

CHAPTER 2021-73

Committee Substitute for House Bill No. 1639

An act relating to public records; amending s. 98.015, F.S.; creating a public records exemption for portions of records containing network schematics, hardware and software configurations, or encryption held by a county supervisor of elections; providing for release of the confidential and exempt information in certain instances to governmental entities; 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. Subsection (13) is added to section 98.015, Florida Statutes, to read:

98.015 Supervisor of elections; election, tenure of office, compensation, custody of registration-related documents, office hours, successor, seal; appointment of deputy supervisors; duties; public records exemption.—

(13)(a) Portions of records held by a supervisor of elections which contain network schematics, hardware and software configurations, or encryption, or which identify detection, investigation, or response practices for suspected or confirmed information technology security incidents, including suspected or confirmed breaches, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, if the disclosure of such records would facilitate unauthorized access to or the unauthorized modification, disclosure, or destruction of:

1. Data or information, whether physical or virtual; or
2. Information technology resources as defined in s. 119.011(9), which includes:
 - a. Information relating to the security of a supervisor of elections' technology, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or
 - b. Security information, whether physical or virtual, which relates to a supervisor of elections' existing or proposed information technology systems.

(b) The portions of records made confidential and exempt in paragraph (a) shall be available to the Auditor General and may be made available to another governmental entity for information technology security purposes or in the furtherance of the entity's official duties.

(c) The public record exemption in paragraph (a) applies to records held by a supervisor of elections before, on, or after the effective date of the exemption.

(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, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that the portions of records of a supervisor of elections which contain network schematics, hardware and software configurations, or encryption, or which identify detection, investigation, or response practices for suspected or confirmed information technology security incidents, including suspected or confirmed breaches, which could be used to facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of virtual or physical data or information or information technology resources be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Such information could be used as a tool to influence elections, frustrate the voting process, manipulate election results, or otherwise interfere with the administration of elections. If such information was released, it could result in an increase in security breaches and fraud impacting the electoral process. For these reasons, the Legislature finds that the public record exemption should be applied on a retroactive basis because the harm that may result from the release of such information outweighs the public benefit that may be derived from the disclosure of the information.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 4, 2021.

Filed in Office Secretary of State June 4, 2021.