

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	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

1 Committee/Subcommittee hearing bill: Regulatory Reform &  
 2 Economic Development Subcommittee  
 3 Representative McFarland offered the following:

**Amendment**

6 Remove lines 14-130 and insert:

7 Section 1. Subsection (13) is added to section 501.173,  
 8 Florida Statutes, as created by HB 1547, 2023 Regular Session,  
 9 to read:

10 501.173 Consumer data privacy.—

11 (13) 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 or s.  
 16 501.1735, is confidential and exempt from s. 119.07(1) and s.

Amendment No. 1

17 24(a), Art. I of the State Constitution, until such time as the  
18 investigation is completed or ceases to be active. This  
19 exemption shall be construed in conformity with s.  
20 119.071(2)(c).

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

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

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

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

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

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

Amendment No. 1

42 2. Personal information.

43 3. A computer forensic report.

44 4. Information that would otherwise reveal weaknesses in  
45 the data security of a controller, processor, or third party.

46 5. Information that would disclose the proprietary  
47 information of a controller, processor, or third party.

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

50 1. Is owned or controlled by the controller, processor, or  
51 third party.

52 2. Is intended to be private and is treated by the  
53 controller, processor, or third party as private because  
54 disclosure would harm the controller, processor, or third party  
55 or its business operations.

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

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

62 5. Includes:

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

64 b. Competitive interests, the disclosure of which would  
65 impair the competitive advantage of the controller, processor,  
66 or third party who is the subject of the information.

Amendment No. 1

67 (e) This subsection is subject to the Open Government  
68 Sunset Review Act in accordance with s. 119.15 and shall stand  
69 repealed on October 2, 2028, unless reviewed and saved from  
70 repeal through reenactment by the Legislature.

71 Section 2. The Legislature finds that it is a public  
72 necessity that all information received by the Department of  
73 Legal Affairs pursuant to a notification of a violation of s.  
74 501.173 or s. 501.1735, Florida Statutes, or received by the  
75 department pursuant to an investigation by the department or a  
76 law enforcement agency of a violation of s. 501.173 or s.  
77 501.1735, Florida Statutes, be made confidential and exempt from  
78 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
79 State Constitution for the following reasons:

80 (1) A notification of a violation of s. 501.173 or s.  
81 501.1735, Florida Statutes, may result in an investigation of  
82 such violation. The premature release of such information could  
83 frustrate or thwart the investigation and impair the ability of  
84 the department to effectively and efficiently administer s.  
85 501.173 or s. 501.1735, Florida Statutes. In addition, release  
86 of such information before completion of an active investigation  
87 could jeopardize the ongoing investigation.

88 (2) Release of information to which another public record  
89 exemption applies once an investigation is completed or ceases  
90 to be active would undo the specific statutory exemption  
91 protecting that information.

Amendment No. 1

92       (3) An investigation of a violation of s. 501.173 or s.  
93 501.1735, Florida Statutes, is likely to result in the gathering  
94 of sensitive personal information, including identification  
95 numbers, unique identifiers, professional or employment-related  
96 information, and personal financial information. Such  
97 information could be used for the purpose of identity theft. The  
98 release of such information could subject possible victims of  
99 data privacy violations to further harm.

100       (4) Notices received by the department and information  
101 received during an investigation of a violation of s. 501.173 or  
102 s. 501.1735, Florida Statutes, are likely to contain proprietary  
103 information. Such information, including trade secrets, derives  
104 independent, economic value, actual, or potential, from being  
105 generally unknown to, and not readily ascertainable by, other  
106 persons who might obtain economic value from its disclosure or  
107 use. Allowing public access to proprietary information,  
108 including a trade secret, through a public records request could  
109 destroy the value of the proprietary information and cause a  
110 financial loss to the controller, processor, or third party  
111 submitting the information. Release of such information could  
112 give business competitors an unfair advantage and weaken the  
113 position of the entity supplying the proprietary information in  
114 the marketplace.

115       (5) Information received by the department may contain a  
116 computer forensic report or information that could reveal

Amendment No. 1

117 weaknesses in the data security of a controller, processor, or  
118 third party. The release of this information could result in the  
119 identification of vulnerabilities in the cybersecurity system of  
120 the controller, processor, or third party and be used to harm  
121 the controller, processor, or third party and clients.

122 (6) The harm that may result from the release of  
123 information received by the department pursuant to a  
124 notification or investigation by the department or a law  
125 enforcement agency of a violation of s. 501.173 or s. 501.1735,  
126 Florida