



252982

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/17/2015	.	
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The Committee on Governmental Oversight and Accountability  
(Ring) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraphs (g) through (k) of subsection (2) of  
section 119.071, Florida Statutes, are redesignated as  
paragraphs (h) through (l), respectively, and a new paragraph  
(g) is added to that subsection, to read:

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



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11 (2) AGENCY INVESTIGATIONS.-

12 (g)1. An audio or video recording made by a law enforcement  
13 officer in the course of the officer performing his or her  
14 official duties and responsibilities is exempt from 119.07(1)  
15 and s. 24(a), Art. 1 of the State Constitution, if the  
16 recording:

17 a. Is taken within the interior of a private residence;

18 b. Is taken on the property of a facility that offers  
19 health care, mental health care, or social services;

20 c. Is taken at the scene of a medical emergency; or

21 d. Is taken in a place where a person recorded or depicted  
22 in the recording has a reasonable expectation of privacy.

23 2. If the audio or video recording or a portion of such  
24 recording is exempt or confidential and exempt pursuant to  
25 another law, that exemption applies and determines under which  
26 circumstances, if any, the recording or a portion of the  
27 recording may be disclosed to the public.

28 3. The law enforcement agency having custody of an audio or  
29 video recording described in subparagraph 1. may disclose the  
30 recording to another law enforcement agency in furtherance of  
31 that agency's official duties and responsibilities.

32 4.a. In accordance with s. 119.07, the following persons  
33 may inspect an audio or video recording described in  
34 subparagraph 1.:

35 (I) A person recorded or depicted in the recording.

36 (II) The agent or attorney of a person recorded or depicted  
37 in the recording, if inspection is authorized by that person or  
38 his or her legal representative.

39 (III) A person not recorded or depicted in the recording,



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40 if inspection is authorized by all persons recorded or depicted  
41 in the recording.

42 b. This subparagraph does not apply to information in the  
43 recording that is exempt or confidential and exempt pursuant to  
44 another provision of law.

45 5. A law enforcement agency under this paragraph must have  
46 a retention policy of not shorter than 4 years for audio or  
47 video recordings unless the audio or video recording is part of  
48 an active criminal investigation or criminal intelligence  
49 operation or a court orders its retention for a longer period. A  
50 law enforcement agency must disclose its records retention  
51 policy for audio or video recordings under this paragraph.

52 6. This exemption shall be given retroactive application  
53 unless the audio or video recording or a portion of such  
54 recording is exempt or confidential and exempt pursuant to  
55 another exemption, then that exemption determines if  
56 retroactivity applies.

57 7. This paragraph is subject to the Open Government Sunset  
58 Review Act in accordance with s. 119.15 and shall stand repealed  
59 on October 2, 2020, unless reviewed and saved from repeal  
60 through reenactment by the Legislature.

61 Section 2. Paragraph (a) of subsection (1) of section  
62 92.56, Florida Statutes, is amended to read:

63 92.56 Judicial proceedings and court records involving  
64 sexual offenses and human trafficking.—

65 (1)(a) The confidential and exempt status of criminal  
66 intelligence information or criminal investigative information  
67 made confidential and exempt pursuant to s. 119.071(2)(i) ~~s.~~  
68 ~~119.071(2)(h)~~ must be maintained in court records pursuant to s.



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69 119.0714(1) (h) and in court proceedings, including testimony  
70 from witnesses.

71 Section 3. Paragraph (c) of subsection (3) of section  
72 119.011, Florida Statutes, is amended to read:

73 119.011 Definitions.—As used in this chapter, the term:

74 (3)

75 (c) "Criminal intelligence information" and "criminal  
76 investigative information" shall not include:

77 1. The time, date, location, and nature of a reported  
78 crime.

79 2. The name, sex, age, and address of a person arrested or  
80 of the victim of a crime except as provided in s. 119.071(2) (i)  
81 ~~s. 119.071(2) (h)~~.

