

BILL PCB CFS 24-02

ORIGINAL

YEAR 2024

1 A bill to be entitled
 2 An act relating to public records and meetings;
 3 amending ss. 394.464 and 397.6760, F.S.; specifying
 4 that all hearings relating to mental health and
 5 substance abuse, respectively, are confidential and
 6 closed to the public; providing exceptions; exempting
 7 certain information from public records requirements;
 8 expanding a public records exemption to include
 9 certain petitions and applications; authorizing
 10 disclosure of certain confidential and exempt
 11 documents to certain service providers; authorizing
 12 courts to use a respondent's name for certain
 13 purposes; revising applicability to include certain
 14 appeals; revising the date for future legislative
 15 review and repeal of the exemption; providing public
 16 necessity statements; providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Section 394.464, Florida Statutes, is amended
 21 to read:
 22 394.464 Court proceedings and records; confidentiality.-
 23 (1) Absent a judicial finding of good cause or the
 24 respondent's consent, all hearings under this part are
 25 confidential and closed to the public.

26 (2) (a) ~~(1)~~ The respondent's name, at trial and on appeal,
 27 and all petitions or applications for voluntary and involuntary
 28 admission for mental health examination or treatment, court
 29 orders, and related records that are filed with or by a court
 30 under this part are confidential and exempt from s. 119.07(1)
 31 and s. 24(a), Art. I of the State Constitution. Pleadings and
 32 other documents made confidential and exempt by this section may
 33 be disclosed by the clerk of the court, upon request, to any of
 34 the following:

35 1. ~~(a)~~ The petitioner.

36 2. ~~(b)~~ The petitioner's attorney.

37 3. ~~(c)~~ The respondent.

38 4. ~~(d)~~ The respondent's attorney.

39 5. ~~(e)~~ The respondent's guardian or guardian advocate, if
 40 applicable.

41 6. ~~(f)~~ In the case of a minor respondent, the respondent's
 42 parent, guardian, legal custodian, or guardian advocate.

43 7. ~~(g)~~ The respondent's treating health care practitioner
 44 and service provider.

45 8. ~~(h)~~ The respondent's health care surrogate or proxy.

46 9. ~~(i)~~ The Department of Children and Families, without
 47 charge.

48 10. ~~(j)~~ The Department of Corrections, without charge, if
 49 the respondent is committed or is to be returned to the custody
 50 of the Department of Corrections from the Department of Children

51 and Families.

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

57 (b)~~(2)~~ This subsection ~~section~~ does not preclude the clerk
 58 of the court from submitting the information required by s.
 59 790.065 to the Department of Law Enforcement.

60 (c)~~(3)~~ The clerk of the court may not publish personal
 61 identifying information on a court docket or in a publicly
 62 accessible file, but the court may use a respondent's name to
 63 schedule and adjudicate cases, which includes the transmission
 64 of any court order to the parties or the service provider.

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

69 (e)~~(5)~~ The exemption under this subsection ~~section~~ applies
 70 to all documents filed with a court before, on, or after July 1,
 71 2019, and appeals pending or filed on or after July 1, 2024.

72 (f)~~(6)~~ This subsection ~~section~~ is subject to the Open
 73 Government Sunset Review Act in accordance with s. 119.15 and
 74 shall stand repealed on October 2, 2029 2024, unless reviewed
 75 and saved from repeal through reenactment by the Legislature.

76 Section 2. Section 397.6760, Florida Statutes, is amended
 77 to read:

78 397.6760 Court proceedings and records; confidentiality.-

79 (1) Absent a judicial finding of good cause or the
 80 respondent's consent, all hearings under this part or part IV
 81 are confidential and closed to the public.

82 (2)(a) The respondent's name, at trial and on appeal, and
 83 all petitions or applications for voluntary and involuntary
 84 substance abuse treatment or assessment and stabilization, court
 85 orders, and related records that are filed with or by a court
 86 under this part or part IV are confidential and exempt from s.
 87 119.07(1) and s. 24(a), Art. I of the State Constitution.
 88 Pleadings and other documents made confidential and exempt by
 89 this section may be disclosed by the clerk of the court, upon
 90 request, to any of the following:

91 1.(a) The petitioner.

