

By Senator Book

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 394.464, F.S.; exempting from public records
4 requirements a respondent's name in certain documents
5 at trial and on appeal; expanding the exemption from
6 public records requirements for certain petitions,
7 court orders, and related records regarding persons
8 with potential mental, emotional, and behavioral
9 disorders to include certain examinations and
10 applications; expanding exceptions authorizing the
11 release or use of such applications, petitions,
12 orders, records, and identifying information to
13 include certain persons and entities; authorizing
14 courts to use a respondent's name for certain
15 purposes; revising applicability to include appeals
16 pending or filed on or after a specified date;
17 revising the date for future legislative review and
18 repeal of the exemption; amending s. 397.6760, F.S.;
19 exempting a respondent's name in certain documents at
20 trial and on appeal from public records requirements;
21 expanding exemptions from public records requirements
22 for certain petitions, court orders, and related
23 records regarding substance abuse impaired persons to
24 include certain applications and substance abuse
25 treatments, assessments, and stabilizations; expanding
26 exceptions authorizing the release or use of such
27 applications, petitions, orders, records, and
28 identifying information to include certain persons and
29 entities; authorizing courts to use a respondent's

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30 name for certain purposes; revising applicability to
31 include appeals pending or filed on or after a
32 specified date; revising the date for future
33 legislative review and repeal of the exemption;
34 providing a statement of public necessity; providing
35 an effective date.

36
37 Be It Enacted by the Legislature of the State of Florida:

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39 Section 1. Section 394.464, Florida Statutes, is amended to
40 read:

41 394.464 Court records; confidentiality.—

42 (1) The respondent's name, at trial and on appeal, and all
43 petitions or applications for voluntary and involuntary
44 admission for mental health examination or treatment, court
45 orders, and related records that are filed with or by a court
46 under this part are confidential and exempt from s. 119.07(1)
47 and s. 24(a), Art. I of the State Constitution. Pleadings and
48 other documents made confidential and exempt by this section may
49 be disclosed by the clerk of the court, upon request, to any of
50 the following:

51 (a) The petitioner.

52 (b) The petitioner's attorney.

53 (c) The respondent.

54 (d) The respondent's attorney.

55 (e) The respondent's guardian or guardian advocate, if
56 applicable.

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

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

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

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

64 (j) The Department of Corrections, without charge, if the
65 respondent is committed or is to be returned to the custody of
66 the Department of Corrections from the Department of Children
67 and Families.

68 (k) A person or entity authorized to view records upon a
69 court order for good cause. In determining if there is good
70 cause for the disclosure of records, the court must weigh the
71 person or entity's need for the information against potential
72 harm to the respondent from the disclosure.

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

76 (3) The clerk of the court may not publish personal
77 identifying information on a court docket or in a publicly
78 accessible file, but the courts may use a respondent's name to
79 calendar and adjudicate cases, which includes the transmission
80 of any court order to the parties.

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

85 (5) The exemption under this section applies to all
86 documents filed with a court before, on, or after July 1, 2019,
87 and appeals pending or filed on or after July 1, 2020.

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

92 Section 2. Section 397.6760, Florida Statutes, is amended
93 to read:

94 397.6760 Court records; confidentiality.—

95 (1) The respondent's name, at trial and on appeal, and all
96 petitions or applications for voluntary or involuntary substance
97 abuse treatment or assessment and stabilization, court orders,
98 and related records, including the respondent's name, at trial
99 and on appeal, which ~~that~~ are filed with or by a court under
100 this part or part IV are confidential and exempt from s.
101 119.07(1) and s. 24(a), Art. I of the State Constitution.
102 Pleadings and other documents made confidential and exempt by
103 this section may be disclosed by the clerk of the court, upon
104 request, to any of the following:

105 (a) The petitioner.

106 (b) The petitioner's attorney.

107 (c) The respondent.

108 (d) The respondent's attorney.

109 (e) The respondent's guardian or guardian advocate, if
110 applicable.

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

113 (g) The respondent's treating health care practitioner and
114 treatment program.

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

116 (i) The Department of Children and Families and law

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117 enforcement agencies, without charge.

118 (j) The Department of Corrections, without charge, if the
119 respondent is committed or is to be returned to the custody of
120 the Department of Corrections from the Department of Children
121 and Families.

122 (k) A person or entity authorized to view records upon a
123 court order for good cause. In determining if there is good
124 cause for the disclosure of records, the court must weigh the
125 person or entity's need for the information against potential
126 harm to the respondent from the disclosure.

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

130 (3) The clerk of the court may not publish personal
131 identifying information on a court docket or in a publicly
132 accessible file, but the courts may use a respondent's name to
133 calendar and adjudicate cases, which includes the transmission
134 of any court order to the parties.

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

139 (5) The exemption under this section applies to all
140 documents filed with a court before, on, or after July 1, 2017,
141 and appeals pending or filed on or after July 1, 2020.

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

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146 Section 3. The Legislature finds that it is a public
147 necessity that voluntary applications or petitions for
148 involuntary examination or treatment, court orders, and related
149 records that are filed with or by a court or relevant treatment
150 provider under part I of chapter 394 and parts IV and V of
151 chapter 397, Florida Statutes, and the personal identifying
152 information of a person with a potential mental, emotional, or
153 behavioral disorder or a substance use disorder which is
154 published on a court docket and maintained by the clerk of the
155 court under part I of chapter 394 and parts IV or V of chapter
156 397, Florida Statutes, or with the relevant treatment provider
157 be made confidential and exempt from disclosure under s.
158 119.07(1), Florida Statutes, and s. 24(a), Article I of the
159 State Constitution. The mental health and substance abuse
160 impairments of a person are medical conditions that should be
161 protected from dissemination to the public. A person's health
162 and sensitive personal information regarding his or her mental
163 health or substance abuse impairment are intensely private
164 matters. Making such applications, petitions, orders, records,
165 and identifying information confidential and exempt from
166 disclosure will protect such persons from the release of
167 sensitive, personal information that could damage their and
168 their families' reputations. The publication of personal
169 identifying information on a physical or virtual docket,
170 regardless of whether any other record is published, defeats the
171 purpose of protections otherwise provided. Further, the
172 knowledge that such sensitive, personal information is subject
173 to disclosure could have a chilling effect on a person's
174 willingness to seek out and comply with mental health or

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175 substance abuse treatment services.

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