

By Senator Bradley

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1                   A bill to be entitled  
2       An act relating to public records; amending s.  
3       381.987, F.S.; providing an exemption from public  
4       records requirements for a qualifying patient's or  
5       caregiver's personal identifying information, all  
6       information contained on their compassionate use  
7       registry identification cards, and all information  
8       pertaining to a physician certification for marijuana;  
9       requiring the Department of Health to allow access to  
10      the compassionate use registry to a law enforcement  
11      agency, a medical marijuana treatment center, certain  
12      licensed practitioners, and certain employees of the  
13      department for specified purposes; extending the date  
14      of future review and repeal of the exemption;  
15      providing a statement of public necessity; providing a  
16      contingent effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20       Section 1. Section 381.987, Florida Statutes, is amended to  
21      read:

22       381.987 Public records exemption for personal identifying  
23      information in the compassionate use registry.—

24       (1) A qualifying patient's or a caregiver's personal  
25      identifying information held by the department in the  
26      compassionate use registry established under s. 381.986,  
27      including, but not limited to, the qualifying patient's name,  
28      address, telephone number, and government-issued identification  
29      number; all information contained on the qualifying patient's or

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30 caregiver's compassionate use registry identification card  
 31 issued in accordance with s. 381.986;~~7~~ and all information  
 32 pertaining to a physician certification for marijuana ~~the~~  
 33 ~~physician's order for low-THC cannabis~~ and the dispensing  
 34 thereof are confidential and exempt from s. 119.07(1) and s.  
 35 24(a), Art. I of the State Constitution.

36 (2) A physician's identifying information held by the  
 37 department in the compassionate use registry established under  
 38 s. 381.986, including, but not limited to, the physician's name,  
 39 address, telephone number, government-issued identification  
 40 number, and Drug Enforcement Administration number, and all  
 41 information pertaining to the physician certification for  
 42 marijuana ~~physician's order for low-THC cannabis~~ and the  
 43 dispensing thereof are confidential and exempt from s. 119.07(1)  
 44 and s. 24(a), Art. I of the State Constitution.

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

47 (a) A law enforcement agency to verify the authorization of  
 48 a qualifying patient or a qualifying patient's caregiver to  
 49 possess marijuana or a marijuana delivery device ~~that is~~  
 50 ~~investigating a violation of law regarding cannabis in which the~~  
 51 ~~subject of the investigation claims an exception established~~  
 52 under s. 381.986.

53 (b) A medical marijuana treatment center registered with  
 54 ~~dispensing organization approved by~~ the department pursuant to  
 55 s. 381.986 which is attempting to verify the authenticity of a  
 56 physician certification ~~physician's order for marijuana low-THC~~  
 57 ~~cannabis~~, including whether the physician certification ~~order~~  
 58 had been previously filled and whether the physician

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59 certification ~~order~~ was written for the person attempting to  
60 have it filled.

61 (c) A physician licensed under chapter 458 or chapter 459  
62 to ensure proper care for patients ~~who has written an order for~~  
63 ~~low-THC cannabis for the purpose of monitoring the patient's use~~  
64 ~~of such cannabis or for the purpose of determining, before~~  
65 ~~issuing an order for low-THC cannabis, whether another physician~~  
66 ~~has ordered the patient's use of low-THC cannabis. The physician~~  
67 ~~may access the confidential and exempt information only for the~~  
68 ~~patient for whom he or she has ordered or is determining whether~~  
69 ~~to order the use of low-THC cannabis pursuant to s. 381.986.~~

70 (d) A practitioner licensed to prescribe prescription  
71 drugs, to ensure proper care for patients before prescribing  
72 medications that may interact with marijuana.

73 (e) An employee of the department for the purposes of  
74 maintaining the registry and periodic reporting or disclosure of  
75 information that has been redacted to exclude personal  
76 identifying information.

77 (f) An employee of the department for the purpose of  
78 monitoring physician registration in the compassionate use  
79 registry and the issuance of physician certifications as  
80 authorized in s. 381.986 for practices that could facilitate  
81 unlawful diversion or misuse of marijuana or cannabis delivery  
82 devices.

