

**By** the Committees on Governmental Oversight and Accountability;  
and Education; and Senators Brandes and Rouson

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1                                   A bill to be entitled  
2           An act relating to public records and public meetings;  
3           creating s. 1004.055, F.S.; creating an exemption from  
4           public records requirements for certain records held  
5           by a state university or Florida College System  
6           institution which identify detection, investigation,  
7           or response practices for suspected or confirmed  
8           information technology security incidents; creating an  
9           exemption from public records requirements for certain  
10          portions of risk assessments, evaluations, audits, and  
11          other reports of a university's or institution's  
12          information technology security program; creating an  
13          exemption from public meetings requirements for  
14          portions of public meetings which would reveal such  
15          data and information; providing an exemption from  
16          public records requirements for a specified period for  
17          the recording and transcript of a closed meeting;  
18          authorizing disclosure of confidential and exempt  
19          information to certain agencies and officers;  
20          providing retroactive application; providing for  
21          future legislative review and repeal of the  
22          exemptions; providing statements of public necessity;  
23          providing a directive to the Division of Law Revision  
24          and Information; providing an effective date.

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26   Be It Enacted by the Legislature of the State of Florida:  
27

28           Section 1. Section 1004.055, Florida Statutes, is created  
29   to read:

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30 1004.055 Security of data and information technology in  
31 state postsecondary education institutions.-

32 (1) All of the following data or information from  
33 technology systems owned, under contract, or maintained by a  
34 state university or a Florida College System institution are  
35 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
36 of the State Constitution:

37 (a) Records held by the university or institution which  
38 identify detection, investigation, or response practices for  
39 suspected or confirmed information technology security  
40 incidents, including suspected or confirmed breaches, if the  
41 disclosure of such records would facilitate unauthorized access  
42 to or unauthorized modification, disclosure, or destruction of:

43 1. Data or information, whether physical or virtual; or

44 2. Information technology resources, which include:

45 a. Information relating to the security of the university's  
46 or institution's technologies, processes, and practices designed  
47 to protect networks, computers, data processing software, and  
48 data from attack, damage, or unauthorized access; or

49 b. Security information, whether physical or virtual, which  
50 relates to the university's or institution's existing or  
51 proposed information technology systems.

52 (b) Those portions of risk assessments, evaluations,  
53 audits, and other reports of the university's or institution's  
54 information technology security program for its data,  
55 information, and information technology resources which are held  
56 by the university or institution, if the disclosure of such  
57 records would facilitate unauthorized access to or the  
58 unauthorized modification, disclosure, or destruction of:

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59 1. Data or information, whether physical or virtual; or

60 2. Information technology resources, which include:

61 a. Information relating to the security of the university's  
62 or institution's technologies, processes, and practices designed  
63 to protect networks, computers, data processing software, and  
64 data from attack, damage, or unauthorized access; or

65 b. Security information, whether physical or virtual, which  
66 relates to the university's or institution's existing or  
67 proposed information technology systems.

68 (2) Those portions of a public meeting as specified in s.  
69 286.011 which would reveal data and information described in  
70 subsection (1) are exempt from s. 286.011 and s. 24(b), Art. I  
71 of the State Constitution. No exempt portion of an exempt  
72 meeting may be off the record. All exempt portions of such a  
73 meeting must be recorded and transcribed. The recording and  
74 transcript of the meeting must remain confidential and exempt  
75 from disclosure under s. 119.07(1) and s. 24(a), Art. 1 of the  
76 State Constitution unless a court of competent jurisdiction,  
77 following an in camera review, determines that the meeting was  
78 not restricted to the discussion of data and information made  
79 confidential and exempt by this section. In the event of such a  
80 judicial determination, only that portion of the transcript  
81 which reveals nonexempt data and information may be disclosed to  
82 a third party.

83 (3) The records and portions of public meeting recordings  
84 and transcripts described in subsection (1) must be available  
85 to: the Auditor General; the Cybercrime Office of the Department  
86 of Law Enforcement; for a state university, the Board of  
87 Governors; and for a Florida College System institution, the

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88 State Board of Education. Such records and portions of meetings,  
89 recordings, and transcripts may be made available to a state or  
90 federal agency for security purposes or in furtherance of the  
91 agency's official duties.

92 (4) The exemptions listed in this section apply to such  
93 records or portions of public meetings, recordings, and  
94 transcripts held by the university or institution before, on, or  
95 after the effective date of this act.

