

## Committee Substitute for Senate Bill No. 1144

An act relating to public records and public meetings; amending s. 119.01, F.S.; clarifying general state policy on public records; amending s. 119.07, F.S.; conforming cross-references; making editorial and conforming changes; transferring exemptions from public-records requirements under that section to indicated sections of Florida Statutes; amending s. 119.071, F.S.; transferring exemptions from public-records requirements under s. 119.07(6), F.S., to that section and reorganizing the exemptions under the classifications of “Agency Administration,” “Agency Investigations,” “Security,” “Agency Personnel Information,” and “Other Personal Information”; making editorial and conforming changes; transferring and amending s. 119.0721, F.S.; transferring exemptions provided for social security numbers to s. 119.071, F.S.; making editorial and conforming changes; deleting obsolete provisions; creating s. 119.0711, F.S.; transferring exemptions under s. 119.07(6), F.S., to that section and reorganizing the exemptions under the classification of “Executive Branch Agency Exemptions from Inspection and Copying of Public Records”; making editorial and conforming changes; creating s. 119.0712, F.S.; transferring exemptions under s. 119.07(6), F.S., to that section and reorganizing the exemptions under the classification of “Executive Branch Agency-Specific Exemptions from Inspection and Copying of Public Records”; making editorial and conforming changes; creating s. 119.0713, F.S.; transferring exemptions under s. 119.07(6), F.S., to that section and reorganizing the exemptions under the classification of “Local Government Branch Agency Exemptions from Inspection and Copying of Public Records”; making editorial and conforming changes; amending s. 119.15, F.S.; revising standards and guidelines for the review and repeal of exemptions from public-records and public-meetings requirements pursuant to the Open Government Sunset Review Act; making editorial and conforming changes; creating s. 112.3190, F.S.; transferring exemptions under s. 119.07(6), F.S., to that section and reorganizing the exemptions under the classification of “Investigatory Records”; making editorial and conforming changes; creating s. 27.7081, F.S.; transferring provisions relating to capital postconviction public records production under s. 119.19, F.S., to that section; amending ss. 27.708, 101.5607, 112.533, 119.011, 286.0113, 287.0943, 320.05, 322.20, 338.223, 401.27, 409.2577, 633.527, 794.024, and 1007.35, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Subsection (1) of section 119.01, Florida Statutes, is amended to read:

119.01 General state policy on public records.—

(1) It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.

Section 2. Paragraph (e) of subsection (1), and subsections (7), (8), (9), and (10) of section 119.07, Florida Statutes, are amended to read:

119.07 Inspection and copying of records; photographing public records; fees; exemptions.—

(1)

(e) In any civil action in which an exemption to this section is asserted, if the exemption is alleged to exist under or by virtue of s. 119.071(1)(d) or (f), (2)(d),(e), or (f), or (4)(c) paragraph (6)(e), paragraph (6)(d), paragraph (6)(e), paragraph (6)(k), paragraph (6)(l), or paragraph (6)(o), the public record or part thereof in question shall be submitted to the court for an inspection in camera. If an exemption is alleged to exist under or by virtue of s. 119.071(2)(c) paragraph (6)(b), an inspection in camera is discretionary with the court. If the court finds that the asserted exemption is not applicable, it shall order the public record or part thereof in question to be immediately produced for inspection or copying as requested by the person seeking such access.

~~(6)(7)~~ Nothing in this ~~chapter section~~ shall be construed to exempt from subsection (1) a public record ~~that which~~ was made a part of a court file and ~~that which~~ is not specifically closed by order of court, except as provided in ~~paragraphs s. 119.071 (1)(d) and (f), (2)(d),(e), and (f), and (4)(c) (e), (d), (e), (k), (l), and (o) of subsection (6) and except information or records that which~~ may reveal the identity of a person who is a victim of a sexual offense as provided in s. 119.071(2)(h) paragraph (f) of subsection (6).

~~(7)(8)~~ An exemption contained in this chapter Nothing in subsection (6) or in any other general or special law shall not limit the access of the Auditor General, the Office of Program Policy Analysis and Government Accountability, or any state, county, municipal, university, board of community college, school district, or special district internal auditor to public records when such person states in writing that such records are needed for a properly authorized audit, examination, or investigation. Such person shall maintain the exempt or confidential status of that a public record ~~that is exempt or confidential from the provisions of subsection (1)~~ and shall be subject to the same penalties as the custodian of that record for public disclosure of such record.

~~(8)(9)~~ An exemption from this section does not imply an exemption from s. 286.011. The exemption from s. 286.011 must be expressly provided.

~~(9)(10)~~ The provisions of this section are not intended to expand or limit the provisions of Rule 3.220, Florida Rules of Criminal Procedure, regarding the right and extent of discovery by the state or by a defendant in a criminal prosecution or in collateral postconviction proceedings. This section may not be used by any inmate as the basis for failing to timely litigate any postconviction action.

Section 3. Paragraph (a) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (a) of subsection (1) of section 119.071, Florida Statutes, and amended to read:

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

(1) AGENCY ADMINISTRATION.—

(a) Examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure, certification, or employment are exempt from ~~s. 119.07(1) the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution. A person who has taken such an examination ~~has shall~~ have the right to review his or her own completed examination.

Section 4. Paragraph (m) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (b) of subsection (1) of section 119.071, Florida Statutes, and amended to read:

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

(1) AGENCY ADMINISTRATION.—

~~(b)(m)~~ Sealed bids or proposals received by an agency pursuant to invitations to bid or requests for proposals are exempt from ~~s. 119.07(1) the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of a decision or intended decision pursuant to s. 120.57(3)(a) or within 10 days after bid or proposal opening, whichever is earlier.

Section 5. Paragraph (t) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (c) of subsection (1) of section 119.071, Florida Statutes, and amended to read:

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

(1) AGENCY ADMINISTRATION.—

~~(c)(t)~~ Any financial statement ~~that which~~ an agency requires a prospective bidder to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from ~~s. 119.07(1) the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution.

Section 6. Paragraph (l) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (d) of subsection (1) of section 119.071, Florida Statutes, and amended to read:

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

(1) AGENCY ADMINISTRATION.—

(d)(4)1. A public record that which was prepared by an agency attorney (including an attorney employed or retained by the agency or employed or retained by another public officer or agency to protect or represent the interests of the agency having custody of the record) or prepared at the attorney's express direction, that which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the agency, and that which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or that which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings, is exempt from s. 119.07(1) the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution until the conclusion of the litigation or adversarial administrative proceedings. For purposes of capital collateral litigation as set forth in s. 27.7001, the Attorney General's office is entitled to claim this exemption for those public records prepared for direct appeal as well as for all capital collateral litigation after direct appeal until execution of sentence or imposition of a life sentence.

2. This exemption is not waived by the release of such public record to another public employee or officer of the same agency or any person consulted by the agency attorney. When asserting the right to withhold a public record pursuant to this paragraph, the agency shall identify the potential parties to any such criminal or civil litigation or adversarial administrative proceedings. If a court finds that the document or other record has been improperly withheld under this paragraph, the party seeking access to such document or record shall be awarded reasonable attorney's fees and costs in addition to any other remedy ordered by the court.

Section 7. Paragraph (ii) of subsection (6) of section 119.07, Florida Statutes, is transferred and redesignated as paragraph (e) of subsection (1) of section 119.071, Florida Statutes, and amended to read:

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

(1) AGENCY ADMINISTRATION.—

(e)(ii) Any videotape or video signal that, under an agreement with an agency, is produced, made, or received by, or is in the custody of, a federally licensed radio or television station or its agent is exempt from s. 119.07(1) this chapter.

Section 8. Paragraph (o) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (f) of subsection (1) of section 119.071, Florida Statutes, and amended to read:

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

(1) AGENCY ADMINISTRATION.—

(f)(e) Data processing software obtained by an agency under a licensing agreement that which prohibits its disclosure and which software is a trade

secret, as defined in s. 812.081, and agency-produced data processing software that which is sensitive are exempt from s. 119.07(1) the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution. The designation of agency-produced software as sensitive shall not prohibit an agency head from sharing or exchanging such software with another public agency.

Section 9. Paragraph (h) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (a) of subsection (2) of section 119.071, Florida Statutes, and amended to read:

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

(2) AGENCY INVESTIGATIONS.—

(a)(h) All criminal intelligence and criminal investigative information received by a criminal justice agency prior to January 25, 1979, is exempt from s. 119.07(1) the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution.

Section 10. Section 119.072, Florida Statutes, is transferred, redesignated as paragraph (b) of subsection (2) of section 119.071, Florida Statutes, and amended to read:

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

(2) AGENCY INVESTIGATIONS.—

(b) ~~119.072 Criminal intelligence or investigative information obtained from out-of-state agencies.—~~ Whenever criminal intelligence information or criminal investigative information held by a non-Florida criminal justice agency is available to a Florida criminal justice agency only on a confidential or similarly restricted basis, the Florida criminal justice agency may obtain and use such information in accordance with the conditions imposed by the providing agency.

Section 11. Paragraph (b) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (c) of subsection (2) of section 119.071, Florida Statutes, and amended to read:

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

(2) AGENCY INVESTIGATIONS.—

(c)(b)1. Active criminal intelligence information and active criminal investigative information are exempt from s. 119.07(1) the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution.

