

By the Committee on Judiciary; and Senator Argenziano

590-2193-06

1 A bill to be entitled

2 An act relating to public records; amending s.

3 119.071, F.S.; providing that the clerk of the

4 circuit court has no liability for the

5 inadvertent release of certain confidential or

6 exempt information; requiring the clerk of the

7 circuit court to provide notice regarding the

8 inclusion of a social security number or a

9 complete bank account, debit, charge, or credit

10 card number in a court document or copy of a

11 court document; requiring the county recorder

12 to use his or her best efforts to redact all

13 social security numbers or complete bank

14 account, debit, charge, or credit card numbers

15 from electronic copies of official records

16 documents; providing that the county recorder

17 is not liable for the inadvertent release of

18 certain confidential or exempt information;

19 reenacting s. 1007.35(8)(b), F.S., relating to

20 access to information necessary to evaluate the

21 effectiveness of delivered services from the

22 Florida Partnership for Minority and

23 Underrepresented Student Achievement, to

24 incorporate the amendments made to s. 119.071,

25 F.S., in a reference thereto; providing an

26 effective date.

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

30 Section 1. Paragraph (a) of subsection (5) of section

31 119.071, Florida Statutes, is amended to read:

1 119.071 General exemptions from inspection or copying
2 of public records.--

3 (5) OTHER PERSONAL INFORMATION.--

4 (a)1. The Legislature acknowledges that the social
5 security number was never intended to be used for business
6 purposes but was intended to be used solely for the
7 administration of the federal Social Security System. The
8 Legislature is further aware that over time this unique
9 numeric identifier has been used extensively for identity
10 verification purposes and other legitimate consensual
11 purposes. The Legislature is also cognizant of the fact that
12 the social security number can be used as a tool to perpetuate
13 fraud against a person and to acquire sensitive personal,
14 financial, medical, and familial information, the release of
15 which could cause great financial or personal harm to an
16 individual. The Legislature intends to monitor the commercial
17 use of social security numbers held by state agencies in order
18 to maintain a balanced public policy.

19 2. An agency may ~~shall~~ not collect an individual's
20 social security number unless authorized by law to do so or
21 unless the collection of the social security number is
22 otherwise imperative for the performance of that agency's
23 duties and responsibilities as prescribed by law. Social
24 security numbers collected by an agency must be relevant to
25 the purpose for which collected and may ~~shall~~ not be collected
26 until and unless the need for social security numbers has been
27 clearly documented. An agency that collects social security
28 numbers shall also segregate that number on a separate page
29 from the rest of the record, or as otherwise appropriate, in
30 order that the social security number be more easily redacted,
31 if required, pursuant to a public records request. An agency

1 collecting a person's social security number shall, upon that
2 person's request, at the time of or prior to the actual
3 collection of the social security number by that agency,
4 provide that person with a statement of the purpose or
5 purposes for which the social security number is being
6 collected and used. Social security numbers collected by an
7 agency ~~may shall~~ not be used by that agency for any purpose
8 other than the purpose stated. Social security numbers
9 collected by an agency before ~~prior to~~ May 13, 2002, shall be
10 reviewed for compliance with this subparagraph. If the
11 collection of a social security number before ~~prior to~~ May 13,
12 2002, is found to be unwarranted, the agency shall immediately
13 discontinue the collection of social security numbers for that
14 purpose.

15 3. Effective October 1, 2002, all social security
16 numbers held by an agency are confidential and exempt from s.
17 119.07(1) and s. 24(a), Art. I of the State Constitution. This
18 exemption applies to all social security numbers held by an
19 agency before, on, or after the effective date of this
20 exemption.

21 4. Social security numbers may be disclosed to another
22 governmental entity or its agents, employees, or contractors
23 if disclosure is necessary for the receiving entity to perform
24 its duties and responsibilities. The receiving governmental
25 entity and its agents, employees, and contractors shall
26 maintain the confidential and exempt status of the ~~such~~
27 numbers.

