

CHAPTER 2017-176

Committee Substitute for Committee Substitute for House Bill No. 981

An act relating to public records; creating s. 744.2111, F.S.; providing an exemption from public records requirements for certain identifying information of complainants and wards held by the Department of Elderly Affairs; providing applicability; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Section 744.2111, Florida Statutes, is created to read:

744.2111 Confidentiality.—

(1) The following are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, when held by the Department of Elderly Affairs in connection with a complaint filed and any subsequent investigation conducted pursuant to this part, unless the disclosure is required by court order:

(a) Personal identifying information of a complainant or ward.

(b) All personal health and financial records of a ward.

(c) All photographs and video recordings.

(2) Except as otherwise provided in this section, information held by the department, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation is completed or ceases to be active, unless the disclosure is required by court order.

(3) This section does not prohibit the department from providing such information to any law enforcement agency, any other regulatory agency in the performance of its official duties and responsibilities, or the clerk of the circuit court pursuant to s. 744.368.

(4) The exemption under this section applies to all documents received by the department in connection with a complaint before, on, or after July 1, 2017.

(5) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.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 2. (1) The Legislature finds that it is a public necessity that information about a complainant and ward held by the Department of Elderly Affairs related to a complaint or obtained during the course of an investigation conducted pursuant to part II of Chapter 744, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution.

(2)(a) The Legislature finds that the release of identifying information about a complainant and ward could cause unwarranted damage to the reputation of such individual, especially if the information associated with the individual is inaccurate. Furthermore, if the complainant and ward are identifiable, public access to such information could jeopardize the safety of such individuals by placing them at risk for retaliation by the professional guardian against whom a complaint has been made.

(b) Additionally, the investigation of a complaint conducted by the Department of Elderly Affairs may lead to the filing of an administrative, civil, or criminal proceeding or may affect the department's decision regarding a registration. The release of identifying information could obstruct an investigation and impair the ability of the Department of Elderly Affairs to effectively and efficiently administer part II of Chapter 744, Florida Statutes. The release of identifying information could jeopardize the integrity of the investigation and impair the ability of a law enforcement agency, regulatory agency in the performance of its official duties and responsibilities, or the clerk of the circuit court, to carry out their statutory duties.

Section 3. This act shall take effect July 1, 2017.

Approved by the Governor June 26, 2017.

Filed in Office Secretary of State June 26, 2017.