

By the Committees on Governmental Oversight and Accountability;
and Governmental Oversight and Accountability

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1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 119.071, F.S.;;
4 providing that social security numbers of current and
5 former agency employees held by the employing agency
6 are confidential and exempt from public-records
7 requirements; providing for future review and repeal
8 of the exemption; requiring that an agency identify in
9 writing the specific federal or state laws governing
10 the collection, use, and release of social security
11 numbers and ensure compliance therewith; requiring
12 notice as to whether collection of a social security
13 number is authorized or mandatory under federal or
14 state law; delineating conditions under which social
15 security numbers held by an agency may be disclosed;
16 redefining the term "commercial activity" for purposes
17 of provisions authorizing the disclosure of a social
18 security number under limited circumstances;
19 eliminating provisions requiring that agencies report
20 requests for social security numbers by commercial
21 entities; clarifying that specified provisions do not
22 supersede federal or state requirements regarding the
23 collection, use, or release of social security
24 numbers; reenacting ss. 119.0714(1)(i), (2)(e), and
25 (3)(b) and 1007.35(8)(b), F.S., relating to social
26 security numbers contained in records that are made
27 part of a court file, a future requirement of court
28 clerks to keep social security numbers confidential
29 and exempt without a request for redaction and

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30 specified nonapplicability to court clerks with
31 respect to court records, the availability of social
32 security numbers as part of official records, a future
33 requirement of county recorders to keep social
34 security numbers confidential and exempt without a
35 request for redaction and specified nonapplicability
36 to county recorders with respect to official records,
37 and access to specified information under the Florida
38 Partnership for Minority and Underrepresented Student
39 Achievement, respectively, for the purpose of
40 incorporating the amendment to s. 119.071, F.S., in
41 references thereto; providing a statement of public
42 necessity; providing an effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Paragraph (a) of subsection (4) and paragraph
47 (a) of subsection (5) of section 119.071, Florida Statutes, are
48 amended to read:

49 119.071 General exemptions from inspection or copying of
50 public records.—

51 (4) AGENCY PERSONNEL INFORMATION.—

52 (a)~~1~~. The social security numbers of all current and former
53 agency employees which numbers are held by the employing
54 ~~contained in agency employment records~~ are confidential and
55 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
56 Constitution. This paragraph is subject to the Open Government
57 Sunset Review Act in accordance with s. 119.15 and shall stand
58 repealed on October 2, 2014, unless reviewed and saved from

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59 repeal through reenactment by the Legislature.

60 ~~2. An agency that is the custodian of a social security~~
61 ~~number specified in subparagraph 1. and that is not the~~
62 ~~employing agency shall maintain the exempt status of the social~~
63 ~~security number only if the employee or the employing agency of~~
64 ~~the employee submits a written request for confidentiality to~~
65 ~~the custodial agency. However, upon a request by a commercial~~
66 ~~entity as provided in sub-subparagraph (5)(a)7.b., the custodial~~
67 ~~agency shall release the last four digits of the exempt social~~
68 ~~security number, except that a social security number provided~~
69 ~~in a lien filed with the Department of State shall be released~~
70 ~~in its entirety. This subparagraph is subject to the Open~~
71 ~~Government Sunset Review Act in accordance with s. 119.15 and~~
72 ~~shall stand repealed on October 2, 2009, unless reviewed and~~
73 ~~saved from repeal through reenactment by the Legislature.~~

74 (5) OTHER PERSONAL INFORMATION.—

75 (a)1.a. The Legislature acknowledges that the social
76 security number was never intended to be used for business
77 purposes but was intended to be used solely for the
78 administration of the federal Social Security System. The
79 Legislature is further aware that over time this unique numeric
80 identifier has been used extensively for identity verification
81 purposes and other legitimate consensual purposes.

82 b. The Legislature recognizes that the social security
83 number can be used as a tool to perpetuate fraud against an
84 individual and to acquire sensitive personal, financial,
85 medical, and familial information, the release of which could
86 cause great financial or personal harm to an individual.

87 c. The Legislature intends to monitor the use of social

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88 security numbers held by agencies in order to maintain a
89 balanced public policy.

90 2.a. An agency may not collect an individual's social
91 security number unless the agency has stated in writing the
92 purpose for its collection and unless it is:

93 (I) Specifically authorized by law to do so; or

94 (II) Imperative for the performance of that agency's duties
95 and responsibilities as prescribed by law.

96 b. An agency shall identify in writing the specific federal
97 or state law governing the collection, use, or release of social
98 security numbers for each purpose for which the agency collects
99 the social security number, including any authorized exceptions
100 that apply to such collection, use, or release. Each agency
101 shall ensure that the collection, use, or release of social
102 security numbers complies with the specific applicable federal
103 or state law.

104 ~~c.b.~~ Social security numbers collected by an agency may not
105 be used by that agency for any purpose other than the purpose
106 provided in the written statement.

