

By the Committee on Children, Families, and Elder Affairs; and
Senator Garcia

586-03787-11

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 408.910, F.S.; providing definitions; providing
4 exemptions from public-records requirements for
5 personal identifying information of an enrollee or
6 participant in the Florida Health Choices Program,
7 client and customer lists of buyers' representatives
8 which are held by Florida Health Choices, Inc., and
9 proprietary confidential business information of
10 vendors which is held by Florida Health Choices, Inc.;
11 providing for disclosure of such confidential and
12 exempt information to certain persons and entities
13 upon written request; providing that the guardian of a
14 participant in the program is not prohibited from
15 obtaining certain information; providing a criminal
16 penalty; providing for future legislative review and
17 repeal of the exemptions; providing findings of public
18 necessity; providing an effective date.

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

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22 Section 1. Subsection (14) is added to section 408.910,
23 Florida Statutes, to read:

24 408.910 Florida Health Choices Program.—

25 (14) EXEMPTIONS.—

26 (a) As used in this subsection, the term:

27 1. "Buyer's representative" means a participating health
28 insurance agent as described in paragraph (4)(g).

29 2. "Enrollee" means an employer who is eligible to enroll

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30 in the program pursuant to paragraph (4) (a).

31 3. "Participant" means an individual who is eligible to
32 participate in the program pursuant to paragraph (4) (b).

33 4. "Proprietary confidential business information" means
34 information, regardless of its form or characteristics, which
35 relates to business plans, internal auditing controls, reports
36 of internal auditors, reports of external auditors of privately
37 held companies, potentially patentable material, or trade
38 secrets as defined in s. 688.002, and such information:

39 a. Is owned or controlled by a vendor requesting
40 confidentiality under this subsection;

41 b. Is intended to be and is treated by the vendor as
42 private in that the disclosure of the information would cause
43 harm to the business operations of the vendor; and

44 c. Has not been disclosed unless disclosed pursuant to a
45 statutory provision, an order of a court or administrative body,
46 or a private agreement that provides that the information may be
47 released to the public.

48 5. "Vendor" means a participating insurer or other provider
49 of services as described in paragraph (4) (d).

50 (b)1. Personal identifying information of an enrollee or
51 participant who has applied for or participates in the Florida
52 Health Choices Program is confidential and exempt from s.
53 119.07(1) and s. 24(a), Art. I of the State Constitution.

54 2. Client and customer lists of a buyer's representative
55 which is held by the corporation is confidential and exempt from
56 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

57 3. Proprietary confidential business information of a
58 vendor which is held by the corporation is confidential and

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59 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
60 Constitution.

61 (c) The public-record exemptions in paragraph (b) apply to
62 information held by the corporation before, on, or after October
63 1, 2011.

64 (d)1. Upon request, information made confidential and
65 exempt pursuant to this subsection shall be disclosed to:

66 a. Another governmental entity in the performance of its
67 official duties and responsibilities.

68 b. Any person who has the written consent of the program's
69 applicant.

70 c. The Florida Kidcare program for the purpose of
71 administering the program authorized in ss. 409.810-409.821.

72 2. Paragraph (b) does not prohibit a participant's legal
73 guardian from obtaining confirmation of coverage, dates of
74 coverage, the name of the participant's health plan, and the
75 amount of premium being paid.

76 (e) A person who knowingly and willfully violates this
77 subsection commits a misdemeanor of the second degree,
78 punishable as provided in s. 775.082 or s. 775.083.

79 (f) This subsection is subject to the Open Government
80 Sunset Review Act in accordance with s. 119.15, and shall stand
81 repealed on October 2, 2016, unless reviewed and saved from
82 repeal through reenactment by the Legislature.

83 Section 2. (1) The Legislature finds that it is a public
84 necessity that any information identifying an enrollee or
85 participant in the Florida Health Choices Program, including
86 such information received during the application process, be
87 held confidential and exempt from public-records requirements.

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88 The harm caused by releasing such personal and sensitive
89 information outweighs any public benefit from releasing it. If
90 such information is not held confidential, the administration of
91 the program could be significantly impaired because businesses
92 and individuals would be less inclined to apply, participate, or
93 enroll in the Florida Health Choices Program. This lack of
94 participation would significantly decrease the number of the
95 program's participants or enrollees. Therefore, it is a public
96 necessity that any information identifying a participant or
97 enrollee in the Florida Health Choices Program, including such
98 information received during the application process, be held
99 confidential and exempt from public-records requirements.

100 (2) The Legislature finds that it is a public necessity
101 that proprietary confidential business information of a vendor
102 and the customer and client lists of a buyer's representative be
103 made confidential and exempt from public-records requirements.
104 The disclosure of a vendor's proprietary confidential business
105 information or a customer and client list of a buyer's
106 representative could cause injury in the marketplace by
107 providing competitors with detailed insights into confidential
108 business information, strategies, methodologies, plans, or
109 client lists which would diminish the advantage that the vendor
110 or the buyer's representative maintains over those that do not
111 possess such information. Without these exemptions, private-
112 sector vendors or buyer's representatives, whose business
113 records generally are not required to be open to the public,
114 might refrain from participating in the Florida Health Choices
115 Program and not offer affordable, quality health insurance,
116 health services, and benefits' products through the program. The

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117 harm to the vendors or the buyer's representatives in the
118 marketplace and harm to the effective administration of the
119 Florida Health Choices Program caused by the public disclosure
120 of such information far outweighs the public benefits derived
121 from the release of the information. Therefore, it is a public
122 necessity that proprietary confidential business information of
123 the vendors and customer and client lists of the buyer's
124 representatives be held confidential and exempt from public-
125 records requirements.

126 Section 3. This act shall take effect October 1, 2011.