

By Senator Book

32-00427-21

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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 applications for certain  
10      examinations; 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 for 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:

38  
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, without  
63 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 schedule 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, 2021.

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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, 2026 ~~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, without

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117 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 schedule 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, 2021.

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, 2026 ~~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 abuse 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, 2021.