



398496

LEGISLATIVE ACTION

Senate

.

House

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Floor: WD/2R

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06/08/2017 06:07 PM

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Senator Brandes moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 381.987, Florida Statutes, is repealed.

Section 2. Section 381.9982, Florida Statutes, is created
to read:

381.9982 Public records exemption for personal identifying
information relating to medical marijuana held by the
department.—

(1) The following information is confidential and exempt



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12 from s. 119.07(1) and s. 24(a), Art. I of the State
13 Constitution:

14 (a) A qualifying patient's or caregiver's personal
15 identifying information held by the department in the medical
16 marijuana patient registry established under s. 381.994,
17 including, but not limited to, the patient's or caregiver's
18 name, photograph, identification number or other information
19 contained on the qualifying patient's or caregiver's medical
20 marijuana patient registry identification card, and all
21 information relating to a physician certification or the
22 administration of marijuana.

23 (b) All personal identifying information collected for the
24 purpose of issuing a patient's or caregiver's medical marijuana
25 patient registry identification card issued pursuant to s.
26 381.993.

27 (c) All personal identifying information pertaining to the
28 physician certification and the dispensing of marijuana held by
29 the department, including, but not limited to, information
30 related to the patient's diagnosis, exception requests to the
31 daily dose amount limit, and the qualified patient's experience
32 related to the medical use of marijuana.

33 (d) A certifying physician's Drug Enforcement
34 Administration number.

35 (2) The department shall allow access to the confidential
36 and exempt information in the medical marijuana patient registry
37 to:

38 (a) A law enforcement agency that is investigating a
39 violation of law regarding marijuana as authorized in s.
40 381.994(2)(c).



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41 (b) A medical marijuana treatment center approved by the
42 department pursuant to s. 381.985 which is attempting to verify
43 the authenticity of a physician certification for marijuana,
44 including whether the certification had been previously filled
45 and whether the certification was issued for the person
46 attempting to have it filled, except for information related to
47 the patient's diagnosis.

48 (c) A physician who has issued a certification for
49 marijuana for the purpose of monitoring the patient's use of
50 such marijuana or for the purpose of determining, before issuing
51 a certification for marijuana, whether another physician has
52 issued a certification for the patient's use of marijuana. The
53 physician may access the confidential and exempt information
54 only for the patient for whom he or she has issued a
55 certification or is determining whether to issue a certification
56 for the use of marijuana pursuant to s. 381.993.

57 (d) A practitioner licensed to prescribe prescription
58 medications to ensure proper care of a patient before
59 prescribing medication to that patient which may interact with
60 marijuana.

61 (e) 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 (f) An employee of the department for the purposes of
66 reviewing physician registration and the issuance of physician
67 certifications to monitor practices that could facilitate
68 unlawful diversion or the misuse of marijuana or a marijuana
69 delivery device.



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70 (g) The department's relevant health care regulatory boards
71 responsible for the licensure, regulation, or discipline of a
72 physician if he or she is involved in a specific investigation
73 of a violation of ss. 381.99-381.9981. If a health care
74 regulatory board's investigation reveals potential criminal
75 activity, the board may provide any relevant information to the
76 appropriate law enforcement agency.

77 (h) A person engaged in bona fide research if the person
78 agrees:

79 1. To submit a research plan to the department which
80 specifies the exact nature of the information requested and the
81 intended use of the information;

82 2. To maintain the confidentiality of the records or
83 information if personal identifying information is made
84 available to the researcher;

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

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

89 (3) All information released by the department under
90 subsection (2) remains confidential and exempt, and a person who
91 is provided access to such information must maintain the
92 confidential and exempt status of the information received.

93 (4) A person who willfully and knowingly violates this
94 section commits a felony of the third degree, punishable as
95 provided in s. 775.082 or s. 775.083.

