

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.; exempting from public records
4 requirements personal identifying information of
5 patients, caregivers, and physicians held by the
6 Department of Health in the medical marijuana use
7 registry and personal identifying information related
8 to the physician certification for marijuana and the
9 dispensing thereof held by the department; authorizing
10 specified persons and entities access to the exempt
11 information; requiring that information released from
12 the registry or the department remain confidential and
13 exempt; providing a criminal penalty; providing for
14 future legislative 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:

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

22 381.987 Public records exemption for personal identifying
23 information relating to medical marijuana held by the department
24 ~~in the compassionate use registry.~~

25 (1) The following information is confidential and exempt
26 from s. 119.07(1) and s. 24(a), Art. I of the State
27 Constitution:

28 (a) A patient's or caregiver's personal identifying
29 information held by the department in the medical marijuana

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30 ~~compassionate~~ use registry established under s. 381.986,
31 including, but not limited to, the patient's or caregiver's
32 name, address, date of birth, photograph, and telephone number.

33 (b) All personal identifying information collected for the
34 purpose of issuing a patient's or caregiver's medical marijuana
35 use registry identification card described in s. 381.896. ~~and~~
36 ~~government-issued identification number, and~~

37 (c) All personal identifying information pertaining to the
38 physician certification ~~physician's order for marijuana low-THC~~
39 ~~cannabis and the dispensing thereof held by the department,~~
40 including, but not limited to, information related to the
41 patient's diagnosis, exception requests to the daily dose amount
42 limit, and the qualified patient's experience related to the
43 medical use of marijuana are ~~confidential and exempt from s.~~
44 ~~119.07(1) and s. 24(a), Art. I of the State Constitution.~~

45 (d) ~~(2)~~ A qualified physician's identifying information Drug
46 Enforcement Administration number, residential ~~held by the~~
47 ~~department in the compassionate use registry established under~~
48 ~~s. 381.986, including, but not limited to, the physician's name,~~
49 ~~address, and telephone number, government-issued identification~~
50 ~~card number, and Drug Enforcement Administration number, and all~~
51 ~~information pertaining to the physician's order for low-THC~~
52 ~~cannabis and the dispensing thereof are confidential and exempt~~
53 ~~from s. 119.07(1) and s. 24(a), Art. I of the State~~
54 ~~Constitution.~~

55 (2) ~~(3)~~ The department shall allow access to the
56 confidential and exempt information in the medical marijuana use
57 ~~registry, including access to confidential and exempt~~
58 ~~information, to:~~

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59 (a) A law enforcement agency that is investigating a
60 violation of law regarding marijuana ~~cannabis~~ in which the
61 subject of the investigation claims an exception established
62 under s. 381.986, except for information related to the
63 patient's diagnosis.

64 (b) A medical marijuana treatment center ~~dispensing~~
65 ~~organization~~ approved by the department pursuant to s. 381.986
66 which is attempting to verify the authenticity of a physician
67 certification ~~physician's order~~ for marijuana ~~low-THC cannabis~~,
68 including whether the certification ~~order~~ had been previously
69 filled and whether the certification ~~order~~ was issued ~~written~~
70 for the person attempting to have it filled, except for
71 information related to the patient's diagnosis.

72 (c) A physician who has issued a certification for
73 marijuana ~~written an order for low-THC cannabis~~ for the purpose
74 of monitoring the patient's use of such marijuana ~~cannabis~~ or
75 for the purpose of determining, before issuing a certification
76 for marijuana ~~an order for low-THC cannabis~~, whether another
77 physician has issued a certification for ~~ordered~~ the patient's
78 use of marijuana ~~low-THC cannabis~~. The physician may access the
79 confidential and exempt information only for the patient for
80 whom he or she has issued a certification ~~ordered~~ or is
81 determining whether to issue a certification for ~~order~~ the use
82 of marijuana ~~low-THC cannabis~~ pursuant to s. 381.986.

83 (d) A practitioner licensed to prescribe prescription
84 medications to ensure proper care of a patient before
85 prescribing medication to that patient which may interact with
86 marijuana.

87 (e) ~~(d)~~ An employee of the department for the purposes of

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88 maintaining the registry and periodic reporting or disclosure of
89 information that has been redacted to exclude personal
90 identifying information.

91 (f) An employee of the department for the purposes of
92 reviewing physician registration and the issuance of physician
93 certifications to monitor practices that could facilitate
94 unlawful diversion or the misuse of marijuana or a marijuana
95 delivery device.

