

By the Committees on Governmental Oversight and Accountability;  
and Criminal Justice; and Senator Brandes

585-02942-17

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1 A bill to be entitled  
2 An act relating to public records; amending s. 901.40,  
3 F.S.; providing that the personal identifying  
4 information of an adult participating in a civil  
5 citation or prearrest diversion program is exempt from  
6 public records requirements; providing applicability;  
7 providing for future review and repeal of the  
8 exemption; providing for retroactive application;  
9 providing a statement of public necessity; providing a  
10 contingent effective date.

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

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14 Section 1. Subsection (6) is added to section 901.40,  
15 Florida Statutes, as created by SB 448, 2017 Regular Session, to  
16 read:

17 901.40 Prearrest diversion programs.—

18 (6) PUBLIC RECORDS EXEMPTION.—The personal identifying  
19 information of an adult participating in a civil citation or  
20 prearrest diversion program is exempt from s. 119.07(1) and s.  
21 24(a), Art. I of the State Constitution. The exemption does not  
22 apply to the personal identifying information of an adult who  
23 fails to complete the civil citation or prearrest diversion  
24 program. This exemption applies to personal identifying  
25 information held by a law enforcement agency, a program services  
26 provider, or the entity operating an adult civil citation or  
27 prearrest diversion program before, on, or after the effective  
28 date of this exemption. This subsection is subject to the Open  
29 Government Sunset Review Act in accordance with s. 119.15 and

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30 shall stand repealed on October 2, 2022, unless reviewed and  
31 saved from such repeal through reenactment by the Legislature.

32 Section 2. The Legislature finds that it is a public  
33 necessity that the personal identifying information of an adult  
34 participating in a civil citation or prearrest diversion program  
35 is exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
36 Article I of the State Constitution. The exemption does not  
37 apply to the personal identifying information of an adult who  
38 fails to complete the civil citation or prearrest diversion  
39 program. The goal of such programs is to give a second chance to  
40 adults who commit misdemeanor offenses and allow them the  
41 opportunity to avoid having an arrest record. If the personal  
42 identifying information of such adults were not exempt from  
43 disclosure, it would defeat the program's goal of giving adults  
44 who commit misdemeanor offenses a means to avoid the negative  
45 consequences of an arrest and prosecution. If such information  
46 were able to be obtained by the public, the disclosure might  
47 negatively impact the effectiveness of the program. For these  
48 reasons, the Legislature finds that it is a public necessity  
49 that the personal identifying information of an adult  
50 participating in a civil citation or prearrest diversion program  
51 is exempt from public records requirements.

52 Section 3. This act shall take effect on the same date that  
53 SB 448 or similar legislation takes effect, if such legislation  
54 is adopted in the same legislative session or an extension  
55 thereof and becomes a law.