

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 Corporation; providing an  
 8       exception to the exemption; providing for review and  
 9       repeal; providing a statement of public necessity;  
 10      providing a contingent effective date.

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

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

16           408.0641 Florida Health Information Network Corporation;  
 17 public records exemption.--

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

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

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

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

27           (2) A patient's medical or health record may be disclosed:

28           (a) With the express written consent of the individual or

29 the individual's legally authorized representative.

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

32 (3) This section is subject to the Open Government Sunset  
33 Review Act in accordance with s. 119.15 and shall stand repealed  
34 on October 2, 2012, unless reviewed and saved from repeal  
35 through reenactment by the Legislature.

36 Section 2. The Legislature finds that it is a public  
37 necessity that a patient's medical or health record held by the  
38 Florida Health Information Network Corporation, a not-for-profit  
39 corporation, be made confidential and exempt from public records  
40 requirements. Matters of personal health are traditionally  
41 private and confidential concerns between the patient and the  
42 health care provider. The private and confidential nature of  
43 personal health matters pervades both the public and private  
44 health care sectors. For these reasons, the individual's  
45 expectation of and right to privacy in all matters regarding his  
46 or her personal health necessitates this exemption. The  
47 Legislature further finds that it is a public necessity to  
48 protect a patient's medical record or health record because the  
49 release of such record could be defamatory to the patient or  
50 could cause unwarranted damage to the name or reputation of that  
51 patient. The Legislature also finds that it is a public  
52 necessity to protect the release of a trade secret as defined in  
53 s. 688.002, Florida Statutes. A trade secret derives independent  
54 economic value, actual or potential, from not being generally  
55 known to, and not being readily ascertainable by proper means  
56 by, other persons who can obtain economic value from its

57 disclosure or use. Without an exemption from public records  
58 requirements for a trade secret as defined in s. 688.002,  
59 Florida Statutes, that trade secret becomes a public record when  
60 held by the Florida Health Information Network Corporation, and  
61 must be divulged upon request. Divulgence of any trade secret  
62 under the public records law would destroy the value of that  
63 property. Release of that information would give business  
64 competitors an unfair advantage and weaken the position of the  
65 corporation in the marketplace. Thus, the Legislature finds that  
66 it is a public necessity that a trade secret be made  
67 confidential and exempt from public records requirements.  
68 Finally, the Legislature finds that it is a public necessity to  
69 protect information received by the Florida Health Information  
70 Network Corporation, from a person from another state or nation  
71 or the Federal Government which is otherwise exempt or  
72 confidential pursuant to the laws of that state or nation or  
73 pursuant to federal law. Without this protection, another state  
74 or nation or the Federal Government might be less likely to  
75 provide information to the corporation in the furtherance of its  
76 duties and responsibilities.

77 Section 3. This act shall take effect July 1, 2007, if  
78 House Bill 1121 or similar legislation creating the Florida  
79 Health Information Network Corporation is adopted in the same  
80 legislative session or an extension thereof and becomes law.