

By the Committee on Governmental Oversight and Accountability;
and Senator Bradley

585-03992-17

20171844c1

1 A bill to be entitled
2 An act relating to public records; amending s.
3 381.987, F.S.; providing an exemption from public
4 records requirements for a qualifying patient's or
5 caregiver's personal identifying information, all
6 information contained on their compassionate use
7 registry identification cards, and all information
8 pertaining to a physician certification for marijuana;
9 requiring the Department of Health to allow access to
10 the compassionate use registry to a law enforcement
11 agency, a medical marijuana treatment center, certain
12 licensed practitioners, certain employees of the
13 department, and certain persons engaged in research,
14 for specified purposes; extending the date of future
15 review and repeal of the exemption; providing a
16 statement of public necessity; providing a contingent
17 effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Section 381.987, Florida Statutes, is amended to
22 read:

23 381.987 Public records exemption for personal identifying
24 information in the compassionate use registry.—

25 (1) A qualifying patient's or caregiver's personal
26 identifying information held by the department in the
27 compassionate use registry established under s. 381.986,
28 including, but not limited to, the qualifying patient's or
29 caregiver's name, address, date of birth, photograph, telephone

585-03992-17

20171844c1

30 number, and government-issued identification number, all
31 information collected for the purpose of issuing a qualifying
32 patient's or caregiver's compassionate use registry
33 identification card issued in accordance with s. 381.986, and
34 all information pertaining to a physician certification for
35 marijuana ~~the physician's order for low-THC cannabis~~ and the
36 dispensing thereof are confidential and exempt from s. 119.07(1)
37 and s. 24(a), Art. I of the State Constitution.

38 (2) A physician's identifying information held by the
39 department in the compassionate use registry established under
40 s. 381.986, including, but not limited to, the physician's name,
41 address, telephone number, government-issued identification
42 number, and Drug Enforcement Administration number, and all
43 information pertaining to the physician certification for
44 marijuana ~~physician's order for low-THC cannabis~~ and the
45 dispensing thereof are confidential and exempt from s. 119.07(1)
46 and s. 24(a), Art. I of the State Constitution.

47 (3) The department shall allow access to the registry,
48 including access to confidential and exempt information, to:

49 (a) A law enforcement agency, to verify the authorization
50 of a qualifying patient or a qualifying patient's caregiver to
51 possess marijuana or a marijuana delivery device ~~that is~~
52 ~~investigating a violation of law regarding cannabis in which the~~
53 ~~subject of the investigation claims an exception established~~
54 under s. 381.986.

55 (b) A medical marijuana treatment center registered with
56 ~~dispensing organization approved by~~ the department pursuant to
57 s. 381.986, ~~which is attempting~~ to verify the authenticity of a
58 physician certification ~~physician's order~~ for marijuana ~~low-THC~~

585-03992-17

20171844c1

59 ~~eannabis~~, including whether the physician certification order
60 had been previously filled and whether the physician
61 certification order ~~order~~ was written for the person attempting to
62 have it filled.

63 (c) A physician licensed under chapter 458 or chapter 459,
64 to ensure proper care for patients ~~who has written an order for~~
65 ~~low-THC cannabis for the purpose of monitoring the patient's use~~
66 ~~of such cannabis or for the purpose of determining, before~~
67 ~~issuing an order for low-THC cannabis, whether another physician~~
68 ~~has ordered the patient's use of low-THC cannabis. The physician~~
69 ~~may access the confidential and exempt information only for the~~
70 ~~patient for whom he or she has ordered or is determining whether~~
71 ~~to order the use of low-THC cannabis pursuant to s. 381.986.~~

72 (d) A practitioner licensed to prescribe prescription
73 drugs, to ensure proper care for patients before prescribing
74 medications that may interact with marijuana.

75 (e) An employee of the department for the purposes of
76 maintaining the registry and periodic reporting or disclosure of
77 information that has been redacted to exclude personal
78 identifying information.

79 (f) An employee of the department for the purpose of
80 monitoring physician registration in the compassionate use
81 registry and the issuance of physician certifications as
82 authorized in s. 381.986 for practices that could facilitate
83 unlawful diversion or misuse of marijuana or cannabis delivery
84 devices.

