

By the Committee on Health, Aging, and Long-Term Care

317-266A-03

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 409.821, F.S., which provides an exemption from
 4 public-records requirements for information
 5 identifying applicants of the Florida Kidcare
 6 program; expanding the exemption to include
 7 records that identify an applicant or enrollee
 8 in the program; providing for the disclosure of
 9 confidential information to another
 10 governmental entity; requiring that the
 11 receiving agency maintain the confidentiality
 12 of the information; providing a penalty for
 13 disclosure of information made confidential
 14 under the act; reenacting the exemption and
 15 providing for future repeal and legislative
 16 review under the Open Government Sunset Review
 17 Act of 1995; providing a finding of public
 18 necessity; providing an effective date.

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

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 22 Section 1. Notwithstanding the repeal scheduled on
 23 October 2, 2003, under the Open Government Sunset Review Act
 24 of 1995, section 409.821, Florida Statutes, is reenacted and
 25 amended to read:

26 409.821 Florida Kidcare program; public-records
 27 exemption ~~Sections 409.810-409.820; confidential~~
 28 ~~information.~~--Notwithstanding any other law to the contrary,
 29 any information that identifies an applicant or enrollee in
 30 the Florida Kidcare program, as defined in s. 409.811, and
 31 that is held by the Agency for Health Care Administration, the

1 Department of Children and Family Services, the Department of
2 Health, or the Florida Healthy Kids Corporation ~~contained in~~
3 ~~an application for determination of eligibility for the~~
4 ~~Florida Kidcare program which identifies applicants, including~~
5 ~~medical information and family financial information, and any~~
6 ~~information obtained through quality assurance activities and~~
7 ~~patient satisfaction surveys which identifies program~~
8 ~~participants, obtained by the Florida Kidcare program under~~
9 ~~ss. 409.810-409.820,~~ is confidential and is exempt from s.
10 119.07(1) and s. 24(a), Art. I of the State Constitution. Such
11 information may be disclosed to another governmental entity
12 only if disclosure is necessary for the entity to perform its
13 duties and responsibilities. The receiving governmental entity
14 must maintain the confidential and exempt status of that
15 information. Furthermore, such information may not be released
16 to any person ~~Except as otherwise provided by law, program~~
17 ~~staff or staff or agents affiliated with the program may not~~
18 ~~release,~~ without the written consent of ~~the applicant or the~~
19 ~~parent or guardian of~~ a child, or a child whose disability of
20 nonage has been removed under chapter 743, who applied for
21 determination of eligibility for health benefits coverage
22 under ss. 409.810-409.820 ~~the applicant, to any state or~~
23 ~~federal agency, to any private business or person, or to any~~
24 ~~other entity, any confidential information received under ss.~~
25 ~~409.810-409.820. This exemption applies to any information~~
26 identifying an applicant or enrollee in the Florida Kidcare
27 program which is held by the Agency for Health Care
28 Administration, the Department of Children and Family
29 Services, the Department of Health, or the Florida Healthy
30 Kids Corporation before, on, or after the effective date of
31 this exemption. A violation of this section is a misdemeanor

1 of the second degree, punishable as provided in s. 775.082 or
2 s. 775.083. This section is subject to the Open Government
3 Sunset Review Act of 1995 in accordance with s. 119.15, and
4 shall stand repealed on October 2, ~~2008~~ 2003, unless reviewed
5 and saved from repeal through reenactment by the Legislature.

6 Section 2. The Legislature finds that it is a public
7 necessity that any information identifying an applicant or
8 enrollee in the Florida Kidcare program, regardless of whether
9 such information is located in an application or other record,
10 be held confidential and exempt from requirements for public
11 disclosure in order to protect sensitive personal, financial,
12 and medical information. If the exemption were not expanded to
13 include the identifying information contained in records in
14 addition to the application, the purpose of the exemption
15 would be defeated. Information that identifies an applicant or
16 enrollee would be available pursuant to a request for records
17 other than application records, thereby causing an unwarranted
18 invasion into the life and privacy of the program applicant or
19 enrollee. In addition, expanding the public-records exemption
20 to include the identifying information of a program applicant
21 or enrollee contained in records in addition to the
22 application is necessary in order for the Agency for Health
23 Care Administration, the Department of Children and Family
24 Services, the Department of Health, and the Florida Healthy
25 Kids Corporation to effectively and efficiently administer the
26 Florida Kidcare program. If such identifying information
27 contained in other records were not granted the same
28 protection afforded the identifying information contained in
29 the application, the administration of the Florida Kidcare
30 program would be significantly impaired because applicants
31 would be less inclined to apply for the program due to the

1 fact that such identifying information would be made available
2 to the public, which would cause an unwarranted invasion into
3 the life and privacy of program applicants and enrollees and
4 would thereby significantly decrease the number of program
5 enrollees. Finally, it is a public necessity that such
6 identifying information be held confidential and exempt from
7 requirements for public disclosure in order to comply with
8 federal law. The current exemption applies only to the
9 information contained in an application for the Florida
10 Kidcare program. The expansion of the exemption to include the
11 identifying information contained in records in addition to
12 the application ensures compliance with federal law. In
13 addition to the applicant, the identifying information of a
14 program enrollee should also be held confidential and exempt
15 from requirements for public disclosure. The expansion of the
16 exemption is a public necessity in order for the state to
17 adhere to federal law requiring that certain identifying
18 information of program applicants and enrollees be protected
19 from public disclosure.

20 Section 3. This act shall take effect upon becoming a
21 law.

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24 SENATE SUMMARY

25 Reenacts an exemption from public-records requirements
26 for information that identifies applicants of the Florida
27 Kidcare program. Expands the exemption to include records
28 that identify any applicant or enrollee in the program.
29 Authorizes confidential information to be disclosed to
30 another governmental entity if the receiving agency
31 maintains the confidentiality of the information.
Provides that it is a second-degree misdemeanor to
disclose confidential information concerning applicants
or enrollees in the Florida Kidcare program. Provides for
future repeal and legislative review.