28 5. An agency ~~may shall~~ not deny a commercial entity
29 engaged in the performance of a commercial activity as defined
30 in s. 14.203 or its agents, employees, or contractors access
31 to social security numbers, provided the social security

1 numbers will be used only in the normal course of business for
2 legitimate business purposes, and provided the commercial
3 entity makes a written request for social security numbers,
4 verified as provided in s. 92.525, legibly signed by an
5 authorized officer, employee, or agent of the commercial
6 entity. The verified written request must contain the
7 commercial entity's name, business mailing and location
8 addresses, business telephone number, and a statement of the
9 specific purposes for which it needs the social security
10 numbers and how the social security numbers will be used in
11 the normal course of business for legitimate business
12 purposes. The aggregate of these requests shall serve as the
13 basis for the agency report required in subparagraph 8. An
14 agency may request any other information reasonably necessary
15 to verify the identity of the entity requesting the social
16 security numbers and the specific purposes for which the ~~such~~
17 numbers will be used; however, an agency has no duty to
18 inquire beyond the information contained in the verified
19 written request. A legitimate business purpose includes
20 verification of the accuracy of personal information received
21 by a commercial entity in the normal course of its business;
22 use in a civil, criminal, or administrative proceeding; use
23 for insurance purposes; use in law enforcement and
24 investigation of crimes; use in identifying and preventing
25 fraud; use in matching, verifying, or retrieving information;
26 and use in research activities. A legitimate business purpose
27 does not include the display or bulk sale of social security
28 numbers to the general public or the distribution of such
29 numbers to any customer that is not identifiable by the
30 distributor.
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1 6. Any person who makes a false representation in
2 order to obtain a social security number pursuant to this
3 paragraph, or any person who willfully and knowingly violates
4 this paragraph, commits a felony of the third degree,
5 punishable as provided in s. 775.082 or s. 775.083. Any public
6 officer who violates this paragraph is guilty of a noncriminal
7 infraction, punishable by a fine not exceeding \$500. A
8 commercial entity that provides access to public records
9 containing social security numbers in accordance with this
10 paragraph is not subject to the penalty provisions of this
11 subparagraph.

12 7.a. On or after October 1, 2002, a person preparing
13 or filing a document to be recorded in the official records by
14 the county recorder as provided for in chapter 28 may not
15 include any person's social security number in that document,
16 unless otherwise expressly required by law. If a social
17 security number is or has been included in a document
18 presented to the county recorder for recording in the official
19 records of the county before, on, or after October 1, 2002, it
20 may be made available as part of the official record available
21 for public inspection and copying.

22 b. Any person, or his or her attorney or legal
23 guardian, has the right to request that a county recorder
24 remove, from an image or copy of an official record placed on
25 a county recorder's publicly available Internet website or a
26 publicly available Internet website used by a county recorder
27 to display public records or otherwise made electronically
28 available to the general public by such recorder, his or her
29 social security number contained in that official record. The
30 ~~Such~~ request must be made in writing, legibly signed by the
31 requester and delivered by mail, facsimile, or electronic

1 transmission, or delivered in person, to the county recorder.
2 The request must specify the identification page number that
3 contains the social security number to be redacted. The county
4 recorder has no duty to inquire beyond the written request to
5 verify the identity of a person requesting redaction. A fee
6 may ~~shall~~ not be charged for the redaction of a social
7 security number pursuant to such request.

8 c. A county recorder shall immediately and
9 conspicuously post signs throughout his or her offices for
10 public viewing and shall immediately and conspicuously post,
11 on any Internet website or remote electronic site made
12 available by the county recorder and used for the ordering or
13 display of official records or images or copies of official
14 records, a notice stating, in substantially similar form, the
15 following:

16 (I) On or after October 1, 2002, any person preparing
17 or filing a document for recordation in the official records
18 may not include a social security number in such document,
19 unless required by law.

20 (II) Any person has a right to request a county
21 recorder to remove, from an image or copy of an official
22 record placed on a county recorder's publicly available
23 Internet website or on a publicly available Internet website
24 used by a county recorder to display public records or
25 otherwise made electronically available to the general public,
26 any social security number contained in an official record.
27 Such request must be made in writing and delivered by mail,
28 facsimile, or electronic transmission, or delivered in person,
29 to the county recorder. The request must specify the
30 identification page number that contains the social security
31 number to be redacted. ~~A No fee~~ may not ~~will~~ be charged for

1 | the redaction of a social security number pursuant to such a
2 | request.

