

1 A bill to be entitled
2 An act relating to public records and public meetings;
3 creating s. 1004.055, F.S.; creating an exemption from
4 public records requirements for certain records held
5 by a state university or Florida College System
6 institution which identify detection, investigation,
7 or response practices for suspected or confirmed
8 information technology security incidents; creating an
9 exemption from public records requirements for certain
10 portions of risk assessments, evaluations, external
11 and internal audits, and other reports of a
12 university's or institution's information technology
13 security program; creating an exemption from public
14 meetings requirements for portions of public meetings
15 which would reveal such data and information;
16 providing an exemption from public records
17 requirements for a specified period for the recording
18 and transcript of a closed meeting; authorizing
19 disclosure of confidential and exempt information to
20 certain agencies and officers; defining the term
21 "external audit"; providing retroactive application;
22 providing for future legislative review and repeal of
23 the exemptions; providing statements of public
24 necessity; providing a directive to the Division of
25 Law Revision and Information; providing an effective

26 | date.

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28 | Be It Enacted by the Legislature of the State of Florida:

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30 | Section 1. Section 1004.055, Florida Statutes, is created
31 | to read:

32 | 1004.055 Security of data and information technology in
33 | state postsecondary education institutions.-

34 | (1) All of the following data or information from
35 | technology systems owned, contracted, or maintained by a state
36 | university or a Florida College System institution are
37 | confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
38 | of the State Constitution:

39 | (a) Records held by the university or institution which
40 | identify detection, investigation, or response practices for
41 | suspected or confirmed information technology security
42 | incidents, including suspected or confirmed breaches, if the
43 | disclosure of such records would facilitate unauthorized access
44 | to or unauthorized modification, disclosure, or destruction of:

45 | 1. Data or information, whether physical or virtual; or

46 | 2. Information technology resources, which include:

47 | a. Information relating to the security of the
48 | university's or institution's technologies, processes, and
49 | practices designed to protect networks, computers, data
50 | processing software, and data from attack, damage, or

51 unauthorized access; or

52 b. Security information, whether physical or virtual,
53 which relates to the university's or institution's existing or
54 proposed information technology systems.

55 (b) Those portions of risk assessments, evaluations,
56 external and internal audits, and other reports of the
57 university's or institution's information technology security
58 program for its data, information, and information technology
59 resources which are held by the university or institution, if
60 the disclosure of such records would facilitate unauthorized
61 access to or unauthorized modification, disclosure, or
62 destruction of:

63 1. Data or information, whether physical or virtual; or
64 2. Information technology resources, which include:

65 a. Information relating to the security of the
66 university's or institution's technologies, processes, and
67 practices designed to protect networks, computers, data
68 processing software, and data from attack, damage, or
69 unauthorized access; or

70 b. Security information, whether physical or virtual,
71 which relates to the university's or institution's existing or
72 proposed information technology systems.

73 (2) Those portions of a public meeting as specified in s.
74 286.011 which would reveal data and information described in
75 subsection (1) are exempt from s. 286.011 and s. 24(b), Art. 1

76 of the State Constitution. An exempt portion of the meeting may
77 not be off the record. All exempt portions of such a meeting
78 must be recorded and transcribed. The recording and transcript
79 of the meeting must remain confidential and exempt from
80 disclosure under s. 119.07(1) and s. 24(a), Art. 1 of the State
81 Constitution unless a court of competent jurisdiction, following
82 an in camera review, determines that the meeting was not
83 restricted to the discussion of data and information made
84 confidential and exempt by this section. In the event of such a
85 judicial determination, only that portion of the transcript
86 which reveals nonexempt data and information may be disclosed.

87 (3) The records and portions of public meeting recordings
88 and transcripts described in subsections (1) and (2) must be
89 available to the Auditor General, the Cybercrime Office of the
90 Department of Law Enforcement, and, for state universities, the
91 Board of Governors. Such records and portions of meetings,
92 recordings, and transcripts may be made available to a state or
93 federal agency for security purposes or in furtherance of the
94 agency's official duties. For purposes of this section,
95 "external audit" means an audit that is conducted by an entity
96 other than the state university or Florida College System
97 institution that is the subject of the audit.

98 (4) The exemptions listed in this section apply to such
99 records or portions of public meetings, recordings, and
100 transcripts held by the university or institution before, on, or

101 after the effective date of this act.

102 (5) This section is subject to the Open Government Sunset
103 Review Act in accordance with s. 119.15 and shall stand repealed
104 on October 2, 2022, unless reviewed and saved from repeal
105 through reenactment by the Legislature.

106 Section 2. (1) (a) The Legislature finds that it is a
107 public necessity that records held by a state university or
108 Florida College System institution which identify detection,
109 investigation, or response practices for suspected or confirmed
110 information technology security incidents, including suspected
111 or confirmed breaches, be made confidential and exempt from s.
112 119.07(1), Florida Statutes, and s. 24(a), Article I of the
113 State Constitution if the disclosure of such records would
114 facilitate unauthorized access to or unauthorized modification,
115 disclosure, or destruction of:

116 1. Data or information, whether physical or virtual; or

117 2. Information technology resources, which include:

118 a. Information relating to the security of the
119 university's or institution's technologies, processes, and
120 practices designed to protect networks, computers, data
121 processing software, and data from attack, damage, or
122 unauthorized access; or

123 b. Security information, whether physical or virtual,
124 which relates to the university's or institution's existing or
125 proposed information technology systems.