2. A request of a law enforcement agency to inspect or copy a public record that is in the custody of another agency, the custodian's response to the request, and any information that would identify the public record that was requested by the law enforcement agency or provided by the custodian

are exempt from ~~s. 119.07(1) the requirements of subsection (1)~~ and s. 24(a), Art. I of the State Constitution, during the period in which the information constitutes criminal intelligence information or criminal investigative information that is active. This exemption is remedial in nature, and it is the intent of the Legislature that the exemption be applied to requests for information received before, on, or after the effective date of this subparagraph. The law enforcement agency shall give notice to the custodial agency when the criminal intelligence information or criminal investigative information is no longer active, so that the custodian's response to the request and information that would identify the public record requested are available to the public. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 12. Paragraph (d) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (d) of subsection (2) of section 119.071, Florida Statutes, and amended to read:

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

(2) AGENCY INVESTIGATIONS.—

(d) Any information revealing surveillance techniques or procedures or personnel is exempt from ~~s. 119.07(1) the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution. Any comprehensive inventory of state and local law enforcement resources compiled pursuant to part I, chapter 23, and any comprehensive policies or plans compiled by a criminal justice agency pertaining to the mobilization, deployment, or tactical operations involved in responding to emergencies, as defined in s. 252.34(3), are exempt from ~~s. 119.07(1) the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution and unavailable for inspection, except by personnel authorized by a state or local law enforcement agency, the office of the Governor, the Department of Legal Affairs, the Department of Law Enforcement, or the Department of Community Affairs as having an official need for access to the inventory or comprehensive policies or plans.

Section 13. Paragraph (k) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (e) of subsection (2) of section 119.071, Florida Statutes, and amended to read:

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

(2) AGENCY INVESTIGATIONS.—

~~(e)(k)~~ Any information revealing the substance of a confession of a person arrested is exempt from ~~s. 119.07(1) the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution, until such time as the criminal case is finally determined by adjudication, dismissal, or other final disposition.

Section 14. Paragraph (c) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (f) of subsection (2) of section 119.071, Florida Statutes, and amended to read:

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

(2) AGENCY INVESTIGATIONS.—

(f)(e) Any information revealing the identity of a confidential informant or a confidential source is exempt from s. 119.07(1) ~~the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution.~~

Section 15. Paragraph (u) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (g) of subsection (2) of section 119.071, Florida Statutes, and amended to read:

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

(2) AGENCY INVESTIGATIONS.—

(g)(u) ~~When~~ Where the alleged victim chooses not to file a complaint and requests that records of the complaint remain confidential, all records relating to an allegation of employment discrimination are confidential and exempt from s. 119.07(1) ~~the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution.~~

Section 16. Paragraphs (f) and (g) of subsection (6) of section 119.07, Florida Statutes, are transferred, redesignated as paragraphs (h) and (i), respectively, of subsection (2) of section 119.071, Florida Statutes, and amended to read:

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

(2) AGENCY INVESTIGATIONS.—

(h)(i)1. Any criminal intelligence information or criminal investigative information including the photograph, name, address, or other fact or information which reveals the identity of the victim of the crime of sexual battery as defined in chapter 794; the identity of the victim of a lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age, as defined in chapter 800; or the identity of the victim of the crime of child abuse as defined by chapter 827 and any criminal intelligence information or criminal investigative information or other criminal record, including those portions of court records and court proceedings, 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 800, or chapter 827, is exempt from s. 119.07(1) ~~the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution.~~

2. In addition to subparagraph 1., any criminal intelligence information or criminal investigative information that ~~which~~ is a photograph, videotape,

or image of any part of the body of the victim of a sexual offense prohibited under chapter 794, chapter 800, or chapter 827, regardless of whether the photograph, videotape, or image identifies the victim, is confidential and exempt from s. 119.07(1) ~~subsection (1)~~ and s. 24(a), Art. I of the State Constitution. This exemption applies to photographs, videotapes, or images held as criminal intelligence information or criminal investigative information before, on, or after the effective date of the exemption.

~~(i)(g)~~ Any criminal intelligence information or criminal investigative information that ~~which~~ reveals the personal assets of the victim of a crime, other than property stolen or destroyed during the commission of the crime, is exempt from s. 119.07(1) ~~the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution.

Section 17. Paragraph (s) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (j) of subsection (2) of section 119.071, Florida Statutes, and amended to read:

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

(2) AGENCY INVESTIGATIONS.—

~~(j)(s)~~1. Any document that reveals the identity, home or employment telephone number, home or employment address, or personal assets of the victim of a crime and identifies that person as the victim of a crime, which document is received by any agency that regularly receives information from or concerning the victims of crime, is exempt from s. 119.07(1) ~~the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution. Any information not otherwise held confidential or exempt from s. 119.07(1) ~~the provisions of subsection (1)~~ which reveals the home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from s. 119.07(1) ~~the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution, upon written request by the victim, which must include official verification that an applicable crime has occurred. Such information shall cease to be exempt 5 years after the receipt of the written request. Any state or federal agency that is authorized to have access to such documents by any provision of law shall be granted such access in the furtherance of such agency's statutory duties, notwithstanding ~~the provisions of this section.~~

2.a. Any information in a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145, which reveals that minor's identity, including, but not limited to, the minor's face; the minor's home, school, church, or employment telephone number; the minor's home, school, church, or employment address; the name of the minor's school, church, or place of employment; or the personal assets of the minor; and which identifies that minor as the victim of a crime described in this subparagraph, held by a law enforcement agency, is confidential and exempt from s. 119.07(1)



subsection (1) and s. 24(a), Art. I of the State Constitution. Any governmental agency that is authorized to have access to such statements by any provision of law shall be granted such access in the furtherance of the agency's statutory duties, notwithstanding the provisions of this section.

b. A public employee or officer who has access to a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145, may not willfully and knowingly disclose videotaped information that reveals the minor's identity to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order entered by the court having jurisdiction of the alleged offense. A person who violates this provision commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 18. Present section 119.071, Florida Statutes, is redesignated as paragraph (a) of subsection (3) of that section and amended to read:

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

(3) SECURITY.—

(a) A security system plan or portion thereof for:

1.(1) Any property owned by or leased to the state or any of its political subdivisions; or

2.(2) Any privately owned or leased property

which plan or portion thereof is held by any agency, ~~as defined in s. 119.011,~~ is confidential and exempt from ~~the provisions of s. 119.07(1) and s. 24(a),~~ Art. I of the State Constitution. As used in this paragraph section, the term a "security system plan" includes all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems; threat assessments conducted by any agency ~~as defined in s. 119.011~~ or any private entity; threat response plans; emergency evacuation plans; sheltering arrangements; or manuals for security personnel, emergency equipment, or security training. This exemption is remedial in nature and it is the intent of the Legislature that this exemption be applied to security system plans held by an agency before, on, or after the effective date of this paragraph section. Information made confidential and exempt by this paragraph section may be disclosed by the custodial agency to the property owner or leaseholder; or such information may be disclosed by the custodial agency to another state or federal agency to prevent, detect, guard against, respond to, investigate, or manage the consequences of any attempted or actual act of terrorism, or to prosecute those persons who are responsible for such attempts or acts, and the confidential and exempt status of such information shall be

retained while in the possession of the receiving agency. This ~~paragraph section~~ is subject to the Open Government Sunset Review Act of 1995, in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 19. Paragraphs (ee) and (ff) of subsection (6) of section 119.07, Florida Statutes, are transferred, redesignated as paragraphs (b) and (c), respectively, of subsection (3) of section 119.071, Florida Statutes, and amended to read:

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

(3) SECURITY.—

~~(b)(ee)~~ Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency as defined in s. 119.011 are exempt from s. 119.07(1) ~~the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution. This exemption applies to building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency before, on, or after the effective date of this act. Information made exempt by this paragraph may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or upon a showing of good cause before a court of competent jurisdiction. The entities or persons receiving such information shall maintain the exempt status of the information. 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, 2007, unless reviewed and reenacted by the Legislature.

~~(c)(ff)~~ Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, or hotel or motel development, which documents are held by an agency as defined in s. 119.011, are exempt from s. 119.07(1) ~~the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution. This exemption applies to any such documents held ~~either permanently or temporarily~~ by an agency before, on, or after the effective date of this act. Information made exempt by this paragraph may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to the owner or owners of the structure in question or the owner's legal representative; or upon a showing of good cause before a court of competent jurisdiction. As used in this paragraph, the term:

1. "Attractions and recreation facility" means any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility that:

a. For single-performance facilities:

(I) Provides single-performance facilities; or

(II) Provides more than 10,000 permanent seats for spectators.

b. For serial-performance facilities:

(I) Provides parking spaces for more than 1,000 motor vehicles; or

(II) Provides more than 4,000 permanent seats for spectators.

2. "Entertainment or resort complex" means a theme park comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owners or operators of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity includes an area within a 5-mile radius of the theme park complex.

3. "Industrial complex" means any industrial, manufacturing, processing, distribution, warehousing, or wholesale facility or plant, as well as accessory uses and structures, under common ownership which:

a. Provides onsite parking for more than 250 motor vehicles;

b. Encompasses 500,000 square feet or more of gross floor area; or

c. Occupies a site of 100 acres or more, but excluding wholesale facilities or plants that primarily serve or deal onsite with the general public.

