

By Senator Diaz de la Portilla

40-00843A-15

2015852\_\_

1                                   A bill to be entitled  
2       An act relating to public records; amending s.  
3       119.071, F.S.; providing exemptions from public  
4       records requirements for an audio or video recording  
5       made by a law enforcement officer taken within the  
6       interior of a private residence, an audio or video  
7       recording made by a law enforcement officer taken  
8       within a building of a hospital or health care  
9       provider, an audio or video recording made by a law  
10      enforcement officer taken at the scene of a medical  
11      emergency, an audio or video recording made by a law  
12      enforcement officer showing a minor taken while the  
13      minor is inside of a school or on school property, and  
14      an audio or video recording made by a law enforcement  
15      officer showing a minor younger than a specified age  
16      at any location; amending ss. 92.56, 119.011,  
17      119.0714, 784.046, 794.024, and 794.03, F.S.;  
18      conforming cross-references; providing a statement of  
19      public necessity; providing an effective date.

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

22  
23       Section 1. Present paragraphs (g) through (k) of subsection  
24       (2) of section 119.071, Florida Statutes, are redesignated as  
25       paragraphs (k) through (o), respectively, and new paragraphs (g)  
26       through (j) are added to that section, to read:

27       119.071 General exemptions from inspection or copying of  
28       public records.—

29       (2) AGENCY INVESTIGATIONS.—

40-00843A-15

2015852\_\_

30 (g) An audio or video recording made by a law enforcement  
31 officer taken within the interior of a private residence is  
32 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
33 Constitution. This paragraph is subject to the Open Government  
34 Sunset Review Act in accordance with s. 119.15 and shall stand  
35 repealed on October 2, 2020, unless reviewed and saved from  
36 repeal through reenactment by the Legislature.

37 (h) An audio or video recording made by a law enforcement  
38 officer taken within a building of a hospital or health care  
39 provider is exempt from s. 119.07(1) and s. 24(a), Art. I of the  
40 State Constitution. This paragraph is subject to the Open  
41 Government Sunset Review Act in accordance with s. 119.15 and  
42 shall stand repealed on October 2, 2020, unless reviewed and  
43 saved from repeal through reenactment by the Legislature.

44 (i) An audio or video recording made by a law enforcement  
45 officer taken at the scene of a medical emergency is exempt from  
46 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.  
47 This paragraph is subject to the Open Government Sunset Review  
48 Act in accordance with s. 119.15 and shall stand repealed on  
49 October 2, 2020, unless reviewed and saved from repeal through  
50 reenactment by the Legislature.

51 (j) An audio or video recording made by a law enforcement  
52 officer showing a minor younger than 18 years of age taken while  
53 the minor is inside of a school, as defined in s. 1003.01, or on  
54 school property, as defined in s. 810.095, and an audio or video  
55 recording made by a law enforcement officer showing a minor  
56 younger than 14 years of age taken at any location, are exempt  
57 from s. 119.07(1) and s. 24(a), Art. I of the State  
58 Constitution. This paragraph is subject to the Open Government

40-00843A-15

2015852\_\_

59 Sunset Review Act in accordance with s. 119.15 and shall stand  
60 repealed on October 2, 2020, unless reviewed and saved from  
61 repeal through reenactment by the Legislature.

62 Section 2. Paragraph (a) of subsection (1) of section  
63 92.56, Florida Statutes, is amended to read:

64 92.56 Judicial proceedings and court records involving  
65 sexual offenses and human trafficking.—

66 (1) (a) The confidential and exempt status of criminal  
67 intelligence information or criminal investigative information  
68 made confidential and exempt pursuant to s. 119.071(2)(1)  
69 ~~119.071(2)(h)~~ must be maintained in court records pursuant to s.  
70 119.0714(1)(h) and in court proceedings, including testimony  
71 from witnesses.

72 Section 3. Paragraph (c) of subsection (3) of section  
73 119.011, Florida Statutes, is amended to read:

74 119.011 Definitions.—As used in this chapter, the term:  
75 (3)

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

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

80 2. The name, sex, age, and address of a person arrested or  
81 of the victim of a crime except as provided in s. 119.071(2)(1)  
82 ~~119.071(2)(h)~~.

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

85 4. The crime charged.

86 5. Documents given or required by law or agency rule to be  
87 given to the person arrested, except as provided in s.

40-00843A-15

2015852\_\_

88 119.071(2)(1) ~~119.071(2)(h)~~, and, except that the court in a  
89 criminal case may order that certain information required by law  
90 or agency rule to be given to the person arrested be maintained  
91 in a confidential manner and exempt from the provisions of s.  
92 119.07(1) until released at trial if it is found that the  
93 release of such information would:

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

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

98 6. Informations and indictments except as provided in s.  
99 905.26.

