

By the Committee on Governmental Oversight and Productivity;
and Senator Garcia

39-1516-01

1 A bill to be entitled
2 An act relating to public records; providing an
3 exemption from the public records law for
4 individual records of children enrolled in
5 Learning Gateway programs; providing for the
6 release of such records for specified purposes;
7 exempting from the public records law those
8 records held by a Learning Gateway Program
9 which would be confidential if held by a state
10 agency; providing for future legislative review
11 and repeal; providing a finding of public
12 necessity; providing a contingent effective
13 date.

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

17 Section 1. Records of children in Learning Gateway
18 programs.--

19 (1) The individual records of children enrolled in
20 Learning Gateway programs, when held in the possession of the
21 Learning Gateway program or the Learning Gateway Steering
22 Committee, are confidential and exempt from section 119.07,
23 Florida Statutes, and Section 24(a) of Article I of the State
24 Constitution. For the purposes of this section, records
25 include assessment data, health data, records of teacher
26 observations, and identifying data, including the child's
27 name, address, and social security number. A parent, guardian,
28 or individual acting as a parent in the absence of a parent or
29 guardian may inspect and review the individual Learning
30 Gateway program record of his or her child and may obtain a
31 copy of the record. Learning Gateway program records may be

1 released to the Department of Education, the Department of
2 Health, and the Department of Children and Family Services; to
3 individuals or organizations conducting studies for
4 institutions to develop, validate, or administer assessments
5 or improve instruction; to appropriate parties in connection
6 with an emergency if the information is necessary to protect
7 the health or safety of the child or other individuals; to the
8 Auditor General in connection with his or her official
9 functions; to a court of competent jurisdiction in compliance
10 with an order of that court pursuant to a lawfully issued
11 subpoena; and to parties to an interagency agreement among
12 Learning Gateway programs, local governmental agencies,
13 providers of Learning Gateway programs, state agencies, and
14 the Learning Gateway Steering Committee for the purpose of
15 implementing the Learning Gateway program. Agencies,
16 organizations, or individuals that receive Learning Gateway
17 program records in order to carry out their official functions
18 must protect the data in a manner that will not permit the
19 personal identification of children and their parents by
20 persons other than those authorized to receive the records.
21 This section is subject to the Open Government Sunset Review
22 Act of 1995 in accordance with s. 119.15 and shall stand
23 repealed on October 2, 2006, unless reviewed and saved from
24 repeal through reenactment by the Legislature.

25 (2) Records, or information contained in such records,
26 held by a Learning Gateway program and which, if held by an
27 agency as defined in section 119.011, Florida Statutes, or any
28 other unit of government, would be confidential or exempt from
29 section 119.07(1), Florida Statutes, or otherwise exempt from
30 public disclosure, and records or information of the same type
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1 held by a Learning Gateway program, are confidential and
2 exempt from inspection and copying.

3 Section 2. The Legislature finds that it is a public
4 necessity to make confidential and exempt from the public
5 records law information that would result in the
6 identification of a participant in a Learning Gateway program,
7 including a child's name, address, or social security number.
8 Further, the Legislature finds that it is a public necessity
9 to make confidential and exempt from the public records law a
10 participant's assessment data, health data, or teacher
11 observations of a participant. Children who participate in a
12 Learning Gateway program may have potential learning and other
13 developmental problems that the program seeks to address.
14 Young children develop at a very rapid rate compared to older
15 children. If a potential learning or other developmental
16 problem is identified and properly addresses at an early age,
17 it can be made less severe or can even be overcome entirely,
18 sometimes in a short period of time. Addressing potential
19 learning or other developmental problems that interfere with a
20 young child's development is an issue of great public
21 importance which affects the health, safety, and welfare of
22 the children of Florida, as well as the future of the state.
23 Learning or other developmental problems, therefore, must be
24 identified in a way that does not result in the labeling or
25 stigmatizing of a child in the public eye, especially as
26 intervention at an early age may resolve these problems. If a
27 parent fears that his or her child's identity can be
28 determined from records maintained by a Learning Gateway
29 program, or that assessment data, health data, or teacher
30 observations regarding his or her child are available for
31 public inspection or copying, that parent may not permit his

1 or her child to participate in the program. As a result,
2 children would not benefit from a Learning Gateway program and
3 their learning or other developmental problems will not be
4 ameliorated. Therefore, making a participant's identity,
5 assessment data, health data, or teacher observations
6 confidential and exempt from the public records law will
7 permit parents and Learning Gateway program providers to
8 ameliorate potential learning or other development problems
9 while protecting the children who participate in the program.

10 Section 3. This act shall take effect on the date
11 Senate Bill 1018, relating to learning disabilities, or
12 similar legislation becomes a law, and shall not take effect
13 if such legislation does not become a law.

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15 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
16 COMMITTEE SUBSTITUTE FOR
17 SB 906

18 Creates an exemption from public records requirements for
19 specified records obtained by a Learning Gateway program.
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