4. "Retail and service development" means any retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite and is operated under one common property ownership, development plan, or management that:

a. Encompasses more than 400,000 square feet of gross floor area; or

b. Provides parking spaces for more than 2,500 motor vehicles.

5. "Office development" means any office building or park operated under common ownership, development plan, or management that encompasses 300,000 or more square feet of gross floor area.

6. "Hotel or motel development" means any hotel or motel development that accommodates 350 or more units.

This exemption does not apply to comprehensive plans or site plans, or amendments thereto, which are submitted for approval or which have been approved under local land development regulations, local zoning regulations, or development-of-regional-impact review.

Section 20. Paragraph (x) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (a) of subsection (4) of section 119.071, Florida Statutes, and amended to read:

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

(4) AGENCY PERSONNEL INFORMATION.—

~~(a)(x)~~1. The social security numbers of all current and former agency employees which numbers are contained in agency employment records are exempt from s. 119.07(1) subsection (1) and s. 24(a), Art. I of the State Constitution. ~~As used in this paragraph, the term “agency” means an agency as defined in s. 119.011.~~

2. An agency that is the custodian of a social security number specified in subparagraph 1. and that is not the employing agency shall maintain the exempt status of the social security number only if the employee or the employing agency of the employee submits a written request for confidentiality to the custodial agency. However, upon a request by a commercial entity as provided in subparagraph (5)(a)5. s. 119.0721, the custodial agency shall release the last four digits of the exempt social security number, except that a social security number provided in a lien filed with the Department of State shall be released in its entirety. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 21. Paragraph (v) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (b) of subsection (4) of section 119.071, Florida Statutes, and amended to read:

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

(4) AGENCY PERSONNEL INFORMATION.—

~~(b)(v)~~ Medical information pertaining to a prospective, current, or former officer or employee of an agency which, if disclosed, would identify that officer or employee is exempt from s. 119.07(1) the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution. However, such information may be disclosed if the person to whom the information pertains or the person's legal representative provides written permission or pursuant to court order.

Section 22. Paragraph (e) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (c) of subsection (4) of section 119.071, Florida Statutes, and amended to read:

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

(4) AGENCY PERSONNEL INFORMATION.—

~~(c)~~(e) Any information revealing undercover personnel of any criminal justice agency is exempt from s. 119.07(1) ~~the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution.

Section 23. Paragraph (i) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (d) of subsection (4) of section 119.071, Florida Statutes, and amended to read:

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

(4) AGENCY PERSONNEL INFORMATION.—

~~(d)~~(i)1. The home addresses, telephone numbers, social security numbers, and photographs of active or former law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) ~~the provisions of subsection (1)~~. The home addresses, telephone numbers, and photographs of firefighters certified in compliance with s. 633.35; the home addresses, telephone numbers, photographs, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) ~~subsection (1)~~. The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from s. 119.07(1) ~~the provisions of subsection (1)~~. The home addresses, telephone numbers, social security numbers, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) ~~subsection (1)~~ and s. 24(a), Art. I of the State Constitution.

2. The home addresses, telephone numbers, social security numbers, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) subsection (1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

3. The home addresses, telephone numbers, social security numbers, and photographs of current or former United States attorneys and assistant United States attorneys; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former United States attorneys and assistant United States attorneys; and the names and locations of schools and day care facilities attended by the children of current or former United States attorneys and assistant United States attorneys are exempt from s. 119.07(1) subsection (1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

4. The home addresses, telephone numbers, social security numbers, and photographs of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges; and the names and locations of schools and day care facilities attended by the children of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges are exempt from s. 119.07(1) subsection (1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

5. The home addresses, telephone numbers, social security numbers, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) subsection (1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15,

and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

6. An agency that is the custodian of the personal information specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., or subparagraph 5., and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., or subparagraph 5., shall maintain the exempt status of the personal information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

Section 24. Subsections (1) through (11) of section 119.0721, and paragraph (gg) of subsection (6) of section 119.07, Florida Statutes, are transferred, redesignated as paragraph (a) of subsection (5) of section 119.071, Florida Statutes, and amended to read:

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

(5) OTHER PERSONAL INFORMATION.—

(a)1. The Legislature acknowledges that the social security number was never intended to be used for business purposes but was intended to be used solely for the administration of the federal Social Security System. The Legislature is further aware that over time this unique numeric identifier has been used extensively for identity verification purposes and other legitimate consensual purposes. The Legislature is also cognizant of the fact that the social security number can be used as a tool to perpetuate fraud against a person and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual. The Legislature intends to monitor the commercial use of social security numbers held by state agencies in order to maintain a balanced public policy.

2. An agency shall not collect an individual's social security number unless authorized by law to do so or unless the collection of the social security number is otherwise imperative for the performance of that agency's duties and responsibilities as prescribed by law. Social security numbers collected by an agency must be relevant to the purpose for which collected and shall not be collected until and unless the need for social security numbers has been clearly documented. An agency that collects social security numbers shall also segregate that number on a separate page from the rest of the record, or as otherwise appropriate, in order that the social security number be more easily redacted, if required, pursuant to a public records request. An agency collecting a person's social security number shall, upon that person's request, at the time of or prior to the actual collection of the social security number by that agency, provide that person with a statement of the purpose or purposes for which the social security number is being collected and used. Social security numbers collected by an agency shall not be used by that agency for any purpose other than the purpose stated. Social security numbers collected by an agency prior to May 13, 2002,

shall be reviewed for compliance with this subparagraph. If the collection of a social security number prior to May 13, 2002, is found to be unwarranted, the agency shall immediately discontinue the collection of social security numbers for that purpose.

3.(1) Effective October 1, 2002, all social security numbers held by an agency ~~or its agents, employees, or contractors~~ are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to all social security numbers held by an agency ~~and its agents, employees, or contractors~~ before, on, or after the effective date of this exemption.

4.(2) Social security numbers may be disclosed to another governmental entity or its agents, employees, or contractors if disclosure is necessary for the receiving entity to perform its duties and responsibilities. The receiving governmental entity and its agents, employees, and contractors shall maintain the confidential and exempt status of such numbers.

5.(3) An agency shall not deny a commercial entity engaged in the performance of a commercial activity as defined in s. 14.203 or its agents, employees, or contractors access to social security numbers, provided the social security numbers will be used only in the normal course of business for legitimate business purposes, and provided the commercial entity makes a written request for social security numbers, verified as provided in s. 92.525, legibly signed by an authorized officer, employee, or agent of the commercial entity. The verified written request must contain the commercial entity's name, business mailing and location addresses, business telephone number, and a statement of the specific purposes for which it needs the social security numbers and how the social security numbers will be used in the normal course of business for legitimate business purposes. The aggregate of these requests shall serve as the basis for the agency report required in ~~subparagraph 8, subsection (7).~~ An agency may request any other information ~~as may be~~ reasonably necessary to verify the identity of the entity requesting the social security numbers and the specific purposes for which such numbers will be used; however, an agency has no duty to inquire beyond the information contained in the verified written request. A legitimate business purpose includes verification of the accuracy of personal information received by a commercial entity in the normal course of its business; use in a civil, criminal, or administrative proceeding; use for insurance purposes; use in law enforcement and investigation of crimes; use in identifying and preventing fraud; use in matching, verifying, or retrieving information; and use in research activities. A legitimate business purpose does not include the display or bulk sale of social security numbers to the general public or the distribution of such numbers to any customer that is not identifiable by the distributor.

6.(4) Any person who makes a false representation in order to obtain a social security number pursuant to this ~~paragraph section~~, or any person who willfully and knowingly violates ~~the provisions of this paragraph section~~, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. Any public officer who violates ~~any provision of this paragraph section~~ is guilty of a noncriminal infraction, punishable by a fine



not exceeding \$500. A commercial entity that provides access to public records containing social security numbers in accordance with this paragraph section is not subject to the penalty provisions of this subparagraph subsection.

7.a.(5)(a) On or after October 1, 2002, ~~a no~~ person preparing or filing a document to be recorded in the official records by the county recorder as provided for in chapter 28 may not include any person's social security number in that document, unless otherwise expressly required by law. If a social security number is or has been included in a document presented to the county recorder for recording in the official records of the county before, on, or after October 1, 2002, it may be made available as part of the official record available for public inspection and copying.

b.(b) Any person, or his or her attorney or legal guardian, has the right to request that a county recorder remove, from an image or copy of an official record placed on a county recorder's publicly available Internet website or a publicly available Internet website used by a county recorder to display public records or otherwise made electronically available to the general public by such recorder, his or her social security number contained in that official record. Such request must be made in writing, legibly signed by the requester and delivered by mail, facsimile, or electronic transmission, or delivered in person, to the county recorder. The request must specify the identification page number that contains the social security number to be redacted. The county recorder ~~has shall have~~ no duty to inquire beyond the written request to verify the identity of a person requesting redaction. A No fee ~~shall not will~~ be charged for the redaction of a social security number pursuant to such request.

c.(c) A county recorder shall immediately and conspicuously post signs throughout his or her offices for public viewing and; shall immediately and conspicuously post a notice on any Internet website or remote electronic site made available by the county recorder and used for the ordering or display of official records or images or copies of official records; ~~and shall, prior to October 1, 2002, publish on two separate dates in a newspaper of general circulation in the county where the county recorder's office is located as provided for in chapter 50,~~ a notice, stating, in substantially similar form, the following:

(I)1. On or after October 1, 2002, any person preparing or filing a document for recordation in the official records may not include a social security number in such document, unless required by law.

