

CHAPTER 2017-25

Committee Substitute for Committee Substitute for Senate Bill No. 886

An act relating to public records; creating s. 397.6760, F.S.; providing an exemption from public records requirements for petitions for involuntary assessment and stabilization, court orders, related records, and personal identifying information regarding substance abuse impaired persons; providing exceptions authorizing the release of such petitions, orders, records, and identifying information to certain persons and entities; providing applicability; prohibiting a clerk of court from publishing personal identifying information on a court docket or in a publicly accessible file; providing for retroactive application; 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 397.6760, Florida Statutes, is created to read:

397.6760 Court records; confidentiality.—

(1) All petitions for involuntary assessment and stabilization, court orders, and related records that are filed with or by a court under this part are confidential and exempt from s. 119.071(1) and s. 24(a), Art. I of the State Constitution. Pleadings and other documents made confidential and exempt by this section may be disclosed by the clerk of the court, upon request, to any of the following:

- (a) The petitioner.
- (b) The petitioner's attorney.
- (c) The respondent.
- (d) The respondent's attorney.
- (e) The respondent's guardian or guardian advocate, if applicable.
- (f) In the case of a minor respondent, the respondent's parent, guardian, legal custodian, or guardian advocate.
- (g) The respondent's treating health care practitioner.
- (h) The respondent's health care surrogate or proxy.
- (i) The Department of Children and Families, without charge.

(j) The Department of Corrections, without charge, if the respondent is committed or is to be returned to the custody of the Department of Corrections from the Department of Children and Families.

(k) A person or entity authorized to view records upon a court order for good cause. In determining if there is good cause for the disclosure of records, the court must weigh the person or entity's need for the information against potential harm to the respondent from the disclosure.

(2) This section does not preclude the clerk of the court from submitting the information required by s. 790.065 to the Department of Law Enforcement.

(3) The clerk of the court may not publish personal identifying information on a court docket or in a publicly accessible file.

(4) A person or entity receiving information pursuant to this section shall maintain that information as confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(5) The exemption under this section applies to all documents filed with a court before, on, or after July 1, 2017.

(6) 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. The Legislature finds that it is a public necessity that petitions for involuntary assessment and stabilization and related court orders and records that are filed with or by a court under part V of chapter 397, Florida Statutes, and the personal identifying information of a substance abuse impaired person which is published on a court docket and maintained by the clerk of the court under part V of chapter 397, Florida Statutes, be made confidential and exempt from disclosure under s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. A person's health and sensitive, personal information regarding his or her actual or alleged substance abuse impairment are intensely private matters. The media have obtained, and published information from, such records without the affected person's consent. The content of such records or personal identifying information should not be made public merely because they are filed with or by a court or placed on a docket. Making such petitions, orders, records, and identifying information confidential and exempt from disclosure will protect such persons from the release of sensitive, personal information which could damage their and their families' reputations. The publication of personal identifying information on a physical or virtual docket, regardless of whether any other record is published, defeats the purpose of protections otherwise provided. Further, the knowledge that such sensitive, personal information is subject to disclosure could have a chilling

effect on a person's willingness to seek out and comply with substance abuse treatment services.

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

Approved by the Governor May 23, 2017.

Filed in Office Secretary of State May 23, 2017.