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CS/HB 1377, Engrossed 2

2024 Legislature

1
 2 An act relating to public records; amending s.
 3 501.1736, F.S.; providing an exemption from public
 4 records requirements for information relating to
 5 investigations by the Department of Legal Affairs of
 6 certain social media violations; authorizing the
 7 department to disclose such information for specified
 8 purposes; defining the term "proprietary information";
 9 providing for future legislative review and repeal of
 10 the exemption; providing a statement of public
 11 necessity; amending s. 501.1737, F.S.; providing an
 12 exemption from public records requirements for
 13 information relating to investigations by the
 14 Department of Legal Affairs of certain age
 15 verification violations; authorizing the department to
 16 disclose such information for specified purposes;
 17 defining the term "proprietary information"; providing
 18 for future legislative review and repeal of the
 19 exemption; providing a statement of public necessity;
 20 providing a contingent effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Present subsection (9) of section 501.1736,
 25 Florida Statutes, as created by HB 1 or similar legislation,

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26 | 2024 Regular Session, is redesignated as subsection (10), and a
 27 | new subsection (9) is added to that section, to read:

28 | 501.1736 Social media use for minors.—

29 | (9) (a) All information held by the department pursuant to
 30 | a notification of a violation under this section or an
 31 | investigation of a violation of this section is confidential and
 32 | exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 33 | Constitution, until such time as the investigation is completed
 34 | or ceases to be active. This exemption shall be construed in
 35 | conformity with s. 119.071(2) (c).

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

39 | 1. In the furtherance of its official duties and
 40 | responsibilities;

41 | 2. For print, publication, or broadcast if the department
 42 | determines that such release would assist in notifying the
 43 | public or locating or identifying a person that the department
 44 | believes to be a victim of an improper use or disposal of
 45 | customer records, except that information made confidential and
 46 | exempt by paragraph (c) may not be released pursuant to this
 47 | subparagraph; or

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

50 | (c) Upon completion of an investigation or once an

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51 investigation ceases to be active, the following information
 52 held by the department shall remain confidential and exempt from
 53 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

54 1. Information that is otherwise confidential or exempt
 55 from s. 119.07(1) and s. 24(a), Art. I of the State
 56 Constitution.

57 2. Personal identifying information.

58 3. A computer forensic report.

59 4. Information that would otherwise reveal weaknesses in
 60 the data security of a social media platform.

61 5. Information that would disclose the proprietary
 62 information of a social media platform.

63 (d) For purposes of this section, the term "proprietary
 64 information" means information that:

65 1. Is owned or controlled by the social media platform.

66 2. Is intended to be private and is treated by the social
 67 media platform as private because disclosure would harm the
 68 social media platform or its business operations.

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

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

75 5. Reveals competitive interests, the disclosure of which

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76 would impair the competitive advantage of the social media
 77 platform that is the subject of the information.

78 (e) This subsection is subject to the Open Government
 79 Sunset Review Act in accordance with s. 119.15 and shall stand
 80 repealed on October 2, 2029, unless reviewed and saved from
 81 repeal through reenactment by the Legislature.

82 Section 2. The Legislature finds that it is a public
 83 necessity that all information held by the Department of Legal
 84 Affairs pursuant to a notification of a violation of s.
 85 501.1736, Florida Statutes, or an investigation of a violation
 86 of that section, be made confidential and exempt from s.
 87 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 88 State Constitution for the following reasons:

89 (1) A notification of a violation of s. 501.1736, Florida
 90 Statutes, may result in an investigation of such violation. The
 91 premature release of such information could frustrate or thwart
 92 the investigation and impair the ability of the department to
 93 effectively and efficiently administer s. 501.1736, Florida
 94 Statutes. In addition, release of such information before
 95 completion of an active investigation could jeopardize the
 96 ongoing investigation.

97 (2) Release of information that is otherwise confidential
 98 or exempt from public records requirements once an investigation
 99 is completed or ceases to be active would undo the specific
 100 statutory exemption protecting that information, thus clarifying

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101 that any protections currently afforded to such information are
102 not removed.

103 (3) An investigation of a violation of s. 501.1736,
104 Florida Statutes, is likely to result in the gathering of
105 sensitive personal identifying information, which could include
106 identification numbers, unique identifiers, professional or
107 employment-related information, and personal financial
108 information. Such information could be used for the purpose of
109 identity theft. The release of such information could subject
110 families to possible privacy violations, as it would reveal
111 information of a sensitive personal nature.

112 (4) Notices received by the department and information
113 generated during an investigation of a violation of s. 501.1736,
114 Florida Statutes, are likely to contain proprietary information.
115 Such information derives independent, economic value, actual or
116 potential, from being generally unknown to, and not readily
117 ascertainable by, other persons who might obtain economic value
118 from its disclosure or use. Allowing public access to
119 proprietary information through a public records request could
120 destroy the value of the proprietary information and cause a
121 financial loss to the social media platform. Release of such
122 information could give business competitors an unfair advantage.

123 (5) Information held by the department may contain a
124 computer forensic report or information that could reveal
125 weaknesses in the data security of a social media platform. The

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126 release of this information could result in the identification
 127 of vulnerabilities in the cybersecurity system of the social
 128 media platform and be used to harm the social media platform and
 129 its clients.

130 (6) The harm that may result from the release of
 131 information held by the department pursuant to a notification or
 132 investigation of a violation of s. 501.1736, Florida Statutes,
 133 could impair the effective and efficient administration of the
 134 investigation and thus outweighs the public benefit that may be
 135 derived from the disclosure of the information.

