

CHAPTER 2010-41

House Bill No. 7115

An act relating to a review under the Open Government Sunset Review Act; amending s. 390.01116, F.S., which provides an exemption from public records requirements for information that could identify a minor which is contained in a record relating to a minor's petition to waive notice requirements when terminating a pregnancy; repealing s. 2, ch. 2005-104, Laws of Florida, which provides for repeal of the exemption; making editorial changes; expanding the exemption to include such information held by the office of criminal conflict and civil regional counsel or the Justice Administrative Commission; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity; providing an effective date.

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

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

390.01116 Public records exemptions; minors seeking waiver of notice requirements petition; confidentiality.—Any information that can be used to identify ~~When a minor petitioning petitions a circuit court for a judicial waiver, as provided in s. 390.01114, of the notice requirements under the Parental Notice of Abortion Act pertaining to a minor seeking to terminate her pregnancy, any information in a record held by the circuit court or an appellate court which could be used to identify the minor is:~~

(1) Confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if held by a circuit court or an appellate court.

(2)(a) Confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if held by the office of criminal conflict and civil regional counsel or the Justice Administrative Commission.

(b) Paragraph (a) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2015, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity to make confidential and exempt from public records requirements any information that can be used to identify a minor petitioning a circuit court for a judicial waiver from the statutory requirement that a parent or legal guardian be notified when that minor seeks to terminate her pregnancy when such information is held by the office of criminal conflict and civil regional counsel or the Justice Administrative Commission. The information contained in these records is of a sensitive, personal nature regarding a minor petitioner,

the release of which could harm the reputation of the minor, as well as jeopardize her safety. Disclosure of this information could jeopardize the safety of the minor in instances in which child abuse or child sexual abuse against her is present by exposing her to further acts of abuse from an abuser who, without the public record exemption, could learn of the minor's pregnancy, her plans to terminate the pregnancy, and her petition to the court. The Legislature further finds that it is a public necessity to keep this identifying information in records held by the office of criminal conflict and civil regional counsel or the Justice Administrative Commission confidential and exempt in order to protect the privacy of the minor. The State Constitution contains an express right of privacy in Section 23 of Article I. Further, the United States Supreme Court has repeatedly required parental-notification laws to contain judicial-bypass procedures and to preserve confidentiality at every level of court proceedings in order to protect the privacy rights of the minor. Without the public record exemption provided in this act, the disclosure of personal identifying information would violate the right of privacy of the minor. Further, without the confidential and exempt status for this information, the constitutionality of the state's program providing for notification of a minor's termination of pregnancy, and the judicial-bypass procedure in particular, would be in question. Thus, the public record exemption provided in this act is necessary for the effective administration of the state's program, which administration would be impaired without the exemption.

Section 3. Section 2 of chapter 2005-104, Laws of Florida, is repealed.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor May 7, 2010.

Filed in Office Secretary of State May 7, 2010.