

CHAPTER 2013-38

Committee Substitute for Senate Bill No. 4

An act relating to public records and meetings; amending s. 112.324, F.S.; creating an exemption from public records requirements for written referrals and related records held by the Commission on Ethics, the Governor, the Department of Law Enforcement, or a state attorney; creating an exemption for records relating to a preliminary investigation held by the Commission on Ethics; creating an exemption from public meetings requirements for portions of proceedings of the Commission on Ethics in which the referrals are discussed or acted upon; providing for future repeal and legislative review of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (2) of section 112.324, Florida Statutes, is amended to read:

112.324 Procedures on complaints of violations; public records and meeting exemptions.—

(2)(a) The complaint and records relating to the complaint or to any preliminary investigation held by the commission or its agents, by a Commission on Ethics and Public Trust established by any county defined in s. 125.011(1) or by any municipality defined in s. 165.031, or by any county or municipality that has established a local investigatory process to enforce more stringent standards of conduct and disclosure requirements as provided in s. 112.326 are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Written referrals and records relating to such referrals held by the commission or its agents, the Governor, the Department of Law Enforcement, or a state attorney, and records relating to any preliminary investigation of such referrals held by the commission or its agents, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c)(b) Any portion of a proceeding conducted by the commission, a Commission on Ethics and Public Trust, or a county or municipality that has established such local investigatory process, pursuant to a complaint or preliminary investigation, is exempt from the provisions of s. 286.011, s. 24(b), Art. I of the State Constitution, and s. 120.525.

(d) Any portion of a proceeding of the commission in which a determination regarding a referral is discussed or acted upon is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution, and s. 120.525.

~~(e)(e)~~ The exemptions in paragraphs ~~(a)-(d)~~ ~~(a)~~ ~~and (b)~~ apply until:

1. The complaint is dismissed as legally insufficient; ~~until~~
2. The alleged violator requests in writing that such records and proceedings be made public; ~~;~~
3. The commission determines that it will not investigate the referral; or until
4. The commission, a Commission on Ethics and Public Trust, or a county or municipality that has established such local investigatory process determines, based on such investigation, whether probable cause exists to believe that a violation has occurred.

(f) In no event shall a complaint under this part against a candidate in any general, special, or primary election be filed or any intention of filing such a complaint be disclosed on the day of any such election or within the 5 days immediately preceding the date of the election.

~~(g)(d)~~ This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, ~~2018~~ 2015, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that written referrals and records relating to such referrals held by the Commission on Ethics or its agents, the Governor, the Department of Law Enforcement, or a state attorney, and records relating to any preliminary investigation of such referrals held by the Commission on Ethics or its agents, be confidential and exempt from public records requirements until the commission determines that it will not investigate the referral, until the alleged violator requests in writing that such records be made public, or until it is determined by the commission based upon a preliminary investigation of the referral whether probable cause exists to believe that a violation has occurred. This exemption is necessary because the release of such information could potentially be defamatory to an individual under investigation, cause unwarranted damage to the reputation of such individual, or significantly impair the integrity of the investigation.

(2) The Legislature also finds that it is a public necessity that portions of proceedings of the Commission on Ethics at which a determination regarding a referral is discussed or acted upon be exempt from public meetings requirements until the commission determines that it will not investigate the referral, until the alleged violator requests in writing that such proceedings be made public, or until it is determined by the Commission on Ethics, based on a preliminary investigation of the referral, whether probable cause exists to believe that a violation has occurred. This exemption is necessary because the release of such information could potentially be defamatory to an individual under investigation, cause unwarranted damage

to the reputation of such individual, or significantly impair the integrity of the investigation.

Section 3. This act shall take effect on the same date that SB 2 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Approved by the Governor May 15, 2013.

Filed in Office Secretary of State May 15, 2013.