83 (g) ~~(e)~~ The department's relevant health care regulatory  
84 boards responsible for the licensure, regulation, or discipline  
85 of a physician if he or she is involved in a specific  
86 investigation of a violation of s. 381.986. If a health care  
87 regulatory board's investigation reveals potential criminal

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88 activity, the board may provide any relevant information to the  
89 appropriate law enforcement agency.

90 (h)~~(f)~~ A person engaged in bona fide research if the person  
91 agrees:

92 1. To submit a research plan to the department which  
93 specifies the exact nature of the information requested and the  
94 intended use of the information;

95 2. To maintain the confidentiality of the records or  
96 information if personal identifying information is made  
97 available to the researcher;

98 3. To destroy any confidential and exempt records or  
99 information obtained after the research is concluded; and

100 4. Not to contact, directly or indirectly, for any purpose,  
101 a patient or physician whose information is in the registry.

102 (4) All information released from the registry under  
103 subsection (3) remains confidential and exempt, and a person who  
104 receives access to such information must maintain the  
105 confidential and exempt status of the information received.

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

109 (6) This section is subject to the Open Government Sunset  
110 Review Act in accordance with s. 119.15 and shall stand repealed  
111 on October 2, 2022 ~~2019~~, unless reviewed and saved from repeal  
112 through reenactment by the Legislature.

113 Section 2. The Legislature finds that it is a public  
114 necessity that the personal identifying information of  
115 qualifying patients who use marijuana for medical reasons and of  
116 these patients' caregivers held by the Department of Health in

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117 the compassionate use registry established under s. 381.986,  
118 Florida Statutes, be made confidential and exempt from s.  
119 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
120 State Constitution. Specifically, the Legislature finds that it  
121 is a public necessity to make confidential and exempt from  
122 public records requirements the names, addresses, telephone  
123 numbers, and government-issued identification numbers of a  
124 qualifying patient and the patient's caregiver, any other  
125 information contained on the qualifying patient's or caregiver's  
126 compassionate use registry identification card issued pursuant  
127 to s. 381.986, Florida Statutes, and all information pertaining  
128 to a physician certification for marijuana issued in accordance  
129 with s. 381.986, Florida Statutes, which are held in the  
130 registry. The choice to use marijuana to treat a qualifying  
131 patient's medical condition or symptom and the choice to assist  
132 a qualifying patient with the medical use of marijuana are  
133 personal and private matters. The availability of such  
134 information to the public could make the public aware of both  
135 the qualifying patient's use of marijuana and the qualifying  
136 patient's disease or other medical conditions for which the  
137 qualifying patient is using marijuana. The knowledge of the  
138 qualifying patient's use of marijuana, the knowledge of the  
139 qualifying patient's medical condition, and the knowledge that a  
140 caregiver is assisting a qualifying patient with the use of  
141 marijuana could be exploited to embarrass, harass, or  
142 discriminate against the qualifying patient and the patient's  
143 caregiver and could also be used as a discriminatory tool by an  
144 employer who disapproves of the qualifying patient's use of  
145 marijuana or the caregiver's assistance in the use of marijuana.

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146 However, despite the potential hazards of collecting such  
147 information, maintaining the compassionate use registry  
148 established under s. 381.986, Florida Statutes, is necessary to  
149 prevent the diversion and nonmedical use of any marijuana as  
150 well as to aid and improve research done on the efficacy of  
151 marijuana. Thus, the Legislature finds that it is a public  
152 necessity to make confidential and exempt from public records  
153 requirements the personal identifying information of qualifying  
154 patients and caregivers held by the Department of Health in the  
155 compassionate use registry established under s. 381.986, Florida  
156 Statutes.

157       Section 3. This act shall take effect on the same date that  
158 SB 406 or similar legislation takes effect, if such legislation  
159 is adopted in the same legislative session or an extension  
160 thereof and becomes a law.