

## CHAPTER 2017-185

### Committee Substitute for Committee Substitute for House Bill No. 1107

An act relating to public records; creating s. 440.1851, F.S.; providing an exemption from public records requirements for the personal identifying information of an injured or deceased employee which is contained in reports, notices, records, or supporting documentation held by the Department of Financial Services pursuant to the Workers' Compensation Law; defining the term "personal identifying information"; specifying the circumstances under which the department may disclose such information; requiring certain entities receiving such information to maintain the confidential and exempt status of such information; providing retroactive applicability; providing a criminal penalty for willful and knowing disclosure of such information to an unauthorized person or entity; providing for future review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Section 440.1851, Florida Statutes, is created to read:

440.1851 Personal identifying information of an injured or deceased employee; public records exemption.—

(1) The personal identifying information of an injured or deceased employee which is contained in reports, notices, records, or supporting documentation held by the department pursuant to this chapter is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(a) As used in this section, the term "personal identifying information" means the injured or deceased employee's name, date of birth, home address or mailing address, e-mail address, or telephone number.

(b) The department may disclose information made confidential and exempt under this section only:

1. To the injured employee, to the spouse or a dependent of the deceased employee, to the spouse or a dependent of the injured employee if authorized by the injured employee, or to the legal representative of the deceased employee's estate;

2. To a party litigant, or his or her authorized representative, in matters pending before the Office of the Judges of Compensation Claims;

3. To a carrier or an employer for the purpose of investigating the compensability of a claim or for the purpose of administering its anti-fraud investigative unit established pursuant to s. 626.9891;

4. In an aggregate reporting format that does not reveal the personal identifying information of any employee;

5. Pursuant to a court order or subpoena;

6. To an agency for administering its anti-fraud investigative function or in the furtherance of the agency's official duties and responsibilities; or

7. To a federal governmental entity in the furtherance of the entity's official duties and responsibilities.

A carrier, employer, agency, or governmental entity receiving personal identifying information from the department shall maintain the confidential and exempt status of the information.

(c) This public records exemption applies to personal identifying information held by the department before, on, or after the effective date of this exemption.

(2) A person who willfully and knowingly discloses personal identifying information made confidential and exempt under this section to an unauthorized person or entity commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

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

Section 2. The Legislature finds that it is a public necessity to make confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution the personal identifying information of an injured or deceased employee which is contained in reports, notices, records, or supporting documentation held by the Department of Financial Services pursuant to chapter 440, Florida Statutes. Such information is of a sensitive, personal nature, and disclosure of such information about an injured or deceased employee is an invasion of that employee's privacy or the privacy of his or her family. Because of Florida's workers' compensation system, an employee's personal identifying information becomes public record once the Department of Financial Services is notified that the employee has been injured or has died in a work-related incident. Public records requests for this information have resulted in unwanted solicitation of injured workers and their families. Further, the release of such information could lead to discrimination against the employee by coworkers, potential employers, and others because of perceived social stigma related to injuries or disabilities. The harm caused to such an employee or his or her family by the release of this information outweighs any public benefit derived from its release.

Section 3. This act shall take effect July 1, 2017.

Approved by the Governor June 26, 2017.

Filed in Office Secretary of State June 26, 2017.