

By Senator Book

32-00631-19

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1 A bill to be entitled
2 An act relating to public records and public meetings;
3 amending s. 112.324, F.S.; providing an exception to
4 the expiration of certain public records and public
5 meetings exemptions under specified circumstances;
6 prohibiting the disclosure of the personal identifying
7 information of an alleged victim of sexual harassment
8 or sexual misconduct, or information that could assist
9 an individual in determining the identity of such
10 alleged victim, in any portion of a proceeding
11 conducted by the Commission on Ethics, a commission on
12 ethics and public trust, or a county or a municipality
13 that has established a local investigatory process
14 which is open to the public; providing for future
15 legislative review and repeal; amending s. 119.071,
16 F.S.; providing an exemption from public records
17 requirements for complaints, referrals, and reports
18 alleging sexual harassment or sexual misconduct, and
19 any related records, which are held by an agency;
20 specifying conditions upon which the exemption
21 expires; providing that the personal identifying
22 information of an alleged victim of sexual harassment
23 or sexual misconduct, or information that could assist
24 an individual in determining the identity of such
25 alleged victim, remains confidential and exempt from
26 public records requirements; authorizing disclosure
27 under specified circumstances; providing for future
28 legislative review and repeal; amending s. 286.0113,
29 F.S.; providing an exemption from public meetings

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30 requirements for any portion of a meeting that would
31 reveal records involving an allegation of sexual
32 harassment or sexual misconduct made confidential and
33 exempt under the act; specifying conditions upon which
34 the exemption expires; prohibiting the disclosure of
35 the personal identifying information of an alleged
36 victim of sexual harassment or sexual misconduct, or
37 information that could assist an individual in
38 determining the identity of such alleged victim, in
39 any portion of a meeting open to the public; providing
40 for future legislative review and repeal; providing
41 statements of public necessity; providing an effective
42 date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Paragraph (e) of subsection (2) of section
47 112.324, Florida Statutes, is amended, present paragraph (f) of
48 that subsection is redesignated as paragraph (g), and a new
49 paragraph (f) is added to that subsection, to read:

50 112.324 Procedures on complaints of violations and
51 referrals; public records and meeting exemptions.—

52 (2)

53 (e) The exemptions in paragraphs (a)-(d) apply until:

54 1. The complaint is dismissed as legally insufficient;

55 2. Except in connection with complaints or referrals that
56 involve allegations of sexual harassment or sexual misconduct,
57 the alleged violator requests in writing that such records and
58 proceedings be made public;

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59 3. The commission determines that it will not investigate
60 the referral; or

61 4. The commission, a commission on ethics and public trust,
62 or a county or municipality that has established such local
63 investigatory process determines, based on such investigation,
64 whether probable cause exists to believe that a violation has
65 occurred.

66 (f) Notwithstanding paragraph (e), the personal identifying
67 information of an alleged victim of sexual harassment or sexual
68 misconduct or any information that could assist an individual in
69 determining the identity of such alleged victim remains
70 confidential and exempt as provided under s. 119.071(2)(n)3. and
71 may not be disclosed in a portion of a proceeding conducted by
72 the commission, a commission on ethics and public trust, or a
73 county or municipality that has established such local
74 investigatory process which is open to the public. This
75 paragraph is subject to the Open Government Sunset Review Act in
76 accordance with s. 119.15 and shall stand repealed on October 2,
77 2024, unless reviewed and saved from repeal through reenactment
78 by the Legislature.

79 Section 2. Paragraph (n) of subsection (2) of section
80 119.071, Florida Statutes, is amended to read:

81 119.071 General exemptions from inspection or copying of
82 public records.—

83 (2) AGENCY INVESTIGATIONS.—

84 (n)1. Complaints, referrals, and reports that allege sexual
85 harassment or sexual misconduct, including allegations of sexual
86 harassment or sexual misconduct in violation of part III of
87 chapter 112, and any related records that are held by an agency

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88 ~~are Personal identifying information of the alleged victim in an~~
89 ~~allegation of sexual harassment is confidential and exempt from~~
90 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

91 Such information may be disclosed to another governmental entity
92 in the furtherance of its official duties and responsibilities.

93 2. Except as provided in subparagraph 3., the exemption in
94 subparagraph 1. applies until:

95 a. The agency determines that it will not investigate the
96 allegation;

97 b. The agency takes disciplinary action against the subject
98 of the allegation and determines that it will take no further
99 action in the matter; or

100 c. A finding is made as to whether probable cause exists.

