

By Senator Grall

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 501.1737, 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 a definition; providing for
8 future legislative review and repeal of the exemption;
9 providing a statement of public necessity; providing a
10 contingent effective date.

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

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14 Section 1. Present subsection (8) of section 501.1737,
15 Florida Statutes, as created by SB 1792 or similar legislation,
16 2024 Regular Session, is redesignated as subsection (9), and a
17 new subsection (8) is added to that section, to read:

18 501.1737 Age verification for online access to materials
19 harmful to minors.—

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

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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 its
41 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 commercial entity.

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

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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

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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, Florida
98 Statutes, is likely to result in the gathering of sensitive
99 personal information, including identification numbers, unique
100 identifiers, professional or employment-related information, and
101 personal financial information. Such information could be used
102 for the purpose of identity theft. The release of such
103 information could subject possible victims of data privacy
104 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.

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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 a 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
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 that
132 SB 1792 or similar legislation takes effect, if such legislation
133 is adopted in the same legislative session or an extension
134 thereof and becomes a law.