

By the Committee on Children, Families, and Elder Affairs; and
Senator Powell

586-02926-19

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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 an effective date.

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

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

23 394.464 Court records; confidentiality.-

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

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30 clerk of the court, upon request, to any of the following:

31 (a) The petitioner.

32 (b) The petitioner's attorney.

33 (c) The respondent.

34 (d) The respondent's attorney.

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

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

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

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

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

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

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

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

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

58 (4) A person or entity receiving information pursuant to

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59 this section shall maintain that information as confidential and
60 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
61 Constitution.

62 (5) The exemption under this section applies to all
63 documents filed with a court before, on, or after July 1, 2019.

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

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

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

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