

FOR CONSIDERATION By the Committee on Ethics and Elections

582-00636A-13

20137008

1 A bill to be entitled
2 An act relating to public records and meetings;
3 amending s. 112.324, F.S.; creating an exemption from
4 public records requirements for written referrals and
5 related records held by the Commission on Ethics, the
6 Governor, the Department of Law Enforcement, or state
7 attorneys; creating an exemption for records relating
8 to a preliminary investigation held by the Commission
9 on Ethics; creating an exemption from public meetings
10 requirements for proceedings of the Commission on
11 Ethics in which the referrals are discussed or acted
12 upon; extending the period in which the disclosure of
13 the intent to file or the filing of a complaint
14 against a candidate is prohibited; providing an
15 exception; prohibiting the disclosure of the intent to
16 file or the filing of a referral against a candidate
17 on the day of an election or within a specified time
18 period immediately preceding such election; providing
19 an exception; providing for future repeal and
20 legislative review of the exemption under the Open
21 Government Sunset Review Act; providing a statement of
22 public necessity; providing a contingent effective
23 date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsection (2) of section 112.324, Florida
28 Statutes, is amended to read:

29 112.324 Procedures on complaints of violations; public

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30 records and meeting exemptions.—

31 (2) (a) The complaint and records relating to the complaint
32 or to any preliminary investigation held by the commission or
33 its agents, by a Commission on Ethics and Public Trust
34 established by any county defined in s. 125.011(1) or by any
35 municipality defined in s. 165.031, or by any county or
36 municipality that has established a local investigatory process
37 to enforce more stringent standards of conduct and disclosure
38 requirements as provided in s. 112.326 are confidential and
39 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
40 of the State Constitution.

41 (b) Written referrals and records relating to such
42 referrals held by the commission or its agents, the Governor,
43 the Department of Law Enforcement, or state attorneys, and
44 records relating to any preliminary investigation of such
45 referrals held by the commission or its agents, are confidential
46 and exempt from the provisions of s. 119.07(1) and s. 24(a),
47 Art. I of the State Constitution.

48 (c) ~~(b)~~ Any proceeding conducted by the commission, a
49 Commission on Ethics and Public Trust, or a county or
50 municipality that has established such local investigatory
51 process, pursuant to a complaint or preliminary investigation,
52 is exempt from the provisions of s. 286.011, s. 24(b), Art. I of
53 the State Constitution, and s. 120.525.

54 (d) Any proceeding of the commission in which a
55 determination regarding a referral is discussed or acted upon is
56 exempt from s. 286.011 and s.24(b), Art. I of the State
57 Constitution, and s. 120.525.

58 (e) ~~(e)~~ The exemptions in paragraphs (a)-(d) ~~(a) and (b)~~

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59 apply until:

60 1. The complaint is dismissed as legally insufficient;~~;~~
61 ~~until~~

62 2. The alleged violator requests in writing that such
63 records and proceedings be made public;~~;~~

64 3. The commission determines that it will not investigate
65 the referral; or ~~until~~

66 4. The commission, a Commission on Ethics and Public Trust,
67 or a county or municipality that has established such local
68 investigatory process determines, based on such investigation,
69 whether probable cause exists to believe that a violation has
70 occurred.

71 ~~(f) In no event shall~~ A complaint or referral under this
72 part against a candidate in any general, special, or primary
73 election may not be filed nor may ~~or~~ any intention of filing
74 such a complaint or referral be disclosed on the day of any such
75 election or within the 30 ~~5~~ days immediately preceding the date
76 of the election, unless the complaint or referral is based upon
77 personal knowledge or information other than hearsay.

78 ~~(g)(d)~~ This subsection is subject to the Open Government
79 Sunset Review Act in accordance with s. 119.15 and shall stand
80 repealed on October 2, 2018 ~~2015~~, unless reviewed and saved from
81 repeal through reenactment by the Legislature.

82 Section 2. (1) The Legislature finds that it is a public
83 necessity that written referrals and records relating to such
84 referrals held by the Commission on Ethics or its agents, the
85 Governor, the Department of Law Enforcement, or state attorneys,
86 and records relating to any preliminary investigation of such
87 referrals held by the Commission on Ethics or its agents, be

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88 confidential and exempt from public records requirements until
89 the commission determines that it will not investigate the
90 referral, until the alleged violator requests in writing that
91 such records be made public, or until it is determined by the
92 commission based upon a preliminary investigation of the
93 referral whether probable cause exists to believe that a
94 violation has occurred. This exemption is necessary because the
95 release of such information could potentially be defamatory to
96 an individual under investigation, cause unwarranted damage to
97 the reputation of such individual, or significantly impair the
98 integrity of the investigation.

99 (2) The Legislature also finds that it is a public
100 necessity that the proceedings of the Commission on Ethics at
101 which a determination regarding a referral is discussed or acted
102 upon be exempt from public meetings requirements until the
103 commission determines that it will not investigate the referral,
104 until the alleged violator requests in writing that such
105 proceedings be made public, or until it is determined by the
106 Commission on Ethics, based on a preliminary investigation of
107 the referral, whether probable cause exists to believe that a
108 violation has occurred. This exemption is necessary because the
109 release of such information could potentially be defamatory to
110 an individual under investigation, cause unwarranted damage to
111 the reputation of such individual, or significantly impair the
112 integrity of the investigation.

113 Section 3. This act shall take effect on the same date that
114 SB 2 or similar legislation takes effect, if such legislation is
115 adopted in the same legislative session or an extension thereof
116 and becomes a law.