

By the Committee on Criminal Justice; and Senators Smith, Thompson, and Bullard

591-01634-15

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; providing an exemption from public
4 record requirements for an audio or video recording
5 made by a law enforcement officer in the course of the
6 officer performing his or her official duties and
7 responsibilities, if the recording is taken within
8 certain locations, shows a minor inside a school or on
9 school property, or shows a child younger than 14
10 years of age at any location; specifying how the
11 exemption operates in relation to other exemptions
12 that may apply to the recording; providing for future
13 legislative review and repeal of the exemption under
14 the Open Government Sunset Review Act; authorizing the
15 law enforcement agency with custody over the recording
16 to disclose the recording to another law enforcement
17 agency in furtherance of that agency's official duties
18 and responsibilities; specifying persons who may
19 inspect the recording; requiring a law enforcement
20 agency to have a retention policy for audio or video
21 recordings of not longer than 90 days; providing an
22 exception; requiring a law enforcement agency to
23 disclose its records retention policy for audio or
24 video recordings; amending ss. 92.56, 119.011,
25 119.0714, 784.046, 794.024, and 794.03, F.S.;
26 conforming cross-references; providing a statement of
27 public necessity; providing an effective date.

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

591-01634-15

2015248c1

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31 Section 1. Paragraphs (g), (h), (i), (j), and (k) of
32 subsection (2) of section 119.071, Florida Statutes, are
33 redesignated as paragraphs (h), (i), (j), (k), and (l),
34 respectively, and paragraph (g) is added to that subsection, to
35 read:

36 119.071 General exemptions from inspection or copying of
37 public records.—

38 (2) AGENCY INVESTIGATIONS.—

39 (g)1. An audio or video recording made by a law enforcement
40 officer in the course of the officer performing his or her
41 official duties and responsibilities is exempt from 119.07(1)
42 and s. 24(a), Art. 1 of the State Constitution, if the
43 recording:

44 a. Is taken within the interior of a private residence;
45 b. Is taken on the property of a facility that offers
46 health care, mental health care, or social services;
47 c. Is taken at the scene of a medical emergency;
48 d. Is taken in a place where a person recorded or depicted
49 in the recording has a reasonable expectation of privacy; or
50 e. Shows a child younger than 18 years of age inside a
51 school, as defined in s. 1003.01, or on school property, as
52 defined in s. 810.095, or shows a child younger than 14 years of
53 age at any location.

54 2. If the audio or video recording or a portion of such
55 recording is exempt or confidential and exempt pursuant to
56 another exemption in this section, that exemption applies and
57 determines under which circumstances, if any, the recording or a
58 portion of the recording may be disclosed to the public.

591-01634-15

2015248c1

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

63 4. The law enforcement agency having custody of an audio or
64 video recording described in subparagraph 1. may disclose the
65 recording to another law enforcement agency in furtherance of
66 that agency's official duties and responsibilities.

67 5.a. In accordance with s. 119.07, the following persons
68 may inspect an audio or video recording described in
69 subparagraph 1.:

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

71 (II.) The agent or attorney of a person recorded or
72 depicted in the recording, if inspection is authorized by that
73 person.

74 (III.) A person not recorded or depicted in the recording,
75 if inspection is authorized by all persons recorded or depicted
76 in the recording.

77 b. This subparagraph does not apply to information in the
78 recording that is exempt or confidential and exempt pursuant to
79 another provision of this section.

80 6. A law enforcement agency under this paragraph must have
81 a retention policy of not longer than 90 days for audio or video
82 recordings unless the audio or video recording is part of an
83 active criminal investigation or criminal intelligence operation
84 or a court orders its retention for a longer period. A law
85 enforcement agency must disclose its records retention policy
86 for audio or video recordings under this paragraph.

87 Section 2. Paragraph (a) of subsection (1) of section

591-01634-15

2015248c1

88 92.56, Florida Statutes, is amended to read:

89 92.56 Judicial proceedings and court records involving
90 sexual offenses and human trafficking.—

91 (1) (a) The confidential and exempt status of criminal
92 intelligence information or criminal investigative information
93 made confidential and exempt pursuant to s. 119.071(2)(i) ~~s.~~
94 ~~119.071(2)(h)~~ must be maintained in court records pursuant to s.
95 119.0714(1)(h) and in court proceedings, including testimony
96 from witnesses.

97 Section 3. Paragraph (c) of subsection (3) of section
98 119.011, Florida Statutes, is amended to read:

99 119.011 Definitions.—As used in this chapter, the term:

100 (3)

101 (c) "Criminal intelligence information" and "criminal
102 investigative information" shall not include:

103 1. The time, date, location, and nature of a reported
104 crime.

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

108 3. The time, date, and location of the incident and of the
109 arrest.

110 4. The crime charged.

111 5. Documents given or required by law or agency rule to be
112 given to the person arrested, except as provided in s.
113 119.071(2)(i) ~~s. 119.071(2)(h)~~, and, except that the court in a
114 criminal case may order that certain information required by law
115 or agency rule to be given to the person arrested be maintained
116 in a confidential manner and exempt from the provisions of s.

591-01634-15

2015248c1

117 119.07(1) until released at trial if it is found that the
118 release of such information would:

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

121 b. Impair the ability of a state attorney to locate or
122 prosecute a codefendant.

