

By the Committee on Children, Families, and Elder Affairs; and
Senator Powell

586-02389-17

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 397.6760, F.S.; providing an exemption from public
4 records requirements for petitions for involuntary
5 assessment and stabilization, court orders, related
6 records, and personal identifying information
7 regarding substance abuse impaired persons; providing
8 exceptions authorizing the release of such petitions,
9 orders, records, and identifying information to
10 certain persons and entities; providing applicability;
11 prohibiting a clerk of court from publishing personal
12 identifying information on a court docket or in a
13 publicly accessible file; providing for retroactive
14 application; providing for future legislative review
15 and repeal of the exemption; providing a statement of
16 public necessity; providing an effective date.

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

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20 Section 1. Section 397.6760, Florida Statutes, is created
21 to read:

22 397.6760 Court records; confidentiality.—

23 (1) All petitions for involuntary assessment and
24 stabilization, court orders, and related records that are filed
25 with or by a court under this part are confidential and exempt
26 from s. 119.071(1) and s. 24(a), Art. I of the State
27 Constitution. Pleadings and other documents made confidential
28 and exempt by this section may be disclosed by the clerk of the
29 court, upon request, to any of the following:

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30 (a) The petitioner.

31 (b) The petitioner's attorney.

32 (c) The respondent.

33 (d) The respondent's attorney.

34 (e) The respondent's guardian or guardian advocate, if
35 applicable.

36 (f) In the case of a minor respondent, the respondent's
37 parent, guardian, legal custodian, or guardian advocate.

38 (g) The respondent's treating health care practitioner.

39 (h) The respondent's health care surrogate or proxy.

40 (i) The Department of Corrections, without charge and upon
41 request if the respondent is committed or is to be returned to
42 the custody of the Department of Corrections from the Department
43 of Children and Families.

44 (j) A person or entity authorized to view records upon a
45 court order for good cause. In determining if there is good
46 cause for the disclosure of records, the court must weigh the
47 person or entity's need for the information against potential
48 harm to the respondent from the disclosure.

49 (2) This section does not preclude the clerk of the court
50 from submitting the information required by s. 790.065 to the
51 Department of Law Enforcement.

52 (3) The clerk of the court may not publish personal
53 identifying information on a court docket or in a publicly
54 accessible file.

55 (4) A person or entity receiving information pursuant to
56 this section shall maintain such information as confidential and
57 exempt from s. 119.07(1).

58 (5) The exemption under this section applies to all

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59 documents filed with a court before, on, or after July 1, 2017.

60 (6) This section is subject to the Open Government Sunset
61 Review Act in accordance with s. 119.15 and shall stand repealed
62 on October 2, 2022, unless reviewed and saved from repeal
63 through reenactment by the Legislature.

64 Section 2. The Legislature finds that it is a public
65 necessity that petitions for involuntary assessment and
66 stabilization and related court orders and records that are
67 filed with or by a court under part V of chapter 397, Florida
68 Statutes, and the personal identifying information of a
69 substance abuse impaired person which is published on a court
70 docket and maintained by the clerk of the court under part V of
71 chapter 397, Florida Statutes, be made confidential and exempt
72 from disclosure under s. 119.07(1), Florida Statutes, and s.
73 24(a), Article I of the State Constitution. A person's health
74 and sensitive, personal information regarding his or her actual
75 or alleged substance abuse impairment are intensely private
76 matters. The media have obtained, and published information
77 from, such records without the affected person's consent. The
78 content of such records or personal identifying information
79 should not be made public merely because they are filed with or
80 by a court or placed on a docket. Making such petitions, orders,
81 records, and identifying information confidential and exempt
82 from disclosure will protect such persons from the release of
83 sensitive, personal information which could damage their and
84 their families' reputations. The publication of personal
85 identifying information on a physical or virtual docket,
86 regardless of whether any other record is published, defeats the
87 purpose of protections otherwise provided. Further, the

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88 knowledge that such sensitive, personal information is subject
89 to disclosure could have a chilling effect on a person's
90 willingness to seek out and comply with substance abuse
91 treatment services.

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