

1 A bill to be entitled
 2 An act relating to the privacy of firearms owners;
 3 creating s. 790.338, F.S.; prohibiting physicians or other
 4 medical personnel from inquiring, either verbally or in
 5 writing, about the ownership of a firearm by a patient or
 6 the family of a patient or the presence of a firearm in a
 7 patient's private home or other domicile; prohibiting
 8 conditioning the receipt of medical treatment or care on a
 9 person's willingness or refusal to disclose personal and
 10 private information unrelated to medical treatment in
 11 violation of an individual's privacy contrary to specified
 12 provisions; prohibiting entry of certain information
 13 concerning firearms into medical records or disclosure of
 14 such information by specified individuals; providing
 15 noncriminal penalties; providing for prosecution of
 16 violations; requiring informing the Attorney General of
 17 prosecution of violations; providing for collection of
 18 fines by the Attorney General in certain circumstances;
 19 providing exemptions; providing an effective date.

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

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 23 Section 1. Section 790.338, Florida Statutes, is created
 24 to read:

25 790.338 Medical privacy concerning firearms; prohibitions;
 26 penalties; exceptions.-

27 (1) (a) A verbal or written inquiry by any public or
 28 private physician, nurse, or other medical staff person

29 regarding the ownership of a firearm by a patient or the family
30 of a patient or the presence of a firearm in a patient's home or
31 other domicile violates the privacy of the patient or the
32 patient's family, respectively, and is prohibited.

33 (b) Any public or private physician, nurse, or other
34 medical staff person may not condition receipt of medical
35 treatment or medical care on a person's willingness or refusal
36 to disclose personal and private information unrelated to
37 medical treatment in violation of an individual's privacy as
38 specified in this section.

39 (c) Any public or private physician, nurse, or other
40 medical staff person may not intentionally, accidentally, or
41 inadvertently enter any disclosed information concerning
42 firearms into any record, whether written or electronic, or
43 disclose such information to any other source.

44 (2) (a) A person who violates a provision of this section
45 commits a noncriminal violation as defined in s. 775.08,
46 punishable as provided in s. 775.082 or s. 775.083.

47 (b) If the court determines that the violation was knowing
48 and willful or that the person committing the prohibited act, in
49 the exercise of ordinary care, should have known the act was a
50 violation, the court shall assess a fine of not less than
51 \$10,000 for the first offense, not less than \$25,000 for the
52 second offense, and not less than \$100,000 for the third and
53 subsequent offenses. The person found to have committed the
54 violation shall be personally liable for the payment of all
55 finances, costs, and fees assessed by the court for the noncriminal
56 violation.

57 (3) The state attorney in the circuit where the violation
 58 is alleged to have occurred shall investigate complaints of
 59 noncriminal violations of this section and, where the state
 60 attorney determines probable cause that a violation exists,
 61 shall prosecute violators in the circuit court where the
 62 violation is alleged to have occurred. Any state attorney who
 63 fails to execute his or her duties under this section may be
 64 held accountable under the appropriate Florida rules of
 65 professional conduct.

66 (4) The state attorney shall notify the Attorney General
 67 of any fines assessed under this section, notwithstanding s.
 68 28.246(6), and if a fine for a violation of this section remains
 69 unpaid after 90 days, the Attorney General shall bring a civil
 70 action to enforce the fine.

71 (5) Except as required by s. 16, Art. I of the State
 72 Constitution or the Sixth Amendment to the United States
 73 Constitution, public funds may not be used to defend the
 74 unlawful conduct of any person charged with a knowing and
 75 willful violation of this section.

76 (6) Notwithstanding any other provision of this section,
 77 it is not a violation for:

78 (a) Any psychiatrist as defined in s. 394.455,
 79 psychologist as defined in s. 490.003, school psychologist as
 80 defined in s. 490.003, clinical social worker as defined in s.
 81 491.003, or public or private physician, nurse, or other medical
 82 personnel to make an inquiry prohibited by paragraph (1)(a) if
 83 the person making the inquiry in good faith believes that the
 84 possession or control of a firearm or ammunition by the patient

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85 or another member of the patient's household would pose an
86 imminent danger or threat to the patient or others.

87 (b) Any public or private physician, nurse, or other
88 medical personnel to make an inquiry prohibited by paragraph
89 (1)(a) if such inquiry is necessary to treat a patient during
90 the course and scope of a medical emergency which specifically
91 includes, but is not limited to, a mental health or psychotic
92 episode where the patient's conduct or symptoms reasonably
93 indicate that the patient has the capacity of causing harm to
94 himself, herself, or others.

95 (c) Any public or private physician, nurse, or other
96 medical personnel to enter any of the information disclosed
97 pursuant to paragraphs (a) and (b) into any record, whether
98 written or electronic.

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100 However, a patient's response to any inquiry permissible under
101 this subsection shall be private and may not be disclosed to any
102 third party not participating in the treatment of the patient
103 other than a law enforcement officer conducting an active
104 investigation involving the patient or the events giving rise to
105 a medical emergency. The exceptions provided by this subsection
106 do not apply to inquiries made due to a person's general belief
107 that firearms or ammunition are harmful to health or safety.

108 (7) Medical records created on or before the effective
109 date of this act do not violate this section, nor is it a
110 violation of this section to transfer such records to another
111 health care provider.

112 Section 2. This act shall take effect upon becoming a law.