

By Senator Latvala

19-67-98

1 A bill to be entitled
2 An act relating to public records; amending s.
3 110.1091, F.S.; revising provisions which
4 specify that communications relating to a state
5 employee's participation in an employee
6 assistance program are confidential, and which
7 provide a public records exemption for records
8 relating thereto; creating ss. 125.585,
9 166.0444, F.S.; providing that certain
10 communications relating to a county or
11 municipal employee's participation in such a
12 program are confidential; providing an
13 exemption from public records requirements for
14 records relating to such participation;
15 providing for future review and repeal;
16 providing a finding of public necessity;
17 providing an effective date.

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

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21 Section 1. Section 110.1091, Florida Statutes, is
22 amended to read:

23 110.1091 Program for assisting state employees;
24 confidentiality.--Each employing state agency may provide a
25 program to assist any state employee who has a behavioral or
26 medical disorder, substance abuse problem, or emotional
27 difficulty which affects the employee's job performance,
28 through referral for counseling, therapy, or other
29 professional treatment. Each employing state agency may
30 designate community diagnostic and referral resources as
31 necessary to implement the provisions of this section. ~~Upon~~

1 ~~entry into this assistance program,~~Any communication between
2 a state employee and personnel or service providers of a state
3 employee assistance program program personnel of the employing
4 agency and any participating employee relative to the
5 employee's participation in the program shall be a
6 confidential communication. Any routine monitoring of
7 telephone calls by the state agency does not violate this
8 provision,as provided by s. 112.313(8),and All records
9 relative to that participation shall be confidential and
10 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
11 I of the State Constitution,~~except as provided by s.~~
12 ~~112.0455(11).~~ This section is subject to the Open Government
13 Sunset Review Act of 1995 in accordance with s. 119.15, and
14 shall stand repealed on October 2, 2003, unless reviewed and
15 saved from repeal through reenactment by the Legislature.

16 Section 2. Section 125.585, Florida Statutes, is
17 created to read:

18 125.585 Employee assistance programs;
19 confidentiality.--

20 (1) As used in this section, "employee assistance
21 program" means a program provided by a county to assist any
22 county employee who has a behavioral or medical disorder,
23 substance abuse problem, or emotional difficulty which affects
24 the employee's job performance, through referral for
25 counseling, therapy, or other professional treatment.

26 (2) Any communication between a county employee and
27 personnel or service providers of a county employee assistance
28 program relating to that employee's participation in such
29 program shall be a confidential communication. Any routine
30 monitoring of telephone calls by the county does not violate
31 this provision. All records relating to that participation

1 are confidential and exempt from s. 119.07(1) and s. 24(a),
2 Art. I of the State Constitution. This section is subject to
3 the Open Government Sunset Review Act of 1995 in accordance
4 with s. 119.15, and shall stand repealed on October 2, 2003,
5 unless reviewed and saved from repeal through reenactment by
6 the Legislature.

7 Section 3. Section 166.0444, Florida Statutes, is
8 created to read:

9 166.0444 Employee assistance programs;
10 confidentiality.--

11 (1) As used in this section, "employee assistance
12 program" means a program provided by a municipality to assist
13 any municipal employee who has a behavioral or medical
14 disorder, substance abuse problem, or emotional difficulty
15 which affects the employee's job performance, through referral
16 for counseling, therapy, or other professional treatment.

17 (2) Any communication between a municipal employee and
18 personnel or service providers of a municipal employee
19 assistance program relating to that employee's participation
20 in such program shall be a confidential communication. Any
21 routine monitoring of telephone calls by the municipality does
22 not violate this provision. All records relating to that
23 participation are confidential and exempt from s. 119.07(1)
24 and s. 24(a), Art. I of the State Constitution. This section
25 is subject to the Open Government Sunset Review Act of 1995 in
26 accordance with s. 119.15, and shall stand repealed on October
27 2, 2003, unless reviewed and saved from repeal through
28 reenactment by the Legislature.

29 Section 4. The Legislature finds that it is a public
30 necessity to protect the confidentiality of the information
31 specified in ss. 110.1091, 125.585, and 166.0444, Florida

1 Statutes, because such information is a private matter. A
2 public employee has the right of privacy to protect such
3 personal sensitive information as provided by s. 23, Art. I of
4 the State Constitution. Further, public knowledge of such
5 information could lead to discrimination against the employee,
6 and could compromise the therapeutic process. Therapeutic and
7 treatment programs cannot operate efficiently and effectively
8 if employees are reluctant to participate because their mental
9 health records would be subject to inspection and review.
10 Employees at all levels of government should be encouraged to
11 seek treatment for behavioral or medical disorders, substance
12 abuse problems, or emotional difficulties that could affect
13 the employee's job performance and service to the public.
14 Additionally, the performance of public employees can be
15 otherwise adequately monitored and evaluated.

16 Section 5. This act shall take effect October 1, 1998.

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19 LEGISLATIVE SUMMARY

20 Revises provisions which specify that communications
21 relating to a state employee's participation in an
22 employee assistance program are confidential, and which
23 provide a public records exemption for records relating
24 thereto. Provides that communications relating to a
25 county or municipal employee's participation in such a
26 program are confidential, and provides an exemption from
27 public records requirements for records relating to such
28 participation. Provides for future review and repeal.
29 Provides a finding of public necessity.
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