

By Representative Crow

1                                   A bill to be entitled  
2           An act relating to public records exemptions;  
3           exempting certain health care records of the  
4           Department of Legal Affairs which relate to  
5           health care practitioners or pharmacists, law  
6           enforcement officers, or the Department of  
7           Health; providing guidelines for the use of  
8           such information and penalties for violations;  
9           providing a finding of public necessity;  
10          providing an effective date.

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

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14           Section 1. All information and records reported under  
15 section 893.065, Florida Statutes, or the electronic system  
16 for monitoring the prescribing of controlled substances  
17 designed and established by the Department of Legal Affairs  
18 which would identify a patient is confidential and exempt from  
19 the provisions of section 119.07(1), Florida Statutes, and  
20 Section 24(a) of Article I of the State Constitution.

21           Section 2. (1) The Department of Legal Affairs may  
22 disclose a patient's identity in the information or records  
23 reported under section 893.065, Florida Statutes, or the  
24 electronic system for monitoring the prescribing of controlled  
25 substances designed and established by the Department of Legal  
26 Affairs whose identity is otherwise confidential and exempt  
27 from the provisions of section 119.07(1), Florida Statutes,  
28 and Section 24(a), Article I of the State Constitution, to the  
29 following:

30           (a) A practitioner defined under chapter 893, Florida  
31 Statutes, who requests information and certifies that the

1 information is necessary to provide medical treatment in  
2 accordance with section 893.05, Florida Statutes, to a current  
3 patient.

4 (b) A pharmacist licensed in this state who requests  
5 information and certifies that the requested information is to  
6 be used to dispense controlled substances in accordance with  
7 section 893.04, Florida Statutes, to a current patient.

8 (c) A criminal justice agency defined under section  
9 119.011, Florida Statutes, which enforces the laws of this  
10 state or the United States relating to drugs and which is  
11 engaged in a specific investigation involving a violation of  
12 law.

13 (d) An employee or agent of the Department of Health  
14 who is involved in a specific investigation involving a  
15 violation of the chapter regulating the alleged violator, the  
16 rules of the Department of Health, or the rules of a board  
17 regulating the alleged violator.

18 (2)(a) A person who obtains information under this  
19 section may not use the information to his or her own personal  
20 advantage or reveal any information obtained in the  
21 enforcement of law except in a prosecution or administrative  
22 hearing for a violation of state or federal law or, if  
23 applicable, to provide medical treatment in accordance with  
24 section 893.05, Florida Statutes, to a current patient, or to  
25 dispense controlled substances in accordance with section  
26 893.04, Florida Statutes, to a current patient.

27 (b) Any person who violates this subsection commits a  
28 misdemeanor of the first degree, punishable as provided in  
29 section 775.082, Florida Statutes, or section 775.083, Florida  
30 Statutes. However, upon a second or subsequent violation, the  
31 person commits a felony of the third degree, punishable as

1 provided in section 775.082, Florida Statutes, or section  
2 775.083, Florida Statutes.

3 Section 3. A practitioner, pharmacist, or other agency  
4 that obtains information reported under section 893.065,  
5 Florida Statutes, or in the electronic system for monitoring  
6 the prescribing of controlled substances designed and  
7 established by the Department of Legal Affairs which  
8 information would identify a patient must maintain the  
9 confidentiality of such information pursuant to sections  
10 456.057 and 465.017, Florida Statutes, or as otherwise  
11 required by law.

12 Section 4. The Legislature finds that it is a public  
13 necessity that all information reported to the Department of  
14 Legal Affairs under section 893.065, Florida Statutes, or the  
15 electronic system for monitoring the prescribing of controlled  
16 substances designed and established by the Department of Legal  
17 Affairs which information would identify a patient be held  
18 confidential and exempt from disclosure because doing so will  
19 facilitate the department's efforts to maintain compliance  
20 with the state's drug laws by the accurate and timely  
21 reporting by health care practitioners of potential drug  
22 diversion without compromising a patient's privacy, with  
23 certain exceptions. The exemption for a patient's identity in  
24 the information or records reported under section 893.065,  
25 Florida Statutes, or in the electronic system for monitoring  
26 the prescribing of controlled substances facilitates the  
27 sharing of information between health care practitioners so  
28 that the practitioners may appropriately identify and evaluate  
29 a patient's risk for drug diversion and the resulting abuse of  
30 controlled substances without compromising a patient's  
31 privacy. The Legislature further finds that the exemption for

