

CHAPTER 2024-54

Committee Substitute for Committee Substitute for House Bill No. 1491

An act relating to public records; amending s. 501.1736, F.S.; providing an exemption from public records requirements for information relating to investigations by the Department of Legal Affairs of certain social media violations; authorizing the department to disclose such information for specified purposes; defining the term “proprietary information”; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; amending s. 501.1737, F.S.; providing an exemption from public records requirements for information relating to investigations by the department of certain age verification violations; authorizing the department to disclose such information for specified purposes; defining the term “proprietary information”; 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. Present subsection (11) of section 501.1736, Florida Statutes, as created by HB 3 or similar legislation, 2024 Regular Session, is redesignated as subsection (12), and a new subsection (11) is added to that section, to read:

501.1736 Social media use for minors.—

(11)(a) All information held by the department pursuant to a notification of a violation of this section or an investigation of a violation of this section is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until such time as the investigation is completed or ceases to be active. This exemption shall be construed in conformity with s. 119.071(2)(c).

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

1. In the furtherance of its official duties and responsibilities;

2. For print, publication, or broadcast if the department determines that such release would assist in notifying the public or locating or identifying a person that the department believes to be a victim of an improper use or disposal of customer records, except that information made confidential and exempt by paragraph (c) may not be released pursuant to this subparagraph;
or

3. To another governmental entity in the furtherance of its official duties and responsibilities.

(c) Upon completion of an investigation or once an investigation ceases to be active, the following information held by the department shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Information that is otherwise confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. Personal identifying information.

3. A computer forensic report.

4. Information that would otherwise reveal weaknesses in the data security of a social media platform.

5. Information that would disclose the proprietary information of a social media platform.

(d) For purposes of this section, the term “proprietary information” means information that:

1. Is owned or controlled by the social media platform.

2. Is intended to be private and is treated by the social media platform as private because disclosure would harm the social media platform or its business operations.

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

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

5. Reveals competitive interests, the disclosure of which would impair the competitive advantage of the social media platform that is the subject of the information.

(e) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that all information held by the Department of Legal Affairs pursuant to a notification of a violation of s. 501.1736, Florida Statutes, or an investigation of a violation of that section, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution for the following reasons:

(1) A notification of a violation of s. 501.1736, Florida Statutes, may result in an investigation of such violation. The premature release of such information could frustrate or thwart the investigation and impair the ability of the department to effectively and efficiently administer s. 501.1736, Florida Statutes. In addition, release of such information before completion of an active investigation could jeopardize the ongoing investigation.

(2) Release of information that is otherwise confidential or exempt from public records requirements once an investigation is completed or ceases to be active would undo the specific statutory exemption protecting that information, thus clarifying that any protections currently afforded to such information are not removed.

(3) An investigation of a violation of s. 501.1736, Florida Statutes, is likely to result in the gathering of sensitive personal identifying information, which could include identification numbers, unique identifiers, professional or employment-related information, and personal financial information. Such information could be used for the purpose of identity theft. The release of such information could subject families to possible privacy violations, as it would reveal information of a sensitive personal nature.

(4) Notices received by the department and information generated during an investigation of a violation of s. 501.1736, Florida Statutes, are likely to contain proprietary information. Such information derives independent, economic value, actual or potential, from being generally unknown to, and not readily ascertainable by, other persons who might obtain economic value from its disclosure or use. Allowing public access to proprietary information through a public records request could destroy the value of the proprietary information and cause a financial loss to the social media platform. Release of such information could give business competitors an unfair advantage.

(5) Information held by the department may contain a computer forensic report or information that could reveal weaknesses in the data security of a social media platform. The release of this information could result in the identification of vulnerabilities in the cybersecurity system of the social media platform and be used to harm the social media platform and its clients.

(6) The harm that may result from the release of information held by the department pursuant to a notification or investigation of a violation of s. 501.1736, Florida Statutes, could impair the effective and efficient administration of the investigation and thus outweighs the public benefit that may be derived from the disclosure of the information.

Section 3. Present subsection (9) of section 501.1737, Florida Statutes, as created by HB 3 or similar legislation, 2024 Regular Session, is redesignated as subsection (10), and a new subsection (9) is added to that section, to read:

501.1737 Age verification for online access to materials harmful to minors.—

(9)(a) All information held by the department pursuant to a notification of a violation of this section or an investigation of a violation of this section is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until such time as the investigation is completed or ceases to be active. This exemption shall be construed in conformity with s. 119.071(2)(c).

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

1. In the furtherance of its official duties and responsibilities;

2. For print, publication, or broadcast if the department determines that such release would assist in notifying the public or locating or identifying a person whom the department believes to be a victim of an improper use or disposal of customer records, except that information made confidential and exempt by paragraph (c) may not be released pursuant to this subparagraph; or

3. To another governmental entity in the furtherance of its official duties and responsibilities.

(c) Upon completion of an investigation or once an investigation ceases to be active, the following information held by the department shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Information that is otherwise confidential or exempt from s. 119.07(1) or s. 24(a), Art. I of the State Constitution.

2. Personal identifying information.

3. A computer forensic report.

4. Information that would otherwise reveal weaknesses in the data security of the commercial entity.

5. Information that would disclose the proprietary information of the commercial entity.

(d) For purposes of this subsection, the term “proprietary information” means information that:

1. Is owned or controlled by the commercial entity.

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

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

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

5. Reveals competitive interests, the disclosure of which would impair the competitive advantage of the commercial entity that is the subject of the information.

(e) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. The Legislature finds that it is a public necessity that all information held by the Department of Legal Affairs pursuant to a notification of a violation of s. 501.1737, Florida Statutes, or an investigation of a violation of that section, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution for the following reasons:

(1) A notification of a violation of s. 501.1737, Florida Statutes, may result in an investigation of such violation. The premature release of such information could frustrate or thwart the investigation and impair the ability of the department to effectively and efficiently administer s. 501.1737, Florida Statutes. In addition, release of such information before completion of an active investigation could jeopardize the ongoing investigation.

(2) Release of information that is otherwise confidential or exempt from public records requirements once an investigation is completed or ceases to be active would undo the specific statutory exemption protecting that information, thus clarifying that any protections currently afforded to that information are not removed.

(3) An investigation of a violation of s. 501.1737, Florida Statutes, is likely to result in the gathering of sensitive personal identifying information, which could include identification numbers, unique identifiers, professional or employment-related information, and personal financial information. Such information could be used for the purpose of identity theft. The release of such information could subject individuals to possible privacy violations, as it would reveal information of a sensitive personal nature.

(4) Notices received by the department and information generated during an investigation of a violation of s. 501.1737, Florida Statutes, are likely to contain proprietary information. Such information derives independent, economic value, actual or potential, from being generally unknown

to, and not readily ascertainable by, other persons who might obtain economic value from its disclosure or use. Allowing public access to proprietary information through a public records request could destroy the value of the proprietary information and cause a financial loss to the commercial entity. Release of such information could give business competitors an unfair advantage.

(5) Information held by the department may contain a computer forensic report or information that could reveal weaknesses in the data security of the commercial entity. The release of this information could result in the identification of vulnerabilities in the cybersecurity system of the commercial entity and be used to harm the commercial entity and its clients.

(6) The harm that may result from the release of information held by the department pursuant to a notification or investigation by the department of a violation of s. 501.1737, Florida Statutes, could impair the effective and efficient administration of the investigation and thus outweighs the public benefit that may be derived from the disclosure of the information.

Section 5. This act shall take effect on the same date that HB 3 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 April 2, 2024.

Filed in Office Secretary of State April 2, 2024.