

By Senator Campbell

33-1002A-99

1 A bill to be entitled
2 An act relating to public records; providing an
3 exemption from public records requirements for
4 information contained in a notice of an adverse
5 incident submitted to the Department of Health;
6 limiting the circumstances under which such
7 information may be admissible in a civil or
8 administrative action; providing for future
9 legislative review and repeal; providing a
10 finding of public necessity; providing a
11 contingent effective date.

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

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15 Section 1. The information contained in a notice of an
16 adverse incident required under section 458.351, Florida
17 Statutes, as created by SB 1348, and submitted to the
18 Department of Health is confidential and exempt from section
19 119.07(1), Florida Statutes, and Section 24(a) of Article I of
20 the State Constitution. In addition, the notice is not
21 discoverable or admissible in any civil or administrative
22 action, unless the action is a disciplinary proceeding by the
23 Department of Health or an appropriate regulatory board. The
24 information may not be made available to the public as part of
25 the record of an investigation for and prosecution in
26 disciplinary proceedings made available to the public by the
27 Department of Health or an appropriate regulatory board. This
28 section is subject to the Open Government Sunset Review Act of
29 1995 in accordance with section 119.15, Florida Statutes, and
30 shall stand repealed on October 2, 2003, unless reviewed and
31 saved from repeal through reenactment by the Legislature.

1 Section 2. The Legislature finds that the exemption
2 from the public records law provided in section 1 of this act
3 is a public necessity, and that it would be an invasion of a
4 patient's privacy for such personal, sensitive information
5 contained in the notice of an adverse incident to be publicly
6 available. Furthermore, the Legislature finds that failure to
7 protect the confidentiality of any information submitted to or
8 collected by the Department of Health under section 458.351,
9 Florida Statutes, regarding an adverse incident, including,
10 but not limited to, the identity of the patient, the type of
11 adverse incident, and the fact that an investigation is being
12 conducted, would deter the collection and reporting of this
13 information to the department. This would prevent the
14 Department of Health and the appropriate regulatory boards
15 from effectively carrying out their responsibility to enforce
16 safe patient care and take necessary disciplinary action for
17 practice violations. Release of such information would deter
18 licensed physicians from reporting adverse incidents. This
19 could lead to the deterioration of services and care rendered,
20 all to the detriment of the health of those served. This
21 exemption applies the same exemption accorded under section
22 395.0197, Florida Statutes, relating to the reporting of
23 adverse incidents by facilities licensed under chapter 395,
24 Florida Statutes. The Legislature has thus consistently and
25 repeatedly acknowledged the public necessity of these types of
26 exemptions.

27 Section 3. This act shall take effect on the same date
28 that Senate Bill 1348 or similar legislation takes effect, if
29 such legislation is enacted in the same legislative session or
30 an extension thereof.

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SENATE SUMMARY

Provides that the information contained in a notice of an adverse incident submitted to the Department of Health is exempt from the public records law. Provides that such information is not admissible in a civil or administrative action unless the action is part of a disciplinary proceeding. Provides for future legislative review and repeal.