

By the Committee on Criminal Justice; and Senator Book

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1 A bill to be entitled
2 An act relating to public records and public meetings;
3 amending s. 112.324, F.S.; providing an exception to
4 the expiration of certain public records and public
5 meetings exemptions under specified circumstances;
6 prohibiting the disclosure of the personal identifying
7 information of an alleged victim of sexual harassment
8 or sexual misconduct, or information that could assist
9 an individual in determining the identity of such
10 alleged victim, in any portion of a proceeding
11 conducted by the Commission on Ethics, a commission on
12 ethics and public trust, or a county or a municipality
13 that has established a local investigatory process
14 which is open to the public; providing for future
15 legislative review and repeal; amending s. 119.071,
16 F.S.; providing an exemption from public records
17 requirements for complaints, referrals, and reports
18 alleging sexual harassment or sexual misconduct, and
19 any related records, which are held by an agency;
20 specifying conditions upon which the exemption
21 expires; providing that the personal identifying
22 information of an alleged victim of sexual harassment
23 or sexual misconduct, or information that could assist
24 an individual in determining the identity of such
25 alleged victim, remains confidential and exempt from
26 public records requirements; authorizing disclosure
27 under specified circumstances; providing for future
28 legislative review and repeal; amending s. 286.0113,
29 F.S.; providing an exemption from public meetings

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30 requirements for any portion of a meeting that would
31 reveal records involving an allegation of sexual
32 harassment or sexual misconduct made confidential and
33 exempt under the act; specifying conditions upon which
34 the exemption expires; prohibiting the disclosure of
35 the personal identifying information of an alleged
36 victim of sexual harassment or sexual misconduct, or
37 information that could assist an individual in
38 determining the identity of such alleged victim, in
39 any portion of a meeting open to the public; providing
40 for future legislative review and repeal; providing
41 statements of public necessity; providing an effective
42 date.

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

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46 Section 1. Subsection (2) of section 112.324, Florida
47 Statutes, is amended to read:

48 112.324 Procedures on complaints of violations and
49 referrals; public records and meeting exemptions.—

50 (2) (a) The complaint and records relating to the complaint
51 or to any preliminary investigation held by the commission or
52 its agents, by a Commission on Ethics and Public Trust
53 established by any county defined in s. 125.011(1) or by any
54 municipality defined in s. 165.031, or by any county or
55 municipality that has established a local investigatory process
56 to enforce more stringent standards of conduct and disclosure
57 requirements as provided in s. 112.326 are confidential and
58 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

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59 Constitution.

60 (b) Written referrals and records relating to such
61 referrals held by the commission or its agents, the Governor,
62 the Department of Law Enforcement, or a state attorney, and
63 records relating to any preliminary investigation of such
64 referrals held by the commission or its agents, are confidential
65 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
66 Constitution.

67 (c) Any portion of a proceeding conducted by the
68 commission, a Commission on Ethics and Public Trust, or a county
69 or municipality that has established such local investigatory
70 process, pursuant to a complaint or preliminary investigation,
71 is exempt from s. 286.011, s. 24(b), Art. I of the State
72 Constitution, and s. 120.525.

73 (d) Any portion of a proceeding of the commission in which
74 a determination regarding a referral is discussed or acted upon
75 is exempt from s. 286.011 and s. 24(b), Art. I of the State
76 Constitution, and s. 120.525.

77 (e) The exemptions in paragraphs (a)-(d) apply until:

78 1. The complaint is dismissed as legally insufficient;

79 2. Except in connection with complaints or referrals that
80 involve allegations of sexual harassment or sexual misconduct,
81 the alleged violator requests in writing that such records and
82 proceedings be made public;

83 3. The commission determines that it will not investigate
84 the referral; or

85 4. The commission, a commission on ethics and public trust,
86 or a county or municipality that has established such local
87 investigatory process determines, based on such investigation,

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88 whether probable cause exists to believe that a violation has
89 occurred.

90 (f) Notwithstanding paragraph (e), the personal identifying
91 information of an alleged victim of sexual harassment or sexual
92 misconduct or any information that could assist an individual in
93 determining the identity of such alleged victim remains
94 confidential and exempt as provided under s. 119.071(2)(n)3. and
95 may not be disclosed in a portion of a proceeding conducted by
96 the commission, a commission on ethics and public trust, or a
97 county or municipality that has established such local
98 investigatory process which is open to the public.

99 (g) This subsection is subject to the Open Government
100 Sunset Review Act in accordance with s. 119.15 and shall stand
101 repealed on October 2, 2024, unless reviewed and saved from
102 repeal through reenactment by the Legislature.

103 (h)~~(f)~~ A complaint or referral under this part against a
104 candidate in any general, special, or primary election may not
105 be filed nor may any intention of filing such a complaint or
106 referral be disclosed on the day of any such election or within
107 the 30 days immediately preceding the date of the election,
108 unless the complaint or referral is based upon personal
109 information or information other than hearsay.

