

By Senator Book

32-02680A-18

20181916\_\_

1                                   A bill to be entitled  
2       An act relating to public records and public meetings;  
3       amending s. 112.324, F.S.; providing an exception to  
4       the expiration of certain public records and public  
5       meetings exemptions under specified circumstances;  
6       prohibiting the disclosure of the personal identifying  
7       information of an alleged victim of sexual harassment  
8       or sexual misconduct, or information that could assist  
9       an individual in determining the identity of such  
10      alleged victim, in any portion of a proceeding  
11      conducted by the Commission on Ethics, a commission on  
12      ethics and public trust, or a county or a municipality  
13      that has established a local investigatory process  
14      which is open to the public; providing for future  
15      legislative review and repeal; amending s. 119.071,  
16      F.S.; providing an exemption from public records  
17      requirements for complaints, referrals, and reports  
18      alleging sexual harassment or sexual misconduct, and  
19      any related records, which are held by an agency;  
20      specifying conditions upon which the exemption  
21      expires; providing that the personal identifying  
22      information of an alleged victim of sexual harassment  
23      or sexual misconduct, or information that could assist  
24      an individual in determining the identity of such  
25      alleged victim, remains confidential and exempt from  
26      public records requirements; authorizing disclosure  
27      under specified circumstances; providing for future  
28      legislative review and repeal; amending s. 286.0113,  
29      F.S.; providing an exemption from public meetings

32-02680A-18

20181916\_\_

30 requirements for any portion of a meeting that would  
31 reveal records involving an allegation of sexual  
32 harassment or sexual misconduct made confidential and  
33 exempt under the act; specifying conditions upon which  
34 the exemption expires; prohibiting the disclosure of  
35 the personal identifying information of an alleged  
36 victim of sexual harassment or sexual misconduct, or  
37 information that could assist an individual in  
38 determining the identity of such alleged victim, in  
39 any portion of a meeting open to the public; providing  
40 for future legislative review and repeal; providing  
41 statements of public necessity; providing an effective  
42 date.

43  
44 Be It Enacted by the Legislature of the State of Florida:

45  
46 Section 1. Present paragraphs (f) and (g) of subsection (2)  
47 of section 112.324, Florida Statutes, are redesignated as  
48 paragraphs (g) and (h), respectively, paragraph (e) of that  
49 subsection is amended, and a new paragraph (f) is added to that  
50 subsection, to read:

51 112.324 Procedures on complaints of violations and  
52 referrals; public records and meeting exemptions.—

53 (2)

54 (e) The exemptions in paragraphs (a)-(d) apply until:

55 1. The complaint is dismissed as legally insufficient;

56 2. Except in connection with complaints or referrals that  
57 involve allegations of sexual harassment, sexual favors, or  
58 sexual misconduct, the alleged violator requests in writing that

32-02680A-18

20181916\_\_

59 such records and proceedings be made public;

60 3. The commission determines that it will not investigate  
61 the referral; or

62 4. The commission, a commission on ethics and public trust,  
63 or a county or municipality that has established such local  
64 investigatory process determines, based on such investigation,  
65 whether probable cause exists to believe that a violation has  
66 occurred.

67 (f) Notwithstanding paragraph (e), the personal identifying  
68 information of an alleged victim of sexual harassment or sexual  
69 misconduct or any information that could assist an individual in  
70 determining the identity of such alleged victim remains  
71 confidential and exempt as provided under s. 119.071(2)(n)3. and  
72 may not be disclosed in a portion of a proceeding conducted by  
73 the commission, a commission on ethics and public trust, or a  
74 county or municipality that has established such local  
75 investigatory process which is open to the public. This  
76 paragraph is subject to the Open Government Sunset Review Act in  
77 accordance with s. 119.15 and shall stand repealed on October 2,  
78 2023, unless reviewed and saved from repeal through reenactment  
79 by the Legislature.

80 Section 2. Paragraph (n) of subsection (2) of section  
81 119.071, Florida Statutes, is amended to read:

82 119.071 General exemptions from inspection or copying of  
83 public records.—

84 (2) AGENCY INVESTIGATIONS.—

85 (n)1. Complaints, referrals, and reports that allege sexual  
86 harassment or sexual misconduct, including allegations of sexual  
87 harassment or sexual misconduct in violation of part III of

32-02680A-18

20181916\_\_

88 chapter 112, and any related records that are held by an agency  
89 are ~~Personal identifying information of the alleged victim in an~~  
90 allegation of sexual harassment is confidential and exempt from  
91 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.  
92 Such information may be disclosed to another governmental entity  
93 in the furtherance of its official duties and responsibilities.

94 2. Except as provided in subparagraph 3., the exemption in  
95 subparagraph 1. applies until:

96 a. The agency determines that it will not investigate the  
97 allegation;

98 b. The agency takes disciplinary action against the subject  
99 of the allegation and determines that it will take no further  
100 action in the matter; or

101 c. A finding is made as to whether probable cause exists.

