

Committee Substitute for Senate Bill No. 798

An act relating to public records; amending s. 390.01116, F.S.; providing a public-records exemption for information that could identify a minor which is contained in a record held by the court relating to a minor's petition to waive notice requirements when terminating a pregnancy; providing for future legislative review and repeal under the Open Government Sunset Review Act; providing findings of public necessity; providing a contingent effective date.

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

Section 1. Section 390.01116, Florida Statutes, is amended to read:

390.01116 Waiver of notice petition; confidentiality.—When a minor petitions a circuit court for a waiver, as provided in s. 390.01114, of the notice requirements pertaining to a minor seeking to terminate her pregnancy, any information in a record held by the circuit court or an appellate court ~~documents related to the petition~~ which could be used to identify the minor is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Section 2. Section 390.01116, Florida Statutes, is subject to the Open Government Sunset Review Act of 1995 in accordance with section 119.15, Florida Statutes, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. (1) The Legislature finds that it is a public necessity to keep confidential and exempt from public disclosure information contained in a court record which could be used to identify a minor who is petitioning the court for a waiver from the statutory requirement that a parent or legal guardian be notified when a minor seeks to terminate her pregnancy. The information contained in these records is of a sensitive, personal nature regarding a minor petitioner, release of which could harm the reputation of the minor, as well as jeopardize her safety. Disclosure of this information could jeopardize the safety of the minor in instances when child abuse or child sexual abuse against her is present by exposing her to further acts of abuse from an abuser who, without the confidentiality and exemption, could learn of the minor's pregnancy, her plans to terminate the pregnancy, and her petition to the court.

(2) The Legislature further finds that it is a public necessity to keep this identifying information in records held by the court confidential and exempt in order to protect the privacy of the minor. The State Constitution contains an express right of privacy in Section 23 of Article I. Further, the United States Supreme Court has repeatedly required parental-notification laws to contain judicial-bypass procedures and to preserve confidentiality at every level of court proceedings in order to protect the privacy rights of the minor. Without the confidentiality and exemption provided in this act, the disclosure of personal identifying information would violate the right of privacy

of the minor. Further, without the confidential and exempt status for this information, the constitutionality of the state's program providing for notification of a minor's termination of pregnancy, and the judicial-bypass procedure in particular, would be in question. Thus, the confidentiality and exemption provided in this act are also necessary for the effective administration of the state's program, which administration would be impaired without the exemption.

Section 4. This act shall take effect on the same day that Senate Bill 1908 or similar legislation providing for parental notice of a minor's abortion takes effect, if the legislation is adopted in the same legislative session or an extension thereof and becomes law.

Approved by the Governor June 1, 2005.

Filed in Office Secretary of State June 1, 2005.