

CHAPTER 2017-11

Committee Substitute for Committee Substitute for House Bill No. 111

An act relating to public records; amending s. 119.011, F.S.; providing that the personal identifying information of a witness to a murder remains confidential and exempt for a specified period; amending s. 119.071, F.S.; providing an exemption from public records requirements for criminal intelligence or criminal investigative information that reveals the personal identifying information of a witness to a murder for a specified period; authorizing specified entities and parties to receive the information; providing for future legislative review and repeal of the exemption; amending s. 119.0714, F.S.; providing that the public records exemption applies to personal identifying information of a witness to a murder that is made part of a court file; providing a statement of public necessity; providing an effective date.

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

Section 1. 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).
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) or (2)(m), 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 2. Paragraph (m) is added to subsection (2) of section 119.071, Florida Statutes, to read:

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

(2) AGENCY INVESTIGATIONS.—

(m)1. Criminal intelligence information or criminal investigative information that reveals the personal identifying information of a witness to a murder, as described in s. 782.04, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for 2 years after the date on which the murder is observed by the witness. A criminal justice agency may disclose such information:

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

b. To assist in locating or identifying the witness if the agency believes the witness to be missing or endangered.

c. To another governmental agency for use in the performance of its official duties and responsibilities.

d. To the parties in a pending criminal prosecution as required by law.

2. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. Paragraph (h) of subsection (1) of section 119.0714, Florida Statutes, is amended 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) or (2)(m).

Section 4. The Legislature finds that it is a public necessity that personal identifying information of a witness to a murder, as described in s. 782.04, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution for 2 years after the date on which the murder is observed by the witness. The judicial system

cannot function without the participation of witnesses. Complete cooperation and truthful testimony of witnesses is essential to the determination of the facts of a case. The public disclosure of personal identifying information of a witness to a murder could have an undesirable chilling effect on witnesses stepping forward and providing their eyewitness accounts of murders. A witness to a murder may be unwilling to cooperate fully with law enforcement officers if the witness knows his or her personal identifying information can be made publicly available. A witness may be less likely to call a law enforcement officer and report a murder if his or her personal identifying information is made available in connection with the murder that is being reported or under investigation. The Legislature further finds that a witness could become the subject of intimidation tactics or threats by the perpetrator of the murder if the witness's personal identifying information is publicly available. For these reasons, the Legislature finds that it is a public necessity that the personal identifying information of a witness to a murder, as described in s. 782.04, Florida Statutes, be made confidential and exempt from public records requirements.

Section 5. This act shall take effect July 1, 2017.

Approved by the Governor May 9, 2017.

Filed in Office Secretary of State May 9, 2017.