

By Senator Bean

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.011, F.S.; expanding an existing public records
4 exemption by redefining the term "active" to include
5 an ongoing, good faith reinvestigation that previously
6 resulted in the conviction of the accused person;
7 providing for future review and repeal of the expanded
8 exemption; providing for reversion of specified
9 language if the exemption is not saved from repeal;
10 providing a statement of public necessity; providing
11 an effective date.

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

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15 Section 1. Paragraph (d) of subsection (3) of section
16 119.011, Florida Statutes, is amended to read:

17 119.011 Definitions.—As used in this chapter, the term:
18 (3)

19 (d)1. The word "active" shall have the following meaning:

20 a.1—Criminal intelligence information shall be considered
21 "active" as long as it is related to intelligence gathering
22 conducted with a reasonable, good faith belief that it will lead
23 to detection of ongoing or reasonably anticipated criminal
24 activities.

25 b.2—Criminal investigative information shall be considered
26 "active" as long as it is related to an ongoing investigation
27 which is continuing with a reasonable, good faith anticipation
28 of securing an arrest or prosecution in the foreseeable future,
29 or as long as it is related to an ongoing, good faith

4-01374A-19

20191130__

30 reinvestigation of a claim of actual innocence which previously
31 resulted in the conviction of the accused person until such time
32 as the claim is no longer capable of further reasonable
33 investigation or the relief sought should be granted.

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35 In addition, criminal intelligence and criminal investigative
36 information shall be considered "active" while such information
37 is directly related to pending prosecutions, ~~or~~ appeals, or
38 reinvestigation by a criminal justice agency of a criminal
39 matter that previously resulted in the conviction of the accused
40 person. The word "active" shall not apply to information in
41 cases which are barred from prosecution under the provisions of
42 s. 775.15 or other statute of limitation.

43 2. The expansion of the public records exemption under this
44 paragraph to include an ongoing, good faith reinvestigation that
45 previously resulted in the conviction of the accused person is
46 subject to the Open Government Sunset Review Act in accordance
47 with s. 119.15 and shall stand repealed on October 2, 2024,
48 unless reviewed and saved from repeal through reenactment by the
49 Legislature. If the expansion of the exemption is not saved from
50 repeal, this paragraph shall revert to that in existence on June
51 30, 2019, except that any amendments to this paragraph other
52 than by this act must be preserved and continue to operate to
53 the extent that such amendments are not dependent upon the
54 portions of this paragraph which expire pursuant to this
55 paragraph.

56 Section 2. The Legislature finds that it is a public
57 necessity to expand the definition of the term "active" in
58 section 119.011, Florida Statutes, to include criminal

4-01374A-19

20191130__

59 intelligence information and criminal investigative information
60 that is related to an ongoing, good faith reinvestigation of a
61 matter that previously resulted in the conviction of an accused
62 person in the interest of safeguarding, preserving, and
63 protecting personal information relating to a claim of actual
64 innocence by a convicted person. This expansion is critical to
65 furthering criminal justice agency investigations and the
66 pursuit of justice.

67 Section 3. This act shall take effect July 1, 2019.