

By Senator Rouson

16-01455-23

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1                   A bill to be entitled  
2       An act relating to public records; amending s.  
3       394.47892, F.S.; providing an exemption from public  
4       records requirements for certain information of  
5       persons participating in, or considered for  
6       participation in, mental health court programs;  
7       authorizing the disclosure of confidential and exempt  
8       information under certain circumstances; providing for  
9       retroactive application; providing for legislative  
10      review and repeal of the exemption; providing a  
11      statement of public necessity; providing an effective  
12      date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

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16       Section 1. Subsection (8) is added to section 394.47892,  
17 Florida Statutes, to read:

18       394.47892 Mental health court programs.—

19       (8) (a) Information relating to a participant or a person  
20 considered for participation in a mental health court program  
21 which is contained in any of the following records is  
22 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
23 of the State Constitution:

24       1. Records created or compiled during screenings for  
25 participation in the program.

26       2. Records created or compiled during substance abuse  
27 screenings.

28       3. Behavioral health evaluations.

29       4. Subsequent treatment status reports.

16-01455-23

2023500\_\_

30 (b) Such confidential and exempt information may be  
31 disclosed:

32 1. Pursuant to a written request of the participant or  
33 person considered for participation, or his or her legal  
34 representative.

35 2. To another governmental entity in the furtherance of its  
36 responsibilities associated with the screening of a person  
37 considered for participation in or the provision of treatment to  
38 a person in a mental health court program.

39 (c) If such confidential and exempt information is a  
40 substance abuse record of a service provider which pertains to  
41 the identity, diagnosis, and prognosis of or provision of  
42 service to a person, such information may be disclosed pursuant  
43 to s. 397.501(7).

44 (d) If such confidential and exempt information is a record  
45 of a service provider which pertains to mental health, such  
46 information may be disclosed pursuant to s. 394.4615.

47 (e) The public records exemption contained in this section  
48 applies to the information collected before, on, or after the  
49 effective date of this exemption.

50 (f) This subsection is subject to the Open Government  
51 Sunset Review Act in accordance with s. 119.15 and shall stand  
52 repealed on October 2, 2028, unless reviewed and saved from  
53 repeal through reenactment by the Legislature.

54 Section 2. The Legislature finds that it is a public  
55 necessity that information relating to a participant or person  
56 considered for participation in a mental health court program  
57 under s. 394.47892, Florida Statutes, which is contained in  
58 certain records be made confidential and exempt from s.

16-01455-23

2023500\_\_

59 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
60 State Constitution. Protecting information contained in records  
61 created or compiled during screenings for participation in a  
62 mental health court program, records created or compiled during  
63 substance abuse screenings, behavioral health evaluations, and  
64 subsequent treatment status reports is necessary to protect the  
65 privacy rights of participants or individuals considered for  
66 participation in a mental health court program. Protecting  
67 against the release of information that is sensitive and  
68 personal in nature prevents unwarranted damage to the reputation  
69 of mental health court program participants. Public disclosure  
70 of such information could result in a substantial chilling  
71 effect on participation in mental health court programs.  
72 Preventing such chilling effect by making this information  
73 confidential substantially outweighs any public benefit derived  
74 from public disclosure of such information. Accordingly, it is a  
75 public necessity that this information be made confidential to  
76 protect the privacy rights of program participants, encourage  
77 individuals to participate in such programs, and promote the  
78 effective and efficient administration of mental health court  
79 programs.

80 Section 3. This act shall take effect upon becoming a law.