

CHAPTER 2023-42

Committee Substitute for Committee Substitute for Senate Bill No. 238

An act relating to public records; amending s. 381.00318, F.S.; providing an exemption from public records requirements for certain information held by the Department of Legal Affairs or the Department of Health relating to complaints or investigations regarding violations of provisions protecting from discrimination based on health care choices; authorizing the disclosure of such information under certain circumstances; providing for future legislative review and 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 amended to read:

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

(1) ~~A~~ An ~~employee~~ complaint alleging a business entity's, a governmental entity's, or an educational institution's ~~private employer's~~ violation of s. 381.00316, s. 381.00317, or s. 381.00319 ~~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 or the Department of Health 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 of Legal Affairs or the Department of Health with a reasonable good faith belief that it may lead to a determination of whether there was a violation of s. 381.00316, s. 381.00317, or s. 381.00319. An investigation does not cease to be active if the Department of Legal Affairs or the Department of Health is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the Department of Legal Affairs or the Department of Health.

(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 individual employee.

(c) Reveal information regarding an individual's employee's religious beliefs.

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

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

(5) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature This section shall stand repealed on October 2, 2023.

Section 2. The Legislature finds that it is a public necessity that a complaint alleging a business entity's, a governmental entity's, or an educational institution's violation of s. 381.00316, Florida Statutes, or s. 381.00319, Florida Statutes, and all information relating to an investigation of such complaint held by the Department of Legal Affairs or the Department of Health, be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Protection of such information is required to safeguard an individual's private information regarding medical information or religious beliefs and to ensure the integrity of an active investigation, if applicable.

Section 3. This act shall take effect on the same date that SB 252 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Approved by the Governor May 11, 2023.

Filed in Office Secretary of State May 11, 2023.