

A bill to be entitled

An act relating to public records and public meetings exemptions; amending s. 1006.20, F.S.; exempting from public records requirements the finding of a drug test administered to a student by a testing agency with which the Florida High School Athletic Association has contracted; exempting from public meetings requirements a meeting at which a challenge or an appeal is made; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

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

1006.20 Athletics in public K-12 schools.--

(10) RANDOM DRUG TESTING PROGRAM.--

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

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

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

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29 | baseball, and weightlifting. A student shall not be eligible to
30 | participate in interscholastic athletics in any of these sports
31 | in a member school until the student's name has been reported to
32 | the organization by the school.

33 | 3. The organization shall provide to the testing agency
34 | all names of students that are submitted by its member schools.
35 | A maximum of 1 percent of the total number of students who
36 | participate in football, baseball, and weightlifting shall be
37 | randomly selected by the testing agency to undergo testing.

38 | 4. The testing agency shall notify not fewer than 7 days
39 | in advance both the administration of a school and the
40 | organization of the date on which its representatives will be
41 | present at the school to collect a specimen from a randomly
42 | selected student. However, the name of the student from which a
43 | specimen is to be collected shall not be disclosed.

44 | 5. The finding of a drug test shall be separate from a
45 | student's educational records and shall be disclosed by the
46 | testing agency only to the organization, the student, the
47 | student's parent, the administration of the student's school,
48 | and the administration of any school to which the student may
49 | transfer during a suspension from participation in
50 | interscholastic athletics resulting from a positive finding.

51 | 6. The finding of each drug test held by a school or the
52 | organization pursuant to subparagraph 5. is confidential and
53 | exempt from s. 119.07(1) and s. 24(a), Art. I of the State
54 | Constitution. This subparagraph is subject to the Open
55 | Government Sunset Review Act in accordance with s. 119.15 and
56 | shall stand repealed on October 2, 2012, unless reviewed and

57 saved from repeal through reenactment by the Legislature.

58 (h) The following due process shall be afforded each
59 student who tests positive in a test administered under this
60 subsection:

61 1. The member school may challenge a positive finding and
62 must challenge a positive finding at the request of the student.
63 A sample of the original specimen provided by the student and
64 retained by the testing agency shall be analyzed. The member
65 school or the student's parent shall pay the cost of the
66 analysis. If the analysis results in a positive finding, the
67 student shall remain ineligible until the prescribed penalty is
68 fulfilled. If the analysis results in a negative finding, the
69 organization shall immediately restore the eligibility of the
70 student and shall refund to the member school or student's
71 parent the cost of the analysis. The student shall remain
72 suspended from interscholastic athletic practice and competition
73 during the challenge.

74 2.a. The member school may appeal to the organization's
75 commissioner the period of ineligibility imposed on a student as
76 a result of a positive finding and must appeal at the request of
77 the student. The commissioner may require the student to
78 complete the prescribed penalty, reduce the prescribed penalty
79 by one-half, or provide complete relief from the prescribed
80 penalty.

81 b. Should the member school or student be dissatisfied
82 with the decision of the commissioner, the school may pursue the
83 appeal before the organization's board of directors and must do
84 so at the request of the student. The board of directors may

85 require the student to complete the prescribed penalty, reduce
86 the prescribed penalty by one-half, or provide complete relief
87 from the prescribed penalty. The decision of the board of
88 directors on each appeal shall be final.

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

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

98 Section 2. The Legislature finds that it is a public
99 necessity that the finding of a drug test administered by a
100 testing agency with which the Florida High School Athletic
101 Association has contracted that has been disclosed to the
102 association or the administration of a school, pursuant to s.
103 1006.20(10), Florida Statutes, be made confidential and exempt
104 from public records requirements. The Legislature finds that
105 harm caused by releasing such information outweighs any public
106 benefit that might be derived from releasing the information.
107 Such information is of a sensitive and personal nature, could be
108 used to discriminate against a student, and could cause harm to
109 a student's reputation. The Legislature further finds that it is
110 a public necessity that a meeting at which a challenge to a
111 positive finding is made or an appeal is made to the Florida
112 High School Athletic Association's commissioner or board of

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113 directors regarding the period of student ineligibility,
114 pursuant to s. 1006.20(10), Florida Statutes, be made exempt
115 from public meetings requirements. The Legislature finds that
116 the exemption of these proceedings from public meetings
117 requirements minimizes the possibility of unnecessary scrutiny
118 by the public or media of sensitive, personal information
119 concerning a student. Furthermore, without such exemption,
120 release of confidential and exempt information via a public
121 meeting defeats the purpose of the public records exemption.

122 Section 3. This act shall take effect on the same date
123 that HB 461 or similar legislation takes effect, if such
124 legislation is adopted in the same legislative session or an
125 extension thereof and becomes law.