3 | d. Until January 1, ~~2009~~ 2007, if a social security
4 | number, made confidential and exempt pursuant to this
5 | paragraph, or a complete bank account, debit, charge, or
6 | credit card number made exempt pursuant to paragraph (b) is or
7 | has been included in a court file, such number may be included
8 | as part of the court record available for public inspection
9 | and copying unless redaction is requested by the holder of
10 | such number, or by the holder's attorney or legal guardian, in
11 | a signed, legibly written request specifying the case name,
12 | case number, document heading, and page number. The request
13 | must be delivered by mail, facsimile, electronic transmission,
14 | or in person to the clerk of the circuit court. The clerk of
15 | the circuit court does not have a duty to inquire beyond the
16 | written request to verify the identity of a person requesting
17 | redaction. A fee may not be charged for the redaction of a
18 | social security number or a bank account, debit, charge, or
19 | credit card number pursuant to such request. The clerk of the
20 | circuit court has no liability for the inadvertent release of
21 | confidential or exempt information unknown to the clerk of the
22 | circuit court in court records filed with the clerk of the
23 | circuit court on or before January 1, 2009. The clerk of the
24 | circuit court shall immediately and conspicuously post signs
25 | throughout his or her offices for public viewing and shall
26 | immediately and conspicuously post, on any Internet website or
27 | remote electronic site made available by the clerk of the
28 | circuit court, a notice stating, in substantially similar
29 | form, the following:

30 | (I) On or after October 1, 2006, any person preparing
31 | or filing a court document may not include a social security

1 number or a complete bank account, debit, charge, or credit
2 card number in such document, unless required by law or court
3 rule, or necessary to the adjudication of the case.

4 (II) Any person has a right to request that the clerk
5 of the circuit court remove from an image or copy of a court
6 document a social security number or complete bank account,
7 debit, charge, or credit card number contained in a court
8 document. Such request must be made in writing and delivered
9 by mail, facsimile, electronic transmission, or in person to
10 the clerk of the circuit court. The request must specify the
11 case number, the title of the document, and the identification
12 page number of the document which contains the number to be
13 redacted. A fee will not be charged for the redaction of a
14 social security number or a complete bank account, debit,
15 charge, or credit card number pursuant to such a request.

16 e. Any person who prepares or files a document to be
17 recorded in the official records by the county recorder as
18 provided in chapter 28 may not include a person's social
19 security number or complete bank account, debit, charge, or
20 credit card number in that document unless otherwise expressly
21 required by law. ~~Until January 1, 2007,~~ If a social security
22 number or a complete bank account, debit, charge, or credit
23 card number is or has been included in a document presented to
24 the county recorder for recording in the official records of
25 the county, such number may be made available as part of the
26 official record available for public inspection and copying.
27 Any person, or his or her attorney or legal guardian, may
28 request that a county recorder remove from an image or copy of
29 an official record placed on a county recorder's publicly
30 available Internet website, or a publicly available Internet
31 website used by a county recorder to display public records

1 outside the office or otherwise made electronically available
2 outside the county recorder's office to the general public,
3 his or her social security number or complete account, debit,
4 charge, or credit card number contained in that official
5 record. Such request must be legibly written, signed by the
6 requester, and delivered by mail, facsimile, electronic
7 transmission, or in person to the county recorder. The request
8 must specify the identification page number of the document
9 that contains the number to be redacted. The county recorder
10 does not have a duty to inquire beyond the written request to
11 verify the identity of a person requesting redaction. A fee
12 may not be charged for redacting such numbers. However, if the
13 county recorder accepts or stores official records in an
14 electronic format, the county recorder must use his or her
15 best efforts to redact all social security numbers or complete
16 bank account, debit, charge, or credit card numbers from
17 electronic copies of the official records documents. The use
18 of an automated program for redaction shall be deemed the best
19 effort and complies with the requirements of this
20 sub-subparagraph. The county recorder is not liable for the
21 inadvertent release of confidential or exempt information
22 which is unknown to the county recorder.

