

## CHAPTER 2021-273

### Committee Substitute for House Bill No. 3-B

An act relating to public records; creating s. 381.00318, F.S.; providing an exemption from public records requirements for employee complaints alleging a private employer's violation of state law regarding employer COVID-19 vaccination policies or practices and all information held by the Department of Legal Affairs pursuant to an active investigation of such complaints; defining the term "active"; specifying information that remains confidential and exempt after an investigation is completed or ceases to be active; authorizing the release of confidential and exempt information to governmental entities for a specified purpose; providing construction; providing for future repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 381.00318, Florida Statutes, is created to read:

381.00318 Complaints and investigations regarding private employer COVID-19 vaccination mandates; public records exemption.—

(1) An employee complaint alleging a private employer's violation of s. 381.00317 regarding employer COVID-19 vaccination policies or practices, and all information relating to an investigation of such complaint, held by the Department of Legal Affairs is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation is completed or ceases to be active. For purposes of this section, an investigation is considered "active" while such investigation is being conducted by the department with a reasonable good faith belief that it may lead to a determination of whether there was a violation of s. 381.00317. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the department.

(2) After an investigation is completed or ceases to be active, information in records relating to the investigation remains confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if disclosure of that information would do any of the following:

- (a) Jeopardize the integrity of another active investigation.
- (b) Reveal medical information about an employee.
- (c) Reveal information regarding an employee's religious beliefs.

(3) Information made confidential and exempt under this section may be released to another governmental entity in the furtherance of that entity's lawful duties and responsibilities.

(4) This section does not prohibit the disclosure of information in an aggregated format.

(5) This section shall stand repealed on October 2, 2023.

Section 2. The Legislature finds that it is a public necessity that an employee complaint alleging a private employer’s violation of s. 381.00317, Florida Statutes, regarding such employer’s COVID-19 vaccination policies or practices, and all information relating to an investigation of such complaint, held by the Department of Legal Affairs be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution until the investigation is completed or ceases to be active. The Legislature also finds that it is a public necessity that an employee’s medical information and information regarding an employee’s religious beliefs remain confidential and exempt from public records requirements regardless of the status of the investigation. The disclosure of such information would allow the public to gain knowledge of sensitive, personal information that could be used to harass, embarrass, or humiliate a person based on his or her medical information or religious beliefs. In addition, release of such information could enable other persons to gain knowledge of the employee’s vulnerabilities, and such knowledge could result in the employee becoming a target of an act of violence or other crimes. Furthermore, the public disclosure of such information could discourage an employee from filing a complaint if he or she knows that his or her personal medical information or religious beliefs will be made available pursuant to a public records request. Finally, if a complainant’s information is made publicly available while an investigation is active, that complainant could become the subject of intimidation tactics and threats, thus hindering the effective and efficient administration of the investigation by the Department of Legal Affairs. Therefore, the Legislature finds that it is a public necessity that an employee complaint alleging a private employer’s violation of s. 381.00317, Florida Statutes, regarding such employer’s COVID-19 vaccination policies or practices, and all information relating to an investigation of such complaint, held by the Department of Legal Affairs, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution.

Section 3. This act shall take effect on the same date that HB 1B or similar legislation takes effect, if such legislation is adopted in the same legislative session and becomes a law.

Approved by the Governor November 18, 2021.

Filed in Office Secretary of State November 18, 2021.