

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; providing definitions; providing an
 4 exemption from public records requirements for
 5 investigative genetic genealogy materials and
 6 information; authorizing the disclosure of such
 7 materials and information in certain circumstances;
 8 providing retroactive application; providing for
 9 future legislative review and repeal of the exemption;
 10 providing a statement of public necessity; providing
 11 an effective date.

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 13 Be It Enacted by the Legislature of the State of Florida:
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15 Section 1. Paragraph (r) 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 (r)1. As used in this paragraph, the term:

21 a. "Genetic genealogy" means the use of DNA testing in
 22 combination with traditional genealogical methods to infer
 23 relationships between persons and determine ancestry.

24 b. "Investigative genetic genealogy" means the application
 25 of genetic genealogy and law enforcement investigative

26 techniques to develop investigative leads in unsolved violent
27 crimes and provide investigative leads as to the identity of
28 unidentified human remains and living unidentified missing
29 persons. An SNP or a WGS DNA profile is developed from an
30 unknown DNA profile from a crime scene or unidentified human
31 remains and then uploaded into a web-based genealogy database,
32 which is used to detect possible genetic relationships with
33 distant relatives.

34 c. "Investigative genetic genealogy materials" means the
35 information, records, and genetic profiles created or collected
36 by or on behalf of a law enforcement agency conducting
37 investigative genetic genealogy research, and includes names and
38 personal identifying information or identifiers of persons
39 determined through the use of genealogy databases, traditional
40 genealogical methods, or other investigative means. The term
41 does not include:

42 (I) The identity or personal identifying information of
43 the donor of a biological sample attributable to a perpetrator,
44 with the exception of the SNP or WGS DNA profile developed from
45 the crime scene evidence; or

46 (II) A person identified through investigative genetic
47 genealogy who is a witness to or has personal knowledge related
48 to the crime under investigation, with the exception of the
49 person's SNP or WGS DNA profile.

50 d. "SNP" means single nucleotide polymorphism, which is a

51 variation in a single unit in a DNA sequence.

52 e. "Traditional genealogical methods" means the use of
53 genealogical databases and historical records to trace the
54 family lineage of a person.

55 f. "WGS" means whole genome sequencing, which is the
56 attempt to determine the genetic code for a person throughout
57 the entire complement of DNA, including all genes.

58 2. Investigative genetic genealogy materials and
59 information, including SNP and WGS profiles, are confidential
60 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
61 Constitution.

62 3. Notwithstanding subparagraph 2., a law enforcement
63 agency:

64 a. May disclose such materials and information in
65 furtherance of its official duties and responsibilities or to
66 another governmental agency in the furtherance of its official
67 duties and responsibilities.

68 b. Shall disclose such materials and information pursuant
69 to a court order for furtherance of a criminal prosecution. If a
70 court orders the disclosure of such materials and information,
71 the recipient of the materials and information must maintain the
72 confidentiality of the materials and information and may only
73 publicly disclose the materials and information as necessary for
74 purposes of a criminal prosecution as determined by the court.

75 4. The exemption in this paragraph applies to

76 investigative genetic genealogy materials and information,
77 including SNP and WGS profiles, held by an agency before, on, or
78 after July 1, 2023.

79 5. This paragraph is subject to the Open Government Sunset
80 Review Act in accordance with s. 119.15 and shall stand repealed
81 on October 2, 2028, unless reviewed and saved from repeal
82 through reenactment by the Legislature.

83 Section 2. The Legislature finds that it is a public
84 necessity that investigative genetic genealogy materials and
85 information, including SNP and WGS profiles, be made
86 confidential and exempt from s. 119.07(1), Florida Statutes, and
87 s. 24(a), Article I of the State Constitution. Investigative
88 genetic genealogy is an advanced investigative tool that uses
89 law enforcement agency investigative resources and traditional
90 genealogical research in collaboration with crime laboratories,
91 private vendor laboratories, and companies and organizations
92 that provide genealogy services and information to the public.
93 Investigative genetic genealogy allows law enforcement to
94 generate investigative leads on unknown perpetrators. Such
95 investigative leads aid law enforcement in determining potential
96 donors of crime scene samples, which can be confirmed or refuted
97 by a crime laboratory for use in legal proceedings. Convictions
98 and exonerations have been aided by the use of investigative
99 genetic genealogy. The same techniques are also used in missing
100 persons and unidentified human remains cases. Investigative

101 genetic genealogy is a valuable tool to solve violent crimes and
102 hold accountable perpetrators who may otherwise roam freely and
103 undetected in society. Traditional forensic DNA testing attempts
104 to identify the possible donor of a crime scene sample through
105 matches in law enforcement DNA databases comprised of short
106 tandem repeat DNA databases. The use of investigative genetic
107 genealogy differs from traditional law enforcement investigative
108 techniques because it uses advanced DNA testing in order to
109 develop an SNP or a WGS profile from unknown crime scene DNA.
110 Profiles consisting of SNP data from various locations in a
111 genome are made up of letters representing the building blocks
112 of DNA and, depending on the locations tested, may reveal
113 information on physical characteristics, disease predisposition,
114 and susceptibility to environmental factors such as toxins or
115 drugs. A WGS profile represents the entirety of a person's DNA
116 and the traits, health, and ancestry information the DNA
117 contains. Such SNP or WGS profiles are then uploaded into public
118 genealogy databases and used to locate personal identifying
119 information for possible relatives and ancestors who participate
120 in the databases. Persons whose names, contact information, and
121 other family associations are available in these databases
122 routinely have no association with or knowledge of the
123 perpetrator or the crime law enforcement is investigating. The
124 first publicized use of investigative genetic genealogy involved
125 the Golden State Killer case in California. The publicity

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126 surrounding law enforcement's use of genetic genealogy led
127 genealogy service providers, genealogical testing companies,
128 privacy advocates, and ethicists to express privacy concerns.
129 Private companies have since strictly limited or precluded law
130 enforcement access to genetic genealogy databases due to fear
131 that persons biologically related to a perpetrator but
132 unassociated with the crime may be identified, harassed, and
133 even victimized. Law enforcement use has been restricted to
134 violent crimes and unidentified human remains, and companies
135 employ opt-in features for customers. Failure to properly
136 protect and limit the disclosure of investigative genetic
137 genealogy materials will hinder the ability of law enforcement
138 to use investigative genetic genealogy to solve violent crimes
139 and provide closure to the family members of victims of these
140 heinous acts. Unidentified human remains are often homicide
141 victims, so protection of investigative genetic genealogy tools
142 and information is important in giving names to these victims as
143 well.

144 Section 3. This act shall take effect July 1, 2023.