

By the Committee on Criminal Justice; and Senators Smith,  
Thompson, and Bullard

591-01634-15

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A bill to be entitled

An act relating to public records; amending s.  
119.071, F.S.; providing an exemption from public  
record requirements for an audio or video recording  
made by a law enforcement officer in the course of the  
officer performing his or her official duties and  
responsibilities, if the recording is taken within  
certain locations, shows a minor inside a school or on  
school property, or shows a child younger than 14  
years of age at any location; specifying how the  
exemption operates in relation to other exemptions  
that may apply to the recording; providing for future  
legislative review and repeal of the exemption under  
the Open Government Sunset Review Act; authorizing the  
law enforcement agency with custody over the recording  
to disclose the recording to another law enforcement  
agency in furtherance of that agency's official duties  
and responsibilities; specifying persons who may  
inspect the recording; requiring a law enforcement  
agency to have a retention policy for audio or video  
recordings of not longer than 90 days; providing an  
exception; requiring a law enforcement agency to  
disclose its records retention policy for audio or  
video recordings; amending ss. 92.56, 119.011,  
119.0714, 784.046, 794.024, and 794.03, F.S.;  
conforming cross-references; providing a statement of  
public necessity; providing an effective date.

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

591-01634-15

2015248c1

Section 1. Paragraphs (g), (h), (i), (j), and (k) of subsection (2) of section 119.071, Florida Statutes, are redesignated as paragraphs (h), (i), (j), (k), and (l), respectively, and paragraph (g) is added to that subsection, to read:

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

(2) AGENCY INVESTIGATIONS.—

(g)1. An audio or video recording made by a law enforcement officer in the course of the officer performing his or her official duties and responsibilities is exempt from 119.07(1) and s. 24(a), Art. 1 of the State Constitution, if the recording:

- a. Is taken within the interior of a private residence;
- b. Is taken on the property of a facility that offers health care, mental health care, or social services;
- c. Is taken at the scene of a medical emergency;
- d. Is taken in a place where a person recorded or depicted in the recording has a reasonable expectation of privacy; or
- e. Shows a child younger than 18 years of age inside a school, as defined in s. 1003.01, or on school property, as defined in s. 810.095, or shows a child younger than 14 years of age at any location.

2. If the audio or video recording or a portion of such recording is exempt or confidential and exempt pursuant to another exemption in this section, that exemption applies and determines under which circumstances, if any, the recording or a portion of the recording may be disclosed to the public.

591-01634-15

2015248c1

59       3. This paragraph is subject to the Open Government Sunset  
60 Review Act in accordance with s. 119.15 and shall stand repealed  
61 on October 2, 2020, unless reviewed and saved from repeal  
62 through reenactment by the Legislature.

63       4. The law enforcement agency having custody of an audio or  
64 video recording described in subparagraph 1. may disclose the  
65 recording to another law enforcement agency in furtherance of  
66 that agency's official duties and responsibilities.

67       5.a. In accordance with s. 119.07, the following persons  
68 may inspect an audio or video recording described in  
69 subparagraph 1.:

70       (I.) A person recorded or depicted in the recording.

71       (II.) The agent or attorney of a person recorded or  
72 depicted in the recording, if inspection is authorized by that  
73 person.

74       (III.) A person not recorded or depicted in the recording,  
75 if inspection is authorized by all persons recorded or depicted  
76 in the recording.

77       b. This subparagraph does not apply to information in the  
78 recording that is exempt or confidential and exempt pursuant to  
79 another provision of this section.

80       6. A law enforcement agency under this paragraph must have  
81 a retention policy of not longer than 90 days for audio or video  
82 recordings unless the audio or video recording is part of an  
83 active criminal investigation or criminal intelligence operation  
84 or a court orders its retention for a longer period. A law  
85 enforcement agency must disclose its records retention policy  
86 for audio or video recordings under this paragraph.

87       Section 2. Paragraph (a) of subsection (1) of section

591-01634-15

2015248c1

92.56, Florida Statutes, is amended to read:

92.56 Judicial proceedings and court records involving sexual offenses and human trafficking.—

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

Section 3. Paragraph (c) of subsection (3) of section 119.011, Florida Statutes, is amended to read:

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

(3)

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

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

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

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

4. The crime charged.

5. Documents given or required by law or agency rule to be given to the person arrested, except as provided in s. 119.071(2)(i) ~~s. 119.071(2)(h)~~, and, except that the court in a criminal case may order that certain information required by law or agency rule to be given to the person arrested be maintained in a confidential manner and exempt from the provisions of s.

