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

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

41

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

43

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

47 119.071 General exemptions from inspection or copying of
 48 public records.--

49 (4) AGENCY PERSONNEL INFORMATION.--

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

57 | repeal through reenactment by the Legislature.

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

72 | (5) OTHER PERSONAL INFORMATION.--

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

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

85 c. The Legislature intends to monitor the use of social
 86 security numbers held by agencies in order to maintain a
 87 balanced public policy.

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

- 91 (I) Specifically authorized by law to do so; or
- 92 (II) Imperative for the performance of that agency's
 93 duties and responsibilities as prescribed by law.

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

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

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

111 4.a. Each agency shall review whether its collection of
 112 social security numbers is in compliance with subparagraph 2. If

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113 the agency determines that collection of a social security
114 number is not in compliance with subparagraph 2., the agency
115 shall immediately discontinue the collection of social security
116 numbers for that purpose.

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

121 5. Social security numbers held by an agency are
122 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
123 of the State Constitution. This exemption applies to social
124 security numbers held by an agency before, on, or after the
125 effective date of this exemption.

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

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

132 b. The disclosure of the social security number is
133 necessary for the receiving agency or governmental entity to
134 perform its duties and responsibilities.

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

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

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

141 a commercial entity for the permissible uses set forth in the
 142 federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss.
 143 2721 et seq., the Fair Credit Reporting Act, 15 U.S.C. ss. 1681
 144 et seq., or the Financial Services Modernization Act of 1999, 15
 145 U.S.C. ss. 6801 et seq., provided that the authorized commercial
 146 entity complies with the requirements of this paragraph.

147 f. The disclosure of the social security number is for the
 148 purpose of the administration of health benefits for an agency
 149 employee or his or her dependents.

150 g. The disclosure of the social security number is for the
 151 purpose of the administration of a pension fund administered for
 152 the agency employee's retirement fund, deferred compensation
 153 plan, or defined contribution plan.

154 h. The disclosure of the social security number is for the
 155 purpose of the administration of the Uniform Commercial Code by
 156 the office of the Secretary of State.

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

158 (I) "Commercial activity" means the permissible uses set
 159 forth in the federal Driver's Privacy Protection Act of 1994, 18
 160 U.S.C. ss. 2721 et seq., the Fair Credit Reporting Act, 15
 161 U.S.C. ss. 1681 et seq., or the Financial Services Modernization
 162 Act of 1999, 15 U.S.C. ss. 6801 et seq., or ~~provision of a~~
 163 ~~lawful product or service by a commercial entity. Commercial~~
 164 ~~activity includes~~ verification of the accuracy of personal
 165 information received by a commercial entity in the normal course
 166 of its business, including identification or prevention of
 167 ~~fraud; use for insurance purposes; use in identifying and~~
 168 ~~preventing fraud; use in matching, verifying, or retrieving~~

169 ~~information; and use in research activities.~~ It does not include
 170 the display or bulk sale of social security numbers to the
 171 public or the distribution of such numbers to any customer that
 172 is not identifiable by the commercial entity.

173 (II) "Commercial entity" means any corporation,
 174 partnership, limited partnership, proprietorship, sole
 175 proprietorship, firm, enterprise, franchise, or association that
 176 performs a commercial activity in this state.

177 b. An agency may not deny a commercial entity engaged in
 178 the performance of a commercial activity access to social
 179 security numbers, provided the social security numbers will be
 180 used only in the performance of a commercial activity and
 181 provided the commercial entity makes a written request for the
 182 social security numbers. The written request must:

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

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

186 (III) Contain the commercial entity's name, business
 187 mailing and location addresses, and business telephone number;
 188 and

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

196 c. An agency may request any other information reasonably

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197 necessary to verify the identity of a commercial entity
 198 requesting the social security numbers and the specific purposes
 199 for which the numbers will be used.

200 8.a. Any person who makes a false representation in order
 201 to obtain a social security number pursuant to this paragraph,
 202 or any person who willfully and knowingly violates this
 203 paragraph, commits a felony of the third degree, punishable as
 204 provided in s. 775.082 or s. 775.083.

