

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 7004

INTRODUCER: Criminal Justice Committee

SUBJECT: OGSR/Conviction Integrity Unit Reinvestigation Information

DATE: January 9, 2026

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Cellon</u> <u>McVaney</u>	<u>Stokes</u> <u>McVaney</u>	<u>GO</u> <u>RC</u>	CJ Submitted as Comm. Bill/Fav Pre-meeting
2. _____	_____	_____	_____

I. Summary:

SB 7004 saves from repeal the current public records exemption that exempts from public records copying and inspection requirements the information or materials generated by a state attorney's conviction integrity unit while it is reinvestigating cases of previously convicted persons to review plausible claims of actual innocence.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reenacted by the Legislature. This bill saves the exemption from repeal by deleting the scheduled repeal date, thereby maintaining the current exempt status of the information.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*; see *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency-or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid & Assoc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²²

¹² FLA. CONST. art. I, s. 24(c).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are again required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

Agency Investigations

Section 119.071(2), F.S., contains general exemptions from the public records law for agency investigations. For purposes of ch. 119, F.S., the term “agency” means:

any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.²⁶

Public Records Exemption Under Review

In 2021, the Legislature created s. 119.071(2)(q), F.S., which made conviction integrity unit reinvestigation information exempt from s. 119.07(1), F.S., and article I, s. 24(a) of the State Constitution.

The information is exempt for a reasonable period of time during an active, ongoing, and good faith investigation of a claim of actual innocence in a criminal case that previously resulted in the conviction of the accused person and until the claim is no longer capable of further investigation.²⁷

In creating the exemption, the Legislature provided a public necessity statement articulating the following reasons for the exemption:

²³ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ Section 119.011(2), F.S.

²⁷ Section 119.071(2)(q)1.,2., F.S.

- Public release of conviction integrity unit reinvestigation information could result in the disclosure of sensitive information, such as the identity or location of an alternate suspect, a witness, or other evidence needed to exonerate a wrongfully convicted person, which could compromise the investigation of a wrongly convicted person's case.
- It is necessary to protect this information in order to encourage witnesses, who might otherwise be reluctant to come forward, to be forthcoming with evidence of a crime.
- It is in the interest of pursuing justice for persons who may have been wrongfully convicted that all conviction integrity unit reinvestigation information be protected until investigation of the claim of actual innocence is no longer capable of further investigation.
- The harm that may result from the release of such information outweighs any public benefit that may be derived from its disclosure, and that it is in the interest of the public to safeguard, preserve, and protect information relating to a claim of actual innocence by a person who may have been convicted of a crime that he or she did not commit.²⁸

The exemption of the information stands repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.²⁹

Conviction Integrity Review Units

A Conviction Integrity unit (sometimes referred to as a conviction integrity review (CIR) unit) is a unit established within a state attorney's office for the purpose of reviewing plausible claims of actual innocence.³⁰ In Florida, CIR units exist in state attorney offices in five of the twenty judicial circuits.³¹

All five of the CIR units have essentially the same procedures in place to begin an investigation. First, the CIR unit determines whether the case passes an initial screening. Some of the CIR units report that they rely upon an independent review panel of legal experts to work with the units to

²⁸ Chapter 2021-182, s. 2, Laws of Florida.

²⁹ Section 119.071(2)(q)1.2., F.S.

³⁰ Section 119.071(2)(q)1.a., F.S. For an example of how a CIR conducts and completes a review of a plausible claim of innocence, see the 2019 Case Report from a Fourth Judicial Circuit (Jacksonville) CIR investigation that resulted in the exoneration of two men, available at [cir investigative report final 3-28-19 r.pdf](https://sao4th.com/cir-investigative-report-final-3-28-19.pdf). (last visited Oct. 9, 2025).

³¹ Office of the State Attorney for the Fourth Judicial Circuit, *Conviction Integrity Review*, available at <https://www.sao4th.com/about/programs-and-initiatives/conviction-integrity-review/>; Office of the State Attorney for the Ninth Judicial Circuit, *Conviction Integrity Policy*, available at <https://sao9.net/resources/conviction-integrity/>; Office of the State Attorney for the Thirteenth Circuit, *Conviction Review Unit*, available at <https://hillsboroughsao.gov/about/programs/>; Office of the State Attorney for the Fifteenth Judicial Circuit, *Conviction Review Unit*; available at <https://sal5.org/conviction-review-unit/>; Office of the State Attorney for the Seventeenth Circuit, *Conviction Review Unit*, available at <https://browardsao.com/conviction-review-unit/>. Additionally, two circuits have "hybrid" conviction review processes. In 2003, the Eleventh Circuit State Attorney's Office created the Justice Project, an office initially formed to review claims of innocence based on DNA evidence. The office has expanded its scope to review all plausible claims of innocence. See Office of the State Attorney for the Eleventh Judicial Circuit, available at Our Work; Signature Programs; Justice Project. <https://miamisao.com/our-work/signature-programs/justice-project/>. Finally, the Eighth Judicial Circuit reports that no formal "unit" exists, but under certain circumstances, the office will review cases for concerns of actual innocence or unfair sentences. See Office of the State Attorney for the Eighth Judicial Circuit, survey *on file with the Senate Criminal Justice Committee*. (all sites last visited Oct. 9, 2025).

review and evaluate the cases under investigation. Ultimately, the CIR units require that the case present a plausible claim of innocence for the CIR investigation to take place.³²

The term “conviction integrity unit reinvestigation information” means information or materials generated during a new investigation by a conviction integrity unit following the unit’s formal written acceptance of an applicant’s case.³³ The term does not include:

