

By the Committees on Governmental Oversight and Productivity;  
Health, Aging and Long-Term Care; and Senator Burt

302-1920-02

1                                   A bill to be entitled  
2           An act relating to public-records exemptions;  
3           creating s. 893.066, F.S.; creating a  
4           public-records exemption for personal  
5           identifying information regarding a patient  
6           held by the Department of Legal Affairs;  
7           providing exceptions to the exemption;  
8           providing a criminal penalty for violating the  
9           provisions of the public-records exemption;  
10          providing for future review and repeal;  
11          providing a statement of public necessity;  
12          providing an effective date.

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

15  
16           Section 1. Section 893.066, Florida Statutes, is  
17 created to read:

18           893.066 Public-records exemption.--

19           (1) Personal identifying information regarding a  
20 patient reported under s. 893.065 and contained in the  
21 electronic system that monitors the prescribing of controlled  
22 substances and that is designed and established by the  
23 Department of Legal Affairs is confidential and exempt from  
24 the provisions of s. 119.07(1) and s. 24(a), Art. I of the  
25 State Constitution. The Department of Legal Affairs may  
26 disclose a patient's identity contained in the electronic  
27 system to the following:

28           (a) A practitioner who requests information and  
29 certifies that the information is necessary to provide medical  
30 treatment to a current patient in accordance with s. 893.05.

31

1           (b) A pharmacist licensed in this state who requests  
2 information and certifies that the requested information is to  
3 be used to dispense controlled substances to a current patient  
4 in accordance with s. 893.04.

5           (c) A criminal justice agency, as defined in s.  
6 119.011, which enforces the laws of this state or the United  
7 States relating to drugs and which is engaged in a specific  
8 investigation involving a violation of law.

9           (d) An employee or agent of the Department of Health  
10 who is involved in a specific investigation involving a  
11 violation of the chapter regulating the alleged violator, the  
12 rules of the Department of Health, or the rules of a board  
13 regulating the alleged violator.

14  
15 A practitioner, pharmacist, criminal justice agency, or  
16 employee or agent of the Department of Health who obtains the  
17 personal identifying information made confidential and exempt  
18 pursuant to this section must maintain the confidential and  
19 exempt status of that information. This exemption is made  
20 subject to the Open Government Sunset Review Act of 1995 in  
21 accordance with s. 119.15, and shall stand repealed unless  
22 reviewed and saved from repeal through reenactment by the  
23 Legislature.

24           (2) Any person who violates this section commits a  
25 misdemeanor of the first degree, punishable as provided in s.  
26 775.082 or s. 775.083. However, upon a second or subsequent  
27 violation, the person commits a felony of the third degree,  
28 punishable as provided in s. 775.082 or s. 775.083.

29           Section 2. The Legislature finds that it is a public  
30 necessity that the information made confidential and exempt by  
31 this act be held confidential and exempt in order to

1 facilitate the Department of Legal Affairs' efforts to  
2 maintain compliance with the state's drug laws by the accurate  
3 and timely reporting by health care practitioners of potential  
4 drug diversion without compromising a patient's privacy, with  
5 certain exceptions. The exemption for a patient's personal  
6 identifying information reported under section 893.065,  
7 Florida Statutes, and contained in the electronic system for  
8 monitoring the prescribing of controlled substances  
9 facilitates the sharing of information among health care  
10 practitioners so that the practitioners may appropriately  
11 identify and evaluate a patient's risk for drug diversion and  
12 the resulting abuse of controlled substances without  
13 compromising a patient's privacy. The Legislature further  
14 finds that the exemption for such information is a public  
15 necessity in order to protect a patient's health-related  
16 information. Matters of personal health are traditionally  
17 private and confidential concerns between a patient and a  
18 health care provider. The private and confidential nature of  
19 personal health matters pervades both the public and private  
20 health care sectors. If the patient's personal identifying  
21 information were not confidential and exempt, then that  
22 patient's name would be associated with his or her  
23 prescription. By associating the patient's name with the  
24 patient's prescription, a third party could then determine  
25 that patient's ailment, thereby intruding upon the patient's  
26 right to privacy in all matters regarding his or her personal  
27 health.

28           Section 3. This act shall take effect upon the  
29 effective date of House Bill 701 or similar legislation.

30  
31

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
CS/SB 638

Clarifies and simplifies the exemption and the exceptions to  
the exemption.  
Provides more specificity to the statement of public  
necessity.