100 Section 4. Paragraph (h) of subsection (1) of section  
101 119.0714, Florida Statutes, is amended to read:

102 119.0714 Court files; court records; official records.—

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

107 (h) Criminal intelligence information or criminal  
108 investigative information that is confidential and exempt as  
109 provided in s. 119.071(2)(1) ~~119.071(2)(h)~~.

110 Section 5. Paragraph (b) of subsection (4) of section  
111 784.046, Florida Statutes, is amended to read:

112 784.046 Action by victim of repeat violence, sexual  
113 violence, or dating violence for protective injunction; dating  
114 violence investigations, notice to victims, and reporting;  
115 pretrial release violations; public records exemption.—

116 (4)

40-00843A-15

2015852\_\_

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

119 PETITION FOR INJUNCTION FOR PROTECTION  
120 AGAINST REPEAT VIOLENCE, SEXUAL  
121 VIOLENCE, OR DATING VIOLENCE

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

125 1. Petitioner resides at ...(address)... (A petitioner for  
126 an injunction for protection against sexual violence may furnish  
127 an address to the court in a separate confidential filing if,  
128 for safety reasons, the petitioner requires the location of his  
129 or her current residence to be confidential pursuant to s.  
130 119.071(2)(n) ~~119.071(2)(j)~~, Florida Statutes.)

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

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

135 .....  
136 .....  
137 .....

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

142 .....  
143 .....  
144 .....

145 c. Petitioner is a victim of dating violence and has

40-00843A-15

2015852\_\_

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

156 .....  
 157 .....  
 158 .....

159 4. Petitioner genuinely fears repeat violence by the  
 160 respondent.

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

169 Section 6. Subsection (1) of section 794.024, Florida  
 170 Statutes, is amended to read:

171 794.024 Unlawful to disclose identifying information.-

172 (1) A public employee or officer who has access to the  
 173 photograph, name, or address of a person who is alleged to be  
 174 the victim of an offense described in this chapter, chapter 800,

40-00843A-15

2015852\_\_

175 s. 827.03, s. 827.04, or s. 827.071 may not willfully and  
176 knowingly disclose it to a person who is not assisting in the  
177 investigation or prosecution of the alleged offense or to any  
178 person other than the defendant, the defendant's attorney, a  
179 person specified in an order entered by the court having  
180 jurisdiction of the alleged offense, or organizations authorized  
181 to receive such information made exempt by s. 119.071(2)(l)  
182 ~~119.071(2)(h)~~, or to a rape crisis center or sexual assault  
183 counselor, as defined in s. 90.5035(1)(b), who will be offering  
184 services to the victim.

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

187 794.03 Unlawful to publish or broadcast information  
188 identifying sexual offense victim.—No person shall print,  
189 publish, or broadcast, or cause or allow to be printed,  
190 published, or broadcast, in any instrument of mass communication  
191 the name, address, or other identifying fact or information of  
192 the victim of any sexual offense within this chapter, except as  
193 provided in s. 119.071(2)(l) ~~119.071(2)(h)~~ or unless the court  
194 determines that such information is no longer confidential and  
195 exempt pursuant to s. 92.56. An offense under this section shall  
196 constitute a misdemeanor of the second degree, punishable as  
197 provided in s. 775.082 or s. 775.083.

198 Section 8. The Legislature finds that an audio or video  
199 recording made by a law enforcement officer taken within the  
200 interior of a private residence, an audio or video recording  
201 made by a law enforcement officer taken within a building of a  
202 hospital or health care provider, an audio or video recording  
203 made by a law enforcement officer taken at the scene of a

40-00843A-15

2015852\_\_

204 medical emergency, an audio or video recording made by a law  
205 enforcement officer showing a minor younger than 18 years of age  
206 taken while the minor is inside of a school, as defined in s.  
207 1003.01, Florida Statutes, or on school property, as defined in  
208 s. 810.095, Florida Statutes, and an audio or video recording  
209 made by a law enforcement officer showing a minor younger than  
210 14 years of age taken at any location, should be included within  
211 the information relating to agency investigations that are  
212 exempt from the public records requirements of s. 119.07(1),  
213 Florida Statutes, and s. 24(a), Article I of the State  
214 Constitution. The Legislature also finds that it is a public  
215 necessity to exempt such information from public records  
216 requirements to protect the privacy of individuals who are  
217 inside their homes, who are within a building of a hospital or  
218 health care provider, who are involved in a medical emergency,  
219 who are minors younger than 18 years of age inside of a school  
220 or on school property, or who are minors younger than 14 years  
221 of age at any location, because the failure to protect an  
222 individual's privacy may have an undesirable, chilling effect on  
223 the willingness of the individual to cooperate with law  
224 enforcement or to make calls for the services of law enforcement  
225 officers. Protecting an individual's privacy and preventing any  
226 potential chilling effects outweigh any public benefit that may  
227 be derived from the disclosure of such information.

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