

1                   A bill to be entitled  
 2           An act relating to public records; creating s.  
 3           381.9941, F.S.; providing an exemption from public  
 4           records requirements for the personal identifying  
 5           information of patients and physicians held by the  
 6           Department of Health in the electronic medical  
 7           marijuana patient registry; providing an exemption  
 8           from public records requirements for information  
 9           related to the ordering and dispensing of medical  
 10          marijuana; authorizing specified persons and entities  
 11          access to the exempt information; requiring that  
 12          information released from the registry remain  
 13          confidential; providing a criminal penalty; providing  
 14          for future legislative review and repeal of the  
 15          exemptions; providing a statement of public necessity;  
 16          providing a contingent effective date.

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

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 20           Section 1. Section 381.9941, Florida Statutes, is created  
 21   to read:

22           381.9941 Public records exemption for personal identifying  
 23   information in the electronic medical marijuana patient  
 24   registry.—

25           (1) A patient's personal identifying information held by  
 26   the department in the electronic medical marijuana patient

27 registry established under s. 381.994, including, but not  
28 limited to, the patient's name, address, telephone number, and  
29 government-issued identification number, and all information  
30 pertaining to the physician's order for medical marijuana and  
31 the dispensing thereof are confidential and exempt from s.  
32 119.07(1) and s. 24(a), Art. I of the State Constitution.

33 (2) A physician's identifying information held by the  
34 department in the electronic medical marijuana patient registry  
35 established under s. 381.994, including, but not limited to, the  
36 physician's name, address, telephone number, government-issued  
37 identification number, and Drug Enforcement Administration  
38 number, and all information pertaining to the physician's order  
39 for medical marijuana and the dispensing thereof are  
40 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
41 of the State Constitution.

42 (3) The department shall allow access to the registry,  
43 including access to confidential and exempt information, to:

44 (a) A law enforcement agency that is investigating a  
45 violation of law regarding cannabis in which the subject of the  
46 investigation claims an exception established under s. 381.994.

47 (b) A retail facility or employee approved by the  
48 department that is attempting to verify the authenticity of a  
49 physician's order for medical marijuana, including whether the  
50 order had been previously filled and whether the order was  
51 written for the person attempting to have it filled.

52 (c) A physician who has written an order for medical

53 marijuana for the purpose of monitoring the patient's use of  
54 such cannabis or for the purpose of determining, before issuing  
55 an order for medical marijuana, whether another physician has  
56 ordered the patient's use of medical marijuana. The physician  
57 may access the confidential and exempt information only for the  
58 patient for whom he or she has ordered or is determining whether  
59 to order the use of medical marijuana pursuant to ss. 381.991-  
60 381.9991.

61 (d) An employee of the department for the purposes of  
62 maintaining the registry and periodic reporting or disclosure of  
63 information that has been redacted to exclude personal  
64 identifying information.

65 (e) The department's relevant health care regulatory  
66 boards responsible for the licensure, regulation, or discipline  
67 of a physician if he or she is involved in a specific  
68 investigation of a violation of ss. 381.991-381.9991. If a  
69 health care regulatory board's investigation reveals potential  
70 criminal activity, the board may provide any relevant  
71 information to the appropriate law enforcement agency.

72 (4) All information released from the registry under  
73 subsection (3) remains confidential and exempt, and a person who  
74 receives access to such information must maintain the  
75 confidential and exempt status of the information received.

76 (5) A person who willfully and knowingly violates this  
77 section commits a felony of the third degree, punishable as  
78 provided in s. 775.082, s. 775.083, or s. 775.084.

79 (6) This section is subject to the Open Government Sunset  
80 Review Act in accordance with s. 119.15 and shall stand repealed  
81 on October 2, 2021, unless reviewed and saved from repeal  
82 through reenactment by the Legislature.

83 Section 2. The Legislature finds that it is a public  
84 necessity that identifying information of patients and  
85 physicians held by the Department of Health in the electronic  
86 medical marijuana patient registry established under s. 381.994,  
87 Florida Statutes, be made confidential and exempt from s.  
88 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
89 State Constitution. Specifically, the Legislature finds that it  
90 is a public necessity to make confidential and exempt from  
91 public records requirements the names, addresses, telephone  
92 numbers, and government-issued identification numbers of  
93 patients and physicians and any other information on or  
94 pertaining to a physician's order for medical marijuana written  
95 pursuant to s. 381.994, Florida Statutes, which are held in the  
96 registry. The choice made by a physician and his or her patient  
97 to use medical marijuana to treat that patient's medical  
98 condition or symptoms is a personal and private matter between  
99 those two parties. The availability of such information to the  
100 public could make the public aware of both the patient's use of  
101 medical marijuana and the patient's diseases or other medical  
102 conditions for which the patient is using medical marijuana. The  
103 knowledge of the patient's use of medical marijuana, the  
104 knowledge that the physician ordered the use of medical

105 marijuana, and the knowledge of the patient's medical condition  
106 could be used to embarrass, humiliate, harass, or discriminate  
107 against the patient and the physician. This information could be  
108 used as a discriminatory tool by an employer who disapproves of  
109 the patient's use of medical marijuana or of the physician's  
110 ordering such use. However, despite the potential hazards of  
111 collecting such information, maintaining the electronic medical  
112 marijuana patient registry established under s. 381.994, Florida  
113 Statutes, is necessary to prevent the diversion and nonmedical  
114 use of any medical marijuana. Thus, the Legislature finds that  
115 it is a public necessity to make confidential and exempt from  
116 public records requirements the identifying information of  
117 patients and physicians held by the Department of Health in the  
118 electronic medical marijuana patient registry established under  
119 s. 381.994, Florida Statutes.

120       Section 3. This act shall take effect on the same date  
121 that HB 1183 or similar legislation establishing an electronic  
122 system to record a physician's orders for, and a patient's use  
123 of, medical marijuana takes effect, if such legislation is  
124 adopted in the same legislative session or an extension thereof  
125 and becomes a law.