

By Senator Brandes

24-00500B-18

20181394__

1 A bill to be entitled
2 An act relating to public records; amending s. 901.40,
3 F.S.; creating an exemption from public records
4 requirements for the personal identifying information
5 of adults who participate in a prearrest diversion
6 program; providing applicability; providing
7 retroactive application; providing for future review
8 and repeal of the exemption; providing a statement of
9 public necessity; providing a contingent effective
10 date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsection (3) is added to section 901.40,
15 Florida Statutes, as created by SB ____, 2018 Regular Session,
16 to read:

17 901.40 Prearrest diversion programs.—

18 (3) PUBLIC RECORDS EXEMPTION.—The personal identifying
19 information of an adult participating in a prearrest diversion
20 program is exempt from s. 119.07(1) and s. 24(a), Art. I of the
21 State Constitution. The exemption does not apply to the personal
22 identifying information of an adult who fails to complete the
23 prearrest diversion program. This exemption applies to personal
24 identifying information held by a law enforcement agency, a
25 program services provider, a clerk of the circuit court, or the
26 entity operating the prearrest diversion program before, on, or
27 after the effective date of this exemption. This subsection is
28 subject to the Open Government Sunset Review Act in accordance
29 with s. 119.15 and shall stand repealed on October 2, 2023,

24-00500B-18

20181394__

30 unless reviewed and saved from such repeal through reenactment
31 by the Legislature.

32 Section 2. The Legislature finds that it is a public
33 necessity that the personal identifying information of an adult
34 participating in a prearrest diversion program be exempt from s.
35 119.07(1), Florida Statutes, and s. 24(a), Article I of the
36 State Constitution. The exemption does not apply to the personal
37 identifying information of an adult who fails to complete the
38 prearrest diversion program. The goal of such programs is to
39 give a second chance to adults who commit misdemeanor offenses
40 and allow them the opportunity to avoid having an arrest record.
41 Such goal would be defeated if the personal identifying
42 information of such adults were not exempt from disclosure and,
43 consequently, disclosure of the information would create
44 negative consequences for these adults. If the public were able
45 to obtain the personal identifying information of these adults,
46 the disclosure might adversely impact the prearrest diversion
47 program. For these reasons, the Legislature finds that it is a
48 public necessity that the personal identifying information of an
49 adult participating in a prearrest diversion program be exempt
50 from public records requirements.

51 Section 3. This act shall take effect on the same date that
52 SB ____ or similar legislation takes effect, if such legislation
53 is adopted in the same legislative session or an extension
54 thereof and becomes a law.