

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | _____ | (Y/N) |
| ADOPTED AS AMENDED | _____ | (Y/N) |
| ADOPTED W/O OBJECTION | _____ | (Y/N) |
| FAILED TO ADOPT | _____ | (Y/N) |
| WITHDRAWN | _____ | (Y/N) |
| OTHER | | |

1 Committee/Subcommittee hearing bill: Government Operations
 2 Subcommittee

3 Representative Ingoglia offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (8) is added to section 287.137,
 8 Florida Statutes, as created by HB 7013, 2021 Regular Session,
 9 to read:

10 287.137 Antitrust violations; denial or revocation of the
 11 right to transact business with public entities; denial of
 12 economic benefits.-

13 (8) (a) All information received by the Attorney General
 14 under subsection (3) (d) pursuant to an investigation by the
 15 Attorney General or a law enforcement agency, is confidential
 16 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State

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17 Constitution, until such time as the investigation is completed
18 or ceases to be active. This exemption shall be construed in
19 conformity with s. 119.071(2)(c).

20 (b) During an active investigation, information made
21 confidential and exempt pursuant to paragraph (a) may be
22 disclosed by the Attorney General:

23 1. In the performance of his or her official duties and
24 responsibilities; or

25 2. To another governmental entity in performance of its
26 official duties and responsibilities.

27 (c) Once an investigation is completed or ceases to be
28 active, the following information received by the Attorney
29 General shall remain confidential and exempt from s. 119.07(1)
30 and s. 24(a), Art. I of the State Constitution:

31 1. All information to which another public records
32 exemption applies.

33 2. Personal identifying information.

34 3. A computer forensic report.

35 4. Information that would otherwise reveal weaknesses in a
36 business's data security.

37 5. Proprietary business information.

38 (d) For purposes of this subsection, the term "proprietary
39 business information" means information that:

40 1. Is owned or controlled by the business.

41 2. Is intended to be private and is treated by the

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42 business as private because disclosure would harm the business
43 or its business operations.

44 3. Has not been disclosed except as required by law or a
45 private agreement that provides that the information will not be
46 released to the public.

47 4. Is not publicly available or otherwise readily
48 ascertainable through proper means from another source in the
49 same configuration as received by the Attorney General.

50 5. Includes:

51 a. Trade secrets as defined in s. 688.002.

52 b. Competitive interests, the disclosure of which would
53 impair the competitive advantage of the business that is the
54 subject of the information.

55 (e) This subsection is subject to the Open Government
56 Sunset Review Act in accordance with s. 119.15 and shall stand
57 repealed on October 2, 2026, unless reviewed and saved from
58 repeal through reenactment by the Legislature.

59 Section 2. Subsection (10) is added to section 501.2041,
60 Florida Statutes, as created by HB 7013, 2021 Regular Session,
61 to read:

62 501.2041 Unlawful acts and practices by social media
63 platforms.—

64 (10) (a) All information received by the department
65 pursuant to an investigation by the department or a law
66 enforcement agency of a violation of this section, is

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67 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
68 of the State Constitution, until such time as the investigation
69 is completed or ceases to be active. This exemption shall be
70 construed in conformity with s. 119.071(2) (c).

71 (b) During an active investigation, information made
72 confidential and exempt pursuant to paragraph (a) may be
73 disclosed by the department:

74 1. In the performance of its official duties and
75 responsibilities; or

76 2. To another governmental entity in performance of its
77 official duties and responsibilities.

78 (c) Once an investigation is completed or ceases to be
79 active, the following information received by the department
80 shall remain confidential and exempt from s. 119.07(1) and s.
81 24(a), Art. I of the State Constitution:

82 1. All information to which another public records
83 exemption applies.

84 2. Personal identifying information.

85 3. A computer forensic report.

86 4. Information that would otherwise reveal weaknesses in a
87 business's data security.

88 5. Proprietary business information.

89 (d) For purposes of this subsection, the term "proprietary
90 business information" means information that:

91 1. Is owned or controlled by the business.

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92 2. Is intended to be private and is treated by the
93 business as private because disclosure would harm the business
94 or its business operations.

95 3. Has not been disclosed except as required by law or a
96 private agreement that provides that the information will not be
97 released to the public.

98 4. Is not publicly available or otherwise readily
99 ascertainable through proper means from another source in the
100 same configuration as received by the department.

101 5. Includes:

102 a. Trade secrets as defined in s. 688.002.

103 b. Competitive interests, the disclosure of which would
104 impair the competitive advantage of the business that is the
105 subject of the information.