102 3. Notwithstanding the release of any record pursuant to  
103 subparagraph 2., any personal identifying information of an  
104 alleged victim, or any information that could assist an  
105 individual in determining the identity of such alleged victim,  
106 shall remain confidential and exempt from s. 119.07(1) and s.  
107 24(a), Art. I of the State Constitution. Such information may be  
108 disclosed to another governmental entity in the furtherance of  
109 the agency's official duties and responsibilities or to the  
110 parties to the allegation and their attorneys.

111 4. This paragraph is subject to the Open Government Sunset  
112 Review Act in accordance with s. 119.15 and shall stand repealed  
113 on October 2, 2023 ~~2022~~, unless reviewed and saved from repeal  
114 through reenactment by the Legislature.

115 Section 3. Subsection (3) is added to section 286.0113,  
116 Florida Statutes, to read:

32-02680A-18

20181916\_\_

117 286.0113 General exemptions from public meetings.—

118 (3) (a) Any portion of a meeting that would reveal any  
119 records involving an allegation of sexual harassment or sexual  
120 misconduct which are made confidential and exempt by s.  
121 119.071(2) (n)1. is exempt from s. 286.011 and s. 24(b), Art. I  
122 of the State Constitution until the agency:

123 1. Determines it will not investigate the allegation;

124 2. Takes disciplinary action against the subject of the  
125 allegation and determines it will take no further action; or

126 3. Makes a finding as to probable cause.

127 (b) Notwithstanding subparagraphs (a)1.-3., the personal  
128 identifying information of an alleged victim of sexual  
129 harassment or sexual misconduct or any information that could  
130 assist an individual in determining the identity of such alleged  
131 victim remains confidential and exempt as provided under s.  
132 119.071(2) (n)3. and may not be disclosed in a portion of a  
133 meeting that is open to the public.

134 (c) This subsection is subject to the Open Government  
135 Sunset Review Act in accordance with s. 119.15 and shall stand  
136 repealed on October 2, 2023, unless reviewed and saved from  
137 repeal through reenactment by the Legislature.

138 Section 4. (1) The Legislature finds that it is a public  
139 necessity that complaints, referrals, and records alleging  
140 sexual harassment or sexual misconduct, and any related records  
141 that are held by an agency be made confidential and exempt from  
142 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
143 State Constitution until the agency determines that it will not  
144 investigate the allegation; takes disciplinary action against  
145 the subject of the allegation and determines it will take no

32-02680A-18

20181916\_\_

146 further action; or makes a finding as to probable cause. This  
147 exemption is necessary because the release of such information  
148 could potentially be defamatory to an individual under  
149 investigation; could subject alleged victims to further sexual  
150 harassment or retaliation; or could significantly impair the  
151 integrity of any investigation of such allegations.

152 Additionally, the potential for disclosure of such information  
153 could create a disincentive for alleged victims to report  
154 instances of alleged harassment or misconduct. The Legislature  
155 finds that the potential harm that may result from the release  
156 of such information outweighs any public benefit that may be  
157 derived from the disclosure of such information.

158 (2) The Legislature also finds that it is a public  
159 necessity that any portion of a meeting that would reveal any  
160 records involving an allegation of sexual harassment or sexual  
161 misconduct which are made confidential and exempt under s.  
162 119.071(2)(n)1., Florida Statutes, be made exempt under s.  
163 286.011, Florida Statutes, and s. 24(b), Article I of the State  
164 Constitution until the agency determines that it will not  
165 investigate the allegation; takes disciplinary action against  
166 the subject of the allegation and determines it will take no  
167 further action; or makes a finding as to probable cause.  
168 Furthermore, the Legislature also finds that it is a public  
169 necessity to prohibit the disclosure of the personal identifying  
170 information of an alleged victim of sexual harassment or sexual  
171 misconduct, or any information that could assist an individual  
172 in determining the identity of such alleged victim, in any  
173 portion of a proceeding conducted by the Commission on Ethics, a  
174 commission on ethics and public trust, or a county or

32-02680A-18

20181916\_\_

175 municipality that has established a local investigatory process  
176 which is open to the public, or any portion of a meeting of any  
177 board or commission of any state agency or authority or of any  
178 agency or authority of any county, municipal corporation, or  
179 political subdivision which is open to the public. The failure  
180 to close a meeting at which records involving an allegation of  
181 sexual harassment or sexual misconduct are discussed or acted  
182 upon would defeat the purpose of the public records exemption.  
183 The Legislature also finds that it is necessary to maintain the  
184 confidentiality of an alleged victim's identity after an agency  
185 determines that it will not investigate the allegation; takes  
186 disciplinary action against the subject of the allegation and  
187 determines it will take no further action; or makes a finding as  
188 to probable cause, because a victim may remain at risk of  
189 further harassment and retaliation, and the disclosure of the  
190 victim's identity may cause damage to his or her reputation.

191 Section 5. This act shall take effect upon becoming a law.