

By Senator Diaz

36-00778A-22

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; providing an exemption from public
4 records requirements for certain information relating
5 to an investigation of a murder until such records are
6 given or required to be given to an arrested person
7 under specified circumstances; providing for future
8 legislative review and repeal of the exemption;
9 providing an exemption from public records
10 requirements for statements of a witness to a murder
11 for a specified timeframe; authorizing the release of
12 such information under specified circumstances;
13 delaying an existing legislative review and repeal of
14 the exemption; providing a statement of public
15 necessity; providing an effective date.

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

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19 Section 1. Paragraphs (c) and (m) of subsection (2) of
20 section 119.071, Florida Statutes, are amended to read:

21 119.071 General exemptions from inspection or copying of
22 public records.—

23 (2) AGENCY INVESTIGATIONS.—

24 (c)1. Active criminal intelligence information and active
25 criminal investigative information are exempt from s. 119.07(1)
26 and s. 24(a), Art. I of the State Constitution.

27 2.a. Notwithstanding whether an investigation is active as
28 defined in s. 119.011(3)(d), criminal intelligence information
29 or criminal investigative information relating to an

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30 investigation of a murder as defined in s. 782.04 which reveals
31 key details of the crime and which a law enforcement agency
32 determines must be withheld in order to secure a future arrest
33 or conviction is exempt from s. 119.07(1) and s. 24(a), Art. I
34 of the State Constitution until the records are given or
35 required to be given to the person arrested, as set forth in s.
36 119.011(3)(c)5.

37 b. This subparagraph is subject to the Open Government
38 Sunset Review Act in accordance with s. 119.15 and shall stand
39 repealed on October 2, 2027, unless reviewed and saved from
40 repeal through reenactment by the Legislature.

41 3.a. A request made by a law enforcement agency to inspect
42 or copy a public record that is in the custody of another agency
43 and the custodian's response to the request, and any information
44 that would identify whether a law enforcement agency has
45 requested or received that public record are exempt from s.
46 119.07(1) and s. 24(a), Art. I of the State Constitution, during
47 the period in which the information constitutes active criminal
48 intelligence information or active criminal investigative
49 information.

50 b. The law enforcement agency that made the request to
51 inspect or copy a public record shall give notice to the
52 custodial agency when the criminal intelligence information or
53 criminal investigative information is no longer active so that
54 the request made by the law enforcement agency, the custodian's
55 response to the request, and information that would identify
56 whether the law enforcement agency had requested or received
57 that public record are available to the public.

58 c. This exemption is remedial in nature, and it is the

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59 intent of the Legislature that the exemption be applied to
60 requests for information received before, on, or after the
61 effective date of this paragraph.

62 (m)1. Notwithstanding whether an investigation is active as
63 defined in s. 119.011(3)(d), criminal intelligence information
64 or criminal investigative information that reveals the personal
65 identifying information of a witness to a murder, as described
66 in s. 782.04, or a statement of a witness to a murder is
67 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
68 of the State Constitution for 2 years after the date on which
69 the murder is observed by the witness. A criminal justice agency
70 may disclose such information:

71 a. In the furtherance of its official duties and
72 responsibilities.

73 b. To assist in locating or identifying the witness if the
74 agency believes the witness to be missing or endangered.

75 c. To another governmental agency for use in the
76 performance of its official duties and responsibilities.

77 d. To the parties in a pending criminal prosecution as
78 required by law.

79 2. This paragraph is subject to the Open Government Sunset
80 Review Act in accordance with s. 119.15 and shall stand repealed
81 on October 2, 2027 ~~2022~~, unless reviewed and saved from repeal
82 through reenactment by the Legislature.

83 Section 2. The Legislature finds that it is a public
84 necessity that criminal intelligence information and criminal
85 investigative information relating to an investigation of a
86 murder which reveals key details of the crime be made exempt
87 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of

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88 the State Constitution until the records are given or required
89 to be given to the person arrested, as set forth in s.
90 119.011(3)(c)5., Florida Statutes. The Legislature also finds
91 that it is a public necessity that statements of witnesses to a
92 murder be made confidential and exempt from s. 119.07(1),
93 Florida Statutes, and s. 24(a), Article I of the State
94 Constitution for the safety and protection of the witnesses.
95 Murder is such a heinous crime against humanity that there is no
96 statute of limitations on its prosecution. Some murder cases
97 take years to develop sufficient evidence to secure convictions.
98 It is important that certain information in older murder cases
99 remains exempt or confidential and exempt from public records
100 requirements in order to protect the integrity of the
101 investigation and those individuals who cooperate with law
102 enforcement. During the course of a murder investigation, the
103 police may interview numerous witnesses who have information
104 that is relevant to solving the crime. The judicial system
105 cannot function without the participation of these witnesses.
106 Complete cooperation and truthful testimony of witnesses is
107 essential to the determination of the facts of a case. The
108 disclosure of witnesses' personal information and their
109 statements can have a chilling effect on people coming forward
110 to cooperate with police, for fear of intimidation or
111 retaliation. Police murder investigation files also contain key
112 details of the crime. Investigators need to withhold key details
113 of the crime from the public in order to evaluate the veracity
114 of new tips and evidence. Despite a period of inactivity on old
115 murder cases, many old cases are later solved due to new
116 technologies, improvements in the analysis of DNA evidence, or

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117 new tips from witnesses. However, without the ability to
118 withhold key details of the crime from the public, law
119 enforcement may never be able to solve older murder cases. For
120 these reasons, the Legislature finds that it is a public
121 necessity to protect the key details of the crime in murder
122 investigations and to expand the current public records
123 exemptions to protect the statements of all witnesses in murder
124 investigations.

125 Section 3. This act shall take effect July 1, 2022.