

By Senator Abruzzo

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; expanding the exemption from public
4 records requirements for criminal intelligence
5 information and criminal investigative information to
6 include information, photographs, videotapes, or
7 images of victims of specified offenses; providing for
8 future review and repeal of the exemption; providing a
9 statement of public necessity; reenacting s.
10 92.56(1)(a), F.S., relating to judicial proceedings
11 and court records involving sexual offenses, s.
12 119.011(3)(c), F.S., relating to definitions for public
13 records, s. 119.0714(1)(h), F.S., relating to court
14 files and records, s. 794.024(1), F.S., relating to
15 the unlawful disclosure of identifying information,
16 and s. 794.03, F.S., relating to making it unlawful to
17 publish or broadcast information identifying sexual
18 offense victim, to incorporate the amendment made by
19 the act to s. 119.071, F.S., in references thereto;
20 providing a contingent effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Paragraphs (h) and (j) of subsection (2) of
25 section 119.071, Florida Statutes, are amended to read:

26 119.071 General exemptions from inspection or copying of
27 public records.—

28 (2) AGENCY INVESTIGATIONS.—

29 (h)1. The following criminal intelligence information or
30 criminal investigative information is confidential and exempt
31 from s. 119.07(1) and s. 24(a), Art. I of the State
32 Constitution:

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33 a. Any information that reveals the identity of the victim
34 of the crime of child abuse as defined by chapter 827 or that
35 reveals the identity of a person under the age of 18 who is the
36 victim of the crime of human trafficking proscribed in s.
37 787.06(3) (a).

38 b. Any information that may reveal the identity of a person
39 who is a victim of any sexual offense, including a sexual
40 offense proscribed in s. 787.06(3) (b), (d), (f), or (g), chapter
41 794, chapter 796, chapter 800, ~~chapter 827~~, or chapter 847.

42 c. A photograph, videotape, or image of any part of the
43 body of the victim of a sexual offense prohibited under s.
44 787.06(3) (b), (d), (f), or (g), chapter 794, chapter 796,
45 chapter 800, s. 810.145, ~~chapter 827~~, or chapter 847, regardless
46 of whether the photograph, videotape, or image identifies the
47 victim.

48 2. Criminal investigative information and criminal
49 intelligence information made confidential and exempt under this
50 paragraph may be disclosed by a law enforcement agency:

51 a. In the furtherance of its official duties and
52 responsibilities.

53 b. For print, publication, or broadcast if the law
54 enforcement agency determines that such release would assist in
55 locating or identifying a person that such agency believes to be
56 missing or endangered. The information provided should be
57 limited to that needed to identify or locate the victim and not
58 include the sexual nature of the offense committed against the
59 person.

60 c. To another governmental agency in the furtherance of its
61 official duties and responsibilities.

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62 3. This exemption applies to such confidential and exempt
63 criminal intelligence information or criminal investigative
64 information held by a law enforcement agency before, on, or
65 after the effective date of the exemption.

66 4. This paragraph is subject to the Open Government Sunset
67 Review Act in accordance with s. 119.15, and shall stand
68 repealed on October 2, 2021 ~~2020~~, unless reviewed and saved from
69 repeal through reenactment by the Legislature.

70 (j)1. Any document that reveals the identity, home or
71 employment telephone number, home or employment address, or
72 personal assets of the victim of a crime and identifies that
73 person as the victim of a crime, which document is received by
74 any agency that regularly receives information from or
75 concerning the victims of crime, is exempt from s. 119.07(1) and
76 s. 24(a), Art. I of the State Constitution. Any information not
77 otherwise held confidential or exempt from s. 119.07(1) which
78 reveals the home or employment telephone number, home or
79 employment address, or personal assets of a person who has been
80 the victim of sexual battery, aggravated child abuse, aggravated
81 stalking, harassment, aggravated battery, or domestic violence
82 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State
83 Constitution, upon written request by the victim, which must
84 include official verification that an applicable crime has
85 occurred. Such information shall cease to be exempt 5 years
86 after the receipt of the written request. Any state or federal
87 agency that is authorized to have access to such documents by
88 any provision of law shall be granted such access in the
89 furtherance of such agency's statutory duties, notwithstanding
90 this section.

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91 2.a. Any information in a videotaped statement of a minor
92 who is alleged to be or who is a victim of sexual battery, lewd
93 acts, or other sexual misconduct proscribed in chapter 800 or in
94 s. 794.011, former s. 827.071, s. 847.003, s. 847.012, s.
95 847.0125, s. 847.013, s. 847.0133, s. 847.0137, or s. 847.0145,
96 which reveals that minor's identity, including, but not limited
97 to, the minor's face; the minor's home, school, church, or
98 employment telephone number; the minor's home, school, church,
99 or employment address; the name of the minor's school, church,
100 or place of employment; or the personal assets of the minor; and
101 which identifies that minor as the victim of a crime described
102 in this subparagraph, held by a law enforcement agency, is
103 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
104 of the State Constitution. Any governmental agency that is
105 authorized to have access to such statements by any provision of
106 law shall be granted such access in the furtherance of the
107 agency's statutory duties, notwithstanding the provisions of
108 this section.

