

By the Committees on Governmental Oversight and Accountability;
and Criminal Justice; and Senator Brandes

585-03388-20

20201728c2

1 A bill to be entitled
2 An act relating to public meetings and records;
3 amending s. 945.0912, F.S.; exempting from public
4 meetings requirements that portion of a panel review
5 at which the exempt or confidential information of
6 specified inmates being considered for the conditional
7 medical release program is discussed; exempting from
8 public records requirements certain records used by
9 the reviewing panel to make a determination of the
10 appropriateness of conditional medical release and the
11 recordings and transcripts of closed panel review
12 hearings; providing for legislative review and repeal
13 of the exemption; providing a statement of public
14 necessity; providing an effective date.

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

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

23 945.0911 Conditional medical release.—

24 (9) PUBLIC MEETINGS AND RECORDS EXEMPTIONS.—

25 (a) That portion of a panel review hearing conducted in
26 accordance with this section during which the panel will discuss
27 information that is exempt from public inspection and copying
28 requirements under state law or confidential under federal law,
29 such as protected health information covered by the Health

585-03388-20

20201728c2

30 Insurance Portability and Accountability Act, is exempt from s.
31 286.011 and s. 24(b), Art. I of the State Constitution. If the
32 panel must discuss exempt or confidential information during the
33 course of its meeting, the following requirements must be met:

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

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

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

45 (b)1. That portion of the records the panel uses to
46 determine the appropriateness of conditional medical release
47 which includes any exempt or confidential 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 or transcript of, and any
51 minutes and notes generated during, a closed hearing of the
52 panel or closed portion of a hearing of the panel are
53 confidential and exempt from disclosure under s. 119.07(1) and
54 s. 24(a), Art. I of the State Constitution. Such audio or video
55 recording, transcript, minutes and notes must be retained
56 pursuant to the requirements of s. 119.021.

57 (c) Only members of the panel, staff supporting the panel's
58 functions, the inmate for whom the panel has convened, and

585-03388-20

20201728c2

59 licensed medical personnel called by the panel to provide
60 testimony regarding exempt or confidential information shall be
61 allowed to attend the closed portions of panel hearings. The
62 panel shall ensure that any closure of its meetings as
63 authorized by this section is limited so that the policy of the
64 state in favor of public meetings is maintained.

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

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

585-03388-20

20201728c2

88 information confidential and exempt from disclosure will protect
89 information of a sensitive personal nature, the release of which
90 could cause unwarranted damage to the privacy rights of the
91 inmate. The Legislature therefore finds that it is a public
92 necessity that such information be made confidential and exempt.

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