82 3. The time, date, and location of the incident and of the  
83 arrest.

84 4. The crime charged.

85 5. Documents given or required by law or agency rule to be  
86 given to the person arrested, except as provided in s.  
87 119.071(2) (i) ~~s. 119.071(2) (h)~~, and, except that the court in a  
88 criminal case may order that certain information required by law  
89 or agency rule to be given to the person arrested be maintained  
90 in a confidential manner and exempt from the provisions of s.  
91 119.07(1) until released at trial if it is found that the  
92 release of such information would:

93 a. Be defamatory to the good name of a victim or witness or  
94 would jeopardize the safety of such victim or witness; and

95 b. Impair the ability of a state attorney to locate or  
96 prosecute a codefendant.

97 6. Informations and indictments except as provided in s.



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98 905.26.

99 Section 4. Paragraph (h) of subsection (1) of section  
100 119.0714, Florida Statutes, is amended to read:

101 119.0714 Court files; court records; official records.—

102 (1) COURT FILES.—Nothing in this chapter shall be construed  
103 to exempt from s. 119.07(1) a public record that was made a part  
104 of a court file and that is not specifically closed by order of  
105 court, except:

106 (h) Criminal intelligence information or criminal  
107 investigative information that is confidential and exempt as  
108 provided in s. 119.071(2)(i) ~~s. 119.071(2)(h)~~.

109 Section 5. Paragraph (b) of subsection (4) of section  
110 784.046, Florida Statutes, is amended to read:

111 784.046 Action by victim of repeat violence, sexual  
112 violence, or dating violence for protective injunction; dating  
113 violence investigations, notice to victims, and reporting;  
114 pretrial release violations; public records exemption.—

115 (4)

116 (b) The sworn petition must be in substantially the  
117 following form:

118

119 PETITION FOR INJUNCTION FOR PROTECTION  
120 AGAINST REPEAT VIOLENCE, SEXUAL  
121 VIOLENCE, OR DATING VIOLENCE  
122

123 Before me, the undersigned authority, personally appeared  
124 Petitioner ...(Name)..., who has been sworn and says that the  
125 following statements are true:  
126





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156 fact that the respondent has: ...(list the specific incident or  
157 incidents of violence and describe the length of time of the  
158 relationship, whether it has been in existence during the last 6  
159 months, the nature of the relationship of a romantic or intimate  
160 nature, the frequency and type of interaction, and any other  
161 facts that characterize the relationship.)...

162  
163 .....  
164 .....  
165 .....

166  
167 4. Petitioner genuinely fears repeat violence by the  
168 respondent.

169 5. Petitioner seeks: an immediate injunction against the  
170 respondent, enjoining him or her from committing any further  
171 acts of violence; an injunction enjoining the respondent from  
172 committing any further acts of violence; and an injunction  
173 providing any terms the court deems necessary for the protection  
174 of the petitioner and the petitioner's immediate family,  
175 including any injunctions or directives to law enforcement  
176 agencies.

177 Section 6. Subsection (1) of section 794.024, Florida  
178 Statutes, is amended to read:

179 794.024 Unlawful to disclose identifying information.—

180 (1) A public employee or officer who has access to the  
181 photograph, name, or address of a person who is alleged to be  
182 the victim of an offense described in this chapter, chapter 800,  
183 s. 827.03, s. 827.04, or s. 827.071 may not willfully and  
184 knowingly disclose it to a person who is not assisting in the



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185 investigation or prosecution of the alleged offense or to any  
186 person other than the defendant, the defendant's attorney, a  
187 person specified in an order entered by the court having  
188 jurisdiction of the alleged offense, or organizations authorized  
189 to receive such information made exempt by s. 119.071(2)(i) ~~s.~~  
190 ~~119.071(2)(h)~~, or to a rape crisis center or sexual assault  
191 counselor, as defined in s. 90.5035(1)(b), who will be offering  
192 services to the victim.

