

By Senator Villalobos

38-1358-07

See HB 463

1 A bill to be entitled
2 An act relating to public-records and
3 public-meetings exemptions; amending s.
4 1006.20, F.S.; exempting from public-records
5 requirements the finding of a drug test
6 administered to a student by a testing agency
7 with which the Florida High School Athletic
8 Association has contracted; exempting from
9 public-meetings requirements a meeting at which
10 a challenge or an appeal is made; providing for
11 future review and repeal; providing a statement
12 of public necessity; providing a contingent
13 effective date.

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

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17 Section 1. Paragraphs (b) and (h) of subsection (10)
18 of section 1006.20, Florida Statutes, as created by HB 461,
19 2007 Regular Session, are amended to read:

20 1006.20 Athletics in public K-12 schools.--

21 (10) RANDOM DRUG TESTING PROGRAM.--

22 (b) The organization's board of directors shall
23 establish procedures for the conduct of the program that, at a
24 minimum, shall provide for the following:

25 1. The organization shall select and enter into a
26 contract with a testing agency that will administer the
27 testing program. The laboratory utilized by the testing agency
28 to analyze specimens shall be accredited by the World
29 Anti-Doping Agency.

30 2. Each member school shall report to the organization
31 the names of all students who will represent the school in

1 | football, baseball, and weightlifting. A student shall not be
2 | eligible to participate in interscholastic athletics in any of
3 | these sports in a member school until the student's name has
4 | been reported to the organization by the school.

5 | 3. The organization shall provide to the testing
6 | agency all names of students that are submitted by its member
7 | schools. A maximum of 1 percent of the total number of
8 | students who participate in football, baseball, and
9 | weightlifting shall be randomly selected by the testing agency
10 | to undergo testing.

11 | 4. The testing agency shall notify not fewer than 7
12 | days in advance both the administration of a school and the
13 | organization of the date on which its representatives will be
14 | present at the school to collect a specimen from a randomly
15 | selected student. However, the name of the student from which
16 | a specimen is to be collected shall not be disclosed.

17 | 5. The finding of a drug test shall be separate from a
18 | student's educational records and shall be disclosed by the
19 | testing agency only to the organization, the student, the
20 | student's parent, the administration of the student's school,
21 | and the administration of any school to which the student may
22 | transfer during a suspension from participation in
23 | interscholastic athletics resulting from a positive finding.

24 | 6. The finding of each drug test held by a school or
25 | the organization pursuant to subparagraph 5. is confidential
26 | and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
27 | Constitution. This subparagraph is subject to the Open
28 | Government Sunset Review Act in accordance with s. 119.15 and
29 | shall stand repealed on October 2, 2012, unless reviewed and
30 | saved from repeal through reenactment by the Legislature.

31 |

1 (h) The following due process shall be afforded each
2 student who tests positive in a test administered under this
3 subsection:

4 1. The member school may challenge a positive finding
5 and must challenge a positive finding at the request of the
6 student. A sample of the original specimen provided by the
7 student and retained by the testing agency shall be analyzed.
8 The member school or the student's parent shall pay the cost
9 of the analysis. If the analysis results in a positive
10 finding, the student shall remain ineligible until the
11 prescribed penalty is fulfilled. If the analysis results in a
12 negative finding, the organization shall immediately restore
13 the eligibility of the student and shall refund to the member
14 school or student's parent the cost of the analysis. The
15 student shall remain suspended from interscholastic athletic
16 practice and competition during the challenge.

17 2.a. The member school may appeal to the
18 organization's commissioner the period of ineligibility
19 imposed on a student as a result of a positive finding and
20 must appeal at the request of the student. The commissioner
21 may require the student to complete the prescribed penalty,
22 reduce the prescribed penalty by one-half, or provide complete
23 relief from the prescribed penalty.

24 b. Should the member school or student be dissatisfied
25 with the decision of the commissioner, the school may pursue
26 the appeal before the organization's board of directors and
27 must do so at the request of the student. The board of
28 directors may require the student to complete the prescribed
29 penalty, reduce the prescribed penalty by one-half, or provide
30 complete relief from the prescribed penalty. The decision of
31 the board of directors on each appeal shall be final.

1 c. Technical experts may serve as consultants to both
2 the organization's commissioner and its board of directors in
3 connection with such appeals.

4 3. The challenge and appeal procedures described in
5 this paragraph are exempt from s. 286.011 and s. 24(b), Art. I
6 of the State Constitution. This subparagraph is subject to the
7 Open Government Sunset Review Act in accordance with s. 119.15
8 and shall stand repealed on October 2, 2012, unless reviewed
9 and saved from repeal through reenactment by the Legislature.

10 Section 2. The Legislature finds that it is a public
11 necessity that the finding of a drug test administered by a
12 testing agency with which the Florida High School Athletic
13 Association has contracted which has been disclosed to the
14 association or the administration of a school, pursuant to s.
15 1006.20(10), Florida Statutes, be made confidential and exempt
16 from public-records requirements. The Legislature finds that
17 harm caused by releasing such information outweighs any public
18 benefit that might be derived from releasing the information.
19 Such information is of a sensitive and personal nature, could
20 be used to discriminate against a student, and could cause
21 harm to a student's reputation. The Legislature further finds
22 that it is a public necessity that a meeting at which a
23 challenge to a positive finding is made or an appeal is made
24 to the Florida High School Athletic Association's commissioner
25 or board of directors regarding the period of student
26 ineligibility, pursuant to s. 1006.20(10), Florida Statutes,
27 be made exempt from public-meetings requirements. The
28 Legislature finds that the exemption of these proceedings from
29 public-meetings requirements minimizes the possibility of
30 unnecessary scrutiny by the public or media of sensitive,
31 personal information concerning a student. Furthermore,

1 without such exemption, release of confidential and exempt
2 information via a public meeting defeats the purpose of the
3 public-records exemption.

4 Section 3. This act shall take effect on the same date
5 that SB ___ or similar legislation takes effect, if such
6 legislation is adopted in the same legislative session or an
7 extension thereof and becomes law.

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