(II)2. Any person has a right to request a county recorder to remove, from an image or copy of an official record placed on a county recorder's publicly available Internet website or on a publicly available Internet website used by a county recorder to display public records or otherwise made electronically available to the general public, any social security number contained in an official record. Such request must be made in writing and delivered by mail, facsimile, or electronic transmission, or delivered in person, to the county recorder. The request must specify the identification page number that contains the social security number to be redacted. No fee will be

charged for the redaction of a social security number pursuant to such a request.

~~d.(gg)1.~~ 1. Until January 1, 2006, if a social security number, made confidential and exempt pursuant to this paragraph ~~s. 119.0721, created pursuant to s. 1, ch. 2002-256, passed during the 2002 regular legislative session,~~ or a complete bank account, debit, charge, or credit card number made exempt pursuant to paragraph (5)(b) ~~(dd), created pursuant to s. 1, ch. 2002-257, passed during the 2002 regular legislative session,~~ is or has been included in a court file, such number may be included as part of the court record available for public inspection and copying unless redaction is requested by the holder of such number, or by the holder's attorney or legal guardian, in a signed, legibly written request specifying the case name, case number, document heading, and page number. The request must be delivered by mail, facsimile, electronic transmission, or in person to the clerk of the circuit court. The clerk of the circuit court does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee may not be charged for the redaction of a social security number or a bank account, debit, charge, or credit card number pursuant to such request.

e.2. Any person who prepares or files a document to be recorded in the official records by the county recorder as provided in chapter 28 may not include a person's social security number or complete bank account, debit, charge, or credit card number in that document unless otherwise expressly required by law. Until January 1, 2006, if a social security number or a complete bank account, debit, charge or credit card number is or has been included in a document presented to the county recorder for recording in the official records of the county, such number may be made available as part of the official record available for public inspection and copying. Any person, or his or her attorney or legal guardian, may request that a county recorder remove from an image or copy of an official record placed on a county recorder's publicly available Internet website, or a publicly available Internet website used by a county recorder to display public records outside the office or otherwise made electronically available outside the county recorder's office to the general public, his or her social security number or complete account, debit, charge, or credit card number contained in that official record. Such request must be legibly written, signed by the requester, and delivered by mail, facsimile, electronic transmission, or in person to the county recorder. The request must specify the identification page number of the document that contains the number to be redacted. The county recorder does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee may not be charged for redacting such numbers.

f. ~~Subparagraphs 2. and 3. Upon the effective date of this act, subsections (3) and (4) of s. 119.0721,~~ do not apply to the clerks of the court or the county recorder with respect to circuit court records and official records.

g.4. On January 1, 2006, and thereafter, the clerk of the circuit court and the county recorder must keep complete bank account, debit, charge, and credit card numbers exempt as provided for in paragraph (5)(b) ~~(dd)~~, and

must keep social security numbers confidential and exempt as provided for in subparagraph (a)3, s. 119.0721, without any person having to request redaction.

~~8.(6)~~ Beginning January 31, 2004, and each January 31 thereafter, every agency must file a report with the Secretary of State, the President of the Senate, and the Speaker of the House of Representatives listing the identity of all commercial entities that have requested social security numbers during the preceding calendar year and the specific purpose or purposes stated by each commercial entity regarding its need for social security numbers. If no disclosure requests were made, the agency shall so indicate.

~~(7) The Legislature acknowledges that the social security number was never intended to be used for business purposes but was intended to be used solely for the administration of the federal Social Security System. The Legislature is further aware that over time this unique numeric identifier has been used extensively for identity verification purposes and other legitimate consensual purposes. The Legislature is also cognizant of the fact that the social security number can be used as a tool to perpetuate fraud against a person and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual. The Legislature intends to monitor the commercial use of social security numbers held by state agencies in order to maintain a balanced public policy.~~

~~(8) An agency shall not collect an individual's social security number unless authorized by law to do so or unless the collection of the social security number is otherwise imperative for the performance of that agency's duties and responsibilities as prescribed by law. Social security numbers collected by an agency must be relevant to the purpose for which collected and shall not be collected until and unless the need for social security numbers has been clearly documented. An agency that collects social security numbers shall also segregate that number on a separate page from the rest of the record, or as otherwise appropriate, in order that the social security number be more easily redacted, if required, pursuant to a public records request. An agency collecting a person's social security number shall, upon that person's request, at the time of or prior to the actual collection of the social security number by that agency, provide that person with a statement of the purpose or purposes for which the social security number is being collected and used. Social security numbers collected by an agency shall not be used by that agency for any purpose other than the purpose stated. Social security numbers collected by an agency prior to May 13, 2002, shall be reviewed for compliance with this subsection. If the collection of a social security number prior to May 13, 2002, is found to be unwarranted, the agency shall immediately discontinue the collection of social security numbers for that purpose.~~

~~9.(9)~~ Any affected person may petition the circuit court for an order directing compliance with this paragraph section.

~~10.(10)~~ The provisions of This paragraph does section do not supersede any other applicable public records exemptions existing prior to May 13, 2002, or created thereafter.

11.(11) This paragraph section is subject to the Open Government Sunset Review Act of ~~1995~~ in accordance with s. 119.15, and shall stand repealed October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 25. Paragraph (dd) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (b) of subsection (5) of section 119.071, Florida Statutes, and amended to read:

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

(5) OTHER PERSONAL INFORMATION.—

~~(b)(dd)~~ Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt from s. 119.07(1) subsection (1) and s. 24(a), Art. I of the State Constitution. This exemption applies to bank account numbers and debit, charge, and credit card numbers held by an agency before, on, or after the effective date of this exemption. 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, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 26. Paragraph (jj) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (c) of subsection (5) of section 119.071, Florida Statutes, and amended to read:

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

(5) OTHER PERSONAL INFORMATION.—

~~(c)(jj)~~ Any information that would identify or help to locate a child who participates in government-sponsored recreation programs or camps or the parents or guardians of such child, including, but not limited to, the name, home address, telephone number, social security number, or photograph of the child; the names and locations of schools attended by such child; and the names, home addresses, and social security numbers of parents or guardians of such child is exempt from s. 119.07(1) subsection (1) and s. 24(a), Art. I of the State Constitution. Information made exempt pursuant to this paragraph may be disclosed by court order upon a showing of good cause. This exemption applies to records held before, on, or after the effective date of this exemption.

Section 27. Paragraph (r) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (d) of subsection (5) of section 119.071, Florida Statutes, and amended to read:

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

(5) OTHER PERSONAL INFORMATION.—

~~(d)(x)~~ All records supplied by a telecommunications company, as defined by s. 364.02, to an ~~a state or local governmental~~ agency which contain the name, address, and telephone number of subscribers are confidential and exempt from s. 119.07(1) ~~the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution.

Section 28. Paragraph (j) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (e) of subsection (5) of section 119.071, Florida Statutes, and amended to read:

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

(5) OTHER PERSONAL INFORMATION.—

~~(e)(j)~~ Any information provided to an agency ~~of state government or to an agency of a political subdivision of the state~~ for the purpose of forming ridesharing arrangements, which information reveals the identity of an individual who has provided his or her name for ridesharing, as defined in s. 341.031, is exempt from s. 119.07(1) ~~the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution.

Section 29. Paragraph (bb) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as paragraph (f) of subsection (5) of section 119.071, Florida Statutes, and amended to read:

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

(5) OTHER PERSONAL INFORMATION.—

~~(f)(bb)~~ Medical history records and information related to health or property insurance provided to the Department of Community Affairs, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency by an applicant for or a participant in a federal, state, or local housing assistance program are confidential and exempt from s. 119.07(1) ~~the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution. Governmental entities or their agents shall have access to such confidential and exempt records and information for the purpose of auditing federal, state, or local housing programs or housing assistance programs. Such confidential and exempt records and information may be used in any administrative or judicial proceeding, provided such records are kept confidential and exempt unless otherwise ordered by a court.

