

CHAPTER 98-8

Senate Bill No. 112

An act relating to public records; amending s. 110.1091, F.S.; revising provisions which specify that communications relating to a state employee's participation in an employee assistance program are confidential, and which provide a public records exemption for records relating thereto; creating ss. 125.585, 166.0444, F.S.; providing that certain communications relating to a county or municipal employee's participation in such a program are confidential; providing an exemption from public records requirements for records relating to such participation; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

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

Section 1. Section 110.1091, Florida Statutes, is amended to read:

110.1091 Program for assisting state employees; confidentiality.—Each employing state agency may provide a program to assist any state employee who has a behavioral or medical disorder, substance abuse problem, or emotional difficulty which affects the employee's job performance, through referral for counseling, therapy, or other professional treatment. Each employing state agency may designate community diagnostic and referral resources as necessary to implement the provisions of this section. ~~Upon entry into this assistance program,~~ Any communication between a state employee and personnel or service providers of a state employee assistance program ~~program personnel of the employing agency and any participating employee~~ relative to the employee's participation in the program shall be a confidential communication. Any routine monitoring of telephone calls by the state agency does not violate this provision, as provided by s. 112.313(8), and All records relative to that participation shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except as provided by s. 112.0455(11). This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Section 125.585, Florida Statutes, is created to read:

125.585 Employee assistance programs; confidentiality.—

(1) As used in this section, "employee assistance program" means a program provided by a county to assist any county employee who has a behavioral or medical disorder, substance abuse problem, or emotional difficulty which affects the employee's job performance, through referral for counseling, therapy, or other professional treatment.

(2) Any communication between a county employee and personnel or service providers of a county employee assistance program relating to that

employee's participation in such program shall be a confidential communication. Any routine monitoring of telephone calls by the county does not violate this provision. All records relating to that participation are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. Section 166.0444, Florida Statutes, is created to read:

166.0444 Employee assistance programs; confidentiality.—

(1) As used in this section, "employee assistance program" means a program provided by a municipality to assist any municipal employee who has a behavioral or medical disorder, substance abuse problem, or emotional difficulty which affects the employee's job performance, through referral for counseling, therapy, or other professional treatment.

(2) Any communication between a municipal employee and personnel or service providers of a municipal employee assistance program relating to that employee's participation in such program shall be a confidential communication. Any routine monitoring of telephone calls by the municipality does not violate this provision. All records relating to that participation are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. The Legislature finds that it is a public necessity to protect the confidentiality of the information specified in ss. 110.1091, 125.585, and 166.0444, Florida Statutes, because such information is a private matter. A public employee has the right of privacy to protect such personal sensitive information as provided by s. 23, Art. I of the State Constitution. Further, public knowledge of such information could lead to discrimination against the employee, and could compromise the therapeutic process. Therapeutic and treatment programs cannot operate efficiently and effectively if employees are reluctant to participate because their mental health records would be subject to inspection and review. Employees at all levels of government should be encouraged to seek treatment for behavioral or medical disorders, substance abuse problems, or emotional difficulties that could affect the employee's job performance and service to the public. Additionally, the performance of public employees can be otherwise adequately monitored and evaluated.

Section 5. This act shall take effect October 1, 1998.

Became a law without the Governor's approval April 11, 1998.

Filed in Office Secretary of State April 10, 1998.