By Senator Gruters

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 1                    A bill to be entitled
 2          An act relating to public records; creating s.
 3          401.452, F.S.; creating an exemption from public
 4          records requirements for personal identifying
 5          information held in the database for patient-directed
 6          doctor's order forms; authorizing the disclosure of
 7          such information to certain entities and individuals
 8          under specified conditions; providing for future
 9          legislative review and repeal of the exemption under
10          the Open Government Sunset Review Act; providing a
11          statement of public necessity; providing a contingent
12          effective date.
13
14     Be It Enacted by the Legislature of the State of Florida:
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16          Section 1. Section 401.452, Florida Statutes, is created to
17     read:
18          401.452 Database for patient-directed doctor's order forms;
19     public records exemption.—
20          (1) Personal identifying information held in the database
21     for patient-directed doctor's order (PDDO) forms created by the
22     Agency for Health Care Administration and stored solely at the
23     option of the patient in electronic form by the Department of
24     Health under s. 401.451 is confidential and exempt from s.
25     119.07(1) and s. 24(a), Art. I of the State Constitution.
26          (2) The department may disclose such confidential and
27     exempt information to the following individuals or entities upon
28     request after using a verification process to ensure the
29     legitimacy of the request and the requestor's identity:
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30   (a) A physician who certifies that the information is

31   necessary to provide medical treatment to a terminally ill

32   patient who has a PDDO form stored in the database.

33   (b) A terminally ill patient who has a PDDO form stored in

34   the database or such patient's legal guardian, designated health

35   care surrogate, or family member.

36   (c) A health care facility that certifies that the

37   information is necessary to provide medical treatment to a

38   terminally ill patient who has a PDDO form stored in the

39   database.

40   (3) This section is subject to the Open Government Sunset

41   Review Act in accordance with s. 119.15 and shall stand repealed

42   on October 2, 2029, unless reviewed and saved from repeal

43   through reenactment by the Legislature.

44   Section 2. The Legislature finds that it is a public

45   necessity to make confidential and exempt from disclosure

46   personal identifying information held in the database for

47   patient-directed doctor's order forms which would identify a

48   terminally ill patient, his or her illness, or his or her legal

49   guardian, designated health care surrogate, or family member.

50   Such information, if publicly available, could be used to invade

51   the personal privacy of a terminally ill patient or his or her

52   legal guardian, designated health care surrogate, or family

53   member. The decisions made under a compassionate and palliative

54   care plan for a terminal illness are a private matter.

55   Furthermore, the public disclosure of such information could

56   hinder the effective and efficient administration of the

57   database. Public access to such information could reduce

58   participation in and minimize the effectiveness of compassionate

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59 and palliative care plans to meet the needs of individuals.

60 Finally, access to such information could be used to solicit,

61 harass, stalk, or intimidate terminally ill patients or their

62 legal guardians, designated health care surrogates, or family

63 members. Therefore, the Legislature finds that personal

64 identifying information held in the database which would

65 identify a terminally ill patient, or his or her legal guardian,

66 designated health care surrogate, or family member, who has a

67 plan in the database or which contains or reflects the

68 terminally ill patient's medical information should be

69 confidential and exempt from public records requirements.

70   Section 3. This act shall take effect on the same date that

71 SB ___ or similar legislation takes effect, if such legislation

72 is adopted in the same legislative session or an extension

73 thereof and becomes a law.