

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 98

SPONSOR: Senator Campbell

SUBJECT: Parental Rights to Access Minor's Records

DATE: March 14, 2001

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matthews	Johnson	JU	Fav/2 amendments
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill reinforces existing law that both parents, regardless of who has primary residential designation, have equal right to access their child's records and other pertinent information unless that right is expressly circumscribed by court order.

This bill substantially amends section 61.13, F.S.

I. Present Situation:

Parents have a right of access to their child's medical, dental and educational records under various provisions of state law:

- Both parents have a right of equal access "records and information pertaining to a minor child, including but not limited to, medical, dental, and school records. Such right can not be denied solely on the basis that the one parent is not the child's primary residential parent. *See* s. 61.13(2)(b)3., F.S., relating to powers of court orders pertaining to child custody, support and visitation, including parental responsibility.
- Parents of *public* school children have the right, upon request and subject to limitations: 1) to be provided with a list of the type of records and reports kept by the school that relate to the student, and 2) to be shown these records or reports. *See* s. 228.093, F.S., Fla. Admin. Code R. 6A-1.0955.

Parent have a right of access to their child's other records such as medical, dental and other health professional records through general statutory provisions relating to written requests for records by patients or legal representatives of patients. *See* s. 395.3025, F.S., s. 456.057, F.S., and s. 456.057, F.S.

Under federal law, parents and students have specified rights to inspect and review certain information contained in their educational records unless there is a legally binding instrument or court order or state statute or other contrary evidence that specifically revokes these rights. *See* Family Education Rights and Privacy Act of 1974 (FERPA) 20 U.S.C. 1232g and 34 C.F.R. Part 99. FERPA is only applicable to educational agencies and institutions that receive federal funding.

II. Effect of Proposed Changes:

Section 1 amends s. 61.13(2), F.S., relating to child custody, support, and visitation. It reinforces the existing statutory prohibition against denying a secondary residential parent the right to equally access all records and information (including, but not limited to, medical, dental, and school records) pertaining to his or her child based on the fact that the parent is not the child's primary residential parent. Unless a court order is entered specifically revoking a parent's right, the secondary residential parent has the same full rights as the primary residential parent to access his or her child's records and other information including the right to communicate directly with the child's medical, dental and educational providers.

Section 2 provides that the Act shall take effect July 1, 2001.

III. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

IV. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Medical, dental and education providers may be on better notice that both parents, regardless of marital status and residential designation, share equal statutory right to access a child's records and other information and to communicate directly with the providers about their child unless otherwise court-ordered.

This bill will clarify that a secondary residential parent has as much right to know by right of access to records and information about their child's educational, medical and dental status as the primary residential parent. This may help to minimize those situations in which one parent fails or refuses to keep another parent updated about their child's medical, dental or educational status. As is impliedly the case under current law, a primary residential parent still has an affirmative obligation to expressly request any court-ordered limitation as to a secondary residential parent's access to a child's medical, dental or educational records and to provide providers with copies of such orders.

C. Government Sector Impact:

The Office of State Courts Administrator reports that this bill has no fiscal impact on the court system.

The Florida Department of Education expressed concern that the condition of access to records and information, i.e., "the same form, substance and manner" could be interpreted broadly to impose a significant workload and fiscal burden on educational providers where information is now provided as a matter of school policy or practice solely to primary residential parents (e.g., publication and mailing of school newsletters, FCAT scores, and report cards).

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Amendments:

Amendment #1 by Judiciary:

Clarifies that although the parent has the same full right of access to a child's medical, dental or educational records as the other parent, the parent must request to have the same "the form, substance, and manner of access" to those records

Amendment #2 by Judiciary:

Clarifies that a court order includes an injunction for domestic violence for purposes of listing what court actions may revoke or restrict a parent's right to access a child's medical, dental or educational records