

By the Committee on Governmental Oversight and Accountability;
and Senator Martin

585-03545A-23

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; defining terms; providing an exemption
4 from public records requirements for investigative
5 genetic genealogy information and materials;
6 authorizing and requiring the disclosure of such
7 information and materials under certain circumstances;
8 providing for retroactive application; providing for
9 future legislative review and repeal of the exemption;
10 providing a statement of public necessity; providing
11 an effective date.

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

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15 Section 1. Paragraph (r) is added to subsection (2) of
16 section 119.071, Florida Statutes, to read:

17 119.071 General exemptions from inspection or copying of
18 public records.—

19 (2) AGENCY INVESTIGATIONS.—

20 (r)1. As used in this paragraph, the term:

21 a. "DNA record" means all information associated with the
22 collection and analysis of a person's DNA sample, including the
23 distinguishing characteristics collectively referred to as a DNA
24 profile, and includes a single nucleotide polymorphism and a
25 whole genome sequencing DNA profile.

26 b. "Genetic genealogy" means the use of DNA testing in
27 combination with traditional genealogical methods to infer
28 relationships between persons and determine ancestry.

29 c. "Investigative genetic genealogy" means the application

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30 of genetic genealogy and law enforcement investigative
31 techniques to develop investigative leads in unsolved violent
32 crimes and provide investigative leads as to the identity of
33 unidentified human remains and living unidentified missing
34 persons.

35 d. "Investigative genetic genealogy information and
36 materials" means the information, records, and DNA records
37 created or collected by or on behalf of a law enforcement agency
38 conducting investigative genetic genealogy research, and
39 includes the names and personal identifying information of
40 persons identified through the use of genealogy databases,
41 traditional genealogical methods, or other investigative means.
42 The term does not include the name or personal identifying
43 information of:

44 (I) The donor of a biological sample attributable to a
45 perpetrator; or

46 (II) A person identified through investigative genetic
47 genealogy who is a witness to or has personal knowledge related
48 to the crime under investigation.

49 e. "Traditional genealogical methods" means the use of
50 genealogical databases and historical records to trace the
51 family lineage of a person.

52 2. Investigative genetic genealogy information and
53 materials are confidential and exempt from s. 119.07(1) and s.
54 24(a), Art. I of the State Constitution.

55 3. Notwithstanding subparagraph 2., a law enforcement
56 agency:

57 a. May disclose investigative genetic genealogy information
58 and materials in furtherance of its official duties and

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59 responsibilities or to another governmental agency in the
60 furtherance of its official duties and responsibilities.

61 b. Shall disclose investigative genetic genealogy
62 information and materials pursuant to a court order for the
63 furtherance of a criminal prosecution. If a court orders the
64 disclosure of such information and materials, the recipient of
65 the information and materials must maintain the confidential and
66 exempt status of the information and materials and may only
67 publicly disclose the information and materials as necessary for
68 purposes of a criminal prosecution as determined by the court.

69 4. The exemption in this paragraph applies to investigative
70 genetic genealogy information and materials held by an agency
71 before, on, or after July 1, 2023.

72 5. This paragraph is subject to the Open Government Sunset
73 Review Act in accordance with s. 119.15 and shall stand repealed
74 on October 2, 2028, unless reviewed and saved from repeal
75 through reenactment by the Legislature.

76 Section 2. The Legislature finds that it is a public
77 necessity that investigative genetic genealogy information and
78 materials be made confidential and exempt from s. 119.07(1),
79 Florida Statutes, and s. 24(a), Article I of the State
80 Constitution. Investigative genetic genealogy is an advanced
81 investigative tool that uses law enforcement agency
82 investigative resources and traditional genealogical research in
83 collaboration with crime laboratories, private vendor
84 laboratories, and companies or organizations that provide
85 genealogy services and information to the public. Investigative
86 genetic genealogy allows law enforcement agencies to generate an
87 investigative lead on an unknown perpetrator. The investigative

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88 lead aids law enforcement agencies in determining potential
89 donors of crime scene samples, which can be confirmed or refuted
90 by a crime laboratory for use in legal proceedings. Convictions
91 and exonerations have been aided by the use of investigative
92 genetic genealogy. The same techniques are also used in missing
93 persons and unidentified human remains cases. Investigative
94 genetic genealogy is a valuable tool to solve violent crimes and
95 to hold accountable perpetrators who may otherwise roam freely
96 and undetected in society. Traditional forensic DNA testing
97 attempts to identify the possible donor of a crime scene sample
98 through matches in law enforcement agencies' DNA databases that
99 consist of short tandem repeat DNA databases. The use of
100 investigative genetic genealogy differs from traditional law
101 enforcement agency investigative techniques because it uses
102 advanced DNA testing to develop a single nucleotide polymorphism
103 or a whole genome sequencing profile from the unknown crime
104 scene DNA, which is then uploaded into a public genealogy
105 database and used to locate personal identifying information for
106 possible relatives and ancestors who participate in the
107 databases. Individuals whose names, contact information, or
108 other family associations are available in these databases may,
109 and routinely, have no association with or knowledge of the
110 perpetrator or the crime that a law enforcement agency is
111 investigating. The first publicized use of investigative genetic
112 genealogy involved the Golden State Killer cases in California.
113 The publicity surrounding law enforcement agencies' use of
114 genetic genealogy led individuals, genealogy service providers,
115 genealogical testing companies, and privacy advocates and
116 ethicists to express privacy concerns. Private companies have

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117 since strictly limited or precluded law enforcement agency
118 access to genetic genealogy databases due to fear that
119 individuals who are biologically related to a perpetrator but
120 unassociated with the crime may be identified, harassed, and
121 even victimized. Law enforcement agency use of investigative
122 genetic genealogy information and materials has been restricted
123 to violent crimes and unidentified human remains, and companies
124 employ opt-in features for customers. Failure to properly
125 protect and limit the disclosure of investigative genetic
126 genealogy information and materials will hinder law enforcement
127 agencies' ability to use this valuable method to solve violent
128 crimes and provide closure to the family members of victims of
129 these heinous acts. Often, unidentified human remains are
130 homicide victims, so protection of investigative genetic
131 genealogy tools and information is equally important in giving
132 names to these decedents as well as to their perpetrators. For
133 the foregoing reasons, the Legislature finds that it is a public
134 necessity that investigative genetic genealogy information and
135 materials be made confidential and exempt from public records
136 requirements and that such exemption be applied retroactively.

137 Section 3. This act shall take effect July 1, 2023.