

By Senator Fasano

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 1012.31, F.S.; exempting from public-records
 4 requirements personal identifying information
 5 regarding the health and benefit coverage of public
 6 school employees, including employees of charter
 7 schools, charter technical career centers, the Florida
 8 School for the Deaf and the Blind, the Florida Virtual
 9 School, and developmental research schools; providing
 10 for future legislative review and repeal of the
 11 exemption under the Open Government Sunset Review Act;
 12 providing a finding of public necessity; providing an
 13 effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Paragraph (a) of subsection (3) of section
 18 1012.31, Florida Statutes, is amended to read:

19 1012.31 Personnel files.—Public school system employee
 20 personnel files shall be maintained according to the following
 21 provisions:

22 (3) (a) Public school system employee personnel files are
 23 subject to the provisions of s. 119.07(1), except as follows:

- 24 1. Any complaint and any material relating to the
 25 investigation of a complaint against an employee shall be
 26 confidential and exempt from the provisions of s. 119.07(1)
 27 until the conclusion of the preliminary investigation or until
 28 such time as the preliminary investigation ceases to be active.
 29 If the preliminary investigation is concluded with the finding

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30 that there is no probable cause to proceed further and with no
31 disciplinary action taken or charges filed, a statement to that
32 effect signed by the responsible investigating official shall be
33 attached to the complaint, and the complaint and all such
34 materials shall be open thereafter to inspection pursuant to s.
35 119.07(1). If the preliminary investigation is concluded with
36 the finding that there is probable cause to proceed further or
37 with disciplinary action taken or charges filed, the complaint
38 and all such materials shall be open thereafter to inspection
39 pursuant to s. 119.07(1). If the preliminary investigation
40 ceases to be active, the complaint and all such materials shall
41 be open thereafter to inspection pursuant to s. 119.07(1). For
42 the purpose of this subsection, a preliminary investigation
43 shall be considered active as long as it is continuing with a
44 reasonable, good faith anticipation that an administrative
45 finding will be made in the foreseeable future. An investigation
46 shall be presumed to be inactive if no finding relating to
47 probable cause is made within 60 days after the complaint is
48 made.

49 2. An employee evaluation prepared pursuant to s. 1012.33,
50 s. 1012.34, or s. 1012.56 or rules adopted by the State Board of
51 Education or district school board under the authority of those
52 sections shall be confidential and exempt from the provisions of
53 s. 119.07(1) until the end of the school year immediately
54 following the school year in which the evaluation was made. No
55 evaluation prepared before July 1, 1983, shall be made public
56 pursuant to this section.

57 3. No material derogatory to an employee shall be open to
58 inspection until 10 days after the employee has been notified

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59 pursuant to paragraph (2)(c).

60 4. The payroll deduction records of an employee shall be
61 confidential and exempt from the provisions of s. 119.07(1).

62 5. Employee medical records, including psychiatric and
63 psychological records, shall be confidential and exempt from the
64 provisions of s. 119.07(1); however, at any hearing relative to
65 the competency or performance of an employee, the administrative
66 law judge, hearing officer, or panel shall have access to such
67 records.

68 6. Any personal identifying information, including, but not
69 limited to, the name, address, e-mail address, and telephone
70 numbers, relating to the health and benefit coverage of an
71 employee and his or her spouse and dependents is confidential
72 and exempt from the provisions of s. 119.07(1) and s. 24(a),
73 Art. I of the State Constitution. This exemption also applies to
74 employees of charter schools and charter technical career
75 centers in this state, the Florida School for the Deaf and the
76 Blind, the Florida Virtual School, and developmental research
77 (laboratory) schools created under s. 1002.32.

78 Section 2. Subparagraph 6. of paragraph (a) of subsection
79 (3) of section 1012.31, Florida Statutes, is subject to the Open
80 Government Sunset Review Act in accordance with s. 119.15,
81 Florida Statutes, and shall stand repealed on October 2, 2014,
82 unless reviewed and saved from repeal through reenactment by the
83 Legislature.

84 Section 3. The Legislature finds that it is a public
85 necessity that personal identifying information relating to the
86 health and benefit coverage of employees of the public school
87 system and their spouses and dependents, including employees of

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88 charter schools, charter technical career centers, the Florida
89 School for the Deaf and the Blind, the Florida Virtual School,
90 and developmental research schools, be made exempt from
91 disclosure because release of this information would allow
92 providers who are not approved by a school district or a school
93 to contact employees in order to offer unapproved insurance or
94 benefit products. This would be very confusing to employees
95 because there are already a number of choices to be made in this
96 area. Also, if identifying information is released, anyone could
97 find out how much insurance coverage and the types of benefits
98 an employee has with a provider. Release of this information to
99 unapproved providers could prove detrimental to the overall
100 effectiveness and efficiency of the acquisition of health and
101 benefit coverage for the employees of a school district, charter
102 school, charter technical career center, the Florida School for
103 the Deaf and the Blind, the Florida Virtual School, or
104 developmental research schools. Moreover, employees have a
105 reasonable expectation of privacy with respect to personal
106 identifying information if the purpose of its release is for the
107 profit of a commercial business or to aid in constructing a
108 database of customers.

109 Section 4. This act shall take effect upon becoming a law.