

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 501.173, F.S.; providing an exemption from public
 4 records requirements for information relating to
 5 investigations by the Department of Legal Affairs and
 6 law enforcement agencies of certain data privacy
 7 violations; providing for future legislative review
 8 and repeal of the exemption; providing a statement of
 9 public necessity; providing a contingent effective
 10 date.

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 12 Be It Enacted by the Legislature of the State of Florida:

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

17 501.173 Consumer data privacy.—

18 (13) PUBLIC RECORDS EXEMPTION.—

19 (a) All information received by the department pursuant to
 20 a notification of a violation under this section, or received by
 21 the department pursuant to an investigation by the department or
 22 a law enforcement agency of a violation of this section or s.
 23 501.1735, is confidential and exempt from s. 119.07(1) and s.
 24 24(a), Art. I of the State Constitution, until such time as the
 25 investigation is completed or ceases to be active. This

26 | exemption shall be construed in conformity with s.
 27 | 119.071(2)(c).

28 | (b) During an active investigation, information made
 29 | confidential and exempt pursuant to paragraph (a) may be
 30 | disclosed by the department:

31 | 1. In the furtherance of its official duties and
 32 | responsibilities;

33 | 2. For print, publication, or broadcast if the department
 34 | determines that such release would assist in notifying the
 35 | public or locating or identifying a person that the department
 36 | believes to be a victim of a data breach or improper use or
 37 | disposal of customer records, except that information made
 38 | confidential and exempt by paragraph (c) may not be released
 39 | pursuant to this subparagraph; or

40 | 3. To another governmental entity in the furtherance of
 41 | its official duties and responsibilities.

42 | (c) Upon completion of an investigation or once an
 43 | investigation ceases to be active, the following information
 44 | received by the department shall remain confidential and exempt
 45 | from s. 119.07(1) and s. 24(a), Art. I of the State
 46 | Constitution:

47 | 1. All information to which another public records
 48 | exemption applies.

49 | 2. Personal information.

50 | 3. A computer forensic report.

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

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

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

57 1. Is owned or controlled by the controller, processor, or
58 third party.

59 2. Is intended to be private and is treated by the
60 controller, processor, or third party as private because
61 disclosure would harm the controller, processor, or third party
62 or its business operations.

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

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

69 5. Includes:

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

71 b. Competitive interests, the disclosure of which would
72 impair the competitive advantage of the controller, processor,
73 or third party who is the subject of the information.

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

76 repealed on October 2, 2028, unless reviewed and saved from
77 repeal through reenactment by the Legislature.

78 Section 2. The Legislature finds that it is a public
79 necessity that all information received by the Department of
80 Legal Affairs pursuant to a notification of a violation of s.
81 501.173 or s. 501.1735, Florida Statutes, or received by the
82 department pursuant to an investigation by the department or a
83 law enforcement agency of a violation of s. 501.173 or s.
84 501.1735, Florida Statutes, be made confidential and exempt from
85 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
86 State Constitution for the following reasons:

87 (1) A notification of a violation of s. 501.173 or s.
88 501.1735, Florida Statutes, may result in an investigation of
89 such violation. The premature release of such information could
90 frustrate or thwart the investigation and impair the ability of
91 the department to effectively and efficiently administer s.
92 501.173 or s. 501.1735, Florida Statutes. In addition, release
93 of such information before completion of an active investigation
94 could jeopardize the ongoing investigation.

95 (2) Release of information to which another public record
96 exemption applies once an investigation is completed or ceases
97 to be active would undo the specific statutory exemption
98 protecting that information.

99 (3) An investigation of a violation of s. 501.173 or s.
100 501.1735, Florida Statutes, is likely to result in the gathering

101 of sensitive personal information, including identification
102 numbers, unique identifiers, professional or employment-related
103 information, and personal financial information. Such
104 information could be used for the purpose of identity theft. The
105 release of such information could subject possible victims of
106 data privacy violations to further harm.

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

122 (5) Information received by the department may contain a
123 computer forensic report or information that could reveal
124 weaknesses in the data security of a controller, processor, or
125 third party. The release of this information could result in the

126 identification of vulnerabilities in the cybersecurity system of
127 the controller, processor, or third party and be used to harm
128 the controller, processor, or third party and clients.

129 (6) The harm that may result from the release of
130 information received by the department pursuant to a
131 notification or investigation by the department or a law
132 enforcement agency of a violation of s. 501.173 or s. 501.1735,
133 Florida Statutes, could impair the effective and efficient
134 administration of the investigation and thus, outweighs the
135 public benefit that may be derived from the disclosure of the
136 information.

137 Section 3. This act shall take effect on the same date
138 that HB 1547 or similar legislation takes effect, if such
139 legislation is adopted in the same legislative session or an
140 extension thereof and becomes a law.