96 (5) This section is subject to the Open Government Sunset
97 Review Act in accordance with s. 119.15 and shall stand repealed
98 on October 2, 2022, unless reviewed and saved from repeal



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99 through reenactment by the Legislature.

100 Section 3. The Legislature finds that it is a public
101 necessity that personal identifying information of patients,
102 caregivers, and physicians collected for purposes of issuing a
103 medical marijuana patient registry identification card issued
104 under s. 381.993, Florida Statutes, held by the Department of
105 Health in the medical marijuana patient registry established
106 under s. 381.994, Florida Statutes, be made confidential and
107 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
108 Article I of the State Constitution. The Legislature further
109 finds that it is a public necessity to make confidential and
110 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
111 Article I of the State Constitution all personal identifying
112 information, including, but not limited to, information related
113 to the qualifying patient's diagnosis, exception requests to the
114 daily dose amount limit, and the qualifying patient's experience
115 related to the medical use of marijuana held in the medical
116 marijuana patient registry or by the department which pertains
117 to a physician certification for marijuana and the dispensing
118 thereof pursuant to s. 381.995, Florida Statutes. The choice
119 made by a physician to certify, and by his or her patient to
120 use, marijuana to treat the patient's medical condition or
121 symptoms and the choice made by a caregiver to assist a
122 qualifying patient with the medical use of marijuana is a
123 personal and private matter between such parties. The
124 availability of such information could make the public aware of
125 both the patient's use of marijuana and the patient's diseases
126 or other medical conditions for which the patient is using
127 marijuana. The knowledge of the patient's use of marijuana, the



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128 knowledge that the physician certified the use of marijuana, the
129 knowledge of the patient's diseases or other medical conditions,
130 and the knowledge that a caregiver is assisting a patient with
131 the medical use of marijuana could be used to embarrass,
132 humiliate, harass, or discriminate against the patient, the
133 caregiver, or the physician. This information could be used as a
134 discriminatory tool by an employer who disapproves of the
135 patient's use of marijuana, the caregiver's assistance in the
136 use of marijuana, or the physician certification of such use.
137 However, despite the potential hazards of collecting such
138 information, maintaining the medical marijuana patient registry
139 established under s. 381.994, Florida Statutes, and collecting
140 information pertaining to the physician certification for
141 marijuana is necessary to prevent the diversion and nonmedical
142 use of marijuana as well as to aid and improve research on the
143 efficacy of marijuana. Therefore, the Legislature finds that it
144 is a public necessity to make confidential and exempt from
145 public records requirements the personal identifying information
146 of patients, caregivers, and physicians held by the Department
147 of Health in the medical marijuana patient registry established
148 under s. 381.994, Florida Statutes, and all personal identifying
149 information held in the registry or by the department that
150 pertains to a physician certification for marijuana and the
151 dispensing thereof pursuant to s. 381.986, Florida Statutes.

152 Section 4. This act shall take effect on the same date that
153 SB 8A or similar legislation takes effect, if such legislation
154 is adopted in the same legislative session or an extension
155 thereof and becomes a law.
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157 ===== T I T L E A M E N D M E N T =====

158 And the title is amended as follows:

159 Delete everything before the enacting clause
160 and insert:

161 A bill to be entitled
162 An act relating to public records; repealing s.
163 381.987, F.S., relating to a public records exemption
164 for personal identifying information in the medical
165 marijuana patient registry; creating s. 381.9982,
166 F.S.; exempting from public records requirements
167 personal identifying information of patients,
168 caregivers, and physicians held by the Department of
169 Health in the medical marijuana patient registry and
170 personal identifying information related to the
171 physician certification for marijuana and the
172 dispensing thereof held by the department; authorizing
173 specified persons and entities access to the exempt
174 information; requiring that information released from
175 the registry or the department remain confidential and
176 exempt; providing a criminal penalty; providing for
177 future legislative review and repeal of the exemption;
178 providing a statement of public necessity; providing a
179 contingent effective date.