109 b. A public employee or officer who has access to a
110 videotaped statement of a minor who is alleged to be or who is a
111 victim of sexual battery, lewd acts, or other sexual misconduct
112 proscribed in chapter 800 or in s. 794.011, former s. 827.071,
113 s. 847.003, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, s.
114 847.0137, or s. 847.0145 may not willfully and knowingly
115 disclose videotaped information that reveals the minor's
116 identity to a person who is not assisting in the investigation
117 or prosecution of the alleged offense or to any person other
118 than the defendant, the defendant's attorney, or a person
119 specified in an order entered by the court having jurisdiction

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120 of the alleged offense. A person who violates this provision
121 commits a misdemeanor of the first degree, punishable as
122 provided in s. 775.082 or s. 775.083.

123 c. This subparagraph is subject to the Open Government
124 Sunset Review Act in accordance with s. 119.15 and shall stand
125 repealed on October 2, 2021, unless reviewed and saved from
126 repeal through reenactment by the Legislature.

127 Section 2. The Legislature finds that it is a public
128 necessity that criminal intelligence information or criminal
129 investigative information that may reveal the identity of a
130 person who is a victim of an offense under former s. 827.071, s.
131 847.003, or s. 847.0137, Florida Statutes, which is a
132 photograph, videotape, or image of any part of the body of the
133 victim of an offense under those provisions or which is
134 information in a videotaped statement of a minor who is alleged
135 to be or who is a victim of an offense under those provisions,
136 be made confidential and exempt from s. 119.07(1), Florida
137 Statutes, and s. 24(a), Article I of the State Constitution. The
138 Legislature finds that such information, photographs,
139 videotapes, or images often depict the victim in graphic
140 fashion, frequently nude. Such highly sensitive photographs,
141 videotapes, or images of a victim of these sexual offenses, if
142 viewed, copied, or publicized, could result in trauma, sorrow,
143 humiliation, or emotional injury to the victim and the victim's
144 family.

145 Section 3. For the purpose of incorporating the amendment
146 made by this act to section 119.071, Florida Statutes, in a
147 reference thereto, paragraph (a) of subsection (1) of section
148 92.56, Florida Statutes, is reenacted to read:

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149 92.56 Judicial proceedings and court records involving
150 sexual offenses and human trafficking.-

151 (1) (a) The confidential and exempt status of criminal
152 intelligence information or criminal investigative information
153 made confidential and exempt pursuant to s. 119.071(2) (h) must
154 be maintained in court records pursuant to s. 119.0714(1) (h) and
155 in court proceedings, including testimony from witnesses.

156 Section 4. For the purpose of incorporating the amendment
157 made by this act to section 119.071, Florida Statutes, in a
158 reference thereto, paragraph (c) of subsection (3) of section
159 119.011, Florida Statutes, is reenacted to read:

160 119.011 Definitions.-As used in this chapter, the term:

161 (3)

162 (c) "Criminal intelligence information" and "criminal
163 investigative information" shall not include:

164 1. The time, date, location, and nature of a reported
165 crime.

166 2. The name, sex, age, and address of a person arrested or
167 of the victim of a crime except as provided in s. 119.071(2) (h).

168 3. The time, date, and location of the incident and of the
169 arrest.

170 4. The crime charged.

171 5. Documents given or required by law or agency rule to be
172 given to the person arrested, except as provided in s.
173 119.071(2) (h), and, except that the court in a criminal case may
174 order that certain information required by law or agency rule to
175 be given to the person arrested be maintained in a confidential
176 manner and exempt from the provisions of s. 119.07(1) until
177 released at trial if it is found that the release of such

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178 information would:

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

181 b. Impair the ability of a state attorney to locate or
182 prosecute a codefendant.

183 6. Informations and indictments except as provided in s.
184 905.26.

185 Section 5. For the purpose of incorporating the amendment
186 made by this act to section 119.071, Florida Statutes, in a
187 reference thereto, paragraph (h) of subsection (1) of section
188 119.0714, Florida Statutes, is reenacted to read:

189 119.0714 Court files; court records; official records.—

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

194 (h) Criminal intelligence information or criminal
195 investigative information that is confidential and exempt as
196 provided in s. 119.071(2)(h).

197 Section 6. For the purpose of incorporating the amendment
198 made by this act to section 119.071, Florida Statutes, in a
199 reference thereto, subsection (1) of section 794.024, Florida
200 Statutes, is reenacted to read:

201 794.024 Unlawful to disclose identifying information.—

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

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207 investigation or prosecution of the alleged offense or to any
208 person other than the defendant, the defendant's attorney, a
209 person specified in an order entered by the court having
210 jurisdiction of the alleged offense, or organizations authorized
211 to receive such information made exempt by s. 119.071(2)(h), or
212 to a rape crisis center or sexual assault counselor, as defined
213 in s. 90.5035(1)(b), who will be offering services to the
214 victim.

215 Section 7. For the purpose of incorporating the amendment
216 made by this act to section 119.071, Florida Statutes, in a
217 reference thereto, section 794.03, Florida Statutes, is
218 reenacted to read:

219 794.03 Unlawful to publish or broadcast information
220 identifying sexual offense victim.—No person shall print,
221 publish, or broadcast, or cause or allow to be printed,
222 published, or broadcast, in any instrument of mass communication
223 the name, address, or other identifying fact or information of
224 the victim of any sexual offense within this chapter, except as
225 provided in s. 119.071(2)(h) or unless the court determines that
226 such information is no longer confidential and exempt pursuant
227 to s. 92.56. An offense under this section shall constitute a
228 misdemeanor of the second degree, punishable as provided in s.
229 775.082 or s. 775.083.

230 Section 8. This act shall take effect on the same date that
231 SB ____ or similar legislation takes effect, if such legislation
232 is adopted in the same legislative session or an extension
233 thereof and becomes a law.