) is added to section 901.40,  
17 Florida Statutes, as created by SB \_\_\_\_, 2017 Regular Session,  
18 to read:

19 901.40 Prearrest diversion programs.—

20 (6) PUBLIC RECORDS EXEMPTION.—A civil citation,  
21 documentation of a prearrest diversion program, and any other  
22 reports or documents concerning a civil citation or a prearrest  
23 diversion program, as encouraged by this section, which are held  
24 by a law enforcement agency, a public or private educational  
25 institution, or a program service provider are exempt from s.  
26 119.07(1), and s. 24(a), Art. I of the State Constitution. This  
27 subsection is subject to the Open Government Sunset Review Act  
28 in accordance with s. 119.15 and shall stand repealed on October  
29 2, 2022, unless reviewed and saved from such repeal through  
30 reenactment by the Legislature. Such exempt information may be  
31 disclosed to law enforcement agencies, public or private  
32 educational institutions, program service providers, authorized

24-00623-17

2017450\_\_

33 court personnel, state attorneys, and public defenders.

34 Section 2. The Legislature finds that it is a public  
35 necessity that a civil citation, documentation of a prearrest  
36 diversion program, and any other reports or documents concerning  
37 a civil citation or a prearrest diversion program held by a law  
38 enforcement agency be exempt from s. 119.07(1), Florida  
39 Statutes, and s. 24(a), Article I of the State Constitution. The  
40 goal of the prearrest diversion program is to give a second  
41 chance to adults who commit nonviolent misdemeanor offenses and  
42 allow them the opportunity to avoid having an arrest record. If  
43 the civil citation, documentation of the prearrest diversion  
44 program, and any other reports or documents concerning a civil  
45 citation or prearrest diversion program held by a law  
46 enforcement agency were not exempt from disclosure, it would  
47 defeat the goal of giving adults who commit nonviolent  
48 misdemeanor offenses a means to avoid arrest and prosecution. If  
49 such information were able to be obtained by the public, that  
50 disclosure might negatively impact the effectiveness of the  
51 prearrest diversion program. For these reasons, the Legislature  
52 finds that it is a public necessity that a civil citation,  
53 documentation of a prearrest diversion program, and any other  
54 reports or documents concerning a civil citation or a prearrest  
55 diversion program held by a law enforcement agency be exempt  
56 from public records requirements.

57 Section 3. This act shall take effect on the same date that  
58 SB \_\_\_\_ or similar legislation takes effect, if such legislation  
59 is adopted in the same legislative session or an extension  
60 thereof and becomes a law.