

By the Committee on Health Policy

587-479A-07

1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; creating an exemption from
4 public-records requirements for an individual's
5 medical records held by an agency; defining the
6 term "medical record"; providing for the
7 exemption to apply retroactively; providing
8 that the exemption does not supersede any other
9 applicable exemption; providing for future
10 legislative review and repeal under the Open
11 Government Sunset Review Act; providing a
12 statement of public necessity; providing an
13 effective date.

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

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17 Section 1. Paragraph (f) of subsection (5) of section
18 119.071, Florida Statutes, is amended to read:

19 119.071 General exemptions from inspection or copying
20 of public records.--

21 (5) OTHER PERSONAL INFORMATION.--

22 (f)1. Medical history records and information related
23 to health or property insurance provided to the Department of
24 Community Affairs, the Florida Housing Finance Corporation, a
25 county, a municipality, or a local housing finance agency by
26 an applicant for or a participant in a federal, state, or
27 local housing assistance program are confidential and exempt
28 from s. 119.07(1) and s. 24(a), Art. I of the State
29 Constitution. Governmental entities or their agents shall have
30 access to such confidential and exempt records and information
31 for the purpose of auditing federal, state, or local housing

1 | programs or housing assistance programs. Such confidential and
2 | exempt records and information may be used in any
3 | administrative or judicial proceeding, provided such records
4 | are kept confidential and exempt unless otherwise ordered by a
5 | court.

6 | 2. Medical records held by an agency before, on, or
7 | after October 1, 2007, are confidential and exempt from s.
8 | 119.07(1) and s. 24(a), Art. I of the State Constitution. As
9 | used in this subparagraph, the term "medical record" means any
10 | patient-specific record created by a licensed health care
11 | practitioner for the purpose of diagnosing or treating human
12 | illness, including a prescription for treating the patient.
13 | This subparagraph does not supersede any other applicable
14 | public-records exemption existing before October 1, 2007, or
15 | created thereafter. This subparagraph is subject to the Open
16 | Government Sunset Review Act in accordance with s. 119.15, and
17 | shall stand repealed on October 2, 2012, unless reviewed and
18 | saved from repeal through reenactment by the Legislature.

19 | Section 2. The Legislature finds that it is a public
20 | necessity that medical records held by an agency before, on,
21 | or after October 1, 2007, be made confidential and exempt from
22 | public-records requirements. Matters of personal health are
23 | traditionally private and confidential concerns between the
24 | patient and the health care provider. The private and
25 | confidential nature of personal health matters pervades both
26 | the public and private health care sectors. Accordingly, an
27 | individual's expectation of and right to privacy in all
28 | matters regarding his or her personal health necessitates this
29 | exemption. The Legislature further finds that it is a public
30 | necessity to protect a person's medical records held by an
31 | agency because the release of such records could be defamatory

1 to the person or could cause unwarranted damage to the name or
2 reputation of the person.

3 Section 3. This act shall take effect October 1, 2007.

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6 SENATE SUMMARY

7 Exempts medical records held by an agency from
8 public-records requirements. Defines the term "medical
9 record." Provides for retroactive application. Specifies
10 that the exemption does not supersede any other
11 applicable exemption. Provides for future legislative
12 review and repeal under the Open Government Sunset Review
13 Act.
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