



HB 1031

2003

1 A bill to be entitled

2 An act relating to a public records exemption for the
3 Florida Kidcare program; amending s. 409.821, F.S.;
4 expanding the exemption for identifying information of
5 applicants to the Florida Kidcare program to provide that
6 any information identifying a program applicant or
7 enrollee held by the Agency for Health Care
8 Administration, the Department of Children and Family
9 Services, the Department of Health, and the Florida
10 Healthy Kids Corporation is confidential and exempt;
11 providing for disclosure of such information to
12 governmental entities under certain circumstances;
13 providing a penalty for unlawful disclosure of such
14 information; adding clarifying language; making editorial
15 changes; providing for retroactive application; removing
16 the October 2, 2003, repeal of the exemption scheduled
17 pursuant to the Open Government Sunset Review Act of 1995;
18 providing for future review and repeal of the exemption;
19 providing a statement of public necessity; providing an
20 effective date.

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

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24 Section 1. Notwithstanding the October 2, 2003, repeal of
25 said section scheduled pursuant to the Open Government Sunset
26 Review Act of 1995, section 409.821, Florida Statutes, is
27 amended to read:

28 409.821 Florida Kidcare program public records exemption
29 ~~Sections 409.810-409.820; confidential~~
30 ~~information.~~--Notwithstanding any other law to the contrary, any



HB 1031

2003

31 information identifying a Florida Kidcare program applicant or
32 enrollee, as defined in s. 409.811, held by the Agency for
33 Health Care Administration, the Department of Children and
34 Family Services, the Department of Health, or the Florida
35 Healthy Kids Corporation contained in an application for
36 determination of eligibility for the Florida Kidcare program
37 which identifies applicants, including medical information and
38 family financial information, and any information obtained
39 through quality assurance activities and patient satisfaction
40 surveys which identifies program participants, obtained by the
41 Florida Kidcare program under ss. 409.810-409.820, is
42 confidential and is exempt from s. 119.07(1) and s. 24(a), Art.
43 I of the State Constitution. Such information may be disclosed
44 to another governmental entity only if disclosure is necessary
45 for the entity to perform its duties and responsibilities under
46 the Florida Kidcare program. The receiving governmental entity
47 must maintain the confidential and exempt status of such
48 information. Furthermore, such information may not be released
49 to any person ~~Except as otherwise provided by law, program staff~~
50 ~~or staff or agents affiliated with the program may not release,~~
51 ~~without the written consent of the program applicant or the~~
52 ~~parent or guardian of the applicant, to any state or federal~~
53 ~~agency, to any private business or person, or to any other~~
54 ~~entity, any confidential information received under ss. 409.810-~~
55 ~~409.820. This exemption applies to any information identifying a~~
56 Florida Kidcare program applicant or enrollee held by the Agency
57 for Health Care Administration, the Department of Children and
58 Family Services, the Department of Health, or the Florida
59 Healthy Kids Corporation before, on, or after the effective date
60 of this exemption. A violation of this section is a misdemeanor



HB 1031

2003

61 of the second degree, punishable as provided in s. 775.082 or s.
62 775.083. This section is subject to the Open Government Sunset
63 Review Act of 1995 in accordance with s. 119.15, and shall stand
64 repealed on October 2, 2003, unless reviewed and saved from
65 repeal through reenactment by the Legislature.

66 Section 2. Section 409.821, Florida Statutes, is subject
67 to the Open Government Sunset Review Act of 1995 in accordance
68 with s. 119.15, Florida Statutes, and shall stand repealed on
69 October 2, 2008, unless reviewed and saved from repeal through
70 reenactment by the Legislature.

71 Section 3. The Legislature finds that it is a public
72 necessity that any information identifying a Florida Kidcare
73 program applicant or enrollee, irrespective of whether such
74 information is located in an application or other record, be
75 held confidential and exempt in order to protect sensitive
76 personal, financial, and medical information. If the exemption
77 were not expanded to include such identifying information
78 contained in other records in addition to the application, the
79 purpose of the exemption would be defeated. Applicant and
80 enrollee identifying information would be available pursuant to
81 a public records request via other records, thereby causing an
82 unwarranted invasion into the life and privacy of the program
83 applicants and enrollees. In addition, expanding the public
84 records exemption to include the identifying information of a
85 program applicant or enrollee contained in other records in
86 addition to the application is necessary in order for the Agency
87 for Health Care Administration, the Department of Children and
88 Family Services, the Department of Health, and the Florida
89 Healthy Kids Corporation to effectively and efficiently
90 administer the Florida Kidcare program. If such identifying



HB 1031

2003

91 information contained in other records were not granted the same
92 protection afforded the identifying information contained in the
93 application, the administration of the Florida Kidcare program
94 would be significantly impaired because applicants would be less
95 inclined to apply to the program due to the fact that such
96 identifying information would be made available to the public,
97 which would cause an unwarranted invasion into the life and
98 privacy of program applicants and enrollees, thereby
99 significantly decreasing the number of program enrollees.
100 Finally, it is a public necessity that such identifying
101 information be held confidential and exempt in order to comply
102 with federal law. The current exemption only applies to such
103 information contained in an application for the Florida Kidcare
104 program. The expansion of the exemption to include identifying
105 information contained in any other records in addition to the
106 application ensures compliance with federal law. In addition to
107 the applicant, the identifying information of a program enrollee
108 should also be held confidential and exempt. The expansion of
109 the exemption is a public necessity in order for Florida to
110 adhere to federal law requiring that certain program applicant
111 and enrollee identifying information be protected from public
112 disclosure.

113 Section 4. This act shall take effect upon becoming a law.