

By the Committee on Health Care Services and
Representative Peaden

1 A bill to be entitled
2 An act relating to public records; creating s.
3 381.775, F.S.; providing an exemption from
4 public records requirements for personal
5 information relating to applicants to and
6 clients of the brain and spinal cord injury
7 program of the Department of Health; providing
8 a penalty for disclosure; providing conditions
9 for certain release of records; providing for
10 future review and repeal; providing a finding
11 of public necessity; providing an effective
12 date.

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

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16 Section 1. Section 381.775, Florida Statutes, is
17 created to read:

18 381.775 Applicant and client records; confidential and
19 privileged.--

20 (1) All oral and written records, information,
21 letters, and reports received, made, or maintained by the
22 department relative to any applicant for or recipient of brain
23 and spinal cord injury program services are privileged,
24 confidential, and exempt from the provisions of s. 119.07(1)
25 and s. 24(a), Art. I of the State Constitution. Any person
26 who discloses or releases such records, information, or
27 communications in violation of this section commits a
28 misdemeanor of the second degree, punishable as provided in s.
29 775.082 or s. 775.083. Such records may not be released
30 except that:

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1 (a) Records may be released to the applicant for or
2 recipient of brain and spinal cord injury program services or
3 his or her representative upon receipt of a written waiver
4 from the particular applicant for or recipient of brain and
5 spinal cord injury program services. Medical, psychological,
6 or other information that the department believes may be
7 harmful to the applicant for or recipient of brain and spinal
8 cord injury program services may not be released directly to
9 him or her, but must be provided through the licensed health
10 professional of his or her choice.

11 (b) Records that do not identify clients or applicants
12 may be released for the purpose of research, when the research
13 is approved by the department.

14 (c) Records used in administering the brain and spinal
15 cord injury program may be released as required to administer
16 the brain and spinal cord injury program or as required by an
17 agency or political subdivision of the state in the
18 performance of its duties. Any agency or political
19 subdivision to which records are released under this paragraph
20 may not disclose the records to third parties.

21 (d) Records may be released upon the order of an
22 administrative law judge, a hearing officer, a judge of
23 compensation claims, an agency head exercising quasi-judicial
24 authority, or a judge of a court of competent jurisdiction
25 following a finding in an in-camera proceeding that the
26 records are relevant to the inquiry before the court and
27 should be released. The in-camera proceeding and all records
28 relating thereto are confidential and exempt from the
29 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
30 Constitution.

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1 (e) Whenever an applicant for or recipient of brain
2 and spinal cord injury program services has declared any
3 intention to unlawfully harm other persons or property, such
4 declaration may be disclosed.

5 (f) Information about an applicant for or recipient of
6 brain and spinal cord injury program services may be disclosed
7 in order to protect him or her or others when he or she poses
8 a threat to his or her own safety or to the safety of others
9 and shall, upon official request, be released to law
10 enforcement agencies investigating the commission of a crime.

11 (2) Records that come into the possession of the
12 department relative to any applicant for or recipient of
13 services under the brain and spinal cord injury program and
14 that are confidential by other provisions of law are
15 confidential and exempt from the provisions of s. 119.07(1)
16 and s. 24(a), Art. I of the State Constitution and may not be
17 released by the department, except as provided in this
18 section.

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20 This section is subject to the Open Government Sunset Review
21 Act of 1995 in accordance with s. 119.15, and shall stand
22 repealed on October 2, 2005, unless reviewed and saved from
23 repeal through reenactment by the Legislature.

24 Section 2. The Legislature finds that it is a public
25 necessity to protect the confidentiality of the applicant and
26 client records and information of the brain and spinal cord
27 injury program because such information is a private matter,
28 and such individuals have the right of privacy to protect such
29 personal information as provided by s. 23, Art. I of the State
30 Constitution. Further, public knowledge of such information
31 could compromise the therapeutic process. Therapeutic and

1 treatment programs cannot operate efficiently and effectively
2 if such individuals are reluctant to participate because their
3 treatment records would be subject to inspection and review.
4 Such individuals should be encouraged to seek appropriate
5 treatment that could enhance their recovery and quality of
6 life.

7 Section 3. This act shall take effect July 1, 2000.

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10 HOUSE SUMMARY

11 Provides an exemption from public records requirements
12 for personal information relating to applicants to and
13 clients of the brain and spinal cord injury program of
14 the Department of Health. Provides a second degree
15 misdemeanor penalty for disclosure. Provides exceptions
16 authorizing release of records under specified
17 conditions. Provides for future review and repeal.
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