

By Senator Powell

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 394.464, F.S.; providing an exemption from public
4 records requirements for petitions for voluntary and
5 involuntary admission for mental health treatment,
6 court orders, related records, and personal
7 identifying information regarding persons seeking
8 mental health treatment and services; providing
9 exceptions authorizing the release of such petitions,
10 orders, records, and identifying information to
11 certain persons and entities; providing applicability;
12 prohibiting a clerk of court from publishing personal
13 identifying information on a court docket or in a
14 publicly accessible file; providing for retroactive
15 application; providing for future legislative review
16 and repeal of the exemption; providing a statement of
17 public necessity; providing a contingent effective
18 date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Section 394.464, Florida Statutes, is created to
23 read:

24 394.464 Court records; confidentiality.-

25 (1) All petitions for voluntary and involuntary admission
26 for mental health treatment, court orders, and related records
27 that are filed with or by a court under this part are
28 confidential and exempt from s. 119.071(1) and s. 24(a), Art. I
29 of the State Constitution. Pleadings and other documents made

30-01890-18

20181846__

30 confidential and exempt by this section may be disclosed by the
31 clerk of the court, upon request, to any of the following:

32 (a) The petitioner.

33 (b) The petitioner's attorney.

34 (c) The respondent.

35 (d) The respondent's attorney.

36 (e) The respondent's guardian or guardian advocate, if
37 applicable.

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

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

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

42 (i) The Department of Children and Families, without
43 charge.

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

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

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

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

30-01890-18

20181846__

59 (4) A person or entity receiving information pursuant to
60 this section shall maintain that information as confidential and
61 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
62 Constitution.

63 (5) The exemption under this section applies to all
64 documents filed with a court before, on, or after July 1, 2018.

65 (6) This section is subject to the Open Government Sunset
66 Review Act in accordance with s. 119.15 and shall stand repealed
67 on October 2, 2023, unless reviewed and saved from repeal
68 through reenactment by the Legislature.

69 Section 2. The Legislature finds that it is a public
70 necessity that petitions for voluntary and involuntary admission
71 for mental health treatment and related court orders and records
72 that are filed with or by a court under part I or part III of
73 chapter 394, Florida Statutes, and the personal identifying
74 information of a person seeking mental health treatment
75 published on a court docket and maintained by the clerk of the
76 court under part I or part III of chapter 394, Florida Statutes,
77 be made confidential and exempt from disclosure under s.
78 119.07(1), Florida Statutes, and s. 24(a), Article I of the
79 State Constitution. The mental health of a person, including a
80 minor, is a medical condition, which should be protected from
81 dissemination to the public. A person's mental health is also an
82 intensely private matter. The public stigma associated with a
83 mental health condition may cause persons in need of treatment
84 to avoid seeking treatment and related services if the record of
85 such condition is accessible to the public. Without treatment, a
86 person's condition may worsen, the person may harm himself or
87 herself or others, and the person may become a financial burden

30-01890-18

20181846__

88 on the state. The content of such records or personal
89 identifying information should not be made public merely because
90 they are filed with or by a court or placed on a docket. Making
91 such petitions, orders, records, and identifying information
92 confidential and exempt from disclosure will protect such
93 persons from the release of sensitive, personal information
94 which could damage their and their families' reputations. The
95 publication of personal identifying information on a physical or
96 virtual docket, regardless of whether any other record is
97 published, defeats the purpose of protections otherwise
98 provided. Further, the knowledge that such sensitive, personal
99 information is subject to disclosure could have a chilling
100 effect on a person's willingness to seek out and comply with
101 mental health treatment services.

102 Section 3. This act shall take effect on the same date that
103 SB ____ or similar legislation takes effect, if such legislation
104 is adopted in the same legislative session or an extension
105 thereof and becomes a law.