

ENROLLED
CS/HB 409

2011 Legislature

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.

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

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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

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

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

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

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

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

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

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

c. To another governmental agency in the furtherance of

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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.—

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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

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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.