

1 A bill to be entitled
2 An act relating to public records; amending ss.
3 394.464 and 397.6760, F.S.; exempting a certain
4 respondent's name at trial and on appeal from public
5 records requirements; expanding existing exemptions
6 from public records requirements for certain
7 petitions, court orders, and related records regarding
8 persons with potential mental health disorders or
9 substance use disorders, respectively, to include
10 certain examinations and applications and substance
11 abuse treatments, assessments, and stabilizations;
12 expanding exceptions authorizing the release or use of
13 such examinations, applications, petitions, orders,
14 records, and personal identifying information to
15 include certain persons and entities; authorizing a
16 clerk of court to use a respondent's name for certain
17 purposes; revising applicability to include appeals
18 pending or filed on or after a specified date;
19 revising the date for future legislative review and
20 repeal of the exemptions; providing a statement of
21 public necessity; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:
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25 Section 1. Section 394.464, Florida Statutes, is amended

26 | to read:

27 | 394.464 Court records; confidentiality.—

28 | (1) The respondent's name at trial and on appeal, and all
 29 | petitions or applications for voluntary and involuntary
 30 | admission for mental health examination or treatment, court
 31 | orders, and related records that are filed with or by a court
 32 | under this part or chapter are confidential and exempt from s.
 33 | 119.07(1) and s. 24(a), Art. I of the State Constitution.
 34 | Pleadings and other documents made confidential and exempt by
 35 | this section may be disclosed by the clerk of the court, upon
 36 | request, to any of the following:

37 | (a) The petitioner.

38 | (b) The petitioner's attorney.

39 | (c) The respondent.

40 | (d) The respondent's attorney.

41 | (e) The respondent's guardian or guardian advocate, if
 42 | applicable.

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

45 | (g) The respondent's treating health care practitioner and
 46 | treatment program provider.

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

48 | (i) The Department of Children and Families and any law
 49 | enforcement agency, without charge.

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

51 respondent is committed or is to be returned to the custody of
52 the Department of Corrections from the Department of Children
53 and Families.

54 (k) A person or entity authorized to view records upon a
55 court order for good cause. In determining if there is good
56 cause for the disclosure of records, the court must weigh the
57 person or entity's need for the information against potential
58 harm to the respondent from the disclosure.

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

62 (3) The clerk of the court may not publish personal
63 identifying information on a court docket or in a publicly
64 accessible file, but the clerk of court may use a respondent's
65 name to advance a cause on the court's calendar or adjudicate a
66 case, which includes the transmission of any court order to the
67 parties involved.

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

72 (5) The exemption under this section applies to all
73 documents filed with or by a court before, on, or after July 1,
74 2019, and appeals pending or filed with the court on or after
75 July 1, 2020.

76 (6) This section is subject to the Open Government Sunset
77 Review Act in accordance with s. 119.15 and shall stand repealed
78 on October 2, 2025 ~~2024~~, unless reviewed and saved from repeal
79 through reenactment by the Legislature.

80 Section 2. Section 397.6760, Florida Statutes, is amended
81 to read:

82 397.6760 Court records; confidentiality.—

83 (1) The respondent's name at trial and on appeal, and all
84 petitions or applications for voluntary or involuntary substance
85 abuse treatment or assessment and stabilization, court orders,
86 and related records that are filed with or by a court under this
87 part or chapter are confidential and exempt from s. 119.07(1)
88 and s. 24(a), Art. I of the State Constitution. Pleadings and
89 other documents made confidential and exempt by this section may
90 be disclosed by the clerk of the court, upon request, to any of
91 the following:

92 (a) The petitioner.

93 (b) The petitioner's attorney.

94 (c) The respondent.

95 (d) The respondent's attorney.

96 (e) The respondent's guardian or guardian advocate, if
97 applicable.

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

100 (g) The respondent's treating health care practitioner and

101 treatment program provider.

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

103 (i) The Department of Children and Families and any law
104 enforcement agency, without charge.

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

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

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

117 (3) The clerk of the court may not publish personal
118 identifying information on a court docket or in a publicly
119 accessible file, but the clerk of the court may use a
120 respondent's name to advance a cause on the court's calendar or
121 adjudicate a case, which includes the transmission of any court
122 order to the parties involved.

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

126 Constitution.

127 (5) The exemption under this section applies to all
128 documents filed with or by a court before, on, or after July 1,
129 2017, and appeals pending or filed with the court on or after
130 July 1, 2020.

131 (6) This section is subject to the Open Government Sunset
132 Review Act in accordance with s. 119.15 and shall stand repealed
133 on October 2, 2025 ~~2022~~, unless reviewed and saved from repeal
134 through reenactment by the Legislature.

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

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

164 Section 4. This act shall take effect July 1, 2020.