

By Senator Rodriguez

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1 A bill to be entitled
2 An act relating to public records and public meetings;
3 amending ss. 394.464 and 397.6760, F.S.; specifying
4 that all hearings relating to mental health and
5 substance abuse, respectively, are confidential and
6 closed to the public; providing exceptions; exempting
7 certain information from public records requirements;
8 expanding a public records exemption to include
9 certain petitions and applications; authorizing
10 disclosure of certain confidential and exempt
11 documents to certain service providers; authorizing
12 courts to use a respondent's name for certain
13 purposes; revising applicability; providing for future
14 legislative review and repeal of the exemption; making
15 technical changes; providing statements of public
16 necessity; providing a contingent effective date.

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

19
20 Section 1. Section 394.464, Florida Statutes, is amended to
21 read:

22 394.464 Court proceedings and records; confidentiality.—

23 (1) Absent the respondent's consent or a finding of good
24 cause by a judge or an administrative law judge, all hearings
25 conducted under this part are confidential and closed to the
26 public.

27 (2) (a) The respondent's name, at a hearing or on appeal,
28 and all petitions or applications for voluntary and involuntary
29 admission for mental health examination or treatment, court

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orders, and related records that are filed with or by a court under this part are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Pleadings and other documents made confidential and exempt by this section may be disclosed by the clerk of the court, upon request, to any of the following:

1.~~(a)~~ The petitioner.

2.~~(b)~~ The petitioner's attorney.

3.~~(c)~~ The respondent.

4.~~(d)~~ The respondent's attorney.

5.~~(e)~~ The respondent's guardian or guardian advocate, if applicable.

6.~~(f)~~ In the case of a minor respondent, the respondent's parent, guardian, legal custodian, or guardian advocate.

7.~~(g)~~ The respondent's treating health care practitioner and service provider.

8.~~(h)~~ The respondent's health care surrogate or proxy.

9.~~(i)~~ The Department of Children and Families, without charge.

10.~~(j)~~ The Department of Corrections, without charge, if the respondent is committed or is to be returned to the custody of the Department of Corrections from the Department of Children and Families.

11.~~(k)~~ A person or an entity authorized to view records upon a court order for good cause. In determining whether ~~if~~ there is good cause for the disclosure of records, the court must weigh the person's ~~person~~ or entity's need for the information against potential harm to the respondent from the disclosure.

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59 (b)~~(2)~~ This subsection ~~section~~ does not preclude the clerk
60 of the court from submitting the information required by s.
61 790.065 to the Department of Law Enforcement.

62 (c)~~(3)~~ The clerk of the court may not publish personal
63 identifying information on a court docket or in a publicly
64 accessible file, but the court may use the respondent's name to
65 schedule and adjudicate cases, including the transmission of any
66 court order to the parties or the service provider.

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

71 (e)~~(5)~~ The exemption under this subsection ~~section~~ applies
72 to all documents filed with a court before, on, or after July 1,
73 2019, and appeals pending or filed on or after July 1, 2025.

74 (f) This subsection applies to records held by the Division
75 of Administrative Hearings to the same extent as records held by
76 a court.

77 (g) This subsection is subject to the Open Government
78 Sunset Review Act in accordance with s. 119.15 and shall stand
79 repealed on October 2, 2030, unless reviewed and saved from
80 repeal through reenactment by the Legislature.

81 Section 2. Section 397.6760, Florida Statutes, is amended
82 to read:

83 397.6760 Court proceedings and records; confidentiality.—

84 (1) Absent a judicial finding of good cause or the
85 respondent's consent, all hearings under this part or part IV
86 are confidential and closed to the public.

87 (2) (a) The respondent's name, at trial and on appeal, and

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88 all petitions or applications for voluntary and involuntary
89 substance abuse treatment or assessment and stabilization, court
90 orders, and related records that are filed with or by a court
91 under this part or part IV are confidential and exempt from s.
92 119.07(1) and s. 24(a), Art. I of the State Constitution.
93 Pleadings and other documents made confidential and exempt by
94 this section may be disclosed by the clerk of the court, upon
95 request, to any of the following:

96 1.(a) The petitioner.

97 2.(b) The petitioner's attorney.

98 3.(c) The respondent.

99 4.(d) The respondent's attorney.

100 5.(e) The respondent's guardian or guardian advocate, if
101 applicable.