Section 30. Paragraph (q) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as subsection (1) of section 119.0711, Florida Statutes, and amended to read:

119.0711 Executive branch agency exemptions from inspection or copying of public records.—

~~(1)(q)~~ All complaints and other records in the custody of any agency in the executive branch of state government which relate to a complaint of

discrimination relating to race, color, religion, sex, national origin, age, handicap, or marital status in connection with hiring practices, position classifications, salary, benefits, discipline, discharge, employee performance, evaluation, or other related activities are exempt from ~~s. 119.07(1) the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution until a finding is made relating to probable cause, the investigation of the complaint becomes inactive, or the complaint or other record is made part of the official record of any hearing or court proceeding. This provision shall not affect any function or activity of the Florida Commission on Human Relations. Any state or federal agency that ~~which~~ is authorized to have access to such complaints or records by any provision of law shall be granted such access in the furtherance of such agency's statutory duties, ~~notwithstanding the provisions of this section.~~

Section 31. Paragraph (n) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as subsection (2) of section 119.0711, Florida Statutes, and amended to read:

119.0711 Executive branch agency exemptions from inspection or copying of public records.—

~~(2)(n)~~ When an agency of the executive branch of state government seeks to acquire real property by purchase or through the exercise of the power of eminent domain all appraisals, other reports relating to value, offers, and counteroffers must be in writing and are exempt from ~~s. 119.07(1) the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution until execution of a valid option contract or a written offer to sell that has been conditionally accepted by the agency, at which time the exemption shall expire. The agency shall not finally accept the offer for a period of 30 days in order to allow public review of the transaction. The agency may give conditional acceptance to any option or offer subject only to final acceptance by the agency after the 30-day review period. If a valid option contract is not executed, or if a written offer to sell is not conditionally accepted by the agency, then the exemption ~~from the provisions of this chapter~~ shall expire at the conclusion of the condemnation litigation of the subject property. An agency of the executive branch may exempt title information, including names and addresses of property owners whose property is subject to acquisition by purchase or through the exercise of the power of eminent domain, from ~~s. 119.07(1) the provisions of subsection (1)~~ and s. 24(a), Art. I of the State Constitution to the same extent as appraisals, other reports relating to value, offers, and counteroffers. For the purpose of this subsection paragraph, the term "option contract" means an agreement of an agency of the executive branch of state government to purchase real property subject to final agency approval. This subsection has paragraph shall have no application to other exemptions from ~~s. 119.07(1) the provisions of subsection (1)~~ which are contained in other provisions of law and shall not be construed to be an express or implied repeal thereof.

Section 32. Paragraph (cc) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as subsection (1) of section 119.0712, Florida Statutes, and amended to read:

119.0712 Executive branch agency-specific exemptions from inspection or copying of public records.—

(1)~~(ee)~~ DEPARTMENT OF HEALTH.—All personal identifying information; bank account numbers; and debit, charge, and credit card numbers contained in records relating to an individual's personal health or eligibility for health-related services held made or received by the Department of Health or its service providers are confidential and exempt from s. 119.07(1) ~~the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution,~~ except as otherwise provided in this subsection paragraph. Information made confidential and exempt by this subsection paragraph shall be disclosed:

(a)~~1.~~ With the express written consent of the individual or the individual's legally authorized representative.

(b)~~2.~~ In a medical emergency, but only to the extent necessary to protect the health or life of the individual.

(c)~~3.~~ By court order upon a showing of good cause.

(d)~~4.~~ To a health research entity, if the entity seeks the records or data pursuant to a research protocol approved by the department, maintains the records or data in accordance with the approved protocol, and enters into a purchase and data-use agreement with the department, the fee provisions of which are consistent with s. 119.07(4) ~~subsection (4)~~. The department may deny a request for records or data if the protocol provides for intrusive follow-back contacts, has not been approved by a human studies institutional review board, does not plan for the destruction of confidential records after the research is concluded, is administratively burdensome, or does not have scientific merit. The agreement must restrict the release of any information ~~that, which~~ would permit the identification of persons, limit the use of records or data to the approved research protocol, and prohibit any other use of the records or data. Copies of records or data issued pursuant to this paragraph subparagraph remain the property of the department.

This subsection 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, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 33. Paragraph (aa) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as subsection (2) of section 119.0712, Florida Statutes, and amended to read:

119.0712 Executive branch agency-specific exemptions from inspection or copying of public records.—

(2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—

(aa) Personal information contained in a motor vehicle record that identifies the subject of that record is exempt from s. 119.07(1) ~~subsection (1) and~~

s. 24(a), Art. I of the State Constitution except as provided in this section paragraph. Personal information includes, but is not limited to, the subject's social security number, driver identification number, name, address, telephone number, and medical or disability information. For purposes of this subsection paragraph, personal information does not include information relating to vehicular crashes, driving violations, and driver's status. For purposes of this subsection paragraph, the term "motor vehicle record" means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by the Department of Highway Safety and Motor Vehicles. Personal information contained in motor vehicle records exempted by this subsection paragraph shall be released by the department for any of the following uses:

(a)1. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles and dealers by motor vehicle manufacturers; and removal of nonowner records from the original owner records of motor vehicle manufacturers, to carry out the purposes of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

(b)2. For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a federal, state, or local agency in carrying out its functions.

(c)3. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts, and dealers; motor vehicle market research activities, including survey research; and removal of nonowner records from the original owner records of motor vehicle manufacturers.

(d)4. For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:

1.a. To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

2.b. If such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(e)5. For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or agency or before any self-regulatory body for:

1.a. Service of process by any certified process server, special process server, or other person authorized to serve process in this state.

2.b. Investigation in anticipation of litigation by an attorney licensed to practice law in this state or the agent of the attorney; however, the informa-



tion may not be used for mass commercial solicitation of clients for litigation against motor vehicle dealers.

3.e. Investigation by any person in connection with any filed proceeding; however, the information may not be used for mass commercial solicitation of clients for litigation against motor vehicle dealers.

4.d. Execution or enforcement of judgments and orders.

5.e. Compliance with an order of any court.

(f)6. For use in research activities and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

(g)7. For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating, or underwriting.

(h)8. For use in providing notice to the owners of towed or impounded vehicles.

(i)9. For use by any licensed private investigative agency or licensed security service for any purpose permitted under this ~~subsection~~ paragraph. Personal information obtained based on an exempt driver's record may not be provided to a client who cannot demonstrate a need based on a police report, court order, or a business or personal relationship with the subject of the investigation.

(j)10. For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under 49 U.S.C. ss. 31301 et seq.

(k)11. For use in connection with the operation of private toll transportation facilities.

(l)12. For bulk distribution for surveys, marketing, or solicitations when the department has obtained the express consent of the person to whom such personal information pertains.

(m)13. For any use if the requesting person demonstrates that he or she has obtained the written consent of the person who is the subject of the motor vehicle record.

(n)14. For any other use specifically authorized by state law, if such use is related to the operation of a motor vehicle or public safety.

(o)15. For any other use if the person to whom the information pertains has given express consent on a form prescribed by the department. Such consent shall remain in effect until it is revoked by the person on a form prescribed by the department.

The restrictions on disclosure of personal information provided by this ~~subsection paragraph~~ shall not in any way affect the use of organ donation information on individual driver licenses or ~~or~~ ~~nor~~ affect the administration of organ donation initiatives in this state. Personal information exempted from public disclosure according to this ~~subsection paragraph~~ may be disclosed by the Department of Highway Safety and Motor Vehicles to an individual, firm, corporation, or similar business entity whose primary business interest is to resell or redisclose the personal information to persons who are authorized to receive such information. Prior to the department's disclosure of personal information, such individual, firm, corporation, or similar business entity must first enter into a contract with the department regarding the care, custody, and control of the personal information to ensure compliance with the federal Driver's Privacy Protection Act of 1994 and applicable state laws. An authorized recipient of personal information contained in a motor vehicle record, except a recipient under ~~paragraph (1) subparagraph 12.~~, may contract with the Department of Highway Safety and Motor Vehicles to resell or redisclose the information for any use permitted under this ~~section paragraph~~. However, only authorized recipients of personal information under ~~paragraph (1) subparagraph 12.~~ may resell or redisclose personal information pursuant to ~~paragraph (1) subparagraph 12.~~ Any authorized recipient who resells or rediscloses personal information shall maintain, for a period of 5 years, records identifying each person or entity that receives the personal information and the permitted purpose for which it will be used. Such records shall be made available for inspection upon request by the department. The department shall adopt rules to carry out the purposes of this ~~subsection paragraph~~ and the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq. Rules adopted by the department shall provide for the payment of applicable fees and, prior to the disclosure of personal information pursuant to this ~~subsection paragraph~~, shall require the meeting of conditions by the requesting person for the purposes of obtaining reasonable assurance concerning the identity of such requesting person, and, to the extent required, assurance that the use will be only as authorized or that the consent of the person who is the subject of the personal information has been obtained. Such conditions may include, but need not be limited to, the making and filing of a written application in such form and containing such information and certification requirements as the department requires.

Section 34. Paragraph (p) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as subsection (1) of section 119.0713, Florida Statutes, and amended to read:

119.0713 Local government agency exemptions from inspection or copying of public records.—

(1)~~(p)~~ All complaints and other records in the custody of any unit of local government which relate to a complaint of discrimination relating to race, color, religion, sex, national origin, age, handicap, marital status, sale or rental of housing, the provision of brokerage services, or the financing of housing are exempt from ~~s. 119.07(1) the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution until a finding is made relating to probable cause, the investigation of the complaint becomes inactive, or the~~

complaint or other record is made part of the official record of any hearing or court proceeding. This provision shall not affect any function or activity of the Florida Commission on Human Relations. Any state or federal agency ~~that which~~ is authorized to have access to such complaints or records by any provision of law shall be granted such access in the furtherance of such agency's statutory duties, ~~notwithstanding the provisions of this section.~~ This ~~subsection paragraph~~ shall not be construed to modify or repeal any special or local act.

