

By Senator Rodrigues

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 1008.23, F.S.; expanding an exemption from public
4 records requirements for examination and assessment
5 instruments used for statewide standardized
6 assessments and student progression to include those
7 instruments used for statewide kindergarten screening,
8 youth enrolled in Department of Juvenile Justice
9 programs, limited English proficient students, civic
10 literacy assessments, measuring minority and
11 underrepresented student achievement, and
12 certification of educators and those administered by a
13 Florida College System institution, a state
14 university, or the Department of Education; providing
15 that provisions governing access, maintenance, and
16 destruction of certain instruments and related
17 materials shall be prescribed by rules of the State
18 Board of Education and regulations of the Board of
19 Governors, respectively; providing for future
20 legislative review and repeal of the exemption;
21 providing legislative findings; providing a statement
22 of public necessity; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 1008.23, Florida Statutes, is amended to
27 read:

28 1008.23 Confidentiality of assessment instruments.—
29 (1) All examination and assessment instruments, including

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30 developmental materials and workpapers directly related thereto,
31 which are prepared, prescribed, or administered pursuant to ss.
32 1002.69, 1003.52, 1003.56, 1007.25, 1007.35, 1008.22, and
33 1008.25, and 1012.56 shall be confidential and exempt from s.
34 119.07(1) and s. 24(a), Art. I of the State Constitution ~~the~~
35 ~~provisions of s. 119.07(1) and from s. 1001.52.~~ Provisions
36 governing access, maintenance, and destruction of such
37 instruments and related materials shall be prescribed by rules
38 of the State Board of Education.

39 (2) (a) All examination and assessment instruments,
40 including developmental materials and workpapers directly
41 related thereto, which are prepared, prescribed, or administered
42 by a Florida College System institution, a state university, or
43 the Department of Education shall be confidential and exempt
44 from s. 119.07(1) and s. 24(a), Art. I of the State
45 Constitution.

46 (b) Provisions governing access, maintenance, and
47 destruction of the instruments and related materials identified
48 under paragraph (a) shall be prescribed by rules of the State
49 Board of Education and regulations of the Board of Governors,
50 respectively.

51 (3) This section is subject to the Open Government Sunset
52 Review Act in accordance with s. 119.15 and shall stand repealed
53 on October 2, 2026, unless reviewed and saved from repeal
54 through reenactment by the Legislature.

55 Section 2. (1) The Legislature finds that it is a public
56 necessity to exempt from s. 119.07(1), Florida Statutes, and s.
57 24(a), Article I of the State Constitution examination and
58 assessment instruments used for statewide kindergarten

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59 screening, youth enrolled in Department of Juvenile Justice
60 programs, limited English proficient students, civic literacy
61 assessments, measuring minority and underrepresented student
62 achievement, and certification of educators and those
63 administered by a Florida College System institution, a state
64 university, or the Department of Education.

65 (2) The state has historically protected education records
66 from public disclosure. Section 1002.221, Florida Statutes,
67 makes K-12 education records generally confidential, while s.
68 1008.23, Florida Statutes, as it is currently written, already
69 makes examination and assessment instruments relating to
70 statewide, standardized assessments and student progression
71 confidential.

72 (3) Assessment instruments contain proprietary information
73 that must be protected to maintain the security of such
74 information. In addition, examination and assessment instruments
75 must be protected to prevent cheating, plagiarism, and academic
76 dishonesty in education and to ensure the validity of the
77 results derived from the administration of examinations and
78 assessments.

79 (4) The state's ability to objectively assess educational
80 progress and performance is impaired if examination and
81 assessment instruments can be publicly disseminated before or
82 after being administered. Public dissemination of already-
83 administered examination and assessment instruments may also
84 invade a student's privacy and harm his or her ability to
85 protect his or her personal information and educational records.

86 (5) Based on the foregoing, the Legislature finds that the
87 harm that may result from the release of such examination and

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88 assessment instruments outweighs any public benefit that may be
89 derived from the disclosure of the information.

90 Section 3. This act shall take effect July 1, 2021.