101 3. Notwithstanding the release of any record pursuant to
102 subparagraph 2., any personal identifying information of an
103 alleged victim, or any information that could assist an
104 individual in determining the identity of such alleged victim,
105 shall remain confidential and exempt from s. 119.07(1) and s.
106 24(a), Art. I of the State Constitution. Such information may be
107 disclosed to another governmental entity in the furtherance of
108 the agency's official duties and responsibilities or to the
109 parties to the allegation and their attorneys.

110 4. This paragraph is subject to the Open Government Sunset
111 Review Act in accordance with s. 119.15 and shall stand repealed
112 on October 2, ~~2022~~ 2024, unless reviewed and saved from repeal
113 through reenactment by the Legislature.

114 Section 3. Subsection (3) is added to section 286.0113,
115 Florida Statutes, to read:

116 286.0113 General exemptions from public meetings.—

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117 (3) (a) Any portion of a meeting that would reveal any
118 records involving an allegation of sexual harassment or sexual
119 misconduct which are made confidential and exempt by s.
120 119.071(2) (n)1. is exempt from s. 286.011 and s. 24(b), Art. I
121 of the State Constitution until the agency:

- 122 1. Determines it will not investigate the allegation;
123 2. Takes disciplinary action against the subject of the
124 allegation and determines it will take no further action; or
125 3. Makes a finding as to probable cause.

126 (b) Notwithstanding paragraph (a), the personal identifying
127 information of an alleged victim of sexual harassment or sexual
128 misconduct or any information that could assist an individual in
129 determining the identity of such alleged victim remains
130 confidential and exempt as provided under s. 119.071(2) (n)3. and
131 may not be disclosed in a portion of a meeting that is open to
132 the public.

133 (c) This subsection is subject to the Open Government
134 Sunset Review Act in accordance with s. 119.15 and shall stand
135 repealed on October 2, 2024, unless reviewed and saved from
136 repeal through reenactment by the Legislature.

137 Section 4. (1) The Legislature finds that it is a public
138 necessity that complaints, referrals, and reports alleging
139 sexual harassment or sexual misconduct, and any related records
140 that are held by an agency, be made confidential and exempt from
141 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
142 State Constitution until the agency determines that it will not
143 investigate the allegation; takes disciplinary action against
144 the subject of the allegation and determines it will take no
145 further action; or makes a finding as to probable cause. This

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146 exemption is necessary because the release of such information
147 could potentially be defamatory to an individual under
148 investigation; could subject alleged victims to further sexual
149 harassment or retaliation; or could significantly impair the
150 integrity of any investigation of such allegations.

151 Additionally, the potential for disclosure of such information
152 could create a disincentive for alleged victims to report
153 instances of alleged harassment or misconduct. The Legislature
154 finds that the potential harm that may result from the release
155 of such information outweighs any public benefit that may be
156 derived from the disclosure of such information.

157 (2) The Legislature also finds that it is a public
158 necessity that any portion of a meeting that would reveal any
159 records involving an allegation of sexual harassment or sexual
160 misconduct which are made confidential and exempt under s.
161 119.071(2)(n)1., Florida Statutes, be made exempt under s.
162 286.011, Florida Statutes, and s. 24(b), Article I of the State
163 Constitution until the agency determines that it will not
164 investigate the allegation; takes disciplinary action against
165 the subject of the allegation and determines it will take no
166 further action; or makes a finding as to probable cause.
167 Furthermore, the Legislature finds that it is a public necessity
168 to prohibit the disclosure of the personal identifying
169 information of an alleged victim of sexual harassment or sexual
170 misconduct, or any information that could assist an individual
171 in determining the identity of such alleged victim, in any
172 portion of a proceeding conducted by the Commission on Ethics, a
173 commission on ethics and public trust, or a county or
174 municipality that has established a local investigatory process

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175 which is open to the public, or any portion of a meeting of any
176 board or commission of any state agency or authority or of any
177 agency or authority of any county, municipal corporation, or
178 political subdivision which is open to the public. The failure
179 to close a meeting at which records involving an allegation of
180 sexual harassment or sexual misconduct are discussed or acted
181 upon would defeat the purpose of the public records exemption.
182 The Legislature also finds that it is necessary to maintain the
183 confidentiality of an alleged victim's identity after an agency
184 determines that it will not investigate the allegation; takes
185 disciplinary action against the subject of the allegation and
186 determines it will take no further action; or makes a finding as
187 to probable cause, because a victim may remain at risk of
188 further harassment and retaliation, and the disclosure of the
189 victim's identity may cause damage to his or her reputation.

190 Section 5. This act shall take effect upon becoming a law.