

By the Committees on Governmental Oversight and Accountability; and Children, Families, and Elder Affairs; and Senator Powell

585-02712-17

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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 Children and Families, without
41 charge.

42 (j) The Department of Corrections, without charge, if the
43 respondent is committed or is to be returned to the custody of
44 the Department of Corrections from the Department of Children
45 and Families.

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

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

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

57 (4) A person or entity receiving information pursuant to
58 this section shall maintain that information as confidential and

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59 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
60 Constitution.

61 (5) The exemption under this section applies to all
62 documents filed with a court before, on, or after July 1, 2017.

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64 Review Act in accordance with s. 119.15 and shall stand repealed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

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

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88 identifying information on a physical or virtual docket,
89 regardless of whether any other record is published, defeats the
90 purpose of protections otherwise provided. Further, the
91 knowledge that such sensitive, personal information is subject
92 to disclosure could have a chilling effect on a person's
93 willingness to seek out and comply with substance abuse
94 treatment services.

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