

By the Committee on Criminal Justice; and Senator Brandes

591-02748-20

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1 A bill to be entitled
2 An act relating to public meetings and records;
3 amending s. 945.0911, F.S.; exempting from public
4 meetings requirements the protected health information
5 of specified inmates being considered for the
6 conditional medical release program; exempting from
7 public records requirements certain records used by
8 the reviewing panel to make a determination of the
9 appropriateness of conditional medical release and the
10 recordings of closed panel review hearings; providing
11 for legislative review and repeal of the exemptions;
12 providing a statement of public necessity; providing a
13 contingent effective date.

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

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17 Section 1. Present subsection (9) of section 945.0911,
18 Florida Statutes, as created by SB 556 or other similar
19 legislation, 2020 Regular Session, is redesignated as subsection
20 (10), and a new subsection (9) is added to that section, to
21 read:

22 945.0911 Conditional medical release.—

23 (9) PUBLIC MEETINGS AND RECORDS EXEMPTIONS.—

24 (a) That portion of a panel review hearing conducted in
25 accordance with this section during which the panel will discuss
26 protected information that is confidential and exempt under
27 state or federal law, such as protected health information
28 covered by the Health Insurance Portability and Accountability
29 Act, is exempt from s. 286.011 and s. 24(b), Art. I of the State

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30 Constitution. If the panel must discuss exempt information
31 during the course of its meeting, the following requirements
32 must be met:

33 1. The panel must announce at the public meeting that, in
34 connection with the performance of the panel's duties, protected
35 information must be discussed;

36 2. The panel must declare the specific reasons that it is
37 necessary to close the meeting, or a portion thereof, in a
38 document that is a public record and filed with the official
39 records of the program; and

40 3. The entire closed hearing must be recorded. The
41 recording must include the times of commencement and termination
42 of the closed hearing or portion thereof, all discussion and
43 proceedings, and the names of the persons present. The
44 department shall maintain the recording.

45 (b)1. That portion of the records the panel uses to
46 determine the appropriateness of conditional medical release
47 which includes any of the inmate's protected information is
48 confidential and exempt from disclosure under s. 119.07(1) and
49 s. 24(a), Art. I of the State Constitution.

50 2. Any audio or video recording of, and any minutes and
51 notes generated during, a closed hearing of the panel or closed
52 portion of a hearing of the panel are confidential and exempt
53 from disclosure under s. 119.07(1) and s. 24(a), Art. I of the
54 State Constitution. Such audio or video recording and minutes
55 and notes must be retained pursuant to the requirements of s.
56 119.021.

57 (c) Only members of the panel, staff supporting the panel's
58 functions, and other persons whose presence has been authorized

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59 by the panel shall be allowed to attend the closed portions of
60 panel hearings. The panel shall ensure that any closure of its
61 meetings as authorized by this section is limited so that the
62 policy of the state in favor of public meetings is maintained.

63 (d) This subsection is subject to the Open Government
64 Sunset Review Act in accordance with s. 119.15 and shall stand
65 repealed on October 2, 2025, unless reviewed and saved from
66 repeal through reenactment by the Legislature.

67 Section 2. The Legislature finds that it is a public
68 necessity that the hearings or portions of hearings during which
69 an inmate's personal information is discussed by the review
70 panel considering the inmate's conditional medical release be
71 made exempt from s. 286.011, Florida Statutes, and s. 24(b),
72 Article I of the State Constitution. The Legislature finds that
73 the rights of an inmate afforded under other state or federal
74 laws that deem certain personal information confidential, such
75 as protected health information covered by the Health Insurance
76 Portability and Accountability Act, be upheld and that the
77 inmate's personal information not be disclosed to the public
78 during such hearings. The Legislature also finds that the
79 recordings of a panel review hearing and the records used by the
80 panel to make its determination be made confidential and exempt
81 from disclosure under s. 119.07(1), Florida Statutes, and s.
82 24(a), Article I of the State Constitution. The inmate's
83 personal health information, if publicly available, could be
84 used to invade his or her personal privacy. Making these reports
85 and discussions of such information confidential and exempt from
86 disclosure will protect information of a sensitive personal
87 nature, the release of which could cause unwarranted damage to

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88 the privacy rights of the inmate. The Legislature therefore
89 finds that it is a public necessity that such protected
90 information remain confidential and exempt.

91 Section 3. This act shall take effect on the same date that
92 SB 556 or similar legislation relating to conditional medical
93 release takes effect, if such legislation is adopted in the same
94 legislative session or an extension thereof and becomes a law.