96 (g)~~(e)~~ The department's relevant health care regulatory
97 boards responsible for the licensure, regulation, or discipline
98 of a physician if he or she is involved in a specific
99 investigation of a violation of s. 381.986. If a health care
100 regulatory board's investigation reveals potential criminal
101 activity, the board may provide any relevant information to the
102 appropriate law enforcement agency.

103 (h) The Coalition for Medical Marijuana Research and
104 Education established in s. 1004.4351(4).

105 (i)~~(f)~~ A person engaged in bona fide research if the person
106 agrees:

107 1. To submit a research plan to the department which
108 specifies the exact nature of the information requested and the
109 intended use of the information;

110 2. To maintain the confidentiality of the records or
111 information if personal identifying information is made
112 available to the researcher;

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

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

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117 (3) The department shall allow access to the confidential
118 and exempt information pertaining to the physician certification
119 for marijuana and the dispensing thereof, whether in the
120 registry or otherwise held by the department, to:

121 (a) An employee of the department for the purpose of
122 approving or disapproving a request for an exception to the
123 daily dose amount limit for a qualified patient; and

124 (b) The Coalition for Medical Marijuana Research and
125 Education pursuant to s. 381.986 for the purpose of conducting
126 research regarding the medical use of marijuana.

127 (4) All information released by the department ~~from the~~
128 ~~registry~~ under subsections ~~subsection~~ (2) and (3) remains
129 confidential and exempt, and a person who receives access to
130 such information must maintain the confidential and exempt
131 status of the information received.

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

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

139 Section 2. The Legislature finds that it is a public
140 necessity that personal identifying information of patients,
141 caregivers, and physicians, including the name, residential
142 address, date of birth, photograph, telephone number,
143 government-issued identification card, Drug Enforcement
144 Administration number, and other personal identifying
145 information collected for purposes of issuing a medical

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146 marijuana use registry identification card issued under s.
147 381.986, Florida Statutes, held by the Department of Health in
148 the medical marijuana use registry established under s. 381.986,
149 Florida Statutes, be made confidential and exempt from s.
150 119.07(1), Florida Statutes, and s. 24(a), Article I of the
151 State Constitution. The Legislature further finds that it is a
152 public necessity to make confidential and exempt from s.
153 119.07(1), Florida Statutes, and s. 24(a), Article I of the
154 State Constitution all personal identifying information,
155 including but not limited to information related to the
156 qualified patient's diagnosis, exception requests to the daily
157 dose amount limit, and the qualified patient's experience
158 related to the medical use of marijuana, held in the medical
159 marijuana use registry or by the department which pertains to a
160 physician certification for marijuana and the dispensing thereof
161 pursuant to s. 381.986, Florida Statutes. The choice made by a
162 physician to certify, and by his or her patient to use,
163 marijuana to treat the patient's medical condition or symptoms
164 and the choice made by a caregiver to assist a qualifying
165 patient with the medical use of marijuana is a personal and
166 private matter between such parties. The availability of such
167 information could make the public aware of both the patient's
168 use of marijuana and the patient's diseases or other medical
169 conditions for which the patient is using marijuana. The
170 knowledge of the patient's use of marijuana, the knowledge that
171 the physician certified the use of marijuana, the knowledge of
172 the patient's diseases or other medical conditions, and the
173 knowledge that a caregiver is assisting a patient with the
174 medical use of marijuana could be used to embarrass, humiliate,

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175 harass, or discriminate against the patient, the caregiver, or
176 the physician. This information could be used as a
177 discriminatory tool by an employer who disapproves of the
178 patient's use of marijuana, the caregiver's assistance in the
179 use of marijuana, or the physician certification of such use.
180 However, despite the potential hazards of collecting such
181 information, maintaining the medical marijuana use registry
182 established under s. 381.986, Florida Statutes, and collecting
183 information pertaining to the physician certification for
184 marijuana is necessary to prevent the diversion and nonmedical
185 use of marijuana as well as to aid and improve research on the
186 efficacy of marijuana. Therefore, the Legislature finds that it
187 is a public necessity to make confidential and exempt from
188 public records requirements the personal identifying information
189 of patients, caregivers, and physicians held by the Department
190 of Health in the medical marijuana use registry established
191 under s. 381.986, Florida Statutes, and all personal identifying
192 information held in the registry or by the department that
193 pertains to a physician certification for marijuana and the
194 dispensing thereof pursuant to s. 381.986, Florida Statutes.

195 Section 3. This act shall take effect on the same date that
196 SB 8A or similar legislation takes effect, if such legislation
197 is adopted in the same legislative session or an extension
198 thereof and becomes a law.