85 (g) ~~(e)~~ The department's relevant health care regulatory
86 boards responsible for the licensure, regulation, or discipline
87 of a physician if he or she is involved in a specific

585-03992-17

20171844c1

88 investigation of a violation of s. 381.986. If a health care
89 regulatory board's investigation reveals potential criminal
90 activity, the board may provide any relevant information to the
91 appropriate law enforcement agency.

92 (h) ~~(f)~~ A person engaged in bona fide research if the person
93 agrees:

94 1. To submit a research plan to the department which
95 specifies the exact nature of the information requested and the
96 intended use of the information;

97 2. To maintain the confidentiality of the records or
98 information if personal identifying information is made
99 available to the researcher;

100 3. To destroy any confidential and exempt records or
101 information obtained after the research is concluded; and

102 4. Not to contact, directly or indirectly, for any purpose,
103 a patient or physician whose information is in the registry.

104 (4) All information released from the registry under
105 subsection (3) remains confidential and exempt, and a person who
106 receives access to such information must maintain the
107 confidential and exempt status of the information received.

108 (5) A person who willfully and knowingly violates this
109 section commits a felony of the third degree, punishable as
110 provided in s. 775.082, s. 775.083, or s. 775.084.

111 (6) This section is subject to the Open Government Sunset
112 Review Act in accordance with s. 119.15 and shall stand repealed
113 on October 2, 2022 ~~2019~~, unless reviewed and saved from repeal
114 through reenactment by the Legislature.

115 Section 2. The Legislature finds that it is a public
116 necessity that the personal identifying information of

585-03992-17

20171844c1

117 qualifying patients who use marijuana for medical reasons and of
118 these patients' caregivers held by the Department of Health in
119 the compassionate use registry established under s. 381.986,
120 Florida Statutes, be made confidential and exempt from s.
121 119.07(1), Florida Statutes, and s. 24(a), Article I of the
122 State Constitution. Specifically, the Legislature finds that it
123 is a public necessity to make confidential and exempt from
124 public records requirements the names, addresses, dates of
125 birth, photographs, telephone numbers, and government-issued
126 identification numbers of a qualifying patient and the patient's
127 caregiver, any other information collected for the purpose of
128 issuing the qualifying patient's or caregiver's compassionate
129 use registry identification card issued pursuant to s. 381.986,
130 Florida Statutes, and all information pertaining to a physician
131 certification for marijuana issued in accordance with s.
132 381.986, Florida Statutes, which are held in the registry. The
133 choice to use marijuana to treat a qualifying patient's medical
134 condition or symptom and the choice to assist a qualifying
135 patient with the medical use of marijuana are personal and
136 private matters. The availability of such information to the
137 public could make the public aware of both the qualifying
138 patient's use of marijuana and the qualifying patient's disease
139 or other medical conditions for which the qualifying patient is
140 using marijuana. The knowledge of the qualifying patient's use
141 of marijuana, the knowledge of the qualifying patient's medical
142 condition, and the knowledge that a caregiver is assisting a
143 qualifying patient with the use of marijuana could be exploited
144 to embarrass, harass, or discriminate against the qualifying
145 patient and the patient's caregiver and could also be used as a

585-03992-17

20171844c1

146 discriminatory tool by an employer who disapproves of the
147 qualifying patient's use of marijuana or the caregiver's
148 assistance in the use of marijuana. However, despite the
149 potential hazards of collecting such information, maintaining
150 the compassionate use registry established under s. 381.986,
151 Florida Statutes, is necessary to prevent the diversion and
152 nonmedical use of any marijuana as well as to aid and improve
153 research done on the efficacy of marijuana. Thus, the
154 Legislature finds that it is a public necessity to make
155 confidential and exempt from public records requirements the
156 personal identifying information of qualifying patients and
157 caregivers held by the Department of Health in the compassionate
158 use registry established under s. 381.986, Florida Statutes.

159 Section 3. This act shall take effect on the same date that
160 SB 406 or similar legislation takes effect, if such legislation
161 is adopted in the same legislative session or an extension
162 thereof and becomes a law.