96 (5) This section is subject to the Open Government Sunset  
97 Review Act in accordance with s. 119.15 and shall stand repealed  
98 on October 2, 2022, unless reviewed and saved from repeal  
99 through reenactment by the Legislature.

100 Section 2. (1) (a) The Legislature finds that it is a public  
101 necessity that the following data or information from technology  
102 systems owned, under contract, or maintained by a state  
103 university or a Florida College System institution be  
104 confidential and exempt from s. 119.07(1), Florida Statutes, and  
105 s. 24(a), Article I of the State Constitution:

106 1. Records held by the university or institution which  
107 identify detection, investigation, or response practices for  
108 suspected or confirmed information technology security  
109 incidents, including suspected or confirmed breaches, if the  
110 disclosure of such records would facilitate unauthorized access  
111 to or unauthorized modification, disclosure, or destruction of:

112 a. Data or information, whether physical or virtual; or

113 b. Information technology resources, which include:

114 (I) Information relating to the security of the  
115 university's or institution's technologies, processes, and  
116 practices designed to protect networks, computers, data

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117 processing software, and data from attack, damage, or  
118 unauthorized access; or

119 (II) Security information, whether physical or virtual,  
120 which relates to the university's or institution's existing or  
121 proposed information technology systems.

122 2. Those portions of risk assessments, evaluations, audits,  
123 and other reports of the university's or institution's  
124 information technology security program for its data,  
125 information, and information technology resources which are held  
126 by the university or institution, if the disclosure of such  
127 records would facilitate unauthorized access to or the  
128 unauthorized modification, disclosure, or destruction of:

129 a. Data or information, whether physical or virtual; or

130 b. Information technology resources, which include:

131 (I) Information relating to the security of the  
132 university's or institution's technologies, processes, and  
133 practices designed to protect networks, computers, data  
134 processing software, and data from attack, damage, or  
135 unauthorized access; or

136 (II) Security information, whether physical or virtual,  
137 which relates to the university's or institution's existing or  
138 proposed information technology systems.

139 (b) The Legislature also finds that those portions of a  
140 public meeting as specified in s. 286.011, Florida Statutes,  
141 which would reveal data and information described in subsection  
142 (1) are exempt from s. 286.011, Florida Statutes, and s. 24(b),  
143 Article I of the State Constitution. The recording and  
144 transcript of the meeting must remain confidential and exempt  
145 from disclosure under s. 119.07(1), Florida Statutes, and s.

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146 24(a), Article 1 of the State Constitution unless a court of  
147 competent jurisdiction, following an in camera review,  
148 determines that the meeting was not restricted to the discussion  
149 of data and information made confidential and exempt by this  
150 section. In the event of such a judicial determination, only  
151 that portion of the transcript which reveals nonexempt data and  
152 information may be disclosed to a third party.

153 (c) The Legislature further finds that it is a public  
154 necessity that records held by a state university or Florida  
155 College System institution which identify detection,  
156 investigation, or response practices for suspected or confirmed  
157 information technology security incidents, including suspected  
158 or confirmed breaches, be made confidential and exempt from s.  
159 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
160 State Constitution if the disclosure of such records would  
161 facilitate unauthorized access to or the unauthorized  
162 modification, disclosure, or destruction of:

163 1. Data or information, whether physical or virtual; or

164 2. Information technology resources, which include:

165 a. Information relating to the security of the university's  
166 or institution's technologies, processes, and practices designed  
167 to protect networks, computers, data processing software, and  
168 data from attack, damage, or unauthorized access; or

169 b. Security information, whether physical or virtual, which  
170 relates to the university's or institution's existing or  
171 proposed information technology systems.

172 (d) Such records must be made confidential and exempt for  
173 the following reasons:

174 1. Records held by a state university or Florida College

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175 System institution which identify information technology  
176 detection, investigation, or response practices for suspected or  
177 confirmed information technology security incidents or breaches  
178 are likely to be used in the investigations of the incidents or  
179 breaches. The release of such information could impede the  
180 investigation and impair the ability of reviewing entities to  
181 effectively and efficiently execute their investigative duties.  
182 In addition, the release of such information before an active  
183 investigation is completed could jeopardize the ongoing  
184 investigation.

185 2. An investigation of an information technology security  
186 incident or breach is likely to result in the gathering of  
187 sensitive personal information, including identification  
188 numbers, personal financial and health information, and  
189 educational records exempt from disclosure under the Family  
190 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and ss.  
191 1002.225 and 1006.52, Florida Statutes. Such information could  
192 be used to commit identity theft or other crimes. In addition,  
193 release of such information could subject possible victims of  
194 the security incident or breach to further harm.

