

1                                   A bill to be entitled  
 2           An act relating to a review under the Open Government  
 3           Sunset Review Act regarding medical records and health  
 4           records; amending s. 119.0712, F.S., which provides an  
 5           exemption from public records requirements for personal  
 6           identifying information, bank account numbers, and debit,  
 7           charge, and credit card numbers contained in records  
 8           relating to an individual's personal health or eligibility  
 9           for health-related services; expanding the exemption to  
 10          include medical records or health records held by an  
 11          agency; providing for retroactive application of the  
 12          exemption; reorganizing the exemption; providing for  
 13          future review and repeal; providing a statement of public  
 14          necessity; providing an effective date.

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

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 18           Section 1. Subsection (1) of section 119.0712, Florida  
 19           Statutes, is redesignated as paragraph (g) of subsection (5) of  
 20           section 119.071, Florida Statutes, and amended to read:

21           119.071 General exemptions from inspection or copying of  
 22           public records.--

23           (5) OTHER PERSONAL INFORMATION.--

24           (g) 1. (1) DEPARTMENT OF HEALTH. -- Medical records or health  
 25           records ~~All personal identifying information; bank account~~  
 26           ~~numbers; and debit, charge, and credit card numbers contained in~~  
 27           ~~records relating to an individual's personal health or~~  
 28           ~~eligibility for health related services held by an agency~~

29 before, on, or after October 1, 2006, the Department of Health  
 30 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
 31 I of the State Constitution, except as otherwise provided in  
 32 this subsection.

33 2. Except as otherwise provided by law, medical records or  
 34 health records information made confidential and exempt by this  
 35 subsection shall be disclosed:

36 a.(a) With the express written consent of the individual  
 37 or the individual's legally authorized representative.

38 b.(b) In a medical emergency, but only to the extent  
 39 necessary to protect the health or life of the individual.

40 c.(c) By court order upon a showing of good cause.

41 d.(d) To a health research entity performing research of  
 42 scientific merit, if the request is not an administrative burden  
 43 for the agency and the entity enters into a data-use agreement  
 44 with the agency. The data-use agreement must provide that the  
 45 entity will:

46 (I) Use seeks the records or data pursuant to a research  
 47 protocol approved by the agency and a human studies  
 48 institutional review board. department,

49 (II) Not permit the identification of persons.

50 (III) Not use the records for any other purpose.

51 (IV) Not conduct intrusive follow-back contacts.

52 (V) Maintain Maintains the records or data in accordance  
 53 with the approved protocol.

54 (VI) Acknowledge that the copies of records issued  
 55 pursuant to this subparagraph are the property of the agency.

56 (VII) Destroy the records after the research is concluded.

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57 (VIII) Notify the agency in writing once the entity has  
58 destroyed the records., and

59 (IX) Pay the copying fees provided in enters into a  
60 purchase and data use agreement with the department, the fee  
61 provisions of which are consistent with s. 119.07(4). The  
62 department may deny a request for records or data if the  
63 protocol provides for intrusive follow back contacts, has not  
64 been approved by a human studies institutional review board,  
65 does not plan for the destruction of confidential records after  
66 the research is concluded, is administratively burdensome, or  
67 does not have scientific merit. The agreement must restrict the  
68 release of any information that would permit the identification  
69 of persons, limit the use of records or data to the approved  
70 research protocol, and prohibit any other use of the records or  
71 data. Copies of records or data issued pursuant to this  
72 paragraph remain the property of the department.

73 3. This paragraph subsection is subject to the Open  
74 Government Sunset Review Act in accordance with s. 119.15 and  
75 shall stand repealed on October 2, 2011 2006, unless reviewed  
76 and saved from repeal through reenactment by the Legislature.

77 Section 2. The Legislature finds that it is a public  
78 necessity that medical records or health records held by an  
79 agency before, on, or after October 1, 2006, be made  
80 confidential and exempt from public records requirements, with  
81 certain exceptions. Matters of personal health are traditionally  
82 private and confidential concerns between the patient and the  
83 health care provider. The private and confidential nature of  
84 personal health matters pervades both the public and private

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85 health care sectors. For these reasons, the individual's  
86 expectation of and right to privacy in all matters regarding his  
87 or her personal health necessitates this exemption. The  
88 Legislature further finds it is a public necessity to protect a  
89 person's medical records or health records held by an agency  
90 because the release of such records could be defamatory to the  
91 person or could cause unwarranted damage to the name or  
92 reputation of the person.

93 Section 3. This act shall take effect October 1, 2006.