

By Representative Arnall

1                                   A bill to be entitled  
2           An act relating to public records; creating s.  
3           414.1035, F.S.; providing an exemption from  
4           public records requirements for identifying  
5           information relating to the drug screening,  
6           testing, or treatment of applicants for or  
7           recipients of WAGES Program assistance or  
8           services; providing for future review and  
9           repeal; providing a finding of public  
10          necessity; providing a contingent effective  
11          date.

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

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15           Section 1. Section 414.1035, Florida Statutes, is  
16 created to read:

17           414.1035 CONFIDENTIALITY OF RECORDS.--

18           (1) Except as otherwise provided in this subsection,  
19 all information, interviews, reports, statements, memoranda,  
20 and drug screening or test results, written or otherwise,  
21 identifying any individual and held by an agency as defined in  
22 s. 119.011(2), received or produced as a result of the drug  
23 testing program provided in s. 414.103, are confidential and  
24 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
25 I of the State Constitution, and may not be used or received  
26 in evidence, obtained in discovery, or disclosed in any public  
27 or private proceedings, except in accordance with this  
28 section.

29           (2) WAGES Program staff, laboratories, and drug and  
30 alcohol rehabilitation programs, and their agents may not  
31 release any information concerning drug screening or test

1 results obtained pursuant to s. 414.103 without a written  
2 consent form signed voluntarily by the person tested, except  
3 when such release is compelled by an administrative law judge  
4 or a court of competent jurisdiction pursuant to an appeal  
5 taken under s. 414.103, or when deemed appropriate by a  
6 professional or occupational licensing board in a related  
7 disciplinary proceeding. The consent form must contain, at a  
8 minimum:

9 (a) The name of the person who is authorized to obtain  
10 the information.

11 (b) The purpose of the disclosure.

12 (c) The precise information to be disclosed.

13 (d) The duration of the consent.

14 (e) The signature of the person authorizing release of  
15 the information.

16 (3) Information on drug screening or test results  
17 obtained pursuant to s. 414.103 shall not be released or used  
18 in any criminal proceeding against a WAGES applicant or  
19 recipient. Information released contrary to this section shall  
20 be inadmissible as evidence in any such criminal proceeding.

21 (4) Nothing in this section shall be construed to  
22 prohibit WAGES Program staff, laboratories, or drug and  
23 alcohol rehabilitation programs, or their agents, from having  
24 access to drug screening or test information when consulting  
25 with legal counsel in connection with actions brought under or  
26 related to s. 414.103 or when the information is relevant to  
27 its defense in a civil or administrative matter.

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29 This section is subject to the Open Government Sunset Review  
30 Act of 1995 in accordance with s. 119.15 and shall stand  
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1 repealed on October 2, 2002, unless reviewed and saved from  
2 repeal through reenactment by the Legislature.

3       Section 2. The Legislature finds that in order to  
4 facilitate the identification and treatment of drug abuse  
5 among applicants for and recipients of public assistance, it  
6 is a public necessity that records of drug screening, testing,  
7 and treatment of applicants for and recipients of public  
8 assistance be held confidential and exempt from the public  
9 records law. Such records often concern matters of a personal  
10 and private nature. Disclosure to the public of such personal  
11 information would significantly reduce the effectiveness of  
12 the drug screening and testing process and hinder drug  
13 treatment. Consequently, without such exemption, efforts to  
14 develop self-sufficiency among applicants for and recipients  
15 of public assistance would suffer. Therefore, the Legislature  
16 finds that the benefits from maintaining confidentiality of  
17 records concerning the identification and treatment of drug  
18 abuse among applicants for and recipients of public assistance  
19 outweigh any harm to the public resulting from nondisclosure  
20 of such information.

21       Section 3. This act shall take effect on the same date  
22 as House Bill 271 or similar legislation takes effect, if such  
23 legislation is adopted in the same legislative session or an  
24 extension thereof.

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27                   HOUSE SUMMARY

28           Provides an exemption from public records requirements  
29           for information concerning the identification and  
30           treatment of drug abuse among applicants for and  
31           recipients of public assistance under the WAGES Program.  
              Provides for future review and repeal.