195 3. Disclosure of a record, including a computer forensic  
196 analysis, or other information that would reveal weaknesses in a  
197 state university's or Florida College System institution's data  
198 security could compromise that security in the future if such  
199 information were available upon conclusion of an investigation  
200 or once an investigation ceased to be active.

201 4. Such records are likely to contain proprietary  
202 information about the security of the system at issue. The  
203 disclosure of such information could result in the

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204 identification of vulnerabilities and further breaches of that  
205 system. In addition, the release of such information could give  
206 business competitors an unfair advantage and weaken the security  
207 technology supplier supplying the proprietary information in the  
208 marketplace.

209 5. The disclosure of such records could potentially  
210 compromise the confidentiality, integrity, and availability of  
211 state university and Florida College System institution data and  
212 information technology resources, which would significantly  
213 impair the administration of vital educational programs. It is  
214 necessary that this information be made confidential in order to  
215 protect the technology systems, resources, and data of the  
216 universities and institutions. The Legislature further finds  
217 that this public records exemption be given retroactive  
218 application because it is remedial in nature.

219 (2) (a) The Legislature also finds that it is a public  
220 necessity that portions of risk assessments, evaluations,  
221 audits, and other reports of a state university's or Florida  
222 College System institution's information technology security  
223 program for its data, information, and information technology  
224 resources which are held by the university or institution be  
225 made confidential and exempt from s. 119.07(1), Florida  
226 Statutes, and s. 24(a), Article I of the State Constitution if  
227 the disclosure of such portions of records would facilitate  
228 unauthorized access to or the unauthorized modification,  
229 disclosure, or destruction of:

- 230 1. Data or information, whether physical or virtual; or  
231 2. Information technology resources, which include:  
232 a. Information relating to the security of the university's



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233 or institution's technologies, processes, and practices designed  
234 to protect networks, computers, data processing software, and  
235 data from attack, damage, or unauthorized access; or

236 b. Security information, whether physical or virtual, which  
237 relates to the university's or institution's existing or  
238 proposed information technology systems.

239 (b) The Legislature finds that it is valuable, prudent, or  
240 critical to a state university or Florida College System  
241 institution to have an independent entity conduct a risk  
242 assessment, an audit, or an evaluation or complete a report of  
243 the university's or institution's information technology program  
244 or related systems. Such documents would likely include an  
245 analysis of the university's or institution's current  
246 information technology program or systems which could clearly  
247 identify vulnerabilities or gaps in current systems or processes  
248 and propose recommendations to remedy identified  
249 vulnerabilities.

250 (3) (a) The Legislature further finds that it is a public  
251 necessity that those portions of a public meeting which could  
252 reveal information described in subsections (1) and (2) be made  
253 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article  
254 I of the State Constitution. It is necessary that such meetings  
255 be made exempt from the open meetings requirements in order to  
256 protect institutional information technology systems, resources,  
257 and data. The information disclosed during portions of meetings  
258 would clearly identify a state university's or Florida College  
259 System institution's information technology systems and its  
260 vulnerabilities. This disclosure would jeopardize the  
261 information technology security of the institution and

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262 compromise the integrity and availability of state university or  
263 Florida College System institution data and information  
264 technology resources, which would significantly impair the  
265 administration of educational programs.

266 (b) The Legislature further finds that it is a public  
267 necessity that the recording and transcript of those portions of  
268 meetings specified in paragraph (a) be made confidential and  
269 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
270 Article I of the State Constitution unless a court determines  
271 that the meeting was not restricted to the discussion of data  
272 and information made confidential and exempt by this act. It is  
273 necessary that the resulting recordings and transcripts be made  
274 confidential and exempt from the public record requirements in  
275 order to protect institutional information technology systems,  
276 resources, and data. The disclosure of such recordings and  
277 transcripts would clearly identify a state university's or  
278 Florida College System institution's information technology  
279 systems and its vulnerabilities. This disclosure would  
280 jeopardize the information technology security of the  
281 institution and compromise the integrity and availability of  
282 state university or Florida College System institution data and  
283 information technology resources, which would significantly  
284 impair the administration of educational programs.

285 (c) The Legislature further finds that this public meeting  
286 and public records exemption must be given retroactive  
287 application because it is remedial in nature.

288 Section 3. The Division of Law Revision and Information is  
289 directed to replace the phrase "the effective date of this act"  
290 wherever it occurs in this act with the date this act becomes a

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291 law.

292 Section 4. This act shall take effect upon becoming a law.