

ENROLLED

CS/HB 1639

2021 Legislature

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 2 An act relating to public records; amending s. 98.015,
 3 F.S.; creating a public records exemption for portions
 4 of records containing network schematics, hardware and
 5 software configurations, or encryption held by a
 6 county supervisor of elections; providing for release
 7 of the confidential and exempt information in certain
 8 instances to governmental entities; providing for
 9 retroactive application; providing for future
 10 legislative review and repeal of the exemption;
 11 providing a statement of public necessity; providing
 12 an effective date.

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

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 16 Section 1. Subsection (13) is added to section 98.015,
 17 Florida Statutes, to read:

18 98.015 Supervisor of elections; election, tenure of
 19 office, compensation, custody of registration-related documents,
 20 office hours, successor, seal; appointment of deputy
 21 supervisors; duties; public records exemption.-

22 (13) (a) Portions of records held by a supervisor of
 23 elections which contain network schematics, hardware and
 24 software configurations, or encryption, or which identify
 25 detection, investigation, or response practices for suspected or

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26 confirmed information technology security incidents, including
 27 suspected or confirmed breaches, are confidential and exempt
 28 from s. 119.07(1) and s. 24(a), Art. I of the State
 29 Constitution, if the disclosure of such records would facilitate
 30 unauthorized access to or the unauthorized modification,
 31 disclosure, or destruction of:

32 1. Data or information, whether physical or virtual; or

33 2. Information technology resources as defined in s.
 34 119.011(9), which includes:

35 a. Information relating to the security of a supervisor of
 36 elections' technology, processes, and practices designed to
 37 protect networks, computers, data processing software, and data
 38 from attack, damage, or unauthorized access; or

39 b. Security information, whether physical or virtual,
 40 which relates to a supervisor of elections' existing or proposed
 41 information technology systems.

42 (b) The portions of records made confidential and exempt
 43 in paragraph (a) shall be available to the Auditor General and
 44 may be made available to another governmental entity for
 45 information technology security purposes or in the furtherance
 46 of the entity's official duties.

47 (c) The public record exemption in paragraph (a) applies
 48 to records held by a supervisor of elections before, on, or
 49 after the effective date of the exemption.

50 (d) This subsection is subject to the Open Government

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51 Sunset Review Act in accordance with s. 119.15 and shall stand
52 repealed on October 2, 2026, unless reviewed and saved from
53 repeal through reenactment by the Legislature.

54 Section 2. The Legislature finds that it is a public
55 necessity that the portions of records of a supervisor of
56 elections which contain network schematics, hardware and
57 software configurations, or encryption, or which identify
58 detection, investigation, or response practices for suspected or
59 confirmed information technology security incidents, including
60 suspected or confirmed breaches, which could be used to
61 facilitate unauthorized access to or unauthorized modification,
62 disclosure, or destruction of virtual or physical data or
63 information or information technology resources be made
64 confidential and exempt from s. 119.07(1), Florida Statutes, and
65 s. 24(a), Article I of the State Constitution. Such information
66 could be used as a tool to influence elections, frustrate the
67 voting process, manipulate election results, or otherwise
68 interfere with the administration of elections. If such
69 information was released, it could result in an increase in
70 security breaches and fraud impacting the electoral process. For
71 these reasons, the Legislature finds that the public record
72 exemption should be applied on a retroactive basis because the
73 harm that may result from the release of such information
74 outweighs the public benefit that may be derived from the
75 disclosure of the information.

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76 | Section 3. This act shall take effect upon becoming a law. |