205 b. Any public officer who violates this paragraph commits
 206 a noncriminal infraction, punishable by a fine not exceeding
 207 \$500 per violation.

208 ~~9.a. Every agency shall file a report with the Executive~~
 209 ~~Office of the Governor, the President of the Senate, and the~~
 210 ~~Speaker of the House of Representatives by January 31 of each~~
 211 ~~year.~~

212 ~~b. The report required under sub-subparagraph a. shall~~
 213 ~~list:~~

214 ~~(I) The identity of all commercial entities that have~~
 215 ~~requested social security numbers during the preceding calendar~~
 216 ~~year; and~~

217 ~~(II) The specific purpose or purposes stated by each~~
 218 ~~commercial entity regarding its need for social security~~
 219 ~~numbers.~~

220 ~~e. If no disclosure requests were made, the agency shall~~
 221 ~~so indicate.~~

222 9.10. Any affected person may petition the circuit court
 223 for an order directing compliance with this paragraph.

224 10.11. This paragraph does not supersede any federal or

225 state law regarding the collection, use, or release of social
 226 security numbers or any other applicable public records
 227 exemptions existing prior to May 13, 2002, or created
 228 thereafter.

229 Section 2. For the purpose of incorporating the amendment
 230 made by this act to section 119.071, Florida Statutes, in
 231 references thereto, paragraph (i) of subsection (1), paragraph
 232 (e) of subsection (2), and paragraph (b) of subsection (3) of
 233 section 119.0714, Florida Statutes, are reenacted to read:

234 119.0714 Court files; court records; official records.--

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

239 (i) Social security numbers as provided in s.
 240 119.071(5)(a).

241 (2) COURT RECORDS.--

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

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

249 (3) OFFICIAL RECORDS.--

250 (b)1. If a social security number or a bank account,
 251 debit, charge, or credit card number is included in an official
 252 record, such number may be made available as part of the

253 | official records available for public inspection and copying
 254 | unless redaction is requested by the holder of such number or by
 255 | the holder's attorney or legal guardian.

256 | 2. If such record is in electronic format, on January 1,
 257 | 2011, and thereafter, the county recorder must use his or her
 258 | best effort, as provided in paragraph (h), to keep social
 259 | security numbers confidential and exempt as provided for in s.
 260 | 119.071(5)(a), and to keep complete bank account, debit, charge,
 261 | and credit card numbers exempt as provided for in s.
 262 | 119.071(5)(b), without any person having to request redaction.

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

265 | Section 3. For the purpose of incorporating the amendment
 266 | made by this act to section 119.071, Florida Statutes, in a
 267 | reference thereto, paragraph (b) of subsection (8) of section
 268 | 1007.35, Florida Statutes, is reenacted to read:

269 | 1007.35 Florida Partnership for Minority and
 270 | Underrepresented Student Achievement.--

271 | (8)

272 | (b) The department shall contribute to the evaluation
 273 | process by providing access, consistent with s. 119.071(5)(a),
 274 | to student and teacher information necessary to match against
 275 | databases containing teacher professional development data and
 276 | databases containing assessment data for the PSAT/NMSQT, SAT,
 277 | AP, and other appropriate measures. The department shall also
 278 | provide student-level data on student progress from middle
 279 | school through high school and into college and the workforce,
 280 | if available, in order to support longitudinal studies. The

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281 partnership shall analyze and report student performance data in
282 a manner that protects the rights of students and parents as
283 required in 20 U.S.C. s. 1232g and s. 1002.22.

284 Section 4. The Legislature finds that it is a public
285 necessity that agency employee social security numbers be made
286 confidential and exempt from s. 119.07(1), Florida Statutes, and
287 s. 24(a), Article I of the State Constitution. The Legislature
288 notes that the lawful collection, use, or release of social
289 security numbers requires knowledge of a variety of complex
290 federal requirements that must be applied differently in various
291 circumstances. Federal requirements for the collection, use, or
292 release may differ from agency to agency depending upon the
293 purpose or use for which the social security number is collected
294 or the year in which the number was collected. The Legislature
295 finds that compliance with applicable federal requirements
296 regarding the collection, use, or release of social security
297 numbers requires that agency employee social security numbers be
298 made confidential and exempt.

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