

By the Committee on Criminal Justice; and Senators Brown-Waite and Smith

307-739-02

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A bill to be entitled
An act relating to public records; providing that information concerning the amount or type of pharmaceutical materials or the location of pharmaceutical depositories maintained or directed by the Department of Health in response to an act of terrorism are exempt from public-records requirements; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Information concerning the type or amount of pharmaceutical materials or the location of any pharmaceutical depository maintained or directed by the Department of Health as a response to an act of terrorism as defined in s. 775.30 is exempt from the requirements of section 119.07(1), Florida Statutes, and Section 24(a), Article I of the State Constitution. The certification by the Governor of the sufficiency of the type or amount of such pharmaceutical materials or the security of the location of the pharmaceutical depository is a public record. This exemption is remedial in nature and it is the intent of the Legislature that this exemption be applied to information received by the Department of Health before, on, or after the effective date of this section. Information made exempt by this section may be disclosed by the custodial agency to another state or federal agency in order to prevent, detect, guard against, respond to, investigate, or manage the

1 consequences of any attempted or actual act of terrorism, or
2 to prosecute those responsible for such attempts or acts, and
3 the exempt status of such information shall be retained while
4 in the possession of the receiving agency. This section is
5 subject to the Open Government Sunset Review Act of 1995 in
6 accordance with section 119.15, Florida Statutes, and shall
7 stand repealed October 2, 2006, unless reviewed and saved from
8 repeal through reenactment by the Legislature.

9 Section 2. The Legislature finds that the exemption
10 from public-records requirements provided by this act is a
11 public necessity because information concerning the type or
12 amount of pharmaceutical materials or the location of any
13 pharmaceutical depository that is maintained or directed by
14 the Department of Health as a response to an act of terrorism
15 is information that could be used by terrorists in planning
16 acts of terrorism. If terrorists were able to determine what
17 types of pharmaceutical materials are stored or maintained for
18 response to terrorism, or the amount of pharmaceutical
19 materials stored, they could use this information to craft a
20 terrorist act to which the state may not be as well prepared
21 to respond. This information could be used to increase the
22 number of people injured or killed in a terrorist act.
23 Although some skill would be required to use such information
24 to further an act of terrorism, ample evidence of the
25 capabilities of terrorists to conduct complicated acts of
26 terrorism exist. The September 11, 2001, attack on the World
27 Trade Center and the Pentagon, as well as the intentional
28 spread of anthrax in this country and state, which resulted in
29 the death of one Floridian, provide evidence that such
30 capabilities exist. These events also have shown the
31 importance of maintaining appropriate pharmaceutical materials

1 to respond to acts of terrorism and the need to ensure that
2 the locations of pharmaceutical depositories are protected.
3 Consequently, the Legislature finds that information
4 concerning the type or amount of pharmaceutical materials or
5 the location of any pharmaceutical depository that is
6 maintained or directed by the Department of Health as a
7 response to an act of terrorism must be kept exempt.

8 Section 3. This act shall take effect on the same date
9 that Senate Bill 6-C or similar legislation defining
10 "terrorism" for purposes of the Florida Criminal Code takes
11 effect, if such legislation is adopted in the same legislative
12 session or an extension thereof and becomes law.

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14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 Senate Bill 20-C

- 17 - Provides that information made confidential and exempt
18 by the bill may be disclosed by the custodial agency to
19 another state or federal agency for specified purposes
20 and that the confidential and exempt status of such
21 information is retained while in the possession of the
22 receiving agency.
23 - Provides that the exemption is remedial in nature and
24 that it applies to records received before, on, or
25 after, the effective date of the bill.
26 - Clarifies that the certification is to be made by the
27 Governor.
28 - Clarifies that the exemption is for information held by
29 the Department of Health.
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