A bill to be entitled
An act relating to the prescription drug monitoring
program; amending s. 893.055, F.S.; requiring the
Department of Health to develop a unique identifier
for each patient in the system; prohibiting the unique
identifier from identifying or providing a basis for
identification by unauthorized individuals;
authorizing the Attorney General to receive
information in any case involving controlled
substances; limiting the information the department
may provide to the Attorney General in cases other
than Medicaid fraud; repealing a prohibition on using
system information in civil or administrative cases
against dispensers and pharmacies; authorizing the
program manager and other individuals to testify for
the purpose of authenticating records; amending s.
893.0551, F.S.; authorizing the Attorney General to
have access to records for cases involving controlled
substances; limiting the information the department
may provide to the Attorney General in cases other
than Medicaid fraud cases; authorizing the Attorney
General to use information regardless of the date
compiled; providing that certain information may only
be released pursuant to discovery request; providing
an effective date.
Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (2) of section 893.055, Florida Statutes, is redesignated as paragraph (c), paragraph (b) of subsection (5) and subsection (10) of that section are amended, and a new paragraph (b) is added to subsection (2) of that section, to read:

893.055 Prescription drug monitoring program.—
(2)

(b) To protect personally identifiable information, the department shall assign a unique identifier to each patient for whom a record exists in the system. Such identifier may not identify or provide a reasonable basis to identify a patient by any person not authorized under this section to access personally identifiable information in the system.

(5) The following entities may not directly access information in the system, but may request information from the program manager or designated program and support staff:

(b) The Attorney General for active criminal or civil investigations or pending criminal or civil litigation Medicaid fraud cases involving prescribed controlled substances. Other than for Medicaid fraud cases, the department may not provide personally identifiable patient information, but may provide the unique identifier assigned pursuant to paragraph (2)(b) and the
patient's year of birth, gender, and county, city, and zip code of residence.

(10) Information in the prescription drug monitoring program's system may be released only as provided in this section and s. 893.0551. The content of the system is intended to be informational only. Information in the system is not subject to discovery or introduction into evidence in any civil or administrative action against a prescriber, dispenser, pharmacy, or patient arising out of matters that are the subject of information in the system. The program manager and authorized persons who participate in preparing, reviewing, issuing, or any other activity related to management of the system may not be permitted or required to testify in any such civil or administrative action as to any findings, recommendations, evaluations, opinions, or other actions taken in connection with management of the system. The program manager and authorized persons who participate in preparing, reviewing, or issuing information from the system or engaging in any other activity related to management of the system may testify for purposes of authenticating the records contained in the system.

Section 2. Paragraph (e) of subsection (3) and subsection (6) of section 893.0551, Florida Statutes, are amended to read:

893.0551 Public records exemption for the prescription drug monitoring program.—

(3) The department shall disclose such information to the
following persons or entities upon request and after using a verification process to ensure the legitimacy of the request as provided in s. 893.055:

(e) The Attorney General or his or her designee when working on Medicaid fraud cases involving prescribed controlled substances or when the Attorney General has initiated a review of specific identifiers of Medicaid fraud or specific identifiers that warrant an Medicaid investigation regarding prescribed controlled substances. The Attorney General's Medicaid fraud investigators may not have direct access to the department's system. Other than for Medicaid fraud cases, the department may not provide personally identifiable patient information, but may provide the unique identifier assigned pursuant to s. 893.055(2)(b) and a patient's year of birth, gender, and county, city, and zip code of residence. The Attorney General or his or her designee may disclose to a criminal justice agency, as defined in s. 119.011, only the information received from the department that is relevant to an identified active investigation that prompted the request for the information. The Attorney General or his or her designee may use information maintained by the department, whether compiled before or after the effective date of this section, to investigate or to pursue criminal or civil litigation.

(6) An agency or person who obtains any information pursuant to this section must maintain the confidential and
exempt status of that information and may not disclose such
information unless authorized by law. Information in the system
is not subject to discovery or introduction into evidence in any
civil or administrative action against a prescriber or patient
arising out of matters that are the subject of information in
the system. Information shared with a state attorney pursuant to
paragraph (3)(f) or paragraph (3)(h) or the Attorney General or
his or her designee pursuant to paragraph (3)(e) may be released
only in response to a discovery demand if such information is
directly related to the criminal case for which the information
was requested. Unrelated information may be released only upon
an order of a court of competent jurisdiction.

Section 3. This act shall take effect upon becoming a law.