

By Senator Clemens

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1 A bill to be entitled  
2 An act relating to public records; creating s.  
3 499.815, F.S.; exempting from public records  
4 requirements a form, application, record, interview,  
5 report, physician's statement, memorandum, or drug  
6 test result, relating to the medical use of cannabis,  
7 held by the Department of Health, the Department of  
8 Business and Professional Regulation, or the  
9 Department of Revenue; providing for future  
10 legislative review and repeal of the exemption under  
11 the Open Government Sunset Review Act; providing a  
12 statement of public necessity; providing a contingent  
13 effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17 Section 1. Section 499.815, Florida Statutes, is created to  
18 read:

19 499.815 Public records exemption for the medical use of  
20 cannabis.—

21 (1) Any application, form, record, interview, report,  
22 statement, memorandum, physician's statement, or drug test  
23 results held by the Department of Health, the Department of  
24 Business and Professional Regulation, and the Department of  
25 Revenue under part III of chapter 499, is confidential and  
26 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
27 Constitution, and may not be used or received in evidence,  
28 obtained in discovery, or disclosed in any public or private  
29 proceedings, except in accordance with part III of chapter 499.

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30       (2) This section is subject to the Open Government Sunset  
31 Review Act in accordance with s. 119.15, and shall stand  
32 repealed on October 2, 2018, unless reviewed and saved from  
33 repeal through reenactment by the Legislature.

34       Section 2. The Legislature finds it is a public necessity  
35 that applications, forms, records, interviews, reports,  
36 statements, memoranda, physician's statements, and drug test  
37 results held by the Department of Health, the Department of  
38 Business and Professional Regulation, and the Department of  
39 Revenue under part III of chapter 499, Florida Statutes, be made  
40 confidential and exempt from disclosure. Information concerning  
41 the medical use of cannabis which a physician has recommended  
42 for a qualifying patient as defined in s. 499.804, Florida  
43 Statutes, is a private, personal matter between the patient, the  
44 physician, and the patient's caregiver. Nevertheless, the  
45 registration of qualifying patients and patients' caregivers  
46 will ensure the ability of the state to review and provide  
47 oversight of prescribing and dispensing medical cannabis. If, in  
48 the process, the information that would identify a qualifying  
49 patient or a patient's caregiver is not made confidential and  
50 exempt from disclosure, any person could inspect and copy  
51 documentation that relates to the qualifying patient's use,  
52 administration, and possession of, and the patient's caregiver's  
53 administration and possession of, medical cannabis and be aware  
54 of the qualifying patient's use of cannabis. The availability of  
55 such information to the public would result in the invasion of  
56 the qualifying patient's privacy and the patient caregiver's  
57 privacy. If information regarding the qualifying patient could  
58 be correlated with his or her use of medical cannabis, it would

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59 be possible for the public to become aware of the diseases or  
60 other medical concerns for which the qualifying patient is being  
61 treated by his or her physician. This knowledge could be used to  
62 embarrass or to humiliate a qualifying patient or to  
63 discriminate against him or her. Additionally, exempting from  
64 disclosure information held by the departments which relates to  
65 the use of medical cannabis will prevent an individual from  
66 identifying which physician recommends the use of medical  
67 cannabis most often and from seeking out the physician in order  
68 to increase the likelihood of obtaining cannabis. Further,  
69 protecting information relating to medical cannabis and its use,  
70 administration, and possession by a qualifying patient, and its  
71 administration and possession by the patient's caregiver, also  
72 prevents an individual from identifying the qualifying patient  
73 and patient's caregiver and from seeking out those persons for  
74 robbery, burglary, or illicit drug activities. Accordingly, the  
75 Legislature finds that the harm to a qualifying patient and  
76 patient's caregiver resulting from the release of the  
77 information regarding the use, administration, and possession of  
78 medical cannabis which is contained in documentation held by the  
79 Department of Health, the Department of Business and  
80 Professional Regulation, and the Department of Revenue under  
81 part III of chapter 499, Florida Statutes, outweighs any minimal  
82 public benefit derived from disclosure to the public, and such  
83 information must therefore be confidential and exempt from  
84 disclosure.

85 Section 3. This act shall take effect July 1, 2013, if SB  
86 \_\_\_\_\_, or similar legislation that legalizes the medical use  
87 of cannabis, is adopted in the same legislative session, or an

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88 extension thereof, and becomes a law.