

CHAPTER 97-73

Committee Substitute for House Bill No. 493

An act relating to the confidentiality of information of the Florida Violent Crime Council; amending s. 943.031, F.S.; providing certain exemptions from public records and public meetings requirements with respect to the council; providing exemptions for portions of meetings at which certain confidential records are discussed and for portions of records generated at exempt portions of meetings; providing for future review and repeal; providing a finding of public necessity; providing that the council is a criminal justice agency for purposes of chapter 119, F.S., relating to public records; providing an effective date.

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

Section 1. Subsection (6) is added to section 943.031, Florida Statutes, to read:

943.031 Florida Violent Crime Council.—The Legislature finds that there is a need to develop and implement a statewide strategy to address violent criminal activity. In recognition of this need, the Florida Violent Crime Council is created within the department. The council shall serve in an advisory capacity to the department.

(6) CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL MEETINGS AND RECORDS.—

(a)1. The Legislature finds that during limited portions of the meetings of the Florida Violent Crime Council it is necessary that the council be presented with and discuss details, information, and documents related to active criminal investigations or matters constituting active criminal intelligence, as those concepts are defined by s. 119.011. These presentations and discussions are necessary for the council to make its funding decisions as required by the Legislature. The Legislature finds that to reveal the contents of documents containing active criminal investigative or intelligence information or to allow active criminal investigative or active criminal intelligence matters to be discussed in a meeting open to the public negatively impacts the ability of law enforcement agencies to efficiently continue their investigative or intelligence gathering activities. The Legislature finds that information coming before the council that pertains to active criminal investigations or intelligence should remain confidential and exempt from public disclosure. The Legislature finds that the Florida Violent Crime Council may, by declaring only those portions of council meetings in which active criminal investigative or active criminal intelligence information is to be presented or discussed closed to the public, assure an appropriate balance between the policy of this state that meetings be public and the policy of this state to facilitate efficient law enforcement efforts.

2. The Legislature finds that it is a public necessity that portions of the meetings of the Florida Violent Crime Council be closed when the confidential details, information, and documents related to active criminal investigations or matters constituting active criminal intelligence are discussed. The Legislature further finds that it is no less a public necessity that portions of public records generated at closed council meetings, such as tape recordings, minutes, and notes, memorializing the discussions regarding such confidential details, information, and documents related to active criminal investigations or matters constituting active criminal intelligence, also shall be held confidential.

(b) The Florida Violent Crime Council shall be considered a "criminal justice agency" within the definition of s. 119.011(4).

(c)1. The Florida Violent Crime Council may close portions of meetings during which the council will hear or discuss active criminal investigative information or active criminal intelligence information, and such portions of meetings shall be exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution, provided that the following conditions are met:

a. The chairman of the council shall advise the council at a public meeting that, in connection with the performance of a council duty, it is necessary that the council hear or discuss active criminal investigative information or active criminal intelligence information.

b. The chairman's declaration of necessity for closure and the specific reasons for such necessity shall be stated in writing in a document which shall be a public record and shall be filed with the official records of the council.

c. The entire closed session shall be recorded. The recording shall include the times of commencement and termination of the closed session, all discussion and proceedings, and the names of all persons present. No portion of the session shall be off the record. Such recording shall be maintained by the council, and is exempt from the provisions of s. 119.011 and s. 24(b), Art. I of the State Constitution until such time as the criminal investigative information or criminal intelligence information which justifies closure ceases to be active, at which time the portion of the record related to the no longer active information or intelligence shall be open for public inspection and copying.

The exemption in this paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2002, unless reviewed and saved from repeal through reenactment by the Legislature.

2. Only members of the council, Department of Law Enforcement staff supporting the council's function, and other persons whose presence has been authorized by the council shall be allowed to attend the exempted portions of the council meetings. The council shall assure that any closure of its meetings as authorized by this section is limited so that the general policy of this state in favor of public meetings is maintained.

(d) Those portions of any public record, such as a tape recording, minutes, and notes, generated during that portion of a Florida Violent Crime Council meeting which is closed to the public pursuant to this section, which contain information relating to active criminal investigations or matters constituting active criminal intelligence, are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such criminal investigative information or criminal intelligence information ceases to be active. The exemptions in this paragraph are subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2002, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 16, 1997.

Filed in Office Secretary of State May 12, 1997.