

By Senator Bean

4-01123A-20

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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 investigation of a case that
6 previously resulted in the conviction of the accused
7 person; providing for future review and repeal of the
8 expanded exemption; providing for reversion of
9 specified language if the exemption is not saved from
10 repeal; providing a statement of public necessity;
11 providing an effective date.

12
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 that ~~which~~ is continuing with a reasonable, good faith
28 anticipation of securing an arrest or prosecution in the
29 foreseeable future, or as long as it is related to an ongoing,

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30 good faith investigation of a claim of actual innocence in a
31 case that previously resulted in the conviction of the accused
32 person, and remains "active" until such time as the claim is no
33 longer capable of further reasonable investigation or the relief
34 sought is granted.

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

44 2. The expansion of the public records exemption under this
45 paragraph to include an ongoing, good faith investigation of a
46 case that previously resulted in the conviction of the accused
47 person is subject to the Open Government Sunset Review Act in
48 accordance with s. 119.15 and shall stand repealed on October 2,
49 2025, unless reviewed and saved from repeal through reenactment
50 by the Legislature. If the expansion of the exemption is not
51 saved from repeal, this paragraph shall revert to that in
52 existence on June 30, 2020, except that any amendments to this
53 paragraph other than by this act must be preserved and continue
54 to operate to the extent that such amendments are not dependent
55 upon the portions of this paragraph which expire pursuant to
56 this subparagraph.

57 Section 2. The Legislature finds that it is a public
58 necessity to expand the definition of the term "active" in s.

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59 119.011, Florida Statutes, to include criminal intelligence
60 information and criminal investigative information that is
61 related to an ongoing, good faith investigation of a matter that
62 previously resulted in the conviction of an accused person. This
63 change is necessary in the interest of safeguarding, preserving,
64 and protecting personal information relating to a claim of
65 actual innocence by a convicted person. This expansion is
66 critical to furthering criminal justice agency investigations
67 and the pursuit of justice.

68 Section 3. This act shall take effect July 1, 2020.