

26 is completed or ceases to be active. This exemption shall be
 27 construed in conformity with s. 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 who the department
 36 believes to be a victim of a data breach or an 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 the commercial entity.

53 5. Information that would disclose the proprietary
 54 information of the commercial entity.

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

57 1. Is owned or controlled by the commercial entity.

58 2. Is intended to be private and is treated by the
 59 commercial entity as private because disclosure would harm the
 60 commercial entity or its business operations.

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

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

67 5. Includes:

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

69 b. Competitive interests, the disclosure of which would
 70 impair the competitive advantage of the commercial entity who is
 71 the subject of the information.

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 74 repealed on October 2, 2029, unless reviewed and saved from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

76 Section 2. The Legislature finds that it is a public
77 necessity that all information received by the Department of
78 Legal Affairs pursuant to a notification of a violation of s.
79 501.1737, Florida Statutes, or received by the department
80 pursuant to an investigation by the department or a law
81 enforcement agency of a violation of that section, be made
82 confidential and exempt from s. 119.07(1), Florida Statutes, and
83 s. 24(a), Article I of the State Constitution for the following
84 reasons:

85 (1) A notification of a violation of s. 501.1737, Florida
86 Statutes, may result in an investigation of such violation. The
87 premature release of such information could frustrate or thwart
88 the investigation and impair the ability of the department to
89 effectively and efficiently administer s. 501.1737, Florida
90 Statutes. In addition, release of such information before
91 completion of an active investigation could jeopardize the
92 ongoing investigation.

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

97 (3) An investigation of a violation of s. 501.1737,
98 Florida Statutes, is likely to result in the gathering of
99 sensitive personal information, including identification
100 numbers, unique identifiers, professional or employment-related

101 information, and personal financial information. Such
102 information could be used for the purpose of identity theft. The
103 release of such information could subject possible victims of
104 data privacy violations to further harm.

105 (4) Notices received by the department and information
106 received during an investigation of a violation of s. 501.1737,
107 Florida Statutes, are likely to contain proprietary information.
108 Such information, including trade secrets, derives independent,
109 economic value, actual or potential, from being generally
110 unknown to, and not readily ascertainable by, other persons who
111 might obtain economic value from its disclosure or use. Allowing
112 public access to proprietary information, including a trade
113 secret, through a public records request could destroy the value
114 of the proprietary information and cause a financial loss to the
115 commercial entity. Release of such information could give
116 business competitors an unfair advantage.

117 (5) Information received by the department may contain a
118 computer forensic report or information that could reveal
119 weaknesses in the data security of the commercial entity. The
120 release of this information could result in the identification
121 of vulnerabilities in the cybersecurity system of the commercial
122 entity and be used to harm the commercial entity and clients.

123 (6) The harm that may result from the release of
124 information received by the department pursuant to a
125 notification or investigation by the department or a law

CS/HB 1491

2024

126 | enforcement agency of a violation of s. 501.1737, Florida
127 | Statutes, could impair the effective and efficient
128 | administration of the investigation and thus, outweighs the
129 | public benefit that may be derived from the disclosure of the
130 | information.

131 | Section 3. This act shall take effect on the same date
132 | that HB 3 or similar legislation takes effect, if such
133 | legislation is adopted in the same legislative session or an
134 | extension thereof and becomes a law.