

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 records requirements for arrest booking photographs;
 5 providing for the release of arrest booking
 6 photographs under specified circumstances; providing
 7 for future legislative review and repeal of the
 8 exemption; providing a statement of public necessity;
 9 providing a contingent effective date.

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 11 Be It Enacted by the Legislature of the State of Florida:

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

15 119.071 General exemptions from inspection or copying of
 16 public records.—

17 (2) AGENCY INVESTIGATIONS.—

18 (q)1. The arrest booking photograph of a person is
 19 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 20 of the State Constitution.

21 2. A criminal justice agency may disclose an arrest
 22 booking photograph if there is an immediate threat to the
 23 public, if there is a need to alert victims or witnesses to come
 24 forward to aid in an investigation, or if disclosure serves a
 25 specific law enforcement purpose.

26 3. This paragraph is subject to the Open Government Sunset
27 Review Act in accordance with s. 119.15 and shall stand repealed
28 on October 2, 2026, unless reviewed and saved from repeal
29 through reenactment by the Legislature.

30 Section 2. The Legislature finds that it is a public
31 necessity that arrest booking photographs be made confidential
32 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
33 Article I of the State Constitution. An arrest booking
34 photograph that is used or published on the Internet can remain
35 online in perpetuity, causing persistent and permanent damage to
36 the person even if the charge against him or her subsequently is
37 dropped, the person is ultimately found not guilty by a judge or
38 jury, or his or her arrest record is subsequently sealed or
39 expunged. In the absence of the special circumstances specified
40 in this act, the potential for lasting harm from use or
41 publication of an arrest booking photograph online far outweighs
42 any immediate public benefit of viewing the arrest booking
43 photograph of a person who poses no immediate danger to the
44 public. For these reasons, the Legislature finds that it is a
45 public necessity that arrest booking photographs be confidential
46 and exempt from public records requirements except in the
47 limited circumstances specified in this act.

48 Section 3. This act shall take effect on the same date
49 that HB 1451 or similar legislation takes effect, if such
50 legislation is adopted in the same legislative session or an

HB 1453

2021

51 | extension thereof and becomes law. |