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CS/CS/HB 1107, Engrossed 2

2017 Legislature

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 2 An act relating to public records; creating s.
 3 440.1851, F.S.; providing an exemption from public
 4 records requirements for the personal identifying
 5 information of an injured or deceased employee which
 6 is contained in reports, notices, records, or
 7 supporting documentation held by the Department of
 8 Financial Services pursuant to the Workers'
 9 Compensation Law; defining the term "personal
 10 identifying information"; specifying the circumstances
 11 under which the department may disclose such
 12 information; requiring certain entities receiving such
 13 information to maintain the confidential and exempt
 14 status of such information; providing retroactive
 15 applicability; providing a criminal penalty for
 16 willful and knowing disclosure of such information to
 17 an unauthorized person or entity; providing for future
 18 review and repeal of the exemption; providing a
 19 statement of public necessity; providing an effective
 20 date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Section 440.1851, Florida Statutes, is created
 25 to read:

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26 440.1851 Personal identifying information of an injured or
 27 deceased employee; public records exemption.—

28 (1) The personal identifying information of an injured or
 29 deceased employee which is contained in reports, notices,
 30 records, or supporting documentation held by the department
 31 pursuant to this chapter is confidential and exempt from s.
 32 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

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

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

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

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

50 4. In an aggregate reporting format that does not reveal

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51 the personal identifying information of any employee;
52 5. Pursuant to a court order or subpoena;
53 6. To an agency for administering its anti-fraud
54 investigative function or in the furtherance of the agency's
55 official duties and responsibilities; or
56 7. To a federal governmental entity in the furtherance of
57 the entity's official duties and responsibilities.
58

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

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

65 (2) A person who willfully and knowingly discloses
66 personal identifying information made confidential and exempt
67 under this section to an unauthorized person or entity commits a
68 misdemeanor of the first degree, punishable as provided in s.
69 775.082 or s. 775.083.

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

74 Section 2. The Legislature finds that it is a public
75 necessity to make confidential and exempt from s. 119.07(1),

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76 | Florida Statutes, and s. 24(a), Article I of the State
77 | Constitution the personal identifying information of an injured
78 | or deceased employee which is contained in reports, notices,
79 | records, or supporting documentation held by the Department of
80 | Financial Services pursuant to chapter 440, Florida Statutes.
81 | Such information is of a sensitive, personal nature, and
82 | disclosure of such information about an injured or deceased
83 | employee is an invasion of that employee's privacy or the
84 | privacy of his or her family. Because of Florida's workers'
85 | compensation system, an employee's personal identifying
86 | information becomes public record once the Department of
87 | Financial Services is notified that the employee has been
88 | injured or has died in a work-related incident. Public records
89 | requests for this information have resulted in unwanted
90 | solicitation of injured workers and their families. Further, the
91 | release of such information could lead to discrimination against
92 | the employee by coworkers, potential employers, and others
93 | because of perceived social stigma related to injuries or
94 | disabilities. The harm caused to such an employee or his or her
95 | family by the release of this information outweighs any public
96 | benefit derived from its release.

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