

1 procedure or product, that has caused and is likely to cause
2 injury or damage.

3 ~~(4)(3)~~ Except pursuant to this section, a ~~no~~ court may
4 not ~~shall~~ enter an order or judgment that ~~which~~ has the
5 purpose or effect of concealing a public hazard or any
6 information concerning a public hazard, and a court may not
7 ~~nor shall the court~~ enter an order or judgment that ~~which~~ has
8 the purpose or effect of concealing any information that ~~which~~
9 may be useful to members of the public in protecting
10 themselves from injury that ~~which~~ may result from the public
11 hazard.

12 ~~(5)(4)~~ Any portion of an agreement or contract which
13 has the purpose or effect of concealing a public hazard, any
14 information concerning a public hazard, or any information
15 that ~~which~~ may be useful to members of the public in
16 protecting themselves from injury that ~~which~~ may result from
17 the public hazard, is void, is contrary to public policy, and
18 may not be enforced.

19 ~~(6)(5)~~ Trade secrets as defined in s. 688.002 which
20 are not pertinent to public hazards shall be protected
21 pursuant to chapter 688.

22 ~~(7)(6)~~ Any substantially affected person, including,
23 but not limited to, representatives of news media, has
24 standing to contest an order, judgment, agreement, or contract
25 that violates this section. A person may contest an order,
26 judgment, agreement, or contract that violates this section by
27 motion in the court that entered the order or judgment, or by
28 bringing a declaratory judgment action pursuant to chapter 86.

29 ~~(8)(7)~~ Upon motion and good cause shown by a party
30 attempting to prevent disclosure of information or materials
31 that ~~which~~ have not previously been disclosed, including, but

1 not limited to, ~~alleged~~ trade secrets, the court shall examine
2 the disputed information or materials in camera. If the court
3 finds that the information or materials or portions thereof
4 consist of information concerning a public hazard or
5 information ~~that which~~ may be useful to members of the public
6 in protecting themselves from injury ~~that which~~ may result
7 from a public hazard, the court shall allow disclosure of the
8 information or materials. If allowing disclosure, the court
9 shall allow disclosure of only that portion of the information
10 or materials necessary or useful to the public regarding the
11 public hazard.

12 (9)(a) A court may not recognize or approve a
13 confidentiality agreement absent a particularized showing
14 that:

- 15 1. Secrecy is in the public interest;
- 16 2. The proponent has a cognizable interest in the
17 material, i.e., the material contains trade secrets as defined
18 in s. 688.002(4), contains privileged information, or is
19 otherwise protected by law from disclosure; and
- 20 3. Disclosure would cause serious harm that outweighs
21 the public interest in disclosure of the information.

22 (b) Any portion of an agreement or contract entered
23 into to settle or resolve a civil cause of action or potential
24 cause of action which purports to restrict the right of a
25 person to disclose a matter relating to the action or
26 potential action is void, is contrary to public policy, and
27 may not be enforced.

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29 This subsection does not prohibit confidentiality as to the
30 amount of a settlement and does not invalidate any other
31 provisions of a settlement.

1 ~~(10)(8)~~(a) Any portion of an agreement or contract
2 which has the purpose or effect of concealing information
3 relating to the settlement or resolution of any claim or
4 action against the state, its agencies, or subdivisions or
5 against any municipality or constitutionally created body or
6 commission is void, is contrary to public policy, and may not
7 be enforced. Any person has standing to contest an order,
8 judgment, agreement, or contract that violates this section.
9 A person may contest an order, judgment, agreement, or
10 contract that violates this subsection by motion in the court
11 that entered such order or judgment, or by bringing a
12 declaratory judgment action pursuant to chapter 86.

13 (b) Any person having custody of any document, record,
14 contract, or agreement relating to any settlement as set forth
15 in this section shall maintain said public records in
16 compliance with chapter 119.

17 (c) Failure of any custodian to disclose and provide
18 any document, record, contract, or agreement as set forth in
19 this section shall be subject to the sanctions as set forth in
20 chapter 119.

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22 This subsection does not apply to trade secrets protected
23 pursuant to chapter 688, proprietary confidential business
24 information, or other information that is confidential under
25 state or federal law.

26 ~~(11)(9)~~ A governmental entity, except a municipality
27 or county, that settles a claim in tort which requires the
28 expenditure of public funds in excess of \$5,000, shall provide
29 notice, in accordance with the provisions of chapter 50, of
30 such settlement, in the county in which the claim arose,
31 within 60 days of entering into such settlement; provided that

1 no notice shall be required if the settlement has been
2 approved by a court of competent jurisdiction.

3 Section 2. This act shall take effect July 1, 2006,
4 and applies to agreements or contracts entered into on or
5 after that date.

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8 SENATE SUMMARY

9 Provides that it is the policy of the state that
10 confidentiality agreements are unenforceable unless
11 approved by the court. Revises the definition of the term
12 "public hazard." Prohibits a court from recognizing a
13 confidentiality agreement absent a showing of certain
14 elements. Provides that an agreement to settle a civil
15 cause of action or potential cause of action which
16 restricts the right of a person to disclose a matter
17 relating to the action is void and unenforceable.
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