

By Senator Hays

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1                   A bill to be entitled  
2           An act relating to public records; creating s.  
3           1004.055, F.S.; providing an exemption from public  
4           records and meetings requirements for certain data and  
5           information collected from technology systems owned,  
6           contracted, or maintained by a state university or  
7           Florida College System institution; providing  
8           exceptions to the exemption; providing for future  
9           review and repeal of the exemption under the Open  
10          Government Sunset Review Act; providing a statement of  
11          public necessity; providing a directive to the  
12          Division of Law Revision and Information; providing an  
13          effective date.

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

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17           Section 1. Section 1004.055, Florida Statutes, is created  
18 to read:

19           1004.055 Data, information, and network security and  
20 privacy.-

21           (1) All of the following data and information collected  
22 from technology systems owned, contracted, or maintained by a  
23 state university or a Florida College System institution are  
24 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
25 of the State Constitution:

26           (a) Risk assessment and risk mitigation information that is  
27 used to determine security threats and risk remediation plans  
28 for data, information, and information technology resources of  
29 the state university or Florida College System institution.

30           (b) Internal policies and procedures used to ensure the  
31 security of the data and information technology resources,  
32 which, if disclosed, could facilitate the unauthorized access to

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33 or the unauthorized modification, disclosure, or destruction of  
34 data, information, or information technology resources.

35 (c) Results of periodic internal or external audits and  
36 evaluations of the information technology security program for a  
37 state university's or Florida College System institution's data  
38 and information technology resources.

39 (d) Information relating to the detection, investigation,  
40 or response to a suspected or confirmed security incident,  
41 including suspected or confirmed breaches, which, if disclosed,  
42 could facilitate the unauthorized access to or the unauthorized  
43 modification, disclosure, or destruction of data or information  
44 technology resources.

45 (e) Records, information, photographs, audio and visual  
46 presentations, schematic diagrams, source code, proprietary  
47 information, trade secrets, business transactions, surveys,  
48 recommendations, or consultations or portions thereof relating  
49 directly to or revealing the information technology security  
50 programs for a state university's or Florida College System  
51 institution's data and information technology resources,  
52 regardless of the medium in which they are stored.

53 (f) System authentication credentials, including passwords,  
54 security codes, access codes, biometric information, personal  
55 identification numbers, or any other type of information  
56 required to access a state university's or Florida College  
57 System institution's data and information technology resources.

58 (2) Those portions of meetings which would reveal data and  
59 information described in subsection (1) are exempt from s.  
60 286.011 and s. 24(b), Art. I of the State Constitution. All  
61 exempt portions of a meeting must be recorded and transcribed.

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62 An exempt portion of a meeting may not be off the record. The  
63 transcript of the meeting shall remain confidential and exempt  
64 from disclosure unless a court of competent jurisdiction,  
65 following an in camera review, determines that the meeting was  
66 not restricted to the discussion of data and information made  
67 confidential and exempt by this section. In the event of such a  
68 judicial determination, only that portion of the transcript  
69 which reveals nonexempt data and information may be disclosed to  
70 a third party.

71 (3) These exemptions are remedial in nature, and it is the  
72 intent of the Legislature that the exemptions apply to security  
73 system plans held by a state university or Florida College  
74 System institution before, on, or after the effective date of  
75 this act.

76 (4) Data and information made confidential and exempt by  
77 this section may be disclosed by the custodian of public records  
78 to the Auditor General, the Chief Inspector General, and the  
79 Cybercrime Office of the Department of Law Enforcement or to  
80 another state or federal agency to prevent, detect, guard  
81 against, respond to, investigate, or manage the consequences of  
82 any attempted or actual act of terrorism, or to prosecute those  
83 persons who are responsible for such attempts or acts. The  
84 entities or persons receiving such information shall maintain  
85 the exempt status of the information.

86 (5) This section is subject to the Open Government Sunset  
87 Review Act in accordance with s. 119.15 and shall stand repealed  
88 on October 2, 2021, unless reviewed and saved from repeal  
89 through reenactment by the Legislature.

90 Section 2. (1) The Legislature finds that it is a public

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91 necessity that risk assessments, risk mitigation, internal  
92 policies and procedures, internal or external audits and  
93 evaluations, system authentication credentials, and all records,  
94 information, photographs, audio and visual presentations,  
95 schematic diagrams, source code, proprietary information, trade  
96 secrets, business transactions, surveys, recommendations, or  
97 consultations related directly to or revealing information  
98 technology resources or security of a state university or a  
99 Florida College System institution be exempt from ss. 119.07(1)  
100 and 286.011, Florida Statutes, and s. 24, Article 1 of the State  
101 Constitution. The Legislature finds that the increasing use of  
102 advanced information technology in public institutions of higher  
103 education requires a systematic risk management approach to  
104 minimize the increased security threats to data and information  
105 technology resources.

106 (2) The Legislature further finds that the data,  
107 information, and information technology resources collected,  
108 constructed, and maintained by public institutions of higher  
109 education are assets that require protection. It is essential  
110 that these systems be protected from misuse and that both the  
111 information technology resources and the data or information  
112 stored in them be accessed and maintained in a secure  
113 environment.

114 (3) The Legislature further finds that an investigation of  
115 an information technology security system incident or breach is  
116 likely to result in the gathering of sensitive personal  
117 information, including social security numbers, identification  
118 numbers, personal financial and health information, and  
119 educational records exempt from disclosure under the Family

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120 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and ss.  
121 1002.225 and 1006.52, Florida Statutes. This information could  
122 be used for identity theft or further financial harm. The  
123 release of a computer forensic report or other information that  
124 would reveal weaknesses in a state university's or Florida  
125 College System institution's data security could compromise  
126 future security if such information were available before  
127 conclusion of an investigation or once the investigation ceased  
128 to be active.

129 (4) The Legislature further finds that the disclosure of  
130 information related to state university or Florida College  
131 System institution data or information technology systems could  
132 potentially compromise the confidentiality, integrity, and  
133 availability of such resources and significantly impair the  
134 administration of vital educational services. It is necessary  
135 that this information be made confidential in order to protect  
136 the technology systems, resources, and data of state  
137 universities and Florida College System institutions.

138 Section 3. The Division of Law Revision and Information is  
139 directed to replace the phrase "the effective date of this act"  
140 wherever it occurs in this act with such date.

141 Section 4. This act shall take effect upon becoming a law.