

By the Committee on Judiciary

590-01251-10

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1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 390.01116, F.S.,
 4 relating to a public-records exemption for information
 5 contained in court files which identifies a minor
 6 petitioning for a waiver of the notice requirements
 7 contained in the Parental Notice of Abortion Act;
 8 saving the exemption from repeal under the Open
 9 Government Sunset Review Act; expanding the public-
 10 records exemption to include information in the
 11 possession of the Office of Criminal Conflict and
 12 Civil Regional Counsel or the Justice Administrative
 13 Commission which identifies such a minor; providing
 14 for future legislative review and repeal of the
 15 expanded portion of the exemption under the Open
 16 Government Sunset Review Act; providing a statement of
 17 public necessity; repealing s. 2, ch. 2005-104, Laws
 18 of Florida, relating to the scheduled repeal of the
 19 public-records exemption; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 390.01116, Florida Statutes, is amended
 24 to read:

25 390.01116 Confidentiality of identifying information;
 26 minors seeking waiver of notice requirements ~~Waiver of notice~~
 27 ~~petition; confidentiality.~~

28 (1) Any information that can be used to identify ~~When a~~
 29 minor petitioning ~~petitions~~ a circuit court for a judicial

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30 waiver, as provided in s. 390.01114, of the notice requirements
31 under the Parental Notice of Abortion Act ~~pertaining to a minor~~
32 ~~seeking to terminate her pregnancy, any information in a record~~
33 ~~held by the circuit court or an appellate court which could be~~
34 ~~used to identify the minor is:~~

35 (a) Confidential and exempt from s. 119.07(1) and s. 24(a),
36 Art. I of the State Constitution if held by a circuit court or
37 an appellate court.

38 (b) Confidential and exempt from s. 119.07(1) and s. 24(a),
39 Art. I of the State Constitution if held by the Office of
40 Criminal Conflict and Civil Regional Counsel or the Justice
41 Administrative Commission.

42 (2) Paragraph (1)(b) is subject to the Open Government
43 Sunset Review Act in accordance with s. 119.15 and shall stand
44 repealed on October 2, 2015, unless reviewed and saved from
45 repeal through reenactment by the Legislature.

46 Section 2. (1) The Legislature finds that it is a public
47 necessity to make confidential and exempt from public-records
48 requirements any information that can be used to identify a
49 minor petitioning a circuit court for a judicial waiver from the
50 statutory requirement that a parent or legal guardian be
51 notified when that minor seeks to terminate her pregnancy when
52 such information is held by the Office of Criminal Conflict and
53 Civil Regional Counsel or the Justice Administrative Commission.
54 During representation of minors in judicial-waiver cases under
55 the Parental Notice of Abortion Act, the Office of Criminal
56 Conflict and Civil Regional Counsel may obtain identifying
57 information from the minors. Similarly, the Justice
58 Administrative Commission may receive identifying information of

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59 minors which is related to the processing of attorney billing
60 and payment requests for representation in these cases. Because
61 the information contained in these records is of a sensitive,
62 personal nature regarding a minor petitioner, and because the
63 Office of Criminal Conflict and Civil Regional Counsel and the
64 Justice Administrative Commission are subject to public-records
65 requests, the release of this information could harm the
66 reputation of the minor, as well as jeopardize her safety.
67 Disclosure of this information could jeopardize the safety of
68 the minor in instances when child abuse or child sexual abuse
69 against her is present by exposing her to further acts of abuse
70 from an abuser who, without the public-records exemption, could
71 learn of the minor's pregnancy, her plans to terminate the
72 pregnancy, and her petition to the court.

73 (2) The Legislature further finds that it is a public
74 necessity to keep this identifying information in records held
75 by the Office of Criminal Conflict and Civil Regional Counsel or
76 the Justice Administrative Commission confidential and exempt in
77 order to protect the privacy of the minor. The State
78 Constitution contains an express right of privacy in Section 23
79 of Article I. In addition, the United States Supreme Court has
80 repeatedly required parental-notification laws to contain
81 judicial-bypass procedures that preserve the anonymity of the
82 minor at every level of the court process in order to protect
83 the privacy rights of the minor. Without the confidential and
84 exempt status for this information while held by the Office of
85 Criminal Conflict and Civil Regional Counsel or the Justice
86 Administrative Commission, as well as by the circuit or
87 appellate courts, the constitutionality of the state's program

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88 providing for notification of a minor's termination of
89 pregnancy, and the judicial-bypass procedure in particular,
90 would be in question. Thus, the public-records exemption
91 provided in this act is also necessary for the effective
92 administration of the state's program, the administration of
93 which would be impaired without the exemption.

94 Section 3. Section 2 of chapter 2005-104, Laws of Florida,
95 is repealed.

96 Section 4. This act shall take effect October 1, 2010.