107 3. An agency collecting an individual's social security
108 number shall provide that individual with a copy of the written
109 statement required in subparagraph 2. The written statement also
110 shall state whether collection of the individual's social
111 security number is authorized or mandatory under federal or
112 state law.

113 4.~~a.~~ Each agency shall review whether its collection of
114 social security numbers is in compliance with subparagraph 2. If
115 the agency determines that collection of a social security
116 number is not in compliance with subparagraph 2., the agency

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117 shall immediately discontinue the collection of social security
118 numbers for that purpose.

119 ~~b. Each agency shall certify to the President of the Senate
120 and the Speaker of the House of Representatives its compliance
121 with this subparagraph no later than January 31, 2008.~~

122 5. Social security numbers held by an agency are
123 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
124 of the State Constitution. This exemption applies to social
125 security numbers held by an agency before, on, or after the
126 effective date of this exemption. This exemption does not
127 supersede any federal law prohibiting the release of social
128 security numbers or any other applicable public-records
129 exemption for social security numbers existing prior to May 13,
130 2002, or created thereafter.

131 6. Social security numbers held by an agency may be
132 disclosed if any of the following apply: ~~to another agency or~~
133 ~~governmental entity if disclosure is necessary for the receiving~~
134 ~~agency or entity to perform its duties and responsibilities.~~

135 a. The disclosure of the social security number is
136 expressly required by federal or state law or a court order.

137 b. The disclosure of the social security number is
138 necessary for the receiving agency or governmental entity to
139 perform its duties and responsibilities.

140 c. The individual expressly consents in writing to the
141 disclosure of his or her social security number.

142 d. The disclosure of the social security number is made to
143 comply with the USA Patriot Act of 2001, Pub. L. No. 107-56, or
144 Presidential Executive Order 13224.

145 e. The disclosure of the social security number is made to

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146 a commercial entity for the permissible uses set forth in the
147 federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss.
148 2721 et seq., the Fair Credit Reporting Act, 15 U.S.C. ss. 1681
149 et seq., or the Financial Services Modernization Act of 1999, 15
150 U.S.C. ss. 6801 et seq., provided that the authorized commercial
151 entity complies with the requirements of this paragraph.

152 f. The disclosure of the social security number is for the
153 purpose of the administration of health benefits for an agency
154 employee or his or her dependents.

155 g. The disclosure of the social security number is for the
156 purpose of the administration of a pension fund administered for
157 the agency employee's retirement fund, deferred compensation
158 plan, or defined contribution plan.

159 h. The disclosure of the social security number is for the
160 purpose of the administration of the Uniform Commercial Code by
161 the office of the Secretary of State.

162 7.a. For purposes of this subsection, the term:

163 (I) "Commercial activity" means the permissible uses set
164 forth in the federal Driver's Privacy Protection Act of 1994, 18
165 U.S.C. ss. 2721 et seq., the Fair Credit Reporting Act, 15
166 U.S.C. ss. 1681 et seq., or the Financial Services Modernization
167 Act of 1999, 15 U.S.C. ss. 6801 et seq., or ~~provision of a~~
168 lawful product or service by a commercial entity. Commercial
169 activity ~~includes~~ verification of the accuracy of personal
170 information received by a commercial entity in the normal course
171 of its business, including identification or prevention of fraud
172 ~~or; use for insurance purposes; use in identifying and~~
173 ~~preventing fraud; use in~~ matching, verifying, or retrieving
174 information; ~~and use in research activities.~~ It does not include

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175 the display or bulk sale of social security numbers to the
176 public or the distribution of such numbers to any customer that
177 is not identifiable by the commercial entity.

178 (II) "Commercial entity" means any corporation,
179 partnership, limited partnership, proprietorship, sole
180 proprietorship, firm, enterprise, franchise, or association that
181 performs a commercial activity in this state.

182 b. An agency may not deny a commercial entity engaged in
183 the performance of a commercial activity access to social
184 security numbers, provided the social security numbers will be
185 used only in the performance of a commercial activity and
186 provided the commercial entity makes a written request for the
187 social security numbers. The written request must:

188 (I) Be verified as provided in s. 92.525;

189 (II) Be legibly signed by an authorized officer, employee,
190 or agent of the commercial entity;

191 (III) Contain the commercial entity's name, business
192 mailing and location addresses, and business telephone number;
193 and

194 (IV) Contain a statement of the specific purposes for which
195 it needs the social security numbers and how the social security
196 numbers will be used in the performance of a commercial
197 activity, including the identification of any specific federal
198 or state law that permits such use. ~~The aggregate of these~~
199 ~~requests shall serve as the basis for the agency report required~~
200 ~~in subparagraph 9.~~

201 c. An agency may request any other information reasonably
202 necessary to verify the identity of a commercial entity
203 requesting the social security numbers and the specific purposes

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204 for which the numbers will be used.

