

1 A bill to be entitled
 2 An act relating to public records; amending s. 901.40,
 3 F.S.; requiring that a civil citation, documentation
 4 of a prearrest diversion program, and any other
 5 reports or documents concerning a civil citation or a
 6 prearrest diversion program which are held by a law
 7 enforcement agency, a public or private educational
 8 institution, or a program service provider are exempt
 9 from public record requirements; providing for future
 10 review and repeal of the exemption; providing an
 11 exception; providing a statement of public necessity;
 12 providing a contingent effective date.

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

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 16 Section 1. Subsection (6) is added to section 901.40,
 17 Florida Statutes, as created by HB 367, 2017 Regular Session, to
 18 read:

19 901.40 Prearrest diversion programs.—

20 (6) PUBLIC RECORDS EXEMPTION.—A civil citation,
 21 documentation of a prearrest diversion program, and any other
 22 reports or documents concerning a civil citation or a prearrest
 23 diversion program, as encouraged by this section, which are held
 24 by a law enforcement agency, a public or private educational
 25 institution, or a program service provider are exempt from s.

26 | 119.07(1), and s. 24(a), Art. I of the State Constitution. This
27 | subsection is subject to the Open Government Sunset Review Act
28 | in accordance with s. 119.15 and shall stand repealed on October
29 | 2, 2022, unless reviewed and saved from such repeal through
30 | reenactment by the Legislature. Such exempt information may be
31 | disclosed to law enforcement agencies, public or private
32 | educational institutions, program service providers, authorized
33 | court personnel, state attorneys, and public defenders.

34 | Section 2. The Legislature finds that it is a public
35 | necessity that a civil citation, documentation of a prearrest
36 | diversion program, and any other reports or documents concerning
37 | a civil citation or a prearrest diversion program held by a law
38 | enforcement agency be exempt from s. 119.07(1), Florida
39 | Statutes, and s. 24(a), Article I of the State Constitution. The
40 | goal of the prearrest diversion program is to give a second
41 | chance to adults who commit nonviolent misdemeanor offenses and
42 | allow them the opportunity to avoid having an arrest record. If
43 | the civil citation, documentation of the prearrest diversion
44 | program, and any other reports or documents concerning a civil
45 | citation or prearrest diversion program held by a law
46 | enforcement agency were not exempt from disclosure, it would
47 | defeat the goal of giving adults who commit nonviolent
48 | misdemeanor offenses a means to avoid arrest and prosecution. If
49 | such information were able to be obtained by the public, that
50 | disclosure might negatively impact the effectiveness of the

51 prearrest diversion program. For these reasons, the Legislature
52 finds that it is a public necessity that a civil citation,
53 documentation of a prearrest diversion program, and any other
54 reports or documents concerning a civil citation or a prearrest
55 diversion program held by a law enforcement agency be exempt
56 from public records requirements.

57 Section 3. This act shall take effect on the same date
58 that HB 367 or similar legislation takes effect, if such
59 legislation is adopted in the same legislative session or an
60 extension thereof and becomes a law.