

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:

21
 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

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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.

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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, 2019.

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, 2024, 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 of chapter 394,
73 Florida Statutes, and the personal identifying information of a
74 person seeking mental health treatment published on a court
75 docket and maintained by the clerk of the court under part I of
76 chapter 394, Florida Statutes, be made confidential and exempt
77 from disclosure under s. 119.07(1), Florida Statutes, and s.
78 24(a), Article I of the State Constitution. The mental health of
79 a person, including a minor, is a medical condition, which
80 should be protected from dissemination to the public. A person's
81 mental health is also an intensely private matter. The public
82 stigma associated with a mental health condition may cause
83 persons in need of treatment to avoid seeking treatment and
84 related services if the record of such condition is accessible
85 to the public. Without treatment, a person's condition may
86 worsen, the person may harm himself or herself or others, and
87 the person may become a financial burden on the state. The

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