193 Section 7. Section 794.03, Florida Statutes, is amended to  
194 read:

195 794.03 Unlawful to publish or broadcast information  
196 identifying sexual offense victim.—No person shall print,  
197 publish, or broadcast, or cause or allow to be printed,  
198 published, or broadcast, in any instrument of mass communication  
199 the name, address, or other identifying fact or information of  
200 the victim of any sexual offense within this chapter, except as  
201 provided in s. 119.071(2)(i) ~~s. 119.071(2)(h)~~ or unless the  
202 court determines that such information is no longer confidential  
203 and exempt pursuant to s. 92.56. An offense under this section  
204 shall constitute a misdemeanor of the second degree, punishable  
205 as provided in s. 775.082 or s. 775.083.

206 Section 8. The Legislature finds that it is a public  
207 necessity that an audio or video recording made by a law  
208 enforcement officer in the course of the officer performing his  
209 or her official duties and responsibilities be made exempt from  
210 the public records requirements of s. 119.07(1), Florida  
211 Statutes, and s. 24(a), Article I of the State Constitution, if  
212 the recording: is taken within the interior of a private  
213 residence; is taken on the property of a facility that offers



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214 health care, mental health care, or social services; is taken at  
215 the scene of a medical emergency; is taken at a place where a  
216 person recorded or depicted in the recording has a reasonable  
217 expectation of privacy. The Legislature finds that information  
218 recorded by these devices in these circumstances is  
219 significantly more likely to include highly sensitive personal  
220 information regarding the persons recorded than in other  
221 circumstances. The Legislature finds that public disclosure of  
222 these recordings could have an undesirable, chilling effect:  
223 persons who know sensitive personal information about them is  
224 being or may be recorded may be unwilling to cooperate with law  
225 enforcement officers and make calls for the services of law  
226 enforcement officers. This exemption allows law enforcement  
227 officers to more effectively and efficiently administer their  
228 duties, which would otherwise be significantly impaired. In the  
229 case of minors, information about those minors could jeopardize  
230 their safety if the minors' identities and whereabouts are  
231 recorded and open for anyone to request and keep. The  
232 Legislature recognizes an individual's right to be free of  
233 government intrusion as codified in s. 23, Article I of the  
234 State Constitution and finds that these exemptions to the public  
235 records laws do not limit the public's right to open government.  
236 The Legislature finds that these interests or concerns not only  
237 necessitate the exemption of the recordings but outweigh any  
238 public benefit that may be derived from their disclosure.

239 Section 9. This act shall take effect July 1, 2015.

240  
241 ===== T I T L E A M E N D M E N T =====

242 And the title is amended as follows:



243 Delete everything before the enacting clause  
244 and insert:

245 A bill to be entitled  
246 An act relating to public records; amending s.  
247 119.071, F.S.; providing an exemption from public  
248 record requirements for an audio or video recording  
249 made by a law enforcement officer in the course of the  
250 officer performing his or her official duties and  
251 responsibilities, if the recording is taken within  
252 certain locations; specifying how the exemption  
253 operates in relation to other exemptions that may  
254 apply to the recording; authorizing the law  
255 enforcement agency with custody over the recording to  
256 disclose the recording to another law enforcement  
257 agency in furtherance of that agency's official duties  
258 and responsibilities; specifying persons who may  
259 inspect the recording; requiring a law enforcement  
260 agency to have a retention policy for audio or video  
261 recordings of not shorter than 4 years; providing an  
262 exception; requiring a law enforcement agency to  
263 disclose its records retention policy for audio or  
264 video recordings; providing retroactive application of  
265 the exemption; providing an exception; providing for  
266 future legislative review and repeal of the exemption  
267 under the Open Government Sunset Review Act; amending  
268 ss. 92.56, 119.011, 119.0714, 784.046, 794.024, and  
269 794.03, F.S.; conforming cross-references; providing a  
270 statement of public necessity; providing an effective  
271 date.