110 Section 2. Paragraph (n) of subsection (2) of section
111 119.071, Florida Statutes, is amended to read:

112 119.071 General exemptions from inspection or copying of
113 public records.—

114 (2) AGENCY INVESTIGATIONS.—

115 (n) 1. Complaints, referrals, and reports that allege sexual
116 harassment or sexual misconduct, including allegations of sexual

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117 harassment or sexual misconduct in violation of part III of
118 chapter 112, and any related records that are held by an agency
119 are Personal identifying information of the alleged victim in an
120 allegation of sexual harassment is confidential and exempt from
121 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

122 Such information may be disclosed to another governmental entity
123 in the furtherance of its official duties and responsibilities.

124 2. Except as provided in subparagraph 3., the exemption in
125 subparagraph 1. applies until:

126 a. The agency determines that it will not investigate the
127 allegation;

128 b. The agency takes disciplinary action against the subject
129 of the allegation and determines that it will take no further
130 action in the matter; or

131 c. A finding is made as to whether probable cause exists.

132 3. Notwithstanding the release of any record pursuant to
133 subparagraph 2., the personal identifying information of an
134 alleged victim of sexual harassment or sexual misconduct or any
135 information that could assist an individual in determining the
136 identity of such alleged victim, shall remain confidential and
137 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
138 Constitution. Such information may be disclosed to another
139 governmental entity in the furtherance of the agency's official
140 duties and responsibilities or to the parties to the allegation
141 and their attorneys.

142 4. This paragraph is subject to the Open Government Sunset
143 Review Act in accordance with s. 119.15 and shall stand repealed
144 on October 2, 2024 ~~2022~~, unless reviewed and saved from repeal
145 through reenactment by the Legislature.

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146 Section 3. Subsection (3) is added to section 286.0113,
147 Florida Statutes, to read:

148 286.0113 General exemptions from public meetings.—

149 (3) (a) Any portion of a meeting that would reveal any
150 records involving an allegation of sexual harassment or sexual
151 misconduct which are made confidential and exempt by s.
152 119.071(2) (n)1. is exempt from s. 286.011 and s. 24(b), Art. I
153 of the State Constitution until the agency:

154 1. Determines it will not investigate the allegation;

155 2. Takes disciplinary action against the subject of the
156 allegation and determines it will take no further action; or

157 3. Makes a finding as to probable cause.

158 (b) Notwithstanding paragraph (a), the personal identifying
159 information of an alleged victim of sexual harassment or sexual
160 misconduct or any information that could assist an individual in
161 determining the identity of such alleged victim remains
162 confidential and exempt as provided under s. 119.071(2) (n)3. and
163 may not be disclosed in a portion of a meeting that is open to
164 the public.

165 (c) This subsection is subject to the Open Government
166 Sunset Review Act in accordance with s. 119.15 and shall stand
167 repealed on October 2, 2024, unless reviewed and saved from
168 repeal through reenactment by the Legislature.

169 Section 4. (1) The Legislature finds that it is a public
170 necessity that complaints, referrals, and reports alleging
171 sexual harassment or sexual misconduct, and any related records
172 that are held by an agency, be made confidential and exempt from
173 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
174 State Constitution until the agency determines that it will not

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175 investigate the allegation; takes disciplinary action against
176 the subject of the allegation and determines it will take no
177 further action; or makes a finding as to probable cause. This
178 exemption is necessary because the release of such information
179 could potentially be defamatory to an individual under
180 investigation; could subject alleged victims to further sexual
181 harassment or retaliation; or could significantly impair the
182 integrity of any investigation of such allegations.
183 Additionally, the potential for disclosure of such information
184 could create a disincentive for alleged victims to report
185 instances of alleged harassment or misconduct. The Legislature
186 finds that the potential harm that may result from the release
187 of such information outweighs any public benefit that may be
188 derived from the disclosure of such information.

189 (2) The Legislature also finds that it is a public
190 necessity that any portion of a meeting that would reveal any
191 records involving an allegation of sexual harassment or sexual
192 misconduct which are made confidential and exempt under s.
193 119.071(2)(n)1., Florida Statutes, be made exempt under s.
194 286.011, Florida Statutes, and s. 24(b), Article I of the State
195 Constitution until the agency determines that it will not
196 investigate the allegation; takes disciplinary action against
197 the subject of the allegation and determines it will take no
198 further action; or makes a finding as to probable cause.
199 Furthermore, the Legislature finds that it is a public necessity
200 to prohibit the disclosure of the personal identifying
201 information of an alleged victim of sexual harassment or sexual
202 misconduct, or any information that could assist an individual
203 in determining the identity of such alleged victim, in any

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204 portion of a proceeding conducted by the Commission on Ethics, a
205 commission on ethics and public trust, or a county or
206 municipality that has established a local investigatory process
207 which is open to the public, or any portion of a meeting of any
208 board or commission of any state agency or authority or of any
209 agency or authority of any county, municipal corporation, or
210 political subdivision which is open to the public. The failure
211 to close a meeting at which records involving an allegation of
212 sexual harassment or sexual misconduct are discussed or acted
213 upon would defeat the purpose of the public records exemption.
214 The Legislature also finds that it is necessary to maintain the
215 confidentiality of an alleged victim's identity after an agency
216 determines that it will not investigate the allegation; takes
217 disciplinary action against the subject of the allegation and
218 determines it will take no further action; or makes a finding as
219 to probable cause, because a victim may remain at risk of
220 further harassment and retaliation, and the disclosure of the
221 victim's identity may cause damage to his or her reputation.

222 Section 5. This act shall take effect upon becoming a law.