126 (b) Such records must be made confidential and exempt for
127 the following reasons:

128 1. Records held by a state university or Florida College
129 System institution which identify information technology
130 detection, investigation, or response practices for suspected or
131 confirmed information technology security incidents or breaches
132 are likely to be used in the investigation of the incident or
133 breach. The release of such information could impede the
134 investigation and impair the ability of reviewing entities to
135 effectively and efficiently execute their investigative duties.
136 In addition, the release of such information before an active
137 investigation is completed could jeopardize the ongoing
138 investigation.

139 2. An investigation of an information technology security
140 incident or breach is likely to result in the gathering of
141 sensitive personal information, including identification
142 numbers, personal financial and health information, and
143 educational records exempt from disclosure under the Family
144 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and ss.
145 1002.225 and 1006.52, Florida Statutes. Such information could
146 be used to commit identity theft or other crimes. In addition,
147 release of such information could subject possible victims of
148 the security incident or breach to further harm.

149 3. Disclosure of a record, including a computer forensic
150 analysis, or other information that would reveal weaknesses in a

151 state university's or Florida College System institution's data
152 security could compromise that security in the future if such
153 information were available upon conclusion of an investigation
154 or once an investigation ceased to be active.

155 4. Such records are likely to contain proprietary
156 information about the security of the system at issue. The
157 disclosure of such information could result in the
158 identification of vulnerabilities and further breaches of that
159 system. In addition, the release of such information could give
160 business competitors an unfair advantage and weaken the security
161 technology supplier supplying the proprietary information in the
162 marketplace.

163 5. The disclosure of such records could potentially
164 compromise the confidentiality, integrity, and availability of
165 state university and Florida College System institution data and
166 information technology resources, which would significantly
167 impair the administration of vital educational programs. It is
168 necessary that this information be made confidential in order to
169 protect the technology systems, resources, and data of the
170 universities and institutions. The Legislature further finds
171 that this public records exemption be given retroactive
172 application because it is remedial in nature.

173 (2) (a) The Legislature also finds that it is a public
174 necessity that portions of risk assessments, evaluations,
175 external and internal audits, and other reports of a state

176 university's or Florida College System institution's information
177 technology security program for its data, information, and
178 information technology resources which are held by the
179 university or institution be made confidential and exempt from
180 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
181 State Constitution if the disclosure of such portions of records
182 would facilitate unauthorized access to or the unauthorized
183 modification, disclosure, or destruction of:

184 1. Data or information, whether physical or virtual; or

185 2. Information technology resources, which include:

186 a. Information relating to the security of the
187 university's or institution's technologies, processes, and
188 practices designed to protect networks, computers, data
189 processing software, and data from attack, damage, or
190 unauthorized access; or

191 b. Security information, whether physical or virtual,
192 which relates to the university's or institution's existing or
193 proposed information technology systems.

194 (b) The Legislature finds that it may be valuable,
195 prudent, or critical to a state university or Florida College
196 System institution to have an independent entity conduct a risk
197 assessment, an audit, or an evaluation or complete a report of
198 the university's or institution's information technology program
199 or related systems. Such documents would likely include an
200 analysis of the university's or institution's current

201 information technology program or systems which could clearly
202 identify vulnerabilities or gaps in current systems or processes
203 and propose recommendations to remedy identified
204 vulnerabilities.

205 (3) (a) The Legislature further finds that it is a public
206 necessity that those portions of a public meeting which could
207 reveal information described in subsections (1) and (2) be made
208 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article
209 I of the State Constitution. It is necessary that such meetings
210 be made exempt from the open meetings requirements in order to
211 protect institutional information technology systems, resources,
212 and data. The information disclosed during portions of meetings
213 would clearly identify a state university's or Florida College
214 System institution's information technology systems and its
215 vulnerabilities. This disclosure would jeopardize the
216 information technology security of the institution and
217 compromise the integrity and availability of state university or
218 Florida College System institution data and information
219 technology resources, which would significantly impair the
220 administration of educational programs.

221 (b) The Legislature further finds that it is a public
222 necessity that the recording and transcript of those portions of
223 meetings specified in paragraph (a) be made confidential and
224 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
225 Article I of the State Constitution unless a court determines

226 that the meeting was not restricted to the discussion of data
227 and information made confidential and exempt by this act. It is
228 necessary that the resulting recordings and transcripts be made
229 confidential and exempt from the public record requirements in
230 order to protect institutional information technology systems,
231 resources, and data. The disclosure of such recordings and
232 transcripts would clearly identify a state university's or
233 Florida College System institution's information technology
234 systems and its vulnerabilities. This disclosure would
235 jeopardize the information technology security of the
236 institution and compromise the integrity and availability of
237 state university or Florida College System institution data and
238 information technology resources, which would significantly
239 impair the administration of educational programs.

240 (c) The Legislature further finds that this public meeting
241 and public records exemption must be given retroactive
242 application because it is remedial in nature.

243 Section 3. The Division of Law Revision and Information is
244 directed to replace the phrase "the effective date of this act"
245 wherever it occurs in this act with the date this act becomes a
246 law.

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