

## CHAPTER 2011-83

### Committee Substitute for House Bill No. 409

An act relating to public records; amending s. 119.071, F.S.; expanding the exemption from public records requirements for criminal intelligence information and criminal investigative information to include photographs, videotapes, or images of any part of the body of a victim of the sexual offense of video voyeurism; providing for future review and repeal of the exemption; providing a statement of public necessity; reenacting s. 92.56(1)(a), F.S., relating to judicial proceedings and court records involving sexual offenders, to incorporate the amendment made to s. 119.071, F.S., in a reference thereto; reenacting s. 119.0714(1)(h), F.S., relating to court files and records, to incorporate the amendment made to s. 119.071, F.S., in a reference thereto; reenacting s. 794.024(1), F.S., relating to the unlawful disclosure of identifying information, to incorporate the amendment made to s. 119.071, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (h) of subsection (2) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.

(2) AGENCY INVESTIGATIONS.—

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

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

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

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

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

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

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

c. To another governmental agency in the furtherance of its official duties and responsibilities.

3. This exemption applies to such confidential and exempt criminal intelligence information or criminal investigative information held by a law enforcement agency before, on, or after the effective date of the exemption.

4. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand repealed on October 2, ~~2016~~ 2013, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that criminal intelligence information or criminal investigative information that is a photograph, videotape, or image of any part of the body of a victim of the sexual offense of video voyeurism prohibited under s. 810.145, Florida Statutes, be made confidential and exempt from public records requirements. The Legislature finds that such photographs, videotapes, or images often depict the victim in graphic fashion, frequently nude. Such highly sensitive photographs, videotapes, or images of a victim of the sexual offense of video voyeurism, if viewed, copied, or publicized, could result in trauma, sorrow, humiliation, or emotional injury to the victim and the victim's family.

Section 3. For the purpose of incorporating the amendment made by this act to section 119.071, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 92.56, Florida Statutes, is reenacted to read:

92.56 Judicial proceedings and court records involving sexual offenses.

(1)(a) The confidential and exempt status of criminal intelligence information or criminal investigative information made confidential and exempt pursuant to s. 119.071(2)(h) must be maintained in court records pursuant to s. 119.0714(1)(h) and in court proceedings, including testimony from witnesses.

Section 4. For the purpose of incorporating the amendment made by this act to section 119.071, Florida Statutes, in a reference thereto, paragraph (h) of subsection (1) of section 119.0714, Florida Statutes, is reenacted to read:

119.0714 Court files; court records; official records.—

(1) COURT FILES.—Nothing in this chapter shall be construed to exempt from s. 119.07(1) a public record that was made a part of a court file and that is not specifically closed by order of court, except:

(h) Criminal intelligence information or criminal investigative information that is confidential and exempt as provided in s. 119.071(2)(h).

Section 5. For the purpose of incorporating the amendment made by this act to section 119.071, Florida Statutes, in a reference thereto, subsection (1) of section 794.024, Florida Statutes, is reenacted 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), 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 6. This act shall take effect July 1, 2011.

Approved by the Governor May 31, 2011.

Filed in Office Secretary of State May 31, 2011.