591-01634-15

2015248c1

119.07(1) until released at trial if it is found that the  
release of such information would:

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

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

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

Section 4. Paragraph (h) of subsection (1) of section  
119.0714, Florida Statutes, is amended to read:

119.0714 Court files; court records; official records.—

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

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

Section 5. Paragraph (b) of subsection (4) of section  
784.046, Florida Statutes, is amended to read:

784.046 Action by victim of repeat violence, sexual  
violence, or dating violence for protective injunction; dating  
violence investigations, notice to victims, and reporting;  
pretrial release violations; public records exemption.—

(4)

(b) The sworn petition must be in substantially the  
following form:

PETITION FOR INJUNCTION FOR PROTECTION

591-01634-15

2015248c1

AGAINST REPEAT VIOLENCE, SEXUAL  
VIOLENCE, OR DATING VIOLENCE

Before me, the undersigned authority, personally appeared  
Petitioner ...(Name)..., who has been sworn and says that the  
following statements are true:

1. Petitioner resides at ...(address)... (A petitioner for  
an injunction for protection against sexual violence may furnish  
an address to the court in a separate confidential filing if,  
for safety reasons, the petitioner requires the location of his  
or her current residence to be confidential pursuant to s.  
119.071(2)(k) ~~s. 119.071(2)(j)~~, Florida Statutes.)

2. Respondent resides at ...(address)....

3.a. Petitioner has suffered repeat violence as  
demonstrated by the fact that the respondent has:  
...(enumerate incidents of violence)...

.....  
.....  
.....

b. Petitioner has suffered sexual violence as demonstrated  
by the fact that the respondent has: ...(enumerate incident of  
violence and include incident report number from law enforcement  
agency or attach notice of inmate release.)...

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591-01634-15

2015248c1

.....

c. Petitioner is a victim of dating violence and has reasonable cause to believe that he or she is in imminent danger of becoming the victim of another act of dating violence or has reasonable cause to believe that he or she is in imminent danger of becoming a victim of dating violence, as demonstrated by the fact that the respondent has: ...(list the specific incident or incidents of violence and describe the length of time of the relationship, whether it has been in existence during the last 6 months, the nature of the relationship of a romantic or intimate nature, the frequency and type of interaction, and any other facts that characterize the relationship.)...

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.....

4. Petitioner genuinely fears repeat violence by the respondent.

5. Petitioner seeks: an immediate injunction against the respondent, enjoining him or her from committing any further acts of violence; an injunction enjoining the respondent from committing any further acts of violence; and an injunction providing any terms the court deems necessary for the protection of the petitioner and the petitioner's immediate family, including any injunctions or directives to law enforcement agencies.

Section 6. Subsection (1) of section 794.024, Florida



591-01634-15

2015248c1

Statutes, is amended to read:

794.024 Unlawful to disclose identifying information.—

(1) A public employee or officer who has access to the photograph, name, or address of a person who is alleged to be the victim of an offense described in this chapter, chapter 800, s. 827.03, s. 827.04, or s. 827.071 may not willfully and knowingly disclose it to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, a person specified in an order entered by the court having jurisdiction of the alleged offense, or organizations authorized to receive such information made exempt by s. 119.071(2)(i) ~~s. 119.071(2)(h)~~, or to a rape crisis center or sexual assault counselor, as defined in s. 90.5035(1)(b), who will be offering services to the victim.

Section 7. Section 794.03, Florida Statutes, is amended to read:

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

Section 8. The Legislature finds that it is a public



591-01634-15

2015248c1

233 necessity that an audio or video recording made by a law  
234 enforcement officer in the course of the officer performing his  
235 or her official duties and responsibilities be made exempt from  
236 the public records requirements of s. 119.07(1) and s. 24(a),  
237 Article I of the State Constitution, if the recording: is taken  
238 within the interior of a private residence; is taken on the  
239 property of a facility that offers health care, mental health  
240 care, or social services; is taken at the scene of a medical  
241 emergency; is taken at a place where a person recorded or  
242 depicted in the recording has a reasonable expectation of  
243 privacy; or shows a child younger than 18 years of age inside a  
244 school or on school property or a child younger than 14 years of  
245 age at any location. The Legislature finds that information  
246 recorded by these devices in these circumstances is  
247 significantly more likely to include highly sensitive personal  
248 information regarding the persons recorded than in other  
249 circumstances. The Legislature finds that public disclosure of  
250 these recordings could have an undesirable, chilling effect:  
251 persons who know sensitive personal information about them is  
252 being or may be recorded may be unwilling to cooperate with law  
253 enforcement officers and make calls for the services of law  
254 enforcement officers. In the case of minors, information about  
255 those minors could jeopardize their safety. The Legislature  
256 finds that these interests or concerns not only necessitate the  
257 exemption of the recordings but outweigh any public benefit that  
258 may be derived from their disclosure.

259 Section 9. This act shall take effect July 1, 2015.