102 6.(f) In the case of a minor respondent, the respondent's
103 parent, guardian, legal custodian, or guardian advocate.

104 7.(g) The respondent's treating health care practitioner
105 and service provider.

106 8.(h) The respondent's health care surrogate or proxy.

107 9.(i) The Department of Children and Families, without
108 charge.

109 10.(j) The Department of Corrections, without charge, if
110 the respondent is committed or is to be returned to the custody
111 of the Department of Corrections from the Department of Children
112 and Families.

113 11.(k) A person or an entity authorized to view records
114 upon a court order for good cause. In determining whether ~~if~~
115 there is good cause for the disclosure of records, the court
116 must weigh the person's ~~person~~ or entity's need for the

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117 information against potential harm to the respondent from the
118 disclosure.

119 (b)(2) This subsection ~~section~~ does not preclude the clerk
120 of the court from submitting the information required by s.
121 790.065 to the Department of Law Enforcement.

122 (c)(3) The clerk of the court may not publish personal
123 identifying information on a court docket or in a publicly
124 accessible file, but the court may use the respondent's name to
125 schedule and adjudicate cases, including the transmission of any
126 court order to the parties or the service provider.

127 (d)(4) A person or an entity receiving information pursuant
128 to this subsection ~~section~~ shall maintain that information as
129 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
130 of the State Constitution.

131 (e)(5) The exemption under this subsection ~~section~~ applies
132 to all documents filed with a court before, on, or after July 1,
133 2017, and appeals pending or filed on or after July 1, 2025.

134 (f) This subsection is subject to the Open Government
135 Sunset Review Act in accordance with s. 119.15 and shall stand
136 repealed on October 2, 2030, unless reviewed and saved from
137 repeal through reenactment by the Legislature.

138 Section 3. (1) The Legislature finds that it is a public
139 necessity that court hearings under part I of chapter 394 and
140 parts IV or V of chapter 397, Florida Statutes, be made
141 confidential and closed to the public unless the court finds
142 good cause to open a hearing to the public or the respondent
143 consents to a hearing being open to the public. The mental
144 health or substance abuse disorders of a person are medical
145 conditions that should be protected from public disclosure. A

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146 person's health and sensitive personal information regarding his
147 or her mental health or substance abuse disorders are intensely
148 private matters. Making hearings confidential and closed to the
149 public when such disorders, conditions, and personal information
150 may be communicated will protect such persons from the release
151 of sensitive personal information that could damage their and
152 their families' reputations. Allowing public hearings relating
153 to such information defeats the purpose of protections otherwise
154 provided. Further, the knowledge that such sensitive personal
155 information is subject to disclosure could have a chilling
156 effect on a person's willingness to seek out and comply with
157 mental health or substance abuse treatment services.

158 (2) The Legislature finds that it is a public necessity
159 that voluntary applications or petitions for involuntary
160 examination or treatment, court orders, and related records that
161 are filed with or by a court or relevant service provider under
162 part I of chapter 394 and parts IV or V of chapter 397, Florida
163 Statutes, and the personal identifying information of a person
164 with a potential mental, emotional, or behavioral disorder or a
165 substance abuse disorder which is published on a court docket
166 and maintained by the clerk of the court under part I of chapter
167 394 and parts IV or V of chapter 397, Florida Statutes, or with
168 the relevant service provider be made confidential and exempt
169 from disclosure under s. 119.07(1), Florida Statutes, and s.
170 24(a), Article I of the State Constitution. The mental health or
171 substance abuse disorders of a person are medical conditions
172 that should be protected from public disclosure. A person's
173 health and sensitive personal information regarding his or her
174 mental health or substance abuse disorders are intensely private

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175 matters. Making such applications, petitions, orders, records,
176 and personal identifying information confidential and exempt
177 from disclosure will protect such persons from the release of
178 sensitive personal information that could damage their and their
179 families' reputations. The publication of personal identifying
180 information on a physical or virtual docket, regardless of
181 whether any other record is published, defeats the purpose of
182 protections otherwise provided. Further, the knowledge that such
183 sensitive personal information is subject to disclosure could
184 have a chilling effect on a person's willingness to seek out and
185 comply with mental health or substance abuse treatment services.

186 Section 4. This act shall take effect on the same date that
187 SB 1492 or similar legislation takes effect, if such legislation
188 is adopted in the same legislative session or an extension
189 thereof and becomes a law.