Section 35. Paragraph (hh) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as subsection (2) of section 119.0713, Florida Statutes, and amended to read:

119.0713 Local government agency exemptions from inspection or copying of public records.—

~~(2)(hh)~~ All personal identifying information contained in records relating to a person's health held by local governmental entities ~~or their service providers~~ for the purpose of determining eligibility for paratransit services under Title II of the Americans with Disabilities Act or eligibility for the transportation disadvantaged program as provided in part I of chapter 427 is confidential and exempt from s. 119.07(1) ~~the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution, except as otherwise provided in this subsection herein.~~ This exemption applies to personal identifying information contained in such records held by local governmental entities ~~or their service providers~~ before, on, or after the effective date of this exemption. Information made confidential and exempt by this ~~subsection paragraph~~ shall be disclosed:

~~(a)1.~~ With the express written consent of the individual or the individual's legally authorized representative;

~~(b)2.~~ In a medical emergency, but only to the extent necessary to protect the health or life of the individual;

~~(c)3.~~ By court order upon a showing of good cause; or

~~(d)4.~~ For the purpose of determining eligibility for paratransit services if the individual or the individual's legally authorized representative has filed an appeal or petition before an administrative body of a local government or a court.

Section 36. Paragraphs (y) and (z) of subsection (6) of section 119.07, Florida Statutes, are transferred, redesignated as subsections (3) and (4), respectively, of section 119.0713, Florida Statutes, and amended to read:

119.0713 Local government agency exemptions from inspection or copying of public records.—

~~(3)(y)~~ The audit report of an internal auditor prepared for or on behalf of a unit of local government becomes a public record when the audit becomes final. As used in this ~~subsection paragraph~~, the term "unit of local government" means a county, municipality, special district, local agency,

authority, consolidated city-county government, or any other local governmental body or public body corporate or politic authorized or created by general or special law. An audit becomes final when the audit report is presented to the unit of local government. Audit workpapers and notes related to such audit report are confidential and exempt from s. 119.07(1) ~~the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution until the audit is completed and the audit report becomes final.~~

~~(4)(z)~~ Any data, record, or document used directly or solely by a municipally owned utility to prepare and submit a bid relative to the sale, distribution, or use of any service, commodity, or tangible personal property to any customer or prospective customer ~~is shall be exempt from s. 119.07(1) the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution.~~ This exemption commences when a municipal utility identifies in writing a specific bid to which it intends to respond. This exemption no longer applies when the contract for sale, distribution, or use of the service, commodity, or tangible personal property is executed, a decision is made not to execute such contract, or the project is no longer under active consideration. The exemption in this ~~subsection~~ paragraph includes the bid documents actually furnished in response to the request for bids. However, the exemption for the bid documents submitted no longer applies after the bids are opened by the customer or prospective customer.

Section 37. Section 119.15, Florida Statutes, is amended to read:

119.15 Legislative review of exemptions from public meeting and public records requirements.—

(1) This section may be cited as the “Open Government Sunset Review Act of 1995.”

(2) This section provides for the review and repeal or reenactment of an exemption from s. 24, Art. I of the State Constitution and s. automatic application of the policy of open government as provided in ss. 119.01 and 286.011 to certain exemptions from ss. 119.07(1) or s. and 286.011. This act does not apply to an exemption that:

(a) Is required by federal law; or

(b) Applies solely to the Legislature or the State Court System. It is the intent of the Legislature that exemptions to ss. 119.07(1) and 286.011 shall be created or maintained only if:

~~(a) The exempted record or meeting is of a sensitive, personal nature concerning individuals;~~

~~(b) The exemption is necessary for the effective and efficient administration of a governmental program; or~~

~~(c) The exemption affects confidential information concerning an entity.~~

~~Thus, the maintenance or creation of an exemption must be compelled as measured by these criteria. Further, the Legislature finds that the public~~

~~has a right to have access to executive branch governmental meetings and records unless the criteria in this section for restricting such access to a public meeting or public record are met and the criteria are considered during legislative review in connection with the particular exemption to be significant enough to override the strong public policy of open government. To strengthen the policy of open government, the Legislature shall consider the criteria in this section before enacting future exemptions.~~

(3)(a) In the 5th year after enactment of a new exemption or substantial amendment of an existing exemption, the exemption shall be repealed ~~repeal~~ on October 2nd of the 5th year, unless the Legislature acts to reenact the exemption.

(4)(a) A law that enacts a new exemption or substantially amends an existing exemption must state that the record or meeting is:

1. Exempt from s. 24(a), Art. I of the State Constitution;
2. Exempt from s. 119.07(1) or s. 286.011; and
3. State that the exemption is Repealed at the end of 5 years and that the exemption must be reviewed by the Legislature before the scheduled repeal date.

(b) For purposes of this section, an exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records. An exemption is not substantially amended if the amendment narrows the scope of the exemption.

(c) This section is not intended to repeal an exemption that has been amended following legislative review before the scheduled repeal of the exemption if the exemption is not substantially amended as a result of the review.

(5)(d) By June 1 in the year before the repeal of an exemption under this section, the Division of Statutory Revision of the Office of Legislative Services shall certify to the President of the Senate and the Speaker of the House of Representatives, ~~by June 1,~~ the language and statutory citation of each exemption scheduled for repeal the following year ~~which meets the criteria of an exemption as defined in this section.~~

(b) Any exemption that is not identified and certified to the President of the Senate and the Speaker of the House of Representatives is not subject to legislative review and repeal under this section. If the division fails to certify an exemption that it subsequently determines should have been certified, it shall include the exemption in the following year's certification after that determination.

(c) ~~The term "exemption" means a provision of the Florida Statutes which creates an exception to s. 119.07(1) or s. 286.011 and which applies to the executive branch of state government or to local government, but it does not include any provision of a special law or local law.~~

~~(f) An exemption that is required by federal law is not subject to repeal under this section.~~

~~(g) An exemption that applies solely to the Legislature or the State Court System is not subject to repeal under this section.~~

~~(6)(4)(a) The Legislature shall review the exemption before its scheduled repeal and consider~~ As part of the review process, the Legislature shall consider the following:

1. What specific records or meetings are affected by the exemption?
2. Whom does the exemption uniquely affect, as opposed to the general public?
3. What is the identifiable public purpose or goal of the exemption?
4. Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
5. Is the record or meeting protected by another exemption?
6. Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

(b) An exemption may be created, revised, or maintained only if it serves an identifiable public purpose, and the exemption may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of the following purposes and the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption:

1. Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
2. Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this subparagraph, only information that would identify the individuals may be exempted; or
3. Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

~~(7)(e)~~ Records made before the date of a repeal of an exemption under this section may not be made public unless otherwise provided by law. In deciding whether the records shall be made public, the Legislature shall consider whether the damage or loss to persons or entities uniquely affected by the

exemption of the type specified in subparagraph ~~(6)(b)2.~~ ~~(b)2.~~ or subparagraph ~~(6)(b)3.~~ ~~(b)3.~~ would occur if the records were made public.

~~(d) An exemption that is created or revived and reenacted must contain uniform language that clearly states the section in the Florida Statutes from which it is exempt, s. 119.07(1) or s. 286.011. The uniform language must also provide for the maximum public access to the meetings and records as is consistent with the purpose of the exemption. An exemption that is created or substantially amended must state that the exemption is repealed at the end of 5 years and that the exemption must be reviewed by the Legislature before the scheduled date of repeal.~~

~~(8)(e) Notwithstanding s. 768.28 or any other law, neither the state or its political subdivisions nor any other public body shall be made party to any suit in any court or incur any liability for the repeal or revival and reenactment of an exemption under this section. The failure of the Legislature to comply strictly with this section does not invalidate an otherwise valid reenactment.~~

Section 38. Paragraph (w) of subsection (6) of section 119.07, Florida Statutes, is transferred, redesignated as section 112.3190, Florida Statutes, and amended to read:

112.3190 Investigatory records.—

~~(1)(w)1.~~ 1. If certified pursuant to subsection (2) subparagraph 2., an investigatory record of the Chief Inspector General within the Executive Office of the Governor or of the employee designated by an agency head as the agency inspector general under s. 112.3189 is exempt from s. 119.07(1) the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution until the registration ceases to be active, or a report detailing the investigation is provided to the Governor or the agency head, or 60 days from the inception of the investigation for which the record was made or received, whichever first occurs. Investigatory records are those records that ~~which~~ are related to the investigation of an alleged, specific act or omission or other wrongdoing, with respect to an identifiable person or group of persons, based on information compiled by the Chief Inspector General or by an agency inspector general, as named under the provisions of s. 112.3189, in the course of an investigation. An investigation is active if it is continuing with a reasonable, good faith anticipation of resolution and with reasonable dispatch.

(2)2. The Governor, in the case of the Chief Inspector General, or agency head, in the case of an employee designated as the agency inspector general under s. 112.3189, may certify that such investigatory records require an exemption to protect the integrity of the investigation or avoid unwarranted damage to an individual's good name or reputation. The certification must ~~shall~~ specify the nature and purpose of the investigation and shall be kept with the exempt records and made public when the records are made public.

~~(3)3.~~ 3. ~~The provisions of This section does paragraph do not apply to whistle-blower investigations conducted pursuant to the provisions of ss. 112.3187, 112.3188, 112.3189, and 112.31895.~~

Section 39. Section 119.19, Florida Statutes, is transferred, redesignated as section 27.7081, Florida Statutes, and amended to read:

27.7081 ~~119.19~~ Capital postconviction public records production.—

(1) As used in this section, the term “trial court” means:

(a) The judge who entered the judgment and imposed the sentence of death; or

(b) If a motion for postconviction relief in a capital case has been filed and a different judge has already been assigned to that motion, the judge who is assigned to rule on that motion.

(2) The Secretary of State shall establish and maintain a records repository for the purpose of archiving capital postconviction public records as provided for in this section.

