

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2250

SPONSOR: Senator Cowin

SUBJECT: Public Records/School Readiness

DATE: March 22, 2000 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|------------------|-----------|------------------|
| 1. | <u>Harkey</u> | <u>O'Farrell</u> | <u>ED</u> | <u>Favorable</u> |
| 2. | _____ | _____ | <u>RC</u> | _____ |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |

I. Summary:

This bill creates a public records exemption to protect the privacy of individual children's records in school readiness programs. The bill amends s. 402.3015, F.S., to provide an exemption from public records requirements for records of children in subsidized child care programs. The bill amends s. 228.093, F.S., to give school readiness coalitions and the Florida Partnership for School Readiness access to student records in order to carry out their assigned duties. The bill creates s. 411.011, F.S., to provide an exemption from public records requirements for records of children in school readiness programs. The bill provides a statement of public necessity for the exemption.

The bill takes effect upon becoming a law.

This bill substantially amends ss. 228.093, and 402.3015, and creates s. 411.011, Florida Statutes.

II. Present Situation:

Section 24, Article I of the State Constitution gives every person the right to inspect or copy any public record made in connection with the official business of any public body, officer, or employee in the state. The Legislature can enact laws to provide exemptions to the requirement and each of those laws must state the public necessity for the exemption. The Constitution requires that laws providing exemptions to the public records requirements of section 24 must be enacted in a bill containing only those exemptions.

The Public Records Law, chapter 119, F.S., and the Public Meetings Law, s. 286.011, F.S., specify the conditions under which public access must be provided to governmental records and meetings of the executive branch and other governmental agencies. While the state constitution provides that records and meetings of public bodies are to be open to the public, it also provides that the Legislature may create exemptions to these requirements by general law if a public need exists and certain procedural requirements are met.

Under s. 119.15(4)(b), F.S., an exemption may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of the following purposes and the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption:

1. allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
2. protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this provision, only information that would identify the individuals may be exempted; or
3. protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

Section 228.093, F.S., protects the privacy of personally identifiable student records and grants parents the right of access to those records. The statute provides access to student records to various educational and judicial officials in the course of their assigned duties. This law is similar to a federal law, popularly known as “the Buckley Amendment” that requires educational institutions to protect the privacy of individual student records.

Section 402.3015, F.S., governs the subsidized child care program. At present, in Florida, records of individual children in child care programs are public documents.

The School Readiness Act of 1999, s. 411.01, F.S., requires school readiness programs to provide an age appropriate assessment of each child’s development and to conduct a pretest administered to children when they enter a program and a posttest administered to children when they leave a program. The school readiness program serves children from birth to kindergarten entry. The Florida Partnership for School Readiness must oversee the school readiness program.

Parents of young children are often cautious about assessments of their child’s development being used in a way that unfairly stigmatizes their child. Young children typically develop at such a rapid rate that measurements do not remain stable. A potential problem in development, if identified and properly addressed at an early age, can be made less severe or overcome altogether, sometimes in a short period of time. Assessments that inform parents of potential problems might be welcome, but assessments that label a child or confine a child to a program that limits his or her potential are something a parents would want to avoid. Protecting the privacy of individual children’s records affords protection to parents and children as young children develop.

III. Effect of Proposed Changes:

This bill creates a public records exemption to protect the privacy of individual children's records in school readiness programs. The bill amends s. 402.3015, F.S., to provide an exemption from public records requirements for personally identifiable records of children in subsidized child care programs. The records include assessment data, health data, records of teacher observations, and identifying data including the child's social security number. A parent or guardian has the right to review and inspect his or her child's individual record.

The bill amends s. 228.093, F.S., to give school readiness coalitions and the Florida Partnership for School Readiness access to student records in order to carry out their assigned duties. The duties of the coalitions and the Partnership are those assigned in s. 411.01, F.S.

The bill creates s. 411.011, F.S., to provide an exemption from public records requirements for records of children in school readiness programs. Thus records of individual children in school readiness programs would not be public records. The records include assessment data, health data, records of teacher observations, and identifying data including the child's social security number. A parent or guardian has the right to review and inspect his or her child's school readiness record.

The bill provides a statement of public necessity for the exemption. The exemption is necessary to ensure the privacy of individual children in school readiness programs.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Section 24, Article I of the State Constitution requires laws enacting exemptions to the public records requirements of section 24 to be enacted in a bill containing only those exemptions. This bill meets that requirement.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
