

1 A bill to be entitled
 2 An act relating to public records; creating s. 408.0641,
 3 F.S.; providing an exemption from public records
 4 requirements for patient medical or health records, trade
 5 secrets, and certain other information that is
 6 confidential or exempt contained in records of the Florida
 7 Health Information Network, Inc.; providing for review and
 8 repeal; providing a statement of public necessity;
 9 providing a contingent effective date.

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

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 13 Section 1. Section 408.0641, Florida Statutes, is created
 14 to read:

15 408.0641 Florida Health Information Network, Inc.; public
 16 records exemption.--

17 (1) The following information held by the Florida Health
 18 Information Network, Inc., is confidential and exempt from of s.
 19 119.07(1) and s. 24, Art. I of the State Constitution:

20 (a) A patient's medical or health record.

21 (b) Trade secrets as defined in s. 688.002.

22 (c) Any information received from a person from another
 23 state or nation or the Federal Government which is otherwise
 24 confidential or exempt pursuant to the laws of that state or
 25 nation or pursuant to federal law.

26 (2) This section is subject to the Open Government Sunset
 27 Review Act in accordance with s. 119.15 and shall stand repealed

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28 on October 2, 2011, unless reviewed and saved from repeal
29 through reenactment by the Legislature.

30 Section 2. The Legislature finds that it is a public
31 necessity that a patient's medical or health record held by the
32 Florida Health Information Network, Inc., a not-for-profit
33 corporation, be made confidential and exempt from public records
34 requirements. Matters of personal health are traditionally
35 private and confidential concerns between the patient and the
36 health care provider. The private and confidential nature of
37 personal health matters pervades both the public and private
38 health care sectors. For these reasons, the individual's
39 expectation of and right to privacy in all matters regarding his
40 or her personal health necessitates this exemption. The
41 Legislature further finds that it is a public necessity to
42 protect a patient's medical record or health record because the
43 release of such record could be defamatory to the patient or
44 could cause unwarranted damage to the name or reputation of that
45 patient. The Legislature also finds that it is a public
46 necessity to protect the release of a trade secret as defined in
47 s. 688.002, Florida Statutes. A trade secret derives independent
48 economic value, actual or potential, from not being generally
49 known to, and not being readily ascertainable by proper means
50 by, other persons who can obtain economic value from its
51 disclosure or use. Without an exemption from public records
52 requirements for a trade secret as defined in s. 688.002,
53 Florida Statutes, that trade secret becomes a public record when
54 held by the Florida Health Information Network, Inc., and must
55 be divulged upon request. Divulgence of any trade secret under

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56 the public records law would destroy the value of that property.
57 Release of that information would give business competitors an
58 unfair advantage and weaken the position of the corporation in
59 the marketplace. Thus, the Legislature finds that it is a public
60 necessity that a trade secret be made confidential and exempt
61 from public records requirements. Finally, the Legislature finds
62 that it is a public necessity to protect information received by
63 the Florida Health Information Network, Inc., from a person from
64 another state or nation or the Federal Government which is
65 otherwise exempt or confidential pursuant to the laws of that
66 state or nation or pursuant to federal law. Without this
67 protection, another state or nation or the Federal Government
68 might be less likely to provide information to the corporation
69 in the furtherance of its duties and responsibilities.

70 Section 3. This act shall take effect July 1, 2006, if
71 House Bill 1409 or similar legislation is adopted in the same
72 legislative session or an extension thereof and becomes law.