(3)(a) Upon imposition of a death sentence or upon the effective date of this act with respect to any case in which a death sentence has been imposed but the mandate has not yet been issued in an appeal affirming the sentence, the prosecuting attorney shall promptly provide written notification to each law enforcement agency involved in the case and to the Department of Corrections. If available, the written notification must include the defendant’s date of birth, sex, race, and police-case numbers included in the prosecuting attorney’s case file.

(b) Within 60 days after receipt of notification, each law enforcement agency involved in the case and the prosecuting attorney who prosecuted the case shall copy, seal, and deliver to the repository all public records, except for those filed in the trial court, which were produced in the investigation or prosecution of the case or, if the records are confidential or exempt, to the clerk of the court in the county in which the capital case was tried. Each agency shall bear the costs of its own compliance.

(c) Within 60 days after notification, the Department of Corrections shall copy, seal, and deliver to the repository or, if the records are confidential or exempt, to the clerk of the court in the county in which the capital case was tried all public records determined by the department to be relevant to the subject matter of a capital postconviction claim of the person sentenced to death and where such production would not be unduly burdensome for the department. The department shall bear the costs.

(4)(a) The chief law enforcement officer of each law enforcement agency that was involved in the case, whether through an investigation, arrest, prosecution, or incarceration, shall notify the Attorney General upon compliance with subsection (3) and shall certify that to the best of his or her knowledge and belief all public records in possession of the agency or in possession of any employee of the agency have been copied, indexed, and delivered to the records repository or, if the records are confidential or exempt, to the clerk of the court in the county in which the capital case was tried as required by this section.



(b) The prosecuting attorney who prosecuted the case shall provide written notification to the Attorney General upon compliance with subsection (3) and shall certify that to the best of his or her knowledge and belief all public records in his or her possession have been copied, indexed, and delivered to the records repository or, if the records are confidential or exempt, to the clerk of the court in the county in which the capital case was tried as required by this section.

(c) The Secretary of Corrections shall provide written notification to the Attorney General upon compliance with paragraph (3)(c) and shall certify that to the best of his or her knowledge and belief all public records in the department's possession have been copied, indexed, and delivered to the records repository or, if the records are confidential or exempt, to the clerk of the court in the county in which the capital case was tried as required by this section.

(5)(a) Within 60 days after the imposition of a death sentence or upon the effective date of this act with respect to any case in which a death sentence has been imposed but the mandate has not yet been issued in an appeal affirming the sentence, both the public defender or private counsel for the defendant and the prosecuting attorney involved in the case shall provide written notification to the Attorney General of the name and address of any person or agency in addition to those persons and agencies listed in subsection (3) which may have information pertinent to the case unless previously provided to the capital collateral regional counsel or postconviction private counsel. The Attorney General shall promptly provide written notification to each identified person or agency after receiving the information from the public defender, private counsel for the defendant, or prosecuting attorney and shall request that all public records in the possession of the person or agency which pertain to the case be copied, sealed, and delivered to the records repository.

(b) Within 60 days after receiving a request for public records under paragraph (a), the person or agency shall provide written notification to the Attorney General of compliance with this subsection and shall certify that to the best of his or her knowledge and belief all public records requested have been copied, indexed, and delivered to the records repository or, if the records are confidential or exempt, to the clerk of the court in the county in which the capital case was tried.

(6)(a) Any public record under this section which is confidential or exempt from the requirements of s. 119.07(1) and s. 24(a), Art. I of the State Constitution must be separately boxed, without being redacted, and sealed. The box must be delivered to the clerk of court in the county in which the capital case was tried. The outside of the box must clearly identify the public records as exempt, and the seal may not be broken without an order of the trial court. The outside of the box must identify the nature of the public records and the legal basis under which the public records are exempt.

(b) Such a box may be opened only for an inspection by the trial court in camera and only after notice giving the agency the option to have a representative present at the unsealing by the court.

(7)(a) Within 180 days after a capital collateral regional counsel or private counsel is appointed to represent a defendant sentenced to death, or within 30 days after issuance of the Florida Supreme Court's mandate affirming a death sentence, whichever is later, the regional counsel, private counsel, or other counsel who is a member of The Florida Bar and is authorized by such counsel representing a defendant may send a written demand for additional public records to each person or agency submitting public records under subsection (3) and to each person or agency identified as having information pertinent to the case under subsection (5). Should the written demand include requests for records associated with particular named individuals, the written demand shall also include a brief statement describing each named person's role in the case and relationship to the defendant. Race, sex, and date of birth shall also be included in the demand if the public defender, private counsel, or capital collateral regional counsel has such information. Each person or agency notified under this subsection shall, within 60 days after receipt of the written demand, deliver to the records repository or, if the records are confidential or exempt, to the clerk of the court in the county in which the capital case was tried any additional public records in the possession of the person or agency which pertain to the case and shall certify that to the best of his or her knowledge and belief all additional public records have been delivered or, if no additional public records are found, shall recertify that the public records previously delivered are complete.

(b) Within 25 days after receiving the written demand, the agency or person may file an objection in the trial court alleging that the request is overly broad or unduly burdensome. Within 30 days after the filing of an objection, the trial court shall hold a hearing and order an agency or person to produce additional public records if it finds each of the following:

1. The regional counsel or private counsel has made a timely and diligent search as provided in this section.
2. The regional or private counsel's written demand identifies, with specificity, those additional public records that are not at the repository.
3. The additional public records sought are relevant to the subject matter of a capital postconviction relief or appear reasonably calculated to lead to the discovery of admissible evidence in prosecuting such claim.
4. The additional public records request is not overbroad or unduly burdensome.

(c) This statute shall not be a basis for renewing requests that have been initiated previously or for relitigating issues pertaining to production of public records upon which a court has ruled.

(d) If, on October 1, 1998, the defendant had a Rule 3.850 motion denied and no Rule 3.850 motion was pending, no additional requests shall be made by capital collateral regional counsel or contracted private counsel until a death warrant is signed by the Governor and an execution is scheduled. Within 10 days of the signing of the death warrant, capital collateral regional counsel or contracted private counsel may request of a person or

agency that the defendant has previously requested to produce records any records previously requested to which no objection was raised or sustained, but which the agency has received or produced since the previous request or which for any reason the agency has in its possession and did not produce within 10 days of the receipt of the previous notice or such shorter time period ordered by the court to comply with the time for the scheduled execution. The person or agency shall produce the record or shall file in the trial court an affidavit stating that it does not have the requested record or that the record has been produced previously.

(8)(a) After production of additional public records or recertification as provided in subsection (7), the regional counsel or the private counsel is prohibited from making any further public records requests under this chapter. An agency is not required to produce additional public records except by court order as provided in this subsection.

(b) In order to obtain additional public records beyond those provided under subsection (7), the regional counsel, private counsel, or other counsel who is a member of The Florida Bar and is authorized by the regional counsel or private counsel shall file an affidavit in the trial court which attests that he or she has made a timely and diligent search of the records repository and specifically identifies those additional public records that are not at the repository and are relevant to the subject matter of a capital postconviction claim or are reasonably calculated to lead to the discovery of admissible evidence in the prosecution of such claim. The affiant shall provide a copy of the affidavit to all affected agencies upon the filing of such affidavit in the trial court.

(c) Within 15 days after the filing of an affidavit, the trial court shall order an agency to produce additional public records only if it finds each of the following:

1. The regional counsel or private counsel has made a timely and diligent search as provided in this section.
2. The regional or private counsel's affidavit identifies, with specificity, those additional public records that are not at the repository.
3. The additional public records sought are relevant to the subject matter of a claim for capital postconviction relief or appear reasonably calculated to lead to the discovery of admissible evidence in prosecuting such claim.
4. The additional public records request is not overbroad or unduly burdensome.

(9) The Secretary of State shall provide the personnel, supplies, and any necessary equipment used by the capital collateral regional counsel or private counsel to copy records held at the records repository.

(10) The trial court shall resolve any dispute that arises under this section, unless the appellate court has exclusive jurisdiction.

(11) The capital collateral regional counsel or private counsel shall not solicit another person to make a request for public records on behalf of the

regional counsel or private counsel. The trial court shall impose appropriate sanctions against any regional counsel or private counsel found in violation of this subsection.

(12) Sixty days after a capital sentence is carried out, 60 days after a defendant is released from incarceration following the granting of a pardon or reversal of the sentence, or 60 days after the defendant has been resentenced to a term of years, the Attorney General shall provide written notification to the Secretary of State, who may then destroy the records held by the records repository which pertain to that case.

(13) This section pertains only to the production of records for capital postconviction defendants and does not change or alter any time limitations provided by law governing capital postconviction claims and actions. Furthermore, this section does not affect, expand, or limit the production of public records for any purposes other than use in a capital postconviction proceeding. Nothing in this section constitutes grounds to expand the time limitations or allow any pleading in violation of chapter 924 or to stay an execution or death warrant.

Section 40. Subsection (3) of section 27.708, Florida Statutes, is amended to read:

27.708 Access to prisoners; compliance with the Florida Rules of Criminal Procedure; records requests.—

(3) Except as provided in s. ~~27.7081~~ 119.19, the capital collateral regional counsel or contracted private counsel shall not make any public records request on behalf of his or her client.

