



115626

LEGISLATIVE ACTION

Senate

.  
.  
.  
.  
.  
.

House

---

Senator Lee moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Present paragraphs (f) through (k) of subsection  
(1) of section 893.055, Florida Statutes, are redesignated as  
paragraphs (g) through (l), respectively, present paragraph (b)  
of subsection (2) is redesignated as paragraph (c), a new  
paragraph (f) is added to subsection (1) and a new paragraph (b)  
is added to subsection (2) of that section, and paragraph (b) of  
subsection (5) and subsection (10) are amended, to read:



115626

893.055 Prescription drug monitoring program.—

(1) As used in this section, the term:

(f) "Electronic health recordkeeping system" means an electronic or computer-based information system used by health care practitioners or providers to create, collect, store, manipulate, exchange, or make available personal health information for the delivery of patient care.

(2)

(b) To protect personally identifiable information, the department shall assign a unique identifier to each patient for whom a record exists in the system. Such identifier may not identify or provide a reasonable basis to identify a patient by any person not authorized under this section to access personally identifiable information in the system.

(5) The following entities may not directly access information in the system, but may request information from the program manager or designated program and support staff:

(b) The Attorney General for:

1. Medicaid fraud cases involving prescribed controlled substances.

2. An active investigation or pending civil or criminal litigation involving prescribed controlled substances, other than Medicaid fraud cases, upon the granting of a petition or motion by a trial court which specifically identifies the active or pending matter. The Attorney General shall ensure that information obtained under this subparagraph is not used for any purpose other than the specific matter stated in the petition or motion. Notice to any party regarding such petition or motion is not required, except in cases of pending civil litigation. The



115626

trial court shall grant the petition or motion and authorize  
release of information when the information appears reasonably  
calculated to lead to the discovery of admissible evidence. The  
department may not release any patient information pursuant to  
this subparagraph other than the patient's unique identifier  
assigned pursuant to paragraph (2)(b), year of birth, and the  
county, city, and zip code where the patient resides, consistent  
with the provisions of the Health Insurance Portability and  
Accountability Act of 1996 and its implementing regulations. The  
Attorney General shall maintain a log of each person with whom  
the information is shared to document the chain of custody,  
execute a confidentiality agreement or an agreement bound by a  
protective order with each such person, ensure that the  
information is maintained in a secure manner, and require each  
such person to return all information or certify its destruction  
under penalty of perjury to the Attorney General upon the final  
resolution of the matter for which the information was  
requested.

(10) Information in the prescription drug monitoring  
program's system may be released only as provided in this  
section and s. 893.0551.

(a) Except as provided in paragraph (b), the content of the  
system is intended to be informational only. Information in the  
system is not subject to discovery or introduction into evidence  
in any civil or administrative action against a prescriber,  
dispenser, pharmacy, or patient arising out of matters that are  
the subject of information in the system. The program manager  
and authorized persons who participate in preparing, reviewing,  
issuing, or any other activity related to management of the



115626

system may not be permitted or required to testify in any such civil or administrative action as to any findings, recommendations, evaluations, opinions, or other actions taken in connection with management of the system.

(b) The Attorney General may introduce information from the system released pursuant to subparagraph (5)(b)2. as evidence in a civil, criminal, or administrative action against a dispenser, manufacturer, or a pharmacy. The program manager and authorized persons who participate in preparing, reviewing, issuing, or any other activity related to the management of the system may testify for purposes of authenticating the records introduced into evidence pursuant to this paragraph.

Section 2. Paragraph (e) of subsection (3) and subsection (6) of section 893.0551, Florida Statutes, are amended to read:  
893.0551 Public records exemption for the prescription drug monitoring program.—

(3) The department shall disclose such information to the following persons or entities upon request and after using a verification process to ensure the legitimacy of the request as provided in s. 893.055:

(e) The Attorney General or his or her designee:

1. When working on Medicaid fraud cases involving prescribed controlled substances or when the Attorney General has initiated a review of specific identifiers of Medicaid fraud or specific identifiers that warrant a Medicaid investigation regarding prescribed controlled substances. The Attorney General's Medicaid fraud investigators may not have direct access to the department's system. The Attorney General or his or her designee may disclose to a criminal justice agency, as



115626

defined in s. 119.011, only the information received from the department that is relevant to an identified active investigation that prompted the request for the information.

2. Upon a court order authorizing the release of patient information under s. 893.055(5)(b)2.

(6) An agency or person who obtains any information pursuant to this section must maintain the confidential and exempt status of that information and may not disclose such information unless authorized by law. Information shared with a state attorney pursuant to paragraph (3)(f), ~~or~~ paragraph (3)(h), or with the Attorney General or his or her designee pursuant to subparagraph (3)(e)2. may be released only in response to a discovery demand if such information is directly related to the ~~criminal~~ case for which the information was requested. Unrelated information may be released only upon an order of a court of competent jurisdiction.

Section 3. The amendments to ss. 893.055 and 893.0551, Florida Statutes, made by this act shall stand repealed on June 30, 2021, unless reviewed and saved from repeal through reenactment by the Legislature. If such amendments are not saved from repeal, the text of ss. 893.055 and 893.0551, Florida Statutes, shall revert to that in existence on June 30, 2019, except that any amendments to such text other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.

Section 4. This act shall take effect July 1, 2019.

===== T I T L E   A M E N D M E N T =====



115626

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to the prescription drug monitoring  
program; amending s. 893.055, F.S.; defining the term  
"electronic health recordkeeping system"; requiring  
the Department of Health to assign a unique identifier  
to each patient in the system; prohibiting the unique  
identifier from identifying or providing a basis for  
identification by unauthorized individuals;  
authorizing the Attorney General to request  
information for an active investigation or pending  
civil or criminal litigation involving prescribed  
controlled substances; requiring such information to  
be released upon the granting of a petition or motion  
by a trial court; providing exceptions; requiring a  
trial court to grant a petition or motion under  
certain circumstances; limiting the patient  
information the department may provide; authorizing  
the Attorney General to introduce as evidence in  
certain actions specified information that is released  
to the Attorney General from the prescription drug  
monitoring program; authorizing certain persons to  
testify as to the authenticity of certain records;  
amending s. 893.0551, F.S.; authorizing the Attorney  
General to have access to records when ordered by a  
court under specified provisions; providing for future  
repeal of amendments unless reviewed and saved from



115626

157        repeal through reenactment by the Legislature;  
158        providing for effect of amendments by other  
159        provisions; providing an effective date.