317-1224-98

1	A bill to be entitled
2	An act relating to public records; amending s.
3	119.07, F.S., relating to inspection,
4	examination, and duplication of records;
5	exempting information pertaining to natural
6	persons in health, medical, patient, or health
7	insurance records from the public records law;
8	providing exceptions; amending s. 286.011,
9	F.S., relating to public meetings; exempting
10	from public discussion portions of public
11	meetings during which the contents of health,
12	medical, patient, or health insurance
13	information pertaining to a natural person are
14	considered; providing exceptions; providing
15	justification for exemptions; providing an
16	effective date.
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18	Be It Enacted by the Legislature of the State of Florida:
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20	Section 1. Present paragraphs (w), (x), (y), (z),
21	(aa), and (bb) of subsection (3) of section 119.07, Florida
22	Statutes, are redesignated as paragraphs (x), (y), (z), (aa),
23	(bb), and (cc), respectively, and a new paragraph (w) is added
24	to that subsection to read:
25	119.07 Inspection, examination, and duplication of
26	records; exemptions.--
27	(3)
28	(w) Except as otherwise provided by law, any
29	information pertaining to a natural person which is contained
30	in a health, medical, patient, or health insurance record is
31	exempt from subsection (1) and s. 24(a), Art. I of the State

 1 Constitution. However, such information may be disclosed if
 2 the person to whom the information pertains or the person's
 3 legal representative provides written permission or if a court
 4 of competent jurisdiction orders disclosure.
 5   Section 2. Subsection (1) of section 286.011, Florida
 6 Statutes, is amended and subsection (9) is added to that
 7 section to read:
 8   286.011 Public meetings and records; public
 9 inspection; criminal and civil penalties.--
10   (1) All meetings of any board or commission of any
11 state agency or authority or of any agency or authority of any
12 county, municipal corporation, or political subdivision,
13 except as otherwise provided in the Constitution and
14 subsection (9), at which official acts are to be taken are
15 declared to be public meetings open to the public at all
16 times, and no resolution, rule, or formal action shall be
17 considered binding except as taken or made at such meeting.
18 The board or commission must provide reasonable notice of all
19 such meetings.
20   (9) A portion of a meeting that is declared a public
21 meeting open to the public under subsection (1) during which
22 the contents of a health, medical, patient, or health
23 insurance record pertaining to a natural person or containing
24 information provided by a natural person about the person who
25 is the subject of the record is discussed shall be closed to
26 the public unless such persons or their legal representatives
27 have given their written consent for public discussion or a
28 court of competent jurisdiction orders public discussion. This
29 subsection does not apply to disciplinary proceedings of
30 licensed health care personnel.
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1   Section 3. The Legislature finds that it is a public
2   necessity that information concerning a natural person
3   included in health, medical, patient, and health insurance
4   records which are held by a governmental agency be exempt from
5   the public records law, as provided in subsection 24(a) of
6   Article I of the State Constitution and section 119.07,
7   Florida Statutes, and the public meetings law, as provided in
8   subsection 24(b) of Article I of the State Constitution and
9   section 286.011, Florida Statutes. The Legislature finds that
10 the right to privacy as guaranteed under Article I, Section 23
11 of the State Constitution protects every natural person from
12 government intrusion into his or her private life. Government
13 disclosure of a health, medical, patient, and health insurance
14 record that otherwise may not be released to the public
15 without the consent of the person to which it pertains or in
16 response to a court order is deemed to be governmental
17 intrusion. A person who has sought and obtained health or
18 medical care should be protected from aimless, casual, or
19 sensationalized public scrutiny of personal, sensitive
20 information about his or her physical or mental status, except
21 for the most compelling of public policy reasons, such as
22 alerting the public to a person who has been determined to
23 pose a health danger and minimizing the spread of such a
24 danger. Additionally, as provided in section 119.15(4)(b)1.,
25 Florida Statutes, a requirement that health, medical, patient,
26 or health insurance records be disclosed to the public may
27 reasonably be anticipated to impair the state or its political
28 subdivisions in the effective and efficient administration of
29 governmental programs. Such programs include regulatory
30 investigations conducted by the Department of Health, county
31 health departments, the Department of Insurance, and the

 1 Agency for Health Care Administration; medical treatments
 2 provided by county health departments, teaching hospitals, and
 3 public hospitals; and payment for health and medical services
 4 with public funds such as through the Medicaid Program,
 5 county-reimbursed funding, or special hospital districts.
 6 Furthermore, health, medical, patient, and health insurance
 7 records generated by public health care facilities, such as
 8 public hospitals, would be subject to disclosure while such
 9 records that are generated by private hospitals and other
10 private health care entities would not be automatically
11 subject to public disclosure. Disparate treatment of health,
12 medical, patient, and health insurance records by public and
13 private health care providers will undermine the integrity and
14 the availability of the public health services and public
15 health facilities, which may result in loss of public
16 confidence in the state's public health system. Therefore, the
17 Legislature finds that the harm of disclosure of the identity
18 of a natural person who is the subject of a health, medical,
19 patient, or health insurance record, of health care
20 professionals, and of individuals who are not health care
21 professionals substantially outweighs the public benefit in
22 allowing such disclosure.
23   Section 4. This act shall take effect upon becoming a
24 law.
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1   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
                    COMMITTEE SUBSTITUTE FOR
2   Senate Bill 364

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4   The committee substitute modifies the Public Records Law
    exemption created in the bill by limiting it to circumstances
5   that otherwise have not been provided for in law and to narrow
    the scope of affected insurance records to health insurance
6   records. Additionally, the exemption has been broadened to
    apply to all information in a health, medical, patient, or
7   health insurance record instead of only identifying
    information. The Public Meetings Law exemption created in the
8   bill is made inapplicable to disciplinary proceedings of
    licensed health care personnel. The statement of public
9   necessity has been modified to emphasize the privacy interests
    of persons using public health facilities or who receive
10 publicly-funded services and to point out the potential for
    loss of public confidence in the public health system if
11 information obtained by public entities is treated differently
    from the same information obtained by private-sector entities.
12 Sections of the bill that provide for the repeal of certain
    Public Records Law exemptions relating to specific situations
13 have been deleted from the bill.

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