

By the Committee on Education Pre-K - 12

581-02047-26

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A bill to be entitled  
An act relating to public records; amending s.  
1008.23, F.S.; deleting a duplicative exemption from  
public records requirements for certain examination  
and assessment instruments; expanding an exemption  
from public records requirements for examination and  
assessment instruments to include such instruments  
when held by certain entities; requiring the State  
Board of Education and the Board of Governors to adopt  
rules and regulations, respectively, governing the  
retention and disposal process for specified records;  
deleting a provision requiring the State Board of  
Education and the Board of Governors to adopt certain  
rules and regulations, respectively, governing access  
to records; authorizing specified entities to disclose  
exempt information to certain entities; requiring  
specified entities to disclose confidential and exempt  
information in certain circumstances; providing  
construction; extending the scheduled repeal of the  
exemption; providing a statement of public necessity;  
providing an effective date.

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

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

1008.23 Confidentiality of assessment instruments.—

(1) ~~All examination and assessment instruments, including  
developmental materials and workpapers directly related thereto,~~

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

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

46 (b) The State Board of Education and the Board of Governors  
47 shall adopt rules and regulations, respectively, establishing  
48 retention schedules and a disposal process for the records  
49 described in paragraph (a) ~~Provisions governing access,~~  
50 ~~maintenance, and destruction of the instruments and related~~  
51 ~~materials identified under paragraph (a) shall be prescribed by~~  
52 ~~rules of the State Board of Education and regulations of the~~  
53 ~~Board of Governors, respectively.~~

54 (c)1. An entity listed in paragraph (a) may disclose the  
55 information made confidential and exempt from public records  
56 inspection and copying requirements by this section to any other  
57 entity listed in that paragraph.

58 2. A public school, district school board, Florida College

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59 system institution, or state university must, upon request,  
60 disclose the information made confidential and exempt from  
61 public records inspection and copying requirements by this  
62 section to the Department of Education, the State Board of  
63 Education, or the Board of Governors.

64 (d) Nothing in this section shall be construed to limit,  
65 abridge, or infringe on the rights of students and parents with  
66 respect to student records and education records pursuant to ss.  
67 1002.20 and 1002.22.

68 (2)(3) This section is subject to the Open Government  
69 Sunset Review Act in accordance with s. 119.15 and shall stand  
70 repealed on October 2, 2031 ~~2026~~, unless reviewed and saved from  
71 repeal through reenactment by the Legislature.

72 Section 2. The Legislature finds that it is a public  
73 necessity that examination and assessment instruments, including  
74 developmental materials and workpapers directly related thereto,  
75 which are held by a public school, a district school board, a  
76 Florida College System institution, a state university, a board  
77 of trustees, the Department of Education, the State Board of  
78 Education, or the Board of Governors be made confidential and  
79 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
80 Article I of the State Constitution. Public schools and district  
81 school boards routinely develop, license, and administer  
82 recurring classroom, course, school, and district assessments,  
83 frequently drawing upon secure item banks and developmental  
84 materials used across schools and administrations. Public  
85 disclosure of test items, prompts, answer keys, scoring rubrics,  
86 item specifications, field-testing materials, and related  
87 developmental workpapers would enable cheating and academic

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dishonesty, compromise the validity and reliability of local  
assessments, undermine fair measurement of student learning and  
program effectiveness, and necessitate significant public  
expenditures to replace compromised instruments and rebuild  
secure item banks. The boards of trustees of Florida College  
System institutions and universities as well the State Board of  
Education and the Board of Governors oversee institutions that  
develop, license, and administer examinations and assessment  
instruments and in that role receive such information, which, if  
made public, would enable cheating and academic dishonesty,  
compromise the validity and reliability of examinations and  
assessments, undermine fair measurement of student learning and  
program effectiveness, and necessitate significant public  
expenditures to replace compromised instruments and rebuild  
secure item banks. As such, the Legislature finds that the harm  
that may result from the release of such examination and  
assessment instruments outweighs any public benefit that may be  
derived from disclosure.

Section 3. This act shall take effect upon becoming a law.