A bill to be entitled
An act relating to the prescription drug monitoring
program; amending s. 893.055, F.S.; defining the term "electronic health recordkeeping system"; 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 request information for an active investigation or pending civil or criminal litigation involving prescribed controlled substances; limiting the patient information the department may provide; authorizing the Attorney General to introduce as evidence in certain actions specified information that is released to the Attorney General from the prescription drug monitoring program; authorizing certain persons to testify as to the authenticity of certain records; amending s. 893.0551, F.S.; authorizing the Attorney General to have access to records for active investigations or pending civil or criminal litigation involving controlled substances; limiting the patient information the department may provide; authorizing the release of specified information shared with a state attorney only in response to a discovery demand

CODING: Words stricken are deletions; words underlined are additions.
under certain circumstances; providing an effective
date.

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

Section 1. Paragraphs (f) through (k) of subsection (1) of
section 893.055, Florida Statutes, are redesignated as
paragraphs (g) through (l), respectively, paragraph (b) of
subsection (2) is redesignated as paragraph (c), paragraph (b)
of subsection (5) and subsection (10) are amended, a new
paragraph (f) is added to subsection (1), and a new paragraph
(b) is added to subsection (2) of that section, to read:

893.055 Prescription drug monitoring program.—

(1) As used in this section, the term:

(f) "Electronic health recordkeeping system" means an
electronic or computer-based information system used by health
care practitioners or providers to create, collect, store,
manipulate, exchange, or make available personal health
information for the delivery of patient care.

(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:

1. Medicaid fraud cases involving prescribed controlled
substances.

2. An active investigation or pending civil or criminal
litigation involving prescribed controlled substances, other
than Medicaid fraud cases. The department may not release any
information pursuant to this subparagraph other than the
patient's unique identifier assigned pursuant to paragraph
(2)(b), year of birth, and the county, city, and zip code where
the patient resides.

(10) Information in the prescription drug monitoring
program's system may be released only as provided in this
section and s. 893.0551.

(a) Except as provided in paragraph (b), 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.

(b) The Attorney General may introduce information from
the system released pursuant to subparagraph (5)(b)2. as
evidence in a civil, criminal, or administrative action against
a dispenser or a pharmacy. The program manager and authorized
persons who participate in preparing, reviewing, issuing, or any
other activity related to the management of the system may
testify for purposes of authenticating the records introduced
into evidence pursuant to this paragraph.

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:

1. 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 a Medicaid investigation
regarding prescribed controlled substances. The Attorney General's Medicaid fraud investigators may not have direct access to the department's system. 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.

2. When pursuing an active investigation or pending civil or criminal litigation involving prescribed controlled substances, other than Medicaid fraud cases. The department may not release any information pursuant to this subparagraph other than the patient's unique identifier assigned pursuant to s. 893.055(2)(b), year of birth, and the county, city, and zip code where the patient resides.

(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 shared with a state attorney pursuant to paragraph (3)(f) or paragraph (3)(h), or with the Attorney General or his or her designee pursuant to subparagraph (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 July 1, 2019.