

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Government Operations
2 Subcommittee

3 Representative McFarland offered the following:

Amendment

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (14) is added to section 501.173,
8 Florida Statutes, as created by HB 969, 2021 Regular Session, to
9 read:

10 501.173 Consumer data privacy.-

11 (14) PUBLIC RECORDS EXEMPTION.-

12 (a) All information received by the department pursuant to
13 a notification of a violation under this section, or received by
14 the department pursuant to an investigation by the department or
15 a law enforcement agency of a violation of this section, is
16 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I

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17 of the State Constitution, until such time as the investigation
18 is completed or ceases to be active. This exemption shall be
19 construed in conformity with s. 119.071(2)(c).

20 (b) During an active investigation, information made
21 confidential and exempt pursuant to paragraph (a) may be
22 disclosed by the department:

23 1. In the furtherance of its official duties and
24 responsibilities;

25 2. For print, publication, or broadcast if the department
26 determines that such release would assist in notifying the
27 public or locating or identifying a person that the department
28 believes to be a victim of a data breach or improper use or
29 disposal of customer records, except that information made
30 confidential and exempt by paragraph (c) may not be released
31 pursuant to this subparagraph; or

32 3. To another governmental entity in the furtherance of
33 its official duties and responsibilities.

34 (c) Upon completion of an investigation or once an
35 investigation ceases to be active, the following information
36 received by the department shall remain confidential and exempt
37 from s. 119.07(1) and s. 24(a), Art. I of the State
38 Constitution:

39 1. All information to which another public records
40 exemption applies.

41 2. Personal information.

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42 3. A computer forensic report.

43 4. Information that would otherwise reveal weaknesses in a
44 business's data security.

45 5. Information that would disclose a business's
46 proprietary information.

47 (d) For purposes of this subsection, the term "proprietary
48 information" means information that:

49 1. Is owned or controlled by the business.

50 2. Is intended to be private and is treated by the
51 business as private because disclosure would harm the business
52 or its business operations.

53 3. Has not been disclosed except as required by law or a
54 private agreement that provides that the information will not be
55 released to the public.

56 4. Is not publicly available or otherwise readily
57 ascertainable through proper means from another source in the
58 same configuration as received by the department.

59 5. Includes:

60 a. Trade secrets as defined in s. 688.002.

61 b. Competitive interests, the disclosure of which would
62 impair the competitive advantage of the business who is the
63 subject of the information.

64 (e) This subsection is subject to the Open Government
65 Sunset Review Act in accordance with s. 119.15 and shall stand

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66 repealed on October 2, 2027, unless reviewed and saved from
67 repeal through reenactment by the Legislature.

68 Section 2. The Legislature finds that it is a public
69 necessity that all information received by the Department of
70 Legal Affairs pursuant to a notification of a violation of s.
71 501.173, Florida Statutes, or received by the department
72 pursuant to an investigation by the department or a law
73 enforcement agency of a violation of s. 501.173, Florida
74 Statutes, be made confidential and exempt from s. 119.07(1),
75 Florida Statutes, and s. 24(a), Article I of the State
76 Constitution for the following reasons:

77 (1) A notification of a violation of s. 501.173, Florida
78 Statutes, may result in an investigation of such violation. The
79 premature release of such information could frustrate or thwart
80 the investigation and impair the ability of the department to
81 effectively and efficiently administer s. 501.173, Florida
82 Statutes. In addition, release of such information before
83 completion of an active investigation could jeopardize the
84 ongoing investigation.

85 (2) The Legislature finds that it is a public necessity to
86 continue to protect from public disclosure all information to
87 which another public record exemption applies once an
88 investigation is completed or ceases to be active. Release of
89 such information by the department would undo the specific
90 statutory exemption protecting that information.

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91 (3) An investigation of a violation of s. 501.173, Florida
92 Statutes, is likely to result in the gathering of sensitive
93 personal information, including identification numbers, unique
94 identifiers, professional or employment-related information, and
95 personal financial information. Such information could be used
96 for the purpose of identity theft. The release of such
97 information could subject possible victims of data privacy
98 violations to further harm.

99 (4) Notices received by the department and information
100 received during an investigation of a violation of s. 501.173,
101 Florida Statutes, are likely to contain proprietary information.
102 Such information, including trade secrets, derives independent,
103 economic value, actual, or potential, from being generally
104 unknown to, and not readily ascertainable by, other persons who
105 might obtain economic value from its disclosure or use. Allowing
106 public access to proprietary information, including a trade
107 secret, through a public records request could destroy the value
108 of the proprietary information and cause a financial loss to the
109 business submitting the information. Release of such information
110 could give business competitors an unfair advantage and weaken
111 the position of the entity supplying the proprietary information
112 in the marketplace.

113 (5) Information received by the department may contain a
114 computer forensic report or information that could reveal
115 weaknesses in a business's data security. The release of this

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116 information could result in the identification of
117 vulnerabilities in the business's cybersecurity system and be
118 used to harm the business and the business's clients.

119 (6) The Legislature finds that the harm that may result
120 from the release of information received by the department
121 pursuant to a notification or investigation by the department or
122 a law enforcement agency of a violation of s. 501.173, Florida
123 Statutes, could impair the effective and efficient
124 administration of the investigation and thus, outweighs the
125 public benefit that may be derived from the disclosure of the
126 information.

127 Section 3. This act shall take effect on the same date
128 that HB 969 or similar legislation takes effect, if such
129 legislation is adopted in the same legislative session or an
130 extension thereof and becomes a law.