

By Representative Fischer

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 and  
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, 1996  
22 Supplement, is 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 ~~as provided by s. 112.313(8),~~ and  
7 all records relative to that participation shall be  
8 confidential and exempt from the provisions of s. 119.07(1)  
9 and s. 24(a), Art. I of the State Constitution, ~~except as~~  
10 ~~provided by s. 112.0455(11).~~ This section is subject to the  
11 Open Government Sunset Review Act of 1995 in accordance with  
12 s. 119.15, and shall stand repealed on October 2, 2002, unless  
13 reviewed and saved from repeal through reenactment by the  
14 Legislature.

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

17 125.585 Employee assistance programs;  
18 confidentiality.--

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

25 (2) Any communication between a county employee and  
26 personnel or service providers of a county employee assistance  
27 program relating to that employee's participation in such  
28 program shall be a confidential communication, and all records  
29 relating to that participation are confidential and exempt  
30 from s. 119.07(1) and s. 24(a), Art. I of the State  
31 Constitution. This section is subject to the Open Government

1 Sunset Review Act of 1995 in accordance with s. 119.15, and  
2 shall stand repealed on October 2, 2002, unless reviewed and  
3 saved from repeal through reenactment by the Legislature.

4 Section 3. Section 166.0444, Florida Statutes, is  
5 created to read:

6 166.0444 Employee assistance programs;  
7 confidentiality.--

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

14 (2) Any communication between a municipal employee and  
15 personnel or service providers of a municipal employee  
16 assistance program relating to that employee's participation  
17 in such program shall be a confidential communication, and all  
18 records relating to that participation are confidential and  
19 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
20 Constitution. This section is subject to the Open Government  
21 Sunset Review Act of 1995 in accordance with s. 119.15, and  
22 shall stand repealed on October 2, 2002, unless reviewed and  
23 saved from repeal through reenactment by the Legislature.

24 Section 4. The Legislature finds that it is a public  
25 necessity to protect the confidentiality of the information  
26 specified in ss. 110.1091, 125.585, and 166.0444, Florida  
27 Statutes, because such information is a private matter. A  
28 public employee has the right of privacy to protect such  
29 personal sensitive information as provided by s. 23, Art. I of  
30 the State Constitution. Further, public knowledge of such  
31 information could lead to discrimination against the employee,

1 and could compromise the therapeutic process. Therapeutic and  
2 treatment programs cannot operate efficiently and effectively  
3 if employees are reluctant to participate because their mental  
4 health records would be subject to inspection and review.  
5 Employees at all levels of government should be encouraged to  
6 seek treatment for behavioral or medical disorders, substance  
7 abuse problems, or emotional difficulties that could affect  
8 the employee's job performance and service to the public.  
9 Additionally, the performance of public employees can be  
10 otherwise adequately monitored and evaluated.

11 Section 5. This act shall take effect October 1, 1997.

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13 HOUSE SUMMARY

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15 Revises provisions which specify that communications  
16 relating to a state employee's participation in an  
17 employee assistance program are confidential, and which  
18 provide a public records exemption for records relating  
19 thereto. Provides that communications relating to a  
20 county or municipal employee's participation in such a  
21 program are confidential, and provides an exemption from  
22 public records requirements for records relating to such  
23 participation. Provides for future review and repeal.  
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