

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Mariano offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove lines 60-145 and insert:

5 (5) The following entities may not directly access  
6 information in the system, but may request information from the  
7 program manager or designated program and support staff:

8 (b) The Attorney General for:

9 1. Medicaid fraud cases involving prescribed controlled  
10 substances.

11 2. An active investigation or pending civil or criminal  
12 litigation involving prescribed controlled substances, other  
13 than Medicaid fraud cases, upon the granting of a petition or

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14 motion by a trial court which specifically identifies the active  
15 or pending matter. The Attorney General shall ensure that  
16 information obtained under this subparagraph is not used for any  
17 purpose other than the specific matter stated in the petition or  
18 motion. Notice to any party regarding such petition or motion is  
19 not required, except in cases of pending civil litigation. The  
20 trial court shall grant the petition or motion and authorize  
21 release of information when the information appears reasonably  
22 calculated to lead to the discovery of admissible evidence. The  
23 department may not release any patient information pursuant to  
24 this subparagraph other than the patient's unique identifier  
25 assigned pursuant to paragraph (2) (b), year of birth, and the  
26 county, city, and zip code where the patient resides, consistent  
27 with the provisions of the Health Insurance Portability and  
28 Accountability Act of 1996 and its implementing regulations. The  
29 Attorney General shall maintain a log of each person with whom  
30 the information is shared to document the chain of custody,  
31 execute a confidentiality agreement or an agreement bound by a  
32 protective order with each such person, ensure that the  
33 information is maintained in a secure manner, and require each  
34 such person to return all information or certify its destruction  
35 under penalty of perjury to the Attorney General upon the final  
36 resolution of the matter for which the information was  
37 requested.

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38 (10) Information in the prescription drug monitoring  
39 program's system may be released only as provided in this  
40 section and s. 893.0551.

41 (a) Except as provided in paragraph (b), the content of  
42 the system is intended to be informational only. Information in  
43 the system is not subject to discovery or introduction into  
44 evidence in any civil or administrative action against a  
45 prescriber, dispenser, pharmacy, or patient arising out of  
46 matters that are the subject of information in the system. The  
47 program manager and authorized persons who participate in  
48 preparing, reviewing, issuing, or any other activity related to  
49 management of the system may not be permitted or required to  
50 testify in any such civil or administrative action as to any  
51 findings, recommendations, evaluations, opinions, or other  
52 actions taken in connection with management of the system.

53 (b) The Attorney General may introduce information from  
54 the system released pursuant to subparagraph (5)(b)2. as  
55 evidence in a civil, criminal, or administrative action against  
56 a dispenser, manufacturer, or a pharmacy. The program manager  
57 and authorized persons who participate in preparing, reviewing,  
58 issuing, or any other activity related to the management of the  
59 system may testify for purposes of authenticating the records  
60 introduced into evidence pursuant to this paragraph.

61 Section 2. Paragraph (e) of subsection (3) and subsection  
62 (6) of section 893.0551, Florida Statutes, are amended to read:

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63 893.0551 Public records exemption for the prescription  
64 drug monitoring program.—

65 (3) The department shall disclose such information to the  
66 following persons or entities upon request and after using a  
67 verification process to ensure the legitimacy of the request as  
68 provided in s. 893.055:

69 (e) The Attorney General or his or her designee:

70 1. When working on Medicaid fraud cases involving  
71 prescribed controlled substances or when the Attorney General  
72 has initiated a review of specific identifiers of Medicaid fraud  
73 or specific identifiers that warrant a Medicaid investigation  
74 regarding prescribed controlled substances. The Attorney  
75 General's Medicaid fraud investigators may not have direct  
76 access to the department's system. The Attorney General or his  
77 or her designee may disclose to a criminal justice agency, as  
78 defined in s. 119.011, only the information received from the  
79 department that is relevant to an identified active  
80 investigation that prompted the request for the information.

81 2. Upon a court order authorizing the release of patient  
82 information under s. 893.055(5)(b)2.

83 (6) An agency or person who obtains any information  
84 pursuant to this section must maintain the confidential and  
85 exempt status of that information and may not disclose such  
86 information unless authorized by law. Information shared with a  
87 state attorney pursuant to paragraph (3)(f)    paragraph

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88 (3) (h), or with the Attorney General or his or her designee  
 89 pursuant to subparagraph (3) (e)2. may be released only in  
 90 response to a discovery demand if such information is directly  
 91 related to the ~~criminal~~ case for which the information was  
 92 requested. Unrelated information may be released only upon an  
 93 order of a court of competent jurisdiction.

94 Section 3. The amendments to ss. 893.055 and 893.0551,  
 95 Florida Statutes, made by this act shall stand repealed on June  
 96 30, 2021, unless reviewed and saved from repeal through  
 97 reenactment by the Legislature. If such amendments are not saved  
 98 from repeal, the text of ss. 893.055 and 893.0551, Florida  
 99 Statutes, shall revert to that in existence on June 30, 2019,  
 100 except that any amendments to such text other than by this act  
 101 shall be preserved and continue to operate to the extent that  
 102 such amendments are not dependent upon the portions of text  
 103 which expire pursuant to this section.

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**T I T L E A M E N D M E N T**

107 Remove lines 23-35 and insert:  
 108 amending s. 893.0551, F.S.; authorizing the Attorney  
 109 General to have access to records when ordered by a  
 110 court under specified provisions; providing for future  
 111 repeal of amendments unless reviewed and saved from  
 112 repeal through reenactment by the Legislature;

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113 | providing for effect of amendments by other  
114 | provisions; providing an effective date.

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