123 6. Informations and indictments except as provided in s.
124 905.26.

125 Section 4. Paragraph (h) of subsection (1) of section
126 119.0714, Florida Statutes, is amended to read:

127 119.0714 Court files; court records; official records.—

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

132 (h) Criminal intelligence information or criminal
133 investigative information that is confidential and exempt as
134 provided in s. 119.071(2)(i) ~~s. 119.071(2)(h)~~.

135 Section 5. Paragraph (b) of subsection (4) of section
136 784.046, Florida Statutes, is amended to read:

137 784.046 Action by victim of repeat violence, sexual
138 violence, or dating violence for protective injunction; dating
139 violence investigations, notice to victims, and reporting;
140 pretrial release violations; public records exemption.—

141 (4)

142 (b) The sworn petition must be in substantially the
143 following form:

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PETITION FOR INJUNCTION FOR PROTECTION

591-01634-15

2015248c1

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AGAINST REPEAT VIOLENCE, SEXUAL
VIOLENCE, OR DATING VIOLENCE

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

1. Petitioner resides at ...(address)... (A petitioner for
an injunction for protection against sexual violence may furnish
an address to the court in a separate confidential filing if,
for safety reasons, the petitioner requires the location of his
or her current residence to be confidential pursuant to s.
119.071(2)(k) ~~s. 119.071(2)(j)~~, Florida Statutes.)

2. Respondent resides at ...(address)....

3.a. Petitioner has suffered repeat violence as
demonstrated by the fact that the respondent has:
...(enumerate incidents of violence)...

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b. Petitioner has suffered sexual violence as demonstrated
by the fact that the respondent has: ...(enumerate incident of
violence and include incident report number from law enforcement
agency or attach notice of inmate release.)...

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591-01634-15

2015248c1

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c. Petitioner is a victim of dating violence and has reasonable cause to believe that he or she is in imminent danger of becoming the victim of another act of dating violence or has reasonable cause to believe that he or she is in imminent danger of becoming a victim of dating violence, as demonstrated by the fact that the respondent has: ...(list the specific incident or incidents of violence and describe the length of time of the relationship, whether it has been in existence during the last 6 months, the nature of the relationship of a romantic or intimate nature, the frequency and type of interaction, and any other facts that characterize the relationship.)...

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4. Petitioner genuinely fears repeat violence by the respondent.

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

Section 6. Subsection (1) of section 794.024, Florida

591-01634-15

2015248c1

204 Statutes, is amended to read:

205 794.024 Unlawful to disclose identifying information.—

206 (1) A public employee or officer who has access to the
207 photograph, name, or address of a person who is alleged to be
208 the victim of an offense described in this chapter, chapter 800,
209 s. 827.03, s. 827.04, or s. 827.071 may not willfully and
210 knowingly disclose it to a person who is not assisting in the
211 investigation or prosecution of the alleged offense or to any
212 person other than the defendant, the defendant's attorney, a
213 person specified in an order entered by the court having
214 jurisdiction of the alleged offense, or organizations authorized
215 to receive such information made exempt by s. 119.071(2)(i) ~~s.~~
216 ~~119.071(2)(h)~~, or to a rape crisis center or sexual assault
217 counselor, as defined in s. 90.5035(1)(b), who will be offering
218 services to the victim.

219 Section 7. Section 794.03, Florida Statutes, is amended to
220 read:

221 794.03 Unlawful to publish or broadcast information
222 identifying sexual offense victim.—No person shall print,
223 publish, or broadcast, or cause or allow to be printed,
224 published, or broadcast, in any instrument of mass communication
225 the name, address, or other identifying fact or information of
226 the victim of any sexual offense within this chapter, except as
227 provided in s. 119.071(2)(i) ~~s. 119.071(2)(h)~~ or unless the
228 court determines that such information is no longer confidential
229 and exempt pursuant to s. 92.56. An offense under this section
230 shall constitute a misdemeanor of the second degree, punishable
231 as provided in s. 775.082 or s. 775.083.

232 Section 8. The Legislature finds that it is a public

591-01634-15

2015248c1

233 necessity that an audio or video recording made by a law
234 enforcement officer in the course of the officer performing his
235 or her official duties and responsibilities be made exempt from
236 the public records requirements of s. 119.07(1) and s. 24(a),
237 Article I of the State Constitution, if the recording: is taken
238 within the interior of a private residence; is taken on the
239 property of a facility that offers health care, mental health
240 care, or social services; is taken at the scene of a medical
241 emergency; is taken at a place where a person recorded or
242 depicted in the recording has a reasonable expectation of
243 privacy; or shows a child younger than 18 years of age inside a
244 school or on school property or a child younger than 14 years of
245 age at any location. The Legislature finds that information
246 recorded by these devices in these circumstances is
247 significantly more likely to include highly sensitive personal
248 information regarding the persons recorded than in other
249 circumstances. The Legislature finds that public disclosure of
250 these recordings could have an undesirable, chilling effect:
251 persons who know sensitive personal information about them is
252 being or may be recorded may be unwilling to cooperate with law
253 enforcement officers and make calls for the services of law
254 enforcement officers. In the case of minors, information about
255 those minors could jeopardize their safety. The Legislature
256 finds that these interests or concerns not only necessitate the
257 exemption of the recordings but outweigh any public benefit that
258 may be derived from their disclosure.

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