- Information, materials, or records generated by a state attorney’s office during an investigation done for the purpose of responding to motions made pursuant to Rule 3.800, Rule 3.850, or Rule 3.853, Florida Rules of Criminal Procedure, or any other collateral proceeding.
- Petitions by applicants to the conviction integrity unit.
- Criminal investigative information generated before the commencement of a conviction integrity unit investigation which is not otherwise exempt from s. 119.07(2)(q), F.S.³⁴

Conviction Integrity Review Units Survey Responses

To determine whether and to what degree the public records exemption under review is utilized by the existing CIR units, legislative staff surveyed the state’s 20 state attorneys.³⁵ The survey showed that there are five active CIR units in the state.³⁶

Number of Case Investigations

Since the public records exemption was created in 2021, the five circuits’ CIR units have initiated the following number of cases that passed the initial petition phase and moved to the investigative phase:

- Fourth Circuit CIR: Of the 108 case investigations initiated 31 were active at the time of the survey responses in August 2025.
- Ninth Circuit CIR: At the time of the survey, the CIR had 98 cases awaiting initial review and 44 cases in the active investigation stage.
- Thirteenth Circuit CIR: Of the 312 petitions for investigation received, approximately 21 investigations were undertaken. Three investigations are still active.

³² Office of the State Attorney for the Fourth Judicial Circuit, *Conviction Integrity Review*, available at <https://www.sao4th.com/about/programs-and-initiatives/conviction-integrity-review/>; Office of the State Attorney for the Ninth Judicial Circuit, *Conviction Integrity Policy*, available at <https://sao9.net/resources/conviction-integrity/>; Office of the State Attorney for the Thirteenth Circuit, *Conviction Review Unit*, available at <https://hillsboroughsao.gov/about/programs/>; Office of the State Attorney for the Fifteenth Judicial Circuit, *Conviction Review Unit*; available at <https://sa15.org/conviction-review-unit/>; Office of the State Attorney for the Seventeenth Circuit, *Conviction Review Unit*, available at <https://browardsao.com/conviction-review-unit/>.

³³ Section 119.071(2)(q)1.b., F.S.

³⁴ Section 119.071(2)(q)1.(I)-(III), F.S.

³⁵ All survey responses are available *on file with the Senate Criminal Justice Committee*.

³⁶ Office of the State Attorney for the Fourth Judicial Circuit, *Conviction Integrity Review*, available at <https://www.sao4th.com/about/programs-and-initiatives/conviction-integrity-review/>; Office of the State Attorney for the Ninth Judicial Circuit, *Conviction Integrity Policy*, available at <https://sao9.net/resources/conviction-integrity/>; Office of the State Attorney for the Thirteenth Circuit, *Conviction Review Unit*, available at <https://hillsboroughsao.gov/about/programs/>; Office of the State Attorney for the Fifteenth Judicial Circuit, *Conviction Review Unit*; available at <https://sa15.org/conviction-review-unit/>; Office of the State Attorney for the Seventeenth Circuit, *Conviction Review Unit*, available at <https://browardsao.com/conviction-review-unit/>. (all sites last visited October 9, 2025).

- Fifteenth Circuit CIR: With 37 investigations having been initiated since 2021, 18 are still open.
- Seventeenth Circuit CIR: The Seventeenth Circuit CIR reports that between September 2019 and July 2025, the CIR had 460 inquiries with 203 closed cases. The CIR also reports approximately 70 petitions were open in June 2025 in various stages of review. The response does not specify any active or closed investigations.³⁷

Public Requests for the Protected Information Under Review

The survey asked the CIR units the approximate number of public records requests received *per year* for the exempt information under review and the type of entity requesting the information. The CIR units responded as follows to survey questions:

- Fourth Circuit CIR: One request made by the media.
- Ninth Circuit CIR: One request made by an applicant for his or her case to be investigated by the CIR requested exempt information.
- Thirteenth Circuit CIR: Five requests made by media and individuals.
- Fifteenth Circuit CIR: Four requests made by media.
- Seventeenth Circuit CIR: Approximately one or two per year made by defendants, family and friends of defendants, and media.³⁸

All CIR units report that they have received no complaints about the public record exemption under review. Based on information in the survey responses, the five CIR units are in complete agreement that the status of the public record exemption should remain active beyond October 2, 2026, its current repeal date.³⁹

III. Effect of Proposed Changes:

The bill removes the scheduled repeal of the public records exemption created in s. 119.071(2)(q), F.S., for information and materials generated by a conviction integrity unit while it is reinvestigating cases of previously convicted persons to review plausible claims of actual innocence.

The bill maintains the exempt status of information and materials generated by a conviction integrity unit while it is reinvestigating a case as defined in s. 119.07(2)(q), F.S., by deleting the scheduled October 2, 2026, repeal date.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities

³⁷ Responses from the five CIRs are available *on file with the Senate Criminal Justice Committee*.

³⁸ *Id.*

³⁹ *Id.*

have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption from the public records inspection and copying requirements. This bill does not expand an exemption; thus, the bill does not require a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption from the public records inspection and copying requirements to state with specificity the public necessity justifying the exemption. This bill does not expand an exemption; thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption from the public records inspection and copying requirements to be no broader than necessary to accomplish the stated purpose of the law. The release of the records protected from public records disclosure requirements could harm the integrity of an investigation if disclosed while the investigation is active. The exemptions in the bill, therefore, do not appear to be broader than necessary to accomplish the purposes of the laws.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
