

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 1009.987, F.S.; providing an exemption from public
 4 records requirements for certain personal financial
 5 and health information held by the Florida Prepaid
 6 College Board, Florida ABLE, Inc., the Florida ABLE
 7 program, or an agent or service provider thereof;
 8 authorizing the release of such information under
 9 specified circumstances; providing for future
 10 legislative review and repeal of the exemption;
 11 providing a statement of public necessity; providing a
 12 contingent effective date.

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

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 16 Section 1. Section 1009.987, Florida Statutes, is created
 17 to read:

18 1009.987 Public records exemption.—

19 (1) As used in this section, the term:

20 (a) "Consumer" means a party to a participation agreement
 21 with the Florida ABLE program.

22 (b) "Personal financial and health information" means:

23 1. A consumer's personal health condition, disease,
 24 injury, or medical diagnosis or treatment;

25 2. The existence, nature, source, or amount of a
 26 consumer's personal income or expenses;

27 3. Records of or relating to a consumer's personal
 28 financial transactions of any kind; or

29 4. The existence, identification, nature, or value of a
 30 consumer's assets, liabilities, or net worth.

31 (2) The personal financial and health information of a
 32 consumer held by the board, Florida ABLE, Inc., the Florida ABLE
 33 program, or an agent or service provider thereof relating to an
 34 ABLE account or a participation agreement, or any information
 35 that would identify a consumer, is confidential and exempt from
 36 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

37 (3) The board or Florida ABLE, Inc., may authorize the
 38 disclosure of information made confidential and exempt under
 39 subsection (2) to another state or federal government entity if
 40 disclosure is necessary for the receiving entity to perform its
 41 duties or responsibilities or to verify the eligibility of an
 42 eligible individual or authorize the use of an ABLE account.

43 (4) This section is subject to the Open Government Sunset
 44 Review Act in accordance with s. 119.15 and shall stand repealed
 45 on October 2, 2020, unless reviewed and saved from repeal
 46 through reenactment by the Legislature.

47 Section 2. The Legislature finds that it is a public
 48 necessity that the personal financial and health information of
 49 a consumer held by the Florida Prepaid College Board, Florida
 50 ABLE, Inc., the Florida ABLE program, or an agent or service
 51 provider thereof relating to an ABLE account or a participation
 52 agreement, or any information that would identify a consumer, be

53 made confidential and exempt from s. 119.07(1), Florida
54 Statutes, and s. 24(a), Article I of the State Constitution. The
55 Florida ABLE program allows eligible individuals with
56 disabilities, family members, and others to contribute funds to
57 an ABLE account without affecting the individual's eligibility
58 for state and federal benefits. It allows the individual to use
59 those funds for qualified disability expenses, such as
60 education, housing, transportation, or other expenses authorized
61 through federal regulations. The public records exemption for
62 information that would identify a consumer ensures that
63 information of a sensitive, personal nature concerning a party
64 to a participation agreement is protected. Without such
65 protection, an individual may be less likely to take advantage
66 of the program, thus hindering the effective and efficient
67 administration of the Florida ABLE program. It may also make the
68 individual vulnerable to abuse and exploitation. Disclosure of
69 sensitive financial information regarding a consumer under the
70 Florida ABLE program could create the opportunity for theft,
71 identity theft, fraud, and other illegal activity, thereby
72 jeopardizing the financial security of the consumer and placing
73 him or her at risk for substantial financial harm. Further, each
74 individual has a reasonable expectation of and a right to
75 privacy in all matters concerning personal financial interests.
76 The Legislature further finds that it is a public necessity to
77 protect a consumer's personal health information because such
78 information is traditionally a private and confidential matter

79 between the patient and health care provider. The private and
80 confidential nature of personal health matters pervades both the
81 public and private health care sectors, and public disclosure of
82 such personal health information relating to a consumer under
83 the Florida ABLE program could negatively affect an individual's
84 business and personal relationships and cause detrimental
85 financial consequences.

86 Section 3. This act shall take effect on the same date
87 that CS/HB 935 or similar legislation takes effect, if such
88 legislation is adopted in the same legislative session or an
89 extension thereof and becomes a law.