92 2.(b) The petitioner's attorney.

93 3.(c) The respondent.

94 4.(d) The respondent's attorney.

95 5.(e) The respondent's guardian or guardian advocate, if
 96 applicable.

97 6.(f) In the case of a minor respondent, the respondent's
 98 parent, guardian, legal custodian, or guardian advocate.

99 7.(g) The respondent's treating health care practitioner
 100 and service provider.

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101 8.~~(h)~~ The respondent's health care surrogate or proxy.

102 9.~~(i)~~ The Department of Children and Families, without
103 charge.

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

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

113 (b)~~(2)~~ This subsection ~~section~~ does not preclude the clerk
114 of the court from submitting the information required by s.
115 790.065 to the Department of Law Enforcement.

116 (c)~~(3)~~ The clerk of the court may not publish personal
117 identifying information on a court docket or in a publicly
118 accessible file, but the court may use a respondent's name to
119 schedule and adjudicate cases, which includes the transmission
120 of any court order to the parties or the service provider.

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

125 (e)~~(5)~~ The exemption under this subsection ~~section~~ applies

126 to all documents filed with a court before, on, or after July 1,
 127 2017, and appeals pending or filed on or after July 1, 2024.

128 (f) This subsection is subject to the Open Government
 129 Sunset Review Act in accordance with s. 119.15 and shall stand
 130 repealed on October 2, 2029, unless reviewed and saved from
 131 repeal through reenactment by the Legislature.

132 Section 3. (1) The Legislature finds that it is a public
 133 necessity that court hearings under part I of chapter 394 and
 134 parts IV and V of chapter 397, Florida Statutes, be made
 135 confidential and closed to the public unless the court finds
 136 good cause to open a hearing to the public or the respondent
 137 consents to a hearing being open to the public. The mental
 138 health or substance abuse impairments of a person are medical
 139 conditions that should be protected from public disclosure. A
 140 person's health and sensitive personal information regarding his
 141 or her mental health or substance abuse impairment are intensely
 142 private matters. Making hearings where such impairments,
 143 conditions, and personal information may be communicated as
 144 confidential and closed to the public will protect such persons
 145 from the release of sensitive personal information that could
 146 damage their and their families' reputations. Allowing public
 147 hearings relating to such information defeats the purpose of
 148 protections otherwise provided. Further, the knowledge that such
 149 sensitive personal information is subject to disclosure could
 150 have a chilling effect on a person's willingness to seek out and

151 comply with mental health or substance abuse treatment services.
 152 (2) The Legislature finds that it is a public necessity
 153 that voluntary applications or petitions for involuntary
 154 examination or treatment, court orders, and related records that
 155 are filed with or by a court or relevant service provider under
 156 part I of chapter 394 and parts IV and V of chapter 397, Florida
 157 Statutes, respectively, and the personal identifying information
 158 of a person with a potential mental, emotional, or behavioral
 159 disorder or a substance abuse disorder which is published on a
 160 court docket and maintained by the clerk of the court under part
 161 I of chapter 394 and parts IV and V of chapter 397, Florida
 162 Statutes, or with the relevant service provider be made
 163 confidential and exempt from disclosure under s. 119.07(1),
 164 Florida Statutes, and s. 24(a), Article I of the State
 165 Constitution. The mental health or substance abuse impairments
 166 of a person are medical conditions that should be protected from
 167 public disclosure. A person's health and sensitive personal
 168 information regarding his or her mental health or substance
 169 abuse impairment are intensely private matters. Making such
 170 applications, petitions, orders, records, and personal
 171 identifying information confidential and exempt from disclosure
 172 will protect such persons from the release of sensitive personal
 173 information that could damage their and their families'
 174 reputations. The publication of personal identifying information
 175 on a physical or virtual docket, regardless of whether any other

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176 | record is published, defeats the purpose of protections
177 | otherwise provided. Further, the knowledge that such sensitive
178 | personal information is subject to disclosure could have a
179 | chilling effect on a person's willingness to seek out and comply
180 | with mental health or substance abuse treatment services.

181 | Section 4. This act shall take effect July 1, 2024.