

By the Committee on Children, Families, and Elder Affairs; and
Senator Bean

586-02599-22

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1 A bill to be entitled
2 An act relating to public records; amending ss.
3 394.464 and 397.6760, F.S.; exempting from public
4 records requirements a respondent's name in certain
5 documents at trial and on appeal; expanding exemptions
6 from public records requirements for certain
7 petitions, court orders, and related records to
8 include applications for voluntary and involuntary
9 mental health examinations and substance abuse
10 treatment, respectively; expanding exceptions
11 authorizing the disclosure of such personal
12 identifying information and records to include certain
13 service providers; authorizing a court to use a
14 respondent's name for certain purposes; revising
15 applicability to include appeals pending or filed on
16 or after a specified date; revising the date for
17 future legislative review and repeal of the
18 exemptions; providing a statement of public necessity;
19 providing a contingent effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Section 394.464, Florida Statutes, is amended to
24 read:

25 394.464 Court records; confidentiality.—

26 (1) A respondent's name, at trial and on appeal, and all
27 petitions or applications for voluntary and involuntary
28 admission for mental health examinations or treatment, court
29 orders, and related records that are filed with or by a court

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30 under this part are confidential and exempt from s. 119.07(1)
31 and s. 24(a), Art. I of the State Constitution. Pleadings and
32 other documents made confidential and exempt by this section may
33 be disclosed by the clerk of the court, upon request, to any of
34 the following:

- 35 (a) The petitioner.
36 (b) The petitioner's attorney.
37 (c) The respondent.
38 (d) The respondent's attorney.
39 (e) The respondent's guardian or guardian advocate, if
40 applicable.
41 (f) In the case of a minor respondent, the respondent's
42 parent, guardian, legal custodian, or guardian advocate.
43 (g) The respondent's treating health care practitioner and
44 service provider.
45 (h) The respondent's health care surrogate or proxy.
46 (i) The Department of Children and Families, without
47 charge.
48 (j) The Department of Corrections, without charge, if the
49 respondent is committed or is to be returned to the custody of
50 the Department of Corrections from the Department of Children
51 and Families.
52 (k) A person or entity authorized to view records upon a
53 court order for good cause. In determining if there is good
54 cause for the disclosure of records, the court must weigh the
55 person or entity's need for the information against potential
56 harm to the respondent from the disclosure.
57 (2) This section does not preclude the clerk of the court
58 from submitting the information required by s. 790.065 to the

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59 Department of Law Enforcement.

60 (3) The clerk of the court may not publish personal
61 identifying information on a court docket or in a publicly
62 accessible file, but the court may use a respondent's name to
63 schedule and adjudicate cases, which includes transmitting a
64 copy of any court order to the parties.

65 (4) A person or entity receiving information pursuant to
66 this section shall maintain that information as confidential and
67 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
68 Constitution.

69 (5) The exemption under this section applies to all
70 documents filed with a court before, on, or after July 1, 2019,
71 and appeals pending or filed on or after July 1, 2022.

72 (6) This section is subject to the Open Government Sunset
73 Review Act in accordance with s. 119.15 and shall stand repealed
74 on October 2, 2027 ~~2024~~, unless reviewed and saved from repeal
75 through reenactment by the Legislature.

76 Section 2. Section 397.6760, Florida Statutes, is amended
77 to read:

78 397.6760 Court records; confidentiality.—

79 (1) A respondent's name, at trial and on appeal, and all
80 petitions or applications for voluntary and involuntary
81 substance abuse treatment or assessment and stabilization, court
82 orders, and related records that are filed with or by a court
83 under this part or part IV are confidential and exempt from s.
84 119.07(1) and s. 24(a), Art. I of the State Constitution.
85 Pleadings and other documents made confidential and exempt by
86 this section may be disclosed by the clerk of the court, upon
87 request, to any of the following:

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- 88 (a) The petitioner.
- 89 (b) The petitioner's attorney.
- 90 (c) The respondent.
- 91 (d) The respondent's attorney.
- 92 (e) The respondent's guardian or guardian advocate, if
93 applicable.
- 94 (f) In the case of a minor respondent, the respondent's
95 parent, guardian, legal custodian, or guardian advocate.
- 96 (g) The respondent's treating health care practitioner and
97 service provider.
- 98 (h) The respondent's health care surrogate or proxy.
- 99 (i) The Department of Children and Families, without
100 charge.
- 101 (j) The Department of Corrections, without charge, if the
102 respondent is committed or is to be returned to the custody of
103 the Department of Corrections from the Department of Children
104 and Families.
- 105 (k) A person or entity authorized to view records upon a
106 court order for good cause. In determining if there is good
107 cause for the disclosure of records, the court must weigh the
108 person or entity's need for the information against potential
109 harm to the respondent from the disclosure.
- 110 (2) This section does not preclude the clerk of the court
111 from submitting the information required by s. 790.065 to the
112 Department of Law Enforcement.
- 113 (3) The clerk of the court may not publish personal
114 identifying information on a court docket or in a publicly
115 accessible file, but the court may use a respondent's name to
116 schedule and adjudicate cases, which includes transmitting a

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117 copy of any court order to the parties.

118 (4) A person or entity receiving information pursuant to
119 this section shall maintain that information as confidential and
120 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
121 Constitution.

122 (5) The exemption under this section applies to all
123 documents filed with a court before, on, or after July 1, 2017,
124 and appeals pending or filed on or after July 1, 2022.

125 (6) This section is subject to the Open Government Sunset
126 Review Act in accordance with s. 119.15 and shall stand repealed
127 on October 2, 2027 ~~2022~~, unless reviewed and saved from repeal
128 through reenactment by the Legislature.

129 Section 3. The Legislature finds that it is a public
130 necessity that applications for voluntary and involuntary mental
131 health examinations and substance abuse treatment which are
132 filed with or by a court and a respondent's name, which is
133 published on a court docket and maintained by the clerk of the
134 court, under part I of chapter 394 and parts IV and V of chapter
135 397, Florida Statutes, be made confidential and exempt from
136 disclosure under s. 119.07(1), Florida Statutes, and s. 24(a),
137 Article I of the State Constitution. The mental health and
138 substance abuse impairments of a person are medical conditions
139 that should be protected from dissemination to the public. A
140 person's health and sensitive personal information regarding his
141 or her mental health or substance abuse impairment are intensely
142 private matters. Making such applications, petitions, orders,
143 records, and identifying information confidential and exempt
144 from disclosure will protect such persons from the release of
145 sensitive, personal information that could damage their and

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146 their families' reputations. The publication of personal
147 identifying information on a physical or virtual docket,
148 regardless of whether any other record is published, defeats the
149 purpose of protections otherwise provided. Further, the
150 knowledge that such sensitive, personal information is subject
151 to disclosure could have a chilling effect on a person's
152 willingness to seek out and comply with mental health or
153 substance abuse treatment services.

154 Section 4. This act shall take effect on the same date that
155 SB 1844 or similar legislation takes effect, if such legislation
156 is adopted in the same legislative session or an extension
157 thereof and becomes a law.