

By Senator Bean

4-01565-22

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1                   A bill to be entitled  
2       An act relating to public records; amending ss.  
3       394.464 and 397.6760, F.S.; exempting from public  
4       records requirements a respondent's name in certain  
5       documents at trial and on appeal; expanding exemptions  
6       from public records requirements for certain  
7       petitions, court orders, and related records to  
8       include applications for voluntary and involuntary  
9       mental health examinations and substance abuse  
10      treatment, respectively; expanding exceptions  
11      authorizing the disclosure of such personal  
12      identifying information and records to include certain  
13      service providers; authorizing a court to use a  
14      respondent's name for certain purposes; revising  
15      applicability to include appeals pending or filed on  
16      or after a specified date; revising the date for  
17      future legislative review and repeal of the  
18      exemptions; providing a statement of public necessity;  
19      providing a contingent effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23       Section 1. Section 394.464, Florida Statutes, is amended to  
24       read:

25       394.464 Court records; confidentiality.—

26       (1) A respondent's name, at trial and on appeal, and all  
27       petitions or applications for voluntary and involuntary  
28       admission for mental health examinations or treatment, court  
29       orders, and related records that are filed with or by a court

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30 under this part are confidential and exempt from s. 119.07(1)  
31 and s. 24(a), Art. I of the State Constitution. Pleadings and  
32 other documents made confidential and exempt by this section may  
33 be disclosed by the clerk of the court, upon request, to any of  
34 the following:

- 35 (a) The petitioner.
- 36 (b) The petitioner's attorney.
- 37 (c) The respondent.
- 38 (d) The respondent's attorney.
- 39 (e) The respondent's guardian or guardian advocate, if  
40 applicable.
- 41 (f) In the case of a minor respondent, the respondent's  
42 parent, guardian, legal custodian, or guardian advocate.
- 43 (g) The respondent's treating health care practitioner and  
44 service provider.
- 45 (h) The respondent's health care surrogate or proxy.
- 46 (i) The Department of Children and Families, without  
47 charge.
- 48 (j) The Department of Corrections, without charge, if the  
49 respondent is committed or is to be returned to the custody of  
50 the Department of Corrections from the Department of Children  
51 and Families.
- 52 (k) A person or entity authorized to view records upon a  
53 court order for good cause. In determining if there is good  
54 cause for the disclosure of records, the court must weigh the  
55 person or entity's need for the information against potential  
56 harm to the respondent from the disclosure.
- 57 (2) This section does not preclude the clerk of the court  
58 from submitting the information required by s. 790.065 to the

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59 Department of Law Enforcement.

60 (3) The clerk of the court may not publish personal  
61 identifying information on a court docket or in a publicly  
62 accessible file, but the court may use a respondent's name to  
63 schedule and adjudicate cases, which includes transmitting a  
64 copy of any court order to the parties.

65 (4) A person or entity receiving information pursuant to  
66 this section shall maintain that information as confidential and  
67 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
68 Constitution.

69 (5) The exemption under this section applies to all  
70 documents filed with a court before, on, or after July 1, 2019,  
71 and appeals pending or filed on or after July 1, 2022.

72 (6) This section is subject to the Open Government Sunset  
73 Review Act in accordance with s. 119.15 and shall stand repealed  
74 on October 2, 2027 ~~2024~~, unless reviewed and saved from repeal  
75 through reenactment by the Legislature.

76 Section 2. Section 397.6760, Florida Statutes, is amended  
77 to read:

78 397.6760 Court records; confidentiality.—

79 (1) A respondent's name, at trial and on appeal, and all  
80 petitions or applications for voluntary and involuntary  
81 substance abuse treatment or assessment and stabilization, court  
82 orders, and related records that are filed with or by a court  
83 under this part or part IV are confidential and exempt from s.  
84 119.07(1) and s. 24(a), Art. I of the State Constitution.  
85 Pleadings and other documents made confidential and exempt by  
86 this section may be disclosed by the clerk of the court, upon  
87 request, to any of the following:

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- 88 (a) The petitioner.
- 89 (b) The petitioner's attorney.
- 90 (c) The respondent.
- 91 (d) The respondent's attorney.
- 92 (e) The respondent's guardian or guardian advocate, if  
93 applicable.
- 94 (f) In the case of a minor respondent, the respondent's  
95 parent, guardian, legal custodian, or guardian advocate.
- 96 (g) The respondent's treating health care practitioner and  
97 service provider.
- 98 (h) The respondent's health care surrogate or proxy.
- 99 (i) The Department of Children and Families, without  
100 charge.
- 101 (j) The Department of Corrections, without charge, if the  
102 respondent is committed or is to be returned to the custody of  
103 the Department of Corrections from the Department of Children  
104 and Families.
- 105 (k) A person or entity authorized to view records upon a  
106 court order for good cause. In determining if there is good  
107 cause for the disclosure of records, the court must weigh the  
108 person or entity's need for the information against potential  
109 harm to the respondent from the disclosure.
- 110 (2) This section does not preclude the clerk of the court  
111 from submitting the information required by s. 790.065 to the  
112 Department of Law Enforcement.
- 113 (3) The clerk of the court may not publish personal  
114 identifying information on a court docket or in a publicly  
115 accessible file, but the court may use a respondent's name to  
116 schedule and adjudicate cases, which includes transmitting a

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117 copy of any court order to the parties.

118 (4) A person or entity receiving information pursuant to  
119 this section shall maintain that information as confidential and  
120 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
121 Constitution.

122 (5) The exemption under this section applies to all  
123 documents filed with a court before, on, or after July 1, 2017,  
124 and appeals pending or filed on or after July 1, 2022.

125 (6) This section is subject to the Open Government Sunset  
126 Review Act in accordance with s. 119.15 and shall stand repealed  
127 on October 2, 2027 ~~2022~~, unless reviewed and saved from repeal  
128 through reenactment by the Legislature.

129 Section 3. The Legislature finds that it is a public  
130 necessity that applications for voluntary and involuntary mental  
131 health examinations and substance abuse treatment which are  
132 filed with or by a court and a respondent's name, which is  
133 published on a court docket and maintained by the clerk of the  
134 court, under part I of chapter 394 and parts IV and V of chapter  
135 397, Florida Statutes, be made confidential and exempt from  
136 disclosure under s. 119.07(1), Florida Statutes, and s. 24(a),  
137 Article I of the State Constitution. The mental health and  
138 substance abuse impairments of a person are medical conditions  
139 that should be protected from dissemination to the public. A  
140 person's health and sensitive personal information regarding his  
141 or her mental health or substance abuse impairment are intensely  
142 private matters. Making such applications, petitions, orders,  
143 records, and identifying information confidential and exempt  
144 from disclosure will protect such persons from the release of  
145 sensitive, personal information that could damage their and

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146 their families' reputations. The publication of personal  
147 identifying information on a physical or virtual docket,  
148 regardless of whether any other record is published, defeats the  
149 purpose of protections otherwise provided. Further, the  
150 knowledge that such sensitive, personal information is subject  
151 to disclosure could have a chilling effect on a person's  
152 willingness to seek out and comply with mental health or  
153 substance abuse treatment services.

154 Section 4. This act shall take effect on the same date that  
155 SB \_\_\_\_ or similar legislation takes effect, if such legislation  
156 is adopted in the same legislative session or an extension  
157 thereof and becomes a law.