136 Section 3. Present subsection (8) of section 501.1737,
 137 Florida Statutes, as created by HB 1 or similar legislation,
 138 2024 Regular Session, is redesignated as subsection (9), and a
 139 new subsection (8) is added to that section, to read:

140 501.1737 Age verification for online access to materials
 141 harmful to minors.—

142 (8)(a) All information held by the department pursuant to
 143 a notification of a violation under this section or an
 144 investigation of a violation of this section is confidential and
 145 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 146 Constitution, until such time as the investigation is completed
 147 or ceases to be active. This exemption shall be construed in
 148 conformity with s. 119.071(2)(c).

149 (b) During an active investigation, information made
 150 confidential and exempt pursuant to paragraph (a) may be

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151 disclosed by the department:

152 1. In the furtherance of its official duties and
 153 responsibilities;

154 2. For print, publication, or broadcast if the department
 155 determines that such release would assist in notifying the
 156 public or locating or identifying a person whom the department
 157 believes to be a victim of an improper use or disposal of
 158 customer records, except that information made confidential and
 159 exempt by paragraph (c) may not be released pursuant to this
 160 subparagraph; or

161 3. To another governmental entity in the furtherance of
 162 its official duties and responsibilities.

163 (c) Upon completion of an investigation or once an
 164 investigation ceases to be active, the following information
 165 held by the department shall remain confidential and exempt from
 166 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

167 1. Information that is otherwise confidential or exempt
 168 from s. 119.07(1) or s. 24(a), Art. I of the State Constitution.

169 2. Personal identifying information.

170 3. A computer forensic report.

171 4. Information that would otherwise reveal weaknesses in
 172 the data security of the commercial entity.

173 5. Information that would disclose the proprietary
 174 information of the commercial entity.

175 (d) For purposes of this subsection, the term "proprietary

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176 information" means information that:
 177 1. Is owned or controlled by the commercial entity.
 178 2. Is intended to be private and is treated by the
 179 commercial entity as private because disclosure would harm the
 180 commercial entity or its business operations.
 181 3. Has not been disclosed except as required by law or a
 182 private agreement that provides that the information will not be
 183 released to the public.
 184 4. Is not publicly available or otherwise readily
 185 ascertainable through proper means from another source in the
 186 same configuration as received by the department.
 187 5. Reveals competitive interests, the disclosure of which
 188 would impair the competitive advantage of the commercial entity
 189 that is the subject of the information.
 190 (e) This subsection is subject to the Open Government
 191 Sunset Review Act in accordance with s. 119.15 and shall stand
 192 repealed on October 2, 2029, unless reviewed and saved from
 193 repeal through reenactment by the Legislature.
 194 Section 4. The Legislature finds that it is a public
 195 necessity that all information held by the Department of Legal
 196 Affairs pursuant to a notification of a violation of s.
 197 501.1737, Florida Statutes, or an investigation of a violation
 198 of that section, be made confidential and exempt from s.
 199 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 200 State Constitution for the following reasons:

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201 (1) A notification of a violation of s. 501.1737, Florida
202 Statutes, may result in an investigation of such violation. The
203 premature release of such information could frustrate or thwart
204 the investigation and impair the ability of the department to
205 effectively and efficiently administer s. 501.1737, Florida
206 Statutes. In addition, release of such information before
207 completion of an active investigation could jeopardize the
208 ongoing investigation.

209 (2) Release of information that is otherwise confidential
210 or exempt from public records requirements once an investigation
211 is completed or ceases to be active would undo the specific
212 statutory exemption protecting that information, thus clarifying
213 that any protections currently afforded to that information are
214 not removed.

215 (3) An investigation of a violation of s. 501.1737,
216 Florida Statutes, is likely to result in the gathering of
217 sensitive personal identifying information, which could include
218 identification numbers, unique identifiers, professional or
219 employment-related information, and personal financial
220 information. Such information could be used for the purpose of
221 identity theft. The release of such information could subject
222 individuals to possible privacy violations, as it would reveal
223 information of a sensitive personal nature.

224 (4) Notices received by the department and information
225 generated during an investigation of a violation of s. 501.1737,

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226 Florida Statutes, are likely to contain proprietary information.
 227 Such information derives independent, economic value, actual or
 228 potential, from being generally unknown to, and not readily
 229 ascertainable by, other persons who might obtain economic value
 230 from its disclosure or use. Allowing public access to
 231 proprietary information through a public records request could
 232 destroy the value of the proprietary information and cause a
 233 financial loss to the commercial entity. Release of such
 234 information could give business competitors an unfair advantage.

235 (5) Information held by the department may contain a
 236 computer forensic report or information that could reveal
 237 weaknesses in the data security of the commercial entity. The
 238 release of this information could result in the identification
 239 of vulnerabilities in the cybersecurity system of the commercial
 240 entity and be used to harm the commercial entity and its
 241 clients.

242 (6) The harm that may result from the release of
 243 information held by the department pursuant to a notification or
 244 investigation by the department of a violation of s. 501.1737,
 245 Florida Statutes, could impair the effective and efficient
 246 administration of the investigation and thus outweighs the
 247 public benefit that may be derived from the disclosure of the
 248 information.

249 Section 5. This act shall take effect on the same date
 250 that HB 1 or similar legislation takes effect, if such

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251 | legislation is adopted in the same legislative session or an
252 | extension thereof and becomes a law.