106 (e) This subsection is subject to the Open Government
107 Sunset Review Act in accordance with s. 119.15 and shall stand
108 repealed on October 2, 2026, unless reviewed and saved from
109 repeal through reenactment by the Legislature.

110 Section 3. The Legislature finds that it is a public
111 necessity that all information received by the Attorney General
112 and the Department of Legal Affairs pursuant to an investigation
113 by the Attorney General, the Department of Legal Affairs, or a
114 law enforcement agency under ss. 287.137 and 501.2041, Florida
115 Statutes, be made confidential and exempt from s. 119.07(1),

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116 Florida Statutes, and s. 24(a), Article I of the State
117 Constitution for the following reasons:

118 (1) A notification of a violation of s. 501.172, Florida
119 Statutes, or antitrust laws may result in an investigation of
120 such violations. The premature release of such investigatory
121 information could frustrate or thwart the investigation and
122 impair the ability of the Attorney General and the Department of
123 Legal Affairs to effectively and efficiently administer ss.
124 287.137 and 501.2041, Florida Statutes. In addition, release of
125 such information before completion of an active investigation
126 could jeopardize the ongoing investigation.

127 (2) The Legislature finds that it is a public necessity to
128 continue to protect from public disclosure all information to
129 which another public record exemption applies once an
130 investigation is completed or ceases to be active. Release of
131 such information by the Department of Legal Affairs and the
132 Attorney General would undo the specific statutory exemption
133 protecting that information.

134 (3) An investigation of social media platform activities
135 is likely to result in the gathering of personal identifying
136 information that could be used for the purpose of identity
137 theft. For this reason, personal identifying information should
138 remain confidential and exempt once an investigation is
139 completed or ceases to be active.

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140 (4) Information received by the Attorney General and the
141 Department of Legal Affairs may contain proprietary business
142 information, including trade secrets. Such information,
143 including trade secrets, derives independent, economic value,
144 actual or potential, from being generally unknown to, and not
145 readily ascertainable by, other persons who might obtain
146 economic value from its disclosure or use. Allowing public
147 access to proprietary business information, including trade
148 secrets, through a public records request could destroy the
149 value of the proprietary business information and cause a
150 financial loss to the business submitting the information.
151 Release of such information could give business competitors an
152 unfair advantage and weaken the position of the entity supplying
153 the proprietary business information in the marketplace.

154 (5) Information received by the Attorney General and the
155 Department of Legal Affairs may contain a computer forensic
156 report or information that could reveal weaknesses in a
157 business's data security. The release of this information could
158 result in the identification of vulnerabilities in the
159 business's cybersecurity system and be used to harm the business
160 and the business's clients. For this reason, a computer forensic
161 report and information that could reveal weaknesses in a
162 business's data security should remain confidential and exempt
163 once an investigation is completed or ceases to be active.

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164 (6) The Legislature finds that the harm that may result
165 from the release of information received by the Attorney General
166 and Department of Legal Affairs pursuant to an investigation by
167 the Attorney General, the Department of Legal Affairs, or a law
168 enforcement agency under ss. 287.137 and 501.2041, Florida
169 Statutes, could impair the effective and efficient
170 administration of these investigations and thus, outweighs the
171 public benefit that may be derived from the disclosure of the
172 information.

173 Section 4. This act shall take effect July 1, 2021, if HB
174 7013 or similar legislation takes effect, if such legislation is
175 adopted in the same legislative session or an extension thereof
176 and becomes law.

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179 **T I T L E A M E N D M E N T**

180 Remove everything before the enacting clause and insert:
181 An act relating to public records; amending s. 287.137, F.S;
182 providing a public records exemption for information received by
183 the Attorney General pursuant to an in investigation by the
184 Attorney General or a law enforcement agency into certain social
185 media platform activities; authorizing release of confidential
186 and exempt information in certain instances; requiring certain
187 information to remain confidential and exempt after an
188 investigation is completed or ceases to be active; defining the

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189 term "proprietary business information"; providing for future
190 legislative review and repeal of the exemption; amending s.
191 501.2041, F.S.; providing a public records exemption for
192 information received by the Department of Legal Affairs pursuant
193 to an investigation by the department or a law enforcement
194 agency into violations by certain social media platforms;
195 authorizing release of confidential and exempt information in
196 certain instances; requiring certain information to remain
197 confidential and exempt after an investigation is completed or
198 ceases to be active; defining the term "proprietary business
199 information"; providing for future legislative review and repeal
200 of the exemption; providing a statement of public necessity;
201 providing a contingent effective date.
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