205 8.a. Any person who makes a false representation in order
206 to obtain a social security number pursuant to this paragraph,
207 or any person who willfully and knowingly violates this
208 paragraph, commits a felony of the third degree, punishable as
209 provided in s. 775.082 or s. 775.083.

210 b. Any public officer who violates this paragraph commits a
211 noncriminal infraction, punishable by a fine not exceeding \$500
212 per violation.

213 ~~9.a. Every agency shall file a report with the Executive~~
214 ~~Office of the Governor, the President of the Senate, and the~~
215 ~~Speaker of the House of Representatives by January 31 of each~~
216 ~~year.~~

217 ~~b. The report required under sub-subparagraph a. shall~~
218 ~~list:~~

219 ~~(I) The identity of all commercial entities that have~~
220 ~~requested social security numbers during the preceding calendar~~
221 ~~year; and~~

222 ~~(II) The specific purpose or purposes stated by each~~
223 ~~commercial entity regarding its need for social security~~
224 ~~numbers.~~

225 ~~e. If no disclosure requests were made, the agency shall so~~
226 ~~indicate.~~

227 9.10. Any affected person may petition the circuit court
228 for an order directing compliance with this paragraph.

229 ~~11. This paragraph does not supersede any other applicable~~
230 ~~public records exemptions existing prior to May 13, 2002, or~~
231 ~~created thereafter.~~

232 Section 2. For the purpose of incorporating the amendments

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233 made by this act to section 119.071, Florida Statutes, in
234 references thereto, paragraph (i) of subsection (1), paragraph
235 (e) of subsection (2), and paragraph (b) of subsection (3) of
236 section 119.0714, Florida Statutes, are reenacted to read:

237 119.0714 Court files; court records; official records.—

238 (1) COURT FILES.—Nothing in this chapter shall be construed
239 to exempt from s. 119.07(1) a public record that was made a part
240 of a court file and that is not specifically closed by order of
241 court, except:

242 (i) Social security numbers as provided in s.
243 119.071(5)(a).

244 (2) COURT RECORDS.—

245 (e)1. On January 1, 2011, and thereafter, the clerk of the
246 court must keep social security numbers confidential and exempt
247 as provided for in s. 119.071(5)(a), and bank account, debit,
248 charge, and credit card numbers exempt as provided for in s.
249 119.071(5)(b), without any person having to request redaction.

250 2. Section 119.071(5)(a)7. and 8. does not apply to the
251 clerks of the court with respect to court records.

252 (3) OFFICIAL RECORDS.—

253 (b)1. If a social security number or a bank account, debit,
254 charge, or credit card number is included in an official record,
255 such number may be made available as part of the official
256 records available for public inspection and copying unless
257 redaction is requested by the holder of such number or by the
258 holder's attorney or legal guardian.

259 2. If such record is in electronic format, on January 1,
260 2011, and thereafter, the county recorder must use his or her
261 best effort, as provided in paragraph (h), to keep social

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262 security numbers confidential and exempt as provided for in s.
263 119.071(5)(a), and to keep complete bank account, debit, charge,
264 and credit card numbers exempt as provided for in s.
265 119.071(5)(b), without any person having to request redaction.

266 3. Section 119.071(5)(a)7. and 8. does not apply to the
267 county recorder with respect to official records.

268 Section 3. For the purpose of incorporating the amendments
269 made by this act to section 119.071, Florida Statutes, in a
270 reference thereto, paragraph (b) of subsection (8) of section
271 1007.35, Florida Statutes, is reenacted to read:

272 1007.35 Florida Partnership for Minority and
273 Underrepresented Student Achievement.—

274 (8)

275 (b) The department shall contribute to the evaluation
276 process by providing access, consistent with s. 119.071(5)(a),
277 to student and teacher information necessary to match against
278 databases containing teacher professional development data and
279 databases containing assessment data for the PSAT/NMSQT, SAT,
280 AP, and other appropriate measures. The department shall also
281 provide student-level data on student progress from middle
282 school through high school and into college and the workforce,
283 if available, in order to support longitudinal studies. The
284 partnership shall analyze and report student performance data in
285 a manner that protects the rights of students and parents as
286 required in 20 U.S.C. s. 1232g and s. 1002.22.

287 Section 4. The Legislature finds that it is a public
288 necessity that agency employee social security numbers be made
289 confidential and exempt from s. 119.07(1), Florida Statutes, and
290 s. 24(a), Article I of the State Constitution. The Legislature

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291 notes that the lawful collection, use, or release of social
292 security numbers requires knowledge of a variety of complex
293 federal requirements that must be applied differently in various
294 circumstances. Federal requirements for the collection, use, or
295 release may differ from agency to agency depending upon the
296 purpose or use for which the number was collected. The
297 Legislature finds that compliance with applicable federal
298 requirements regarding the collection, use, or release of social
299 security numbers requires that agency employee social security
300 numbers be made confidential and exempt.

301 Section 5. This act shall take effect October 1, 2009.