

By Senator Book

32-00432C-19

2019786__

1 A bill to be entitled
2 An act relating to public records; creating s.
3 394.4616, 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 persons with potential mental, emotional,
8 and behavioral disorders; providing exceptions
9 authorizing the release of such petitions, orders,
10 records, and identifying information to certain
11 persons and entities; providing construction;
12 prohibiting a clerk of court from publishing personal
13 identifying information on a court docket or in a
14 publicly accessible file; requiring a person receiving
15 certain information to maintain the information as
16 confidential and exempt; providing applicability;
17 providing for future legislative review and repeal of
18 the exemption; amending s. 397.6760, F.S.; expanding
19 the exemption from public records requirements for
20 petitions for involuntary treatment, court orders,
21 related records, and personal identifying information
22 regarding substance abuse impaired persons to include
23 a respondent's name; expanding the list of entities to
24 whom the clerk may disclose confidential and exempt
25 pleadings and other documents; revising applicability
26 to include appeals pending or filed on or after a
27 specified date; revising the date for the future
28 legislative review and repeal of the exemption;
29 providing a statement of public necessity; providing

32-00432C-19

2019786__

30 an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Section 394.4616, Florida Statutes, is created
35 to read:

36 394.4616 Court records; confidentiality.-

37 (1) The respondent's name at trial and on appeal, and all
38 petitions for involuntary examination or treatment, court
39 orders, and related records that are filed with or by a court
40 under this part, are confidential and exempt from s. 119.071(1)
41 and s. 24(a), Art. I of the State Constitution. Pleadings and
42 other documents made confidential and exempt by this section may
43 be disclosed by the clerk of the court, upon request, to any of
44 the following:

45 (a) The petitioner.

46 (b) The petitioner's attorney.

47 (c) The respondent.

48 (d) The respondent's attorney.

49 (e) The respondent's guardian or guardian advocate, if
50 applicable.

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

53 (g) The respondent's treating health care practitioner and
54 treatment program provider.

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

56 (i) The department and law enforcement agencies, without
57 charge.

58 (j) The Department of Corrections, without charge, if the

32-00432C-19

2019786__

59 respondent is committed or is to be returned to the custody of
60 the Department of Corrections from the department.

61 (k) A person or entity authorized to view records upon a
62 court order for good cause. In determining if there is good
63 cause for the disclosure of records, the court must weigh the
64 person or entity's need for the information against potential
65 harm to the respondent from the disclosure.

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

69 (3) The clerk of the court may not publish personal
70 identifying information on a court docket or in a publicly
71 accessible file.

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

76 (5) Except for any appeals finalized before July 1, 2019,
77 the exemption under this section applies to all documents filed
78 with a court before, on, or after July 1, 2019.

79 (6) This section is subject to the Open Government Sunset
80 Review Act in accordance with s. 119.15 and shall stand repealed
81 on October 2, 2024, unless reviewed and saved from repeal
82 through reenactment by the Legislature.

83 Section 2. Section 397.6760, Florida Statutes, is amended
84 to read:

85 397.6760 Court records; confidentiality.—

86 (1) All petitions for involuntary treatment ~~assessment and~~
87 ~~stabilization~~, court orders, and related records, including the

32-00432C-19

2019786__

88 respondent's name at trial and on appeal, which ~~that~~ are filed
89 with or by a court under this part are confidential and exempt
90 from s. 119.071(1) and s. 24(a), Art. I of the State
91 Constitution. Pleadings and other documents made confidential
92 and exempt by this section may be disclosed by the clerk of the
93 court, upon request, to any of the following:

94 (a) The petitioner.

95 (b) The petitioner's attorney.

96 (c) The respondent.

97 (d) The respondent's attorney.

98 (e) The respondent's guardian or guardian advocate, if
99 applicable.

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

102 (g) The respondent's treating health care practitioner and
103 treatment program.

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

105 (i) The Department of Children and Families and law
106 enforcement agencies, without charge.

107 (j) The Department of Corrections, without charge, if the
108 respondent is committed or is to be returned to the custody of
109 the Department of Corrections from the Department of Children
110 and Families.

111 (k) A person or entity authorized to view records upon a
112 court order for good cause. In determining if there is good
113 cause for the disclosure of records, the court must weigh the
114 person or entity's need for the information against potential
115 harm to the respondent from the disclosure.

116 (2) This section does not preclude the clerk of the court

32-00432C-19

2019786__

117 from submitting the information required by s. 790.065 to the
118 Department of Law Enforcement.

119 (3) The clerk of the court may not publish personal
120 identifying information on a court docket or in a publicly
121 accessible file.

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

126 (5) The exemption under this section applies to all
127 documents filed with a court before, on, or after July 1, 2017,
128 and appeals pending or filed on or after July 1, 2019.

129 (6) This section is subject to the Open Government Sunset
130 Review Act in accordance with s. 119.15 and shall stand repealed
131 on October 2, 2024 ~~2022~~, unless reviewed and saved from repeal
132 through reenactment by the Legislature.

133 Section 3. The Legislature finds that it is a public
134 necessity that petitions for involuntary examination or
135 treatment, court orders, and related records that are filed with
136 or by a court under part I of chapter 394 and part V of chapter
137 397, Florida Statutes, and the personal identifying information
138 of a person with a potential mental, emotional, or behavioral
139 disorder or a substance use disorder which is published on a
140 court docket and maintained by the clerk of the court under part
141 I of chapter 394 and part V of chapter 397, Florida Statutes, be
142 made confidential and exempt from disclosure under s. 119.07(1),
143 Florida Statutes, and s. 24(a), Article I of the State
144 Constitution. The mental health and substance abuse impairment
145 of a person are medical conditions, which should be protected

32-00432C-19

2019786__

146 from dissemination to the public. A person's health and
147 sensitive personal information regarding his or her mental
148 health or substance abuse impairment are intensely private
149 matters. Making such petitions, orders, records, and identifying
150 information confidential and exempt from disclosure will protect
151 such persons from the release of sensitive, personal information
152 which could damage their and their families' reputations. The
153 publication of personal identifying information on a physical or
154 virtual docket, regardless of whether any other record is
155 published, defeats the purpose of protections otherwise
156 provided. Further, the knowledge that such sensitive, personal
157 information is subject to disclosure could have a chilling
158 effect on a person's willingness to seek out and comply with
159 mental health or substance abuse treatment services.

160 Section 4. This act shall take effect July 1, 2019.