

Committee on Criminal Justice

CS/CS/HB 111 — Public Records/Identity of Witness to a Murder

by Judiciary Committee; Criminal Justice Subcommittee; and Reps. Stafford, McGhee, and others (CS/CS/SB 550 by Judiciary Committee; Criminal Justice Committee; and Senators Bracy and Campbell)

The bill (Chapter 2017-11, L.O.F.) designates “criminal intelligence or investigative information that reveals the personal identifying information of a witness to a murder” as confidential and exempt from the disclosure requirements under the public records laws. Therefore, if a person submits a public records request for records containing this information to a state agency, the agency may not provide access to or disclose the information.

This confidentiality survives the information entering a court file. The confidential and exempt status of these records applies for a period of two years following the commission of the murder observed by the witness. This means that even if the state provided a witness’ identity to the defendant during discovery, the information would not be public for a two-year window from the date the witness observed the murder.

As exceptions to the general prohibition on disclosing these murder witness records, a state agency may disclose these records:

- In the furtherance of its official duties and responsibilities;
- To assist in locating or identifying the witness if the witness is believed to be missing or endangered;
- To another governmental agency for use in the performance of its official duties and responsibilities; or
- To the parties in a pending criminal prosecution as required by law.

The bill also provides a statement of public necessity as required by the Florida Constitution. This statement includes the following findings:

- The judicial system cannot function without the participation of witnesses.
- Complete cooperation and truthful testimony of witnesses are essential to the determination of the facts of a case.
- The public disclosure of personal identifying information of a witness to a murder could have a chilling effect on persons stepping forward and providing their accounts of a murder that has been witnessed.
- A witness to a murder may be unwilling to cooperate fully with law enforcement officers if the witness knows his or her personal identifying information can be made publicly available.
- A witness may be less likely to call a law enforcement officer and report a murder if his or her personal identifying information is made available in connection with the murder that is being reported or under investigation.
- A witness could become the subject of intimidation tactics or threats by the perpetrator of the murder if the witness’s personal identifying information is publicly available.

The bill is subject to the Open Government Sunset Review Act, and therefore stands repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

These provisions were approved by the Governor and take effect July 1, 2017.

Vote: Senate 34-3; House 113-3