Section 41. Paragraph (d) of subsection (1) of section 101.5607, Florida Statutes, is amended to read:

101.5607 Department of State to maintain voting system information; prepare software.—

(1)

(d) Section ~~119.071(1)(f)~~ ~~119.07(6)(e)~~ applies to all software on file with the Department of State.

Section 42. Paragraph (b) of subsection (2) of section 112.533, Florida Statutes, is amended to read:

112.533 Receipt and processing of complaints.—

(2)

(b) This subsection does not apply to any public record which is exempt from public disclosure pursuant to chapter 119 s. 119.07(6). For the purposes of this subsection, an investigation shall be considered active as long as it is continuing with a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future. An investigation shall be

presumed to be inactive if no finding is made within 45 days after the complaint is filed.

Section 43. Paragraph (c) of subsection (3) of section 119.011, Florida Statutes, is amended to read:

119.011 Definitions.—As used in this chapter, the term:

(3)

(c) “Criminal intelligence information” and “criminal investigative information” shall not include:

1. The time, date, location, and nature of a reported crime.
2. The name, sex, age, and address of a person arrested or of the victim of a crime except as provided in s. 119.071(2)(h) ~~119.07(6)(f)~~.
3. The time, date, and location of the incident and of the arrest.
4. The crime charged.
5. Documents given or required by law or agency rule to be given to the person arrested, except as provided in s. 119.071(2)(h) ~~119.07(6)(f)~~, and, except that the court in a criminal case may order that certain information required by law or agency rule to be given to the person arrested be maintained in a confidential manner and exempt from the provisions of s. 119.07(1) until released at trial if it is found that the release of such information would:
  - a. Be defamatory to the good name of a victim or witness or would jeopardize the safety of such victim or witness; and
  - b. Impair the ability of a state attorney to locate or prosecute a codefendant.
6. Informations and indictments except as provided in s. 905.26.

Section 44. Section 286.0113, Florida Statutes, is amended to read:

286.0113 General exemptions from public meetings.—Those portions of any meeting which would reveal a security system plan or portion thereof made confidential and exempt by s. 119.071(3)(a)(4) are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. This section is subject to the Open Government Sunset Review Act of 1995, in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 45. Paragraph (h) of subsection (2) of section 287.0943, Florida Statutes, is amended to read:

287.0943 Certification of minority business enterprises.—

(2)

(h) The certification procedures should allow an applicant seeking certification to designate on the application form the information the applicant considers to be proprietary, confidential business information. As used in this paragraph, “proprietary, confidential business information” includes, but is not limited to, any information that would be exempt from public inspection pursuant to the provisions of chapter 119 s. 119.07(6); trade secrets; internal auditing controls and reports; contract costs; or other information the disclosure of which would injure the affected party in the marketplace or otherwise violate s. 286.041. The executor in receipt of the application shall issue written and final notice of any information for which noninspection is requested but not provided for by law.

Section 46. Subsection (1) of section 320.05, Florida Statutes, is amended to read:

320.05 Records of the department; inspection procedure; lists and searches; fees.—

(1) Except as provided in chapter 119 ss. 119.07(6) and 320.025(3), the department may release records as provided in this section.

Section 47. Subsection (8) of section 322.20, Florida Statutes, is amended to read:

322.20 Records of the department; fees; destruction of records.—

(8) Except as provided in chapter 119 s. 119.07(6), the department may release records as provided in this section.

Section 48. Paragraph (b) of subsection (2) of section 338.223, Florida Statutes, is amended to read:

338.223 Proposed turnpike projects.—

(2)

(b) In accordance with the legislative intent expressed in s. 337.273, and after the requirements of paragraph (1)(c) have been met, the department may acquire lands and property before making a final determination of the economic feasibility of a project. The requirements of paragraph (1)(c) do not apply to hardship and protective purchases of advance right-of-way by the department. The cost of advance acquisition of right-of-way may be paid from bonds issued under s. 337.276 or from turnpike revenues. For purposes of this paragraph, the term “hardship purchase” means purchase from a property owner of a residential dwelling of not more than four units who is at a disadvantage due to health impairment, job loss, or significant loss of rental income. For purposes of this paragraph, the term “protective purchase” means that a purchase to limit development, building, or other intensification of land uses within the area right-of-way is needed for transportation facilities. The department shall give written notice to the Department of Environmental Protection 30 days before final agency acceptance as set

forth in s. 119.0711(2) ~~119.07(6)(a)~~, which notice shall allow the Department of Environmental Protection to comment. Hardship and protective purchases of right-of-way shall not influence the environmental feasibility of a project, including the decision relative to the need to construct the project or the selection of a specific location. Costs to acquire and dispose of property acquired as hardship and protective purchases are considered costs of doing business for the department and are not to be considered in the determination of environmental feasibility for the project.

Section 49. Subsection (5) of section 401.27, Florida Statutes, is amended to read:

401.27 Personnel; standards and certification.—

(5) The certification examination must be offered monthly. The department shall issue an examination admission notice to the applicant advising him or her of the time and place of the examination for which he or she is scheduled. Individuals achieving a passing score on the certification examination may be issued a temporary certificate with their examination grade report. The department must issue an original certification within 45 days after the examination. Examination questions and answers are not subject to discovery but may be introduced into evidence and considered only in camera in any administrative proceeding under chapter 120. If an administrative hearing is held, the department shall provide challenged examination questions and answers to the administrative law judge. The department shall establish by rule the procedure by which an applicant, and the applicant's attorney, may review examination questions and answers in accordance with s. 119.071(1)(a) ~~119.07(6)(a)~~.

Section 50. Section 409.2577, Florida Statutes, is amended to read:

409.2577 Parent locator service.—The department shall establish a parent locator service to assist in locating parents who have deserted their children and other persons liable for support of dependent children. The department shall use all sources of information available, including the Federal Parent Locator Service, and may request and shall receive information from the records of any person or the state or any of its political subdivisions or any officer thereof. Any agency as defined in s. 120.52, any political subdivision, and any other person shall, upon request, provide the department any information relating to location, salary, insurance, social security, income tax, and employment history necessary to locate parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act. This provision shall expressly take precedence over any other statutory nondisclosure provision which limits the ability of an agency to disclose such information, except that law enforcement information as provided in s. 119.071(4)(d) ~~119.07(6)(i)~~ is not required to be disclosed, and except that confidential taxpayer information possessed by the Department of Revenue shall be disclosed only to the extent authorized in s. 213.053(15). Nothing in this section requires the disclosure of information if such disclosure is prohibited by federal law. Information gathered or used by the parent locator service is confidential and exempt from the provisions of s. 119.07(1). Additionally, the department is authorized to collect any additional information directly bearing on the identity and whereabouts of a person owing or

asserted to be owing an obligation of support for a dependent child. The department shall, upon request, make information available only to public officials and agencies of this state; political subdivisions of this state, including any agency thereof providing child support enforcement services to non-Title IV-D clients; the custodial parent, legal guardian, attorney, or agent of the child; and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents, for the sole purpose of establishing, modifying, or enforcing their liability for support, and shall make such information available to the Department of Children and Family Services for the purpose of diligent search activities pursuant to chapter 39. If the department has reasonable evidence of domestic violence or child abuse and the disclosure of information could be harmful to the custodial parent or the child of such parent, the child support program director or designee shall notify the Department of Children and Family Services and the Secretary of the United States Department of Health and Human Services of this evidence. Such evidence is sufficient grounds for the department to disapprove an application for location services.

Section 51. Subsection (1) of section 633.527, Florida Statutes, is amended to read:

633.527 Records concerning applicant; extent of confidentiality.—

(1) Test material is made confidential by s. 119.071(1)(a) ~~119.07(6)(a)~~. An applicant may waive in writing the confidentiality of his or her examination answer sheet for the purpose of discussion with the State Fire Marshal or his or her staff.

Section 52. Subsection (1) of section 794.024, Florida Statutes, is amended to read:

794.024 Unlawful to disclose identifying information.—

(1) A public employee or officer who has access to the photograph, name, or address of a person who is alleged to be the victim of an offense described in this chapter, chapter 800, s. 827.03, s. 827.04, or s. 827.071 may not willfully and knowingly disclose it to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, a person specified in an order entered by the court having jurisdiction of the alleged offense, or organizations authorized to receive such information made exempt by s. 119.071(2)(h) ~~119.07(6)(f)~~, or to a rape crisis center or sexual assault counselor, as defined in s. 90.5035(1)(b), who will be offering services to the victim.

Section 53. Paragraph (b) of subsection (8) of section 1007.35, Florida Statutes, is amended to read:

1007.35 Florida Partnership for Minority and Underrepresented Student Achievement.—

(8)



(b) The department shall contribute to the evaluation process by providing access, consistent with s. ~~119.071(5)(a)~~ ~~119.0721~~, to student and teacher information necessary to match against databases containing teacher professional development data and databases containing assessment data for the PSAT/NMSQT, SAT, AP, and other appropriate measures. The department shall also provide student-level data on student progress from middle school through high school and into college and the workforce, if available, in order to support longitudinal studies. The partnership shall analyze and report student performance data in a manner that protects the rights of students and parents as required in 20 U.S.C. s. 1232g and s. 1002.22.

Section 54. This act shall take effect October 1, 2005.

Approved by the Governor June 17, 2005.

Filed in Office Secretary of State June 17, 2005.