

CS/HB 409

2011

1                               A bill to be entitled  
2       An act relating to public records; amending s. 119.071,  
3       F.S.; expanding the exemption from public records  
4       requirements for criminal intelligence information and  
5       criminal investigative information to include photographs,  
6       videotapes, or images of any part of the body of a victim  
7       of the sexual offense of video voyeurism; providing for  
8       future review and repeal of the exemption; providing a  
9       statement of public necessity; reenacting s. 92.56(1)(a),  
10      F.S., relating to judicial proceedings and court records  
11      involving sexual offenders, to incorporate the amendment  
12      made to s. 119.071, F.S., in a reference thereto;  
13      reenacting s. 119.0714(1)(h), F.S., relating to court  
14      files and records, to incorporate the amendment made to s.  
15      119.071, F.S., in a reference thereto; reenacting s.  
16      794.024(1), F.S., relating to the unlawful disclosure of  
17      identifying information, to incorporate the amendment made  
18      to s. 119.071, F.S., in a reference thereto; providing an  
19      effective date.

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

22  
23       Section 1. Paragraph (h) of subsection (2) of section  
24   119.071, Florida Statutes, is amended to read:

25       119.071 General exemptions from inspection or copying of  
26   public records.—

27       (2) AGENCY INVESTIGATIONS.—

28       (h)1. The following criminal intelligence information or

CS/HB 409

2011

29 criminal investigative information is confidential and exempt  
30 from s. 119.07(1) and s. 24(a), Art. I of the State  
31 Constitution:

32       a. Any information, including the photograph, name,  
33 address, or other fact, which reveals the identity of the victim  
34 of the crime of child abuse as defined by chapter 827.

35       b. Any information which may reveal the identity of a  
36 person who is a victim of any sexual offense, including a sexual  
37 offense proscribed in chapter 794, chapter 796, chapter 800,  
38 chapter 827, or chapter 847.

39       c. A photograph, videotape, or image of any part of the  
40 body of the victim of a sexual offense prohibited under chapter  
41 794, chapter 796, chapter 800, s. 810.145, chapter 827, or  
42 chapter 847, regardless of whether the photograph, videotape, or  
43 image identifies the victim.

44       2. Criminal investigative information and criminal  
45 intelligence information made confidential and exempt under this  
46 paragraph may be disclosed by a law enforcement agency:

47       a. In the furtherance of its official duties and  
48 responsibilities.

49       b. For print, publication, or broadcast if the law  
50 enforcement agency determines that such release would assist in  
51 locating or identifying a person that such agency believes to be  
52 missing or endangered. The information provided should be  
53 limited to that needed to identify or locate the victim and not  
54 include the sexual nature of the offense committed against the  
55 person.

56       c. To another governmental agency in the furtherance of

CS/HB 409

2011

its official duties and responsibilities.

3. This exemption applies to such confidential and exempt criminal intelligence information or criminal investigative information held by a law enforcement agency before, on, or after the effective date of the exemption.

4. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2016 ~~2013~~, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that criminal intelligence information or criminal investigative information that is a photograph, videotape, or image of any part of the body of a victim of the sexual offense of video voyeurism prohibited under s. 810.145, Florida Statutes, be made confidential and exempt from public records requirements. The Legislature finds that such photographs, videotapes, or images often depict the victim in graphic fashion, frequently nude. Such highly sensitive photographs, videotapes, or images of a victim of the sexual offense of video voyeurism, if viewed, copied, or publicized, could result in trauma, sorrow, humiliation, or emotional injury to the victim and the victim's family.

Section 3. For the purpose of incorporating the amendment made by this act to section 119.071, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 92.56, Florida Statutes, is reenacted to read:

92.56 Judicial proceedings and court records involving sexual offenses.—

CS/HB 409

2011

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

90           Section 4. For the purpose of incorporating the amendment  
91 made by this act to section 119.071, Florida Statutes, in a  
92 reference thereto, paragraph (h) of subsection (1) of section  
93 119.0714, Florida Statutes, is reenacted to read:

94           119.0714 Court files; court records; official records.—

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

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

102           Section 5. For the purpose of incorporating the amendment  
103 made by this act to section 119.071, Florida Statutes, in a  
104 reference thereto, subsection (1) of section 794.024, Florida  
105 Statutes, is reenacted to read:

106           794.024 Unlawful to disclose identifying information.—

107           (1) A public employee or officer who has access to the  
108 photograph, name, or address of a person who is alleged to be  
109 the victim of an offense described in this chapter, chapter 800,  
110 s. 827.03, s. 827.04, or s. 827.071 may not willfully and  
111 knowingly disclose it to a person who is not assisting in the  
112 investigation or prosecution of the alleged offense or to any

CS/HB 409

2011

113 person other than the defendant, the defendant's attorney, a  
114 person specified in an order entered by the court having  
115 jurisdiction of the alleged offense, or organizations authorized  
116 to receive such information made exempt by s. 119.071(2)(h), or  
117 to a rape crisis center or sexual assault counselor, as defined  
118 in s. 90.5035(1)(b), who will be offering services to the  
119 victim.

120       Section 6. This act shall take effect July 1, 2011.