23 f. Subparagraphs 2. and 3. do not apply to the clerks
24 of the court or the county recorder with respect to circuit
25 court records and official records.

26 ~~g. On January 1, 2007, and thereafter, the clerk of~~
27 ~~the circuit court and the county recorder must keep complete~~
28 ~~bank account, debit, charge, and credit card numbers exempt as~~
29 ~~provided for in paragraph (b), and must keep social security~~
30 ~~numbers confidential and exempt as provided for in~~

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1 ~~subparagraph 3., without any person having to request~~
2 ~~redaction.~~

3 8. Beginning January 31, 2004, and each January 31
4 thereafter, every agency must file a report with the Secretary
5 of State, the President of the Senate, and the Speaker of the
6 House of Representatives listing the identity of all
7 commercial entities that have requested social security
8 numbers during the preceding calendar year and the specific
9 purpose or purposes stated by each commercial entity regarding
10 its need for social security numbers. If no disclosure
11 requests were made, the agency shall so indicate.

12 9. Any affected person may petition the circuit court
13 for an order directing compliance with this paragraph.

14 10. This paragraph does not supersede any other
15 applicable public records exemptions existing prior to May 13,
16 2002, or created thereafter.

17 11. This paragraph is subject to the Open Government
18 Sunset Review Act in accordance with s. 119.15 and shall stand
19 repealed October 2, 2007, unless reviewed and saved from
20 repeal through reenactment by the Legislature.

21 Section 2. For the purpose of incorporating the
22 amendments made by this act to section 119.071, Florida
23 Statutes, in a reference thereto, paragraph (b) of subsection
24 (8) of section 1007.35, Florida Statutes, is reenacted to
25 read:

26 1007.35 Florida Partnership for Minority and
27 Underrepresented Student Achievement.--

28 (8)

29 (b) The department shall contribute to the evaluation
30 process by providing access, consistent with s. 119.071(5)(a),
31 to student and teacher information necessary to match against

1 databases containing teacher professional development data and
2 databases containing assessment data for the PSAT/NMSQT, SAT,
3 AP, and other appropriate measures. The department shall also
4 provide student-level data on student progress from middle
5 school through high school and into college and the workforce,
6 if available, in order to support longitudinal studies. The
7 partnership shall analyze and report student performance data
8 in a manner that protects the rights of students and parents
9 as required in 20 U.S.C. s. 1232g and s. 1002.22.

10 Section 3. This act shall take effect July 1, 2006.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2366

4 The substantial changes made by the committee substitute to
5 the underlying bill:

6 -- Delete a change to s. 55.01(2), F.S., which would have
7 required final judgments to contain birth dates rather
8 than social security numbers;

9 -- Extend the deadline to January 1, 2009, from January 1,
10 2007, in existing s. 119.071(5)(a)7.d., F.S., by which
11 clerks of court must automatically redact social
12 security, bank account, credit, and debit card numbers
13 from court records;

14 -- Provide court clerks and county recorders with immunity
15 from liability for inadvertent releases of confidential
16 information;

17 -- Require court clerks to post a notice stating that the
18 inclusion of social security, bank account, credit, and
19 debit card numbers in court documents is prohibited
20 unless required by law;

21 -- Require court clerks to post a notice informing the
22 public of their rights to request the redaction of social
23 security, bank account, credit, and debit card numbers
24 from court documents;

25 -- Delete the date of January 1, 2007, from existing s.
26 119.071(5)(a)7.e., F.S., which was the date by which
27 county recorders must keep social security, bank account,
28 credit, and debit card numbers confidential;

29 -- Require county recorders that store official records
30 electronically to use an automated program to redact
31 social security, bank account, credit, and debit card
numbers;

-- Reinstate existing law in s. 119.071(5)(a)7.f., F.S.,
which makes subparagraphs 2. and 3. inapplicable to
clerks of court and county recorders; and

-- Remove provisions relating to reference sheets containing
confidential information applicable to a filing with a
clerk of court.