

1                                   A bill to be entitled  
 2           An act relating to public records; amending s.  
 3           119.071, F.S.; providing an exemption from public  
 4           record requirements for a complaint of misconduct  
 5           filed with an agency against an agency employee and  
 6           all information obtained pursuant to an investigation  
 7           of the complaint by the agency; providing for limited  
 8           duration of the exemption; providing for future review  
 9           and repeal of the exemption under the Open Government  
 10          Sunset Review Act; providing a statement of public  
 11          necessity; providing an effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

14  
 15           Section 1. Paragraph (k) is added to subsection (2) of  
 16          section 119.071, Florida Statutes, to read:

17           119.071 General exemptions from inspection or copying of  
 18          public records.—

19           (2) AGENCY INVESTIGATIONS.—

20           (k)1. A complaint of misconduct filed with an agency  
 21          against an agency employee and all information obtained pursuant  
 22          to an investigation by the agency of the complaint of misconduct  
 23          is confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
 24          I of the State Constitution until the investigation ceases to be  
 25          active, or until the agency provides written notice to the  
 26          employee who is the subject of the complaint, either personally  
 27          or by mail, that the agency has either:

28 | a. Concluded the investigation with a finding not to  
29 | proceed with disciplinary action or file charges; or

30 | b. Concluded the investigation with a finding to proceed  
31 | with disciplinary action or file charges.

32 | 2. Subparagraph 1. is subject to the Open Government  
33 | Sunset Review Act in accordance with s. 119.15 and shall stand  
34 | repealed on October 2, 2018, unless reviewed and saved from  
35 | repeal through reenactment by the Legislature.

36 | Section 2. The Legislature finds that it is a public  
37 | necessity that a complaint of misconduct filed with an agency  
38 | against an agency employee and all information obtained pursuant  
39 | to an investigation by the agency of the complaint of misconduct  
40 | be made confidential and exempt from the requirements of s.  
41 | 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
42 | State Constitution. The disclosure of information, such as the  
43 | nature of the complaint against an agency employee and testimony  
44 | and evidence given in the investigation of the complaint, could  
45 | injure an individual and deter that person from providing  
46 | information pertaining to internal investigations, thus  
47 | impairing the ability of an agency to conduct an investigation  
48 | that is fair and reasonable. In the performance of its lawful  
49 | duties and responsibilities, an agency may need to obtain  
50 | information for the purpose of determining an administrative  
51 | action. Without an exemption from public record requirements to  
52 | protect information of a sensitive personal nature provided to  
53 | an agency in the course of an internal investigation, such  
54 | information becomes a public record when received and must be  
55 | divulged upon request. Disclosure of information obtained during

CS/HB 1075

2013

56 an internal investigation conducted by an agency inhibits  
57 voluntary participation of individuals during internal  
58 investigations and makes it difficult if not impossible to  
59 determine the truth. Therefore, the Legislature declares that it  
60 is a public necessity that a complaint of misconduct filed with  
61 an agency against an agency employee and all information  
62 obtained pursuant to an investigation by the agency of the  
63 complaint of misconduct be held confidential and exempt from  
64 public record requirements.

65 Section 3. This act shall take effect July 1, 2013.