

By the Committee on Education Pre-K - 12; and Senator Detert

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 1008.24, F.S.; providing an exemption from public-
4 records requirements for personally identifiable
5 information or allegations of misconduct obtained or
6 reported in connection with an investigation of a
7 testing impropriety conducted by the Department of
8 Education; providing that the exemption applies until
9 the investigation is concluded or becomes inactive;
10 providing for future legislative review and repeal of
11 the exemption under the Open Government Sunset Review
12 Act; providing a statement of public necessity;
13 providing an 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. Subsection (3) of section 1008.24, Florida
18 Statutes, is amended to read:

19 1008.24 Test security.—

20 (3) (a) A district school superintendent, a president of a
21 public postsecondary educational institution, or a president of
22 a nonpublic postsecondary educational institution shall
23 cooperate with the Commissioner of Education in any
24 investigation concerning the administration of a test
25 administered pursuant to state statute or rule.

26 (b) The identity of a school or postsecondary institution,
27 the personally identifiable information of any personnel of any
28 school district or postsecondary institution, or any specific
29 allegations of misconduct obtained or reported pursuant to an

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30 investigation conducted by the Department of Education of a
31 testing impropriety are confidential and exempt from the
32 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
33 Constitution until the conclusion of the investigation or until
34 such time as the investigation ceases to be active. For the
35 purpose of this paragraph, an investigation shall be deemed
36 concluded upon a finding that no impropriety has occurred, upon
37 the conclusion of any resulting preliminary investigation
38 pursuant to s. 1012.796, upon the completion of any resulting
39 investigation by a law enforcement agency, or upon the referral
40 of the matter to an employer who has the authority to take
41 disciplinary action against an individual who is suspected of a
42 testing impropriety. For the purpose of this paragraph, an
43 investigation shall be considered active so long as it is
44 ongoing and there is a reasonable, good faith anticipation that
45 an administrative finding will be made in the foreseeable
46 future. This paragraph is subject to the Open Government Sunset
47 Review Act in accordance with s. 119.15, and shall stand
48 repealed on October 2, 2014, unless reviewed and saved from
49 repeal through reenactment by the Legislature.

50 Section 2. The Legislature finds that it is a public
51 necessity that certain records related to the investigation of a
52 testing impropriety, which are held by the Department of
53 Education, be made confidential and exempt from public-records
54 requirements until an investigation conducted by the department
55 is concluded or until such investigation becomes inactive. The
56 decisions relating to accountability and to testing in Florida
57 are of statewide interest and there is a strong public interest
58 in the circumstances surrounding an investigation of a testing

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59 impropriety, including the identity of a school or postsecondary
60 institution and the actions by teachers, administrators,
61 paraprofessionals, or other individuals which must be uncovered
62 through a comprehensive investigation that may involve
63 statistical and other analyses. The release of information
64 before an investigation is concluded may reveal sensitive or
65 personal information that could cause unwarranted damage to the
66 names or reputations of the individuals involved.

67 Section 3. This act shall take effect July 1, 2009.