

By Senator Lee

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1 A bill to be entitled
2 An act relating to the prescription drug monitoring
3 program; amending s. 893.055, F.S.; expanding the
4 Attorney General's authority to request information
5 for Medicaid fraud cases from the Department of Health
6 prescription drug monitoring program to information on
7 all cases involving prescribed controlled substances;
8 removing a limitation that prohibits discovery of, or
9 the introduction into evidence of, certain information
10 in a civil or administrative action against dispensers
11 or pharmacies in the program; authorizing certain
12 individuals to testify regarding the authenticity of
13 program records; amending s. 893.0551, F.S.; expanding
14 access the Attorney General or his or her designee has
15 to certain confidential and exempt information
16 maintained by the department; authorizing the Attorney
17 General to use for certain purposes all information
18 maintained by the department whether compiled before,
19 on, or after a certain date; providing for treatment
20 of certain information as it relates to discovery in
21 certain actions; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraph (b) of subsection (5) and subsection
26 (10) of section 893.055, Florida Statutes, are amended to read:
27 893.055 Prescription drug monitoring program.—

28 (5) The following entities may not directly access
29 information in the system, but may request information from the

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30 program manager or designated program and support staff:

31 (b) The Attorney General for ~~Medicaid fraud~~ cases involving
32 prescribed controlled substances.

33 (10) Information in the prescription drug monitoring
34 program's system may be released only as provided in this
35 section and s. 893.0551. The content of the system is intended
36 to be informational only. Information in the system is not
37 subject to discovery or introduction into evidence in any civil
38 or administrative action against a prescriber, ~~dispenser,~~
39 ~~pharmacy,~~ or patient arising out of matters that are the subject
40 of information in the system. The program manager and authorized
41 persons who participate in preparing, reviewing, issuing, or any
42 other activity related to management of the system may not be
43 permitted or required to testify in any such civil or
44 administrative action as to any findings, recommendations,
45 evaluations, opinions, or other actions taken in connection with
46 management of the system. The program manager and authorized
47 persons who participate in preparing, reviewing, issuing, or any
48 other activity related to the management of the system may
49 testify for purposes of authenticating the records contained in
50 the system.

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

53 893.0551 Public records exemption for the prescription drug
54 monitoring program.—

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

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59 (e) The Attorney General or his or her designee when
60 working on ~~Medicaid fraud~~ cases involving prescribed controlled
61 substances or when the Attorney General has initiated a review
62 of ~~specific identifiers of Medicaid fraud or~~ specific
63 identifiers that warrant an a Medicaid investigation regarding
64 prescribed controlled substances. The Attorney General's
65 ~~Medicaid fraud~~ investigators may not have direct access to the
66 department's system. The Attorney General or his or her designee
67 may disclose to a criminal justice agency, as defined in s.
68 119.011, only the information received from the department that
69 is relevant to an identified active investigation that prompted
70 the request for the information. The Attorney General may use
71 all information maintained by the department, whether compiled
72 before, on, or after July 1, 2019, to pursue an investigation
73 and civil or criminal litigation.

74 (6) An agency or person who obtains any information
75 pursuant to this section must maintain the confidential and
76 exempt status of that information and may not disclose such
77 information unless authorized by law. Information in the system
78 is not subject to discovery or introduction into evidence in any
79 civil or administrative action against a prescriber or patient
80 arising out of matters that are the subject of information in
81 the system. Information shared with a state attorney pursuant to
82 paragraph (3) (f) or paragraph (3) (h) or by the Attorney General
83 or his or her designee pursuant to paragraph (3) (e) may be
84 released only in response to a discovery demand if such
85 information is directly related to the ~~criminal~~ case for which
86 the information was requested. Unrelated information may be
87 released only upon an order of a court of competent

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88 jurisdiction.

89 Section 3. This act shall take effect July 1, 2019.