

By Representative Fischer

1                                   A bill to be entitled  
2           An act relating to public records; creating ss.  
3           125.585 and 166.0444, F.S.; providing an  
4           exemption from public records requirements for  
5           records relating to a county or municipal  
6           employee's participation in an employee  
7           assistance program; providing for future review  
8           and repeal; providing a finding of public  
9           necessity; providing an effective date.

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

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13           Section 1. Section 125.585, Florida Statutes, is  
14 created to read:

15           125.585 Employee assistance programs;  
16 confidentiality.--

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

23           (2) Except as provided by s. 112.0455(11), all records  
24 relating to a county employee's participation in an employee  
25 assistance program are exempt from s. 119.07(1) and s. 24(a),  
26 Art. I of the State Constitution. This section is subject to  
27 the Open Government Sunset Review Act of 1995 in accordance  
28 with s. 119.15, and shall stand repealed on October 2, 2002,  
29 unless reviewed and saved from repeal through reenactment by  
30 the Legislature.

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1           Section 2. Section 166.0444, Florida Statutes, is  
2 created to read:

3           166.0444 Employee assistance programs;  
4 confidentiality.--

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

11           (2) Except as provided by s. 112.0455(11), all records  
12 relating to a municipal employee's participation in an  
13 employee assistance program are exempt from s. 119.07(1) and  
14 s. 24(a), Art. I of the State Constitution. This section is  
15 subject to the Open Government Sunset Review Act of 1995 in  
16 accordance with s. 119.15, and shall stand repealed on October  
17 2, 2002, unless reviewed and saved from repeal through  
18 reenactment by the Legislature.

19           Section 3. The Legislature finds that it is a public  
20 necessity that the information specified in ss. 125.585 and  
21 166.0444, Florida Statutes, be exempt from public records  
22 requirements because access to such information is an invasion  
23 of the privacy of the public employee who is seeking treatment  
24 because personal, sensitive information may be revealed.  
25 Public knowledge of such information could lead to  
26 discrimination against the employee, and would compromise the  
27 psychotherapy process. Furthermore, these beneficial programs  
28 cannot operate efficiently and effectively if employees are  
29 reluctant to enter treatment because their mental health  
30 records would be subject to inspection and review. Employees  
31 at all levels of government should be encouraged to seek

1 treatment for behavioral or medical disorders, substance abuse  
2 problems, or emotional difficulties that affect the employee's  
3 job performance and service to the public. Additionally,  
4 there is little utility in providing public access to such  
5 information because effective performance of public employees  
6 can be otherwise adequately monitored and evaluated. The harm  
7 resulting from release of this information outweighs any  
8 public benefit that might result.

9 Section 4. This act shall take effect October 1, 1997.

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11 HOUSE SUMMARY

12 Provides an exemption from public records requirements  
13 for records relating to a county or municipal employee's  
14 participation in an employee assistance program.  
15 Provides for future review and repeal.