

House Bill No. 1031

An act relating to a public records exemption for the Florida Kidcare program; amending s. 409.821, F.S.; expanding the exemption for identifying information of applicants to the Florida Kidcare program to provide that any information identifying a program applicant or enrollee held by the Agency for Health Care Administration, the Department of Children and Family Services, the Department of Health, and the Florida Healthy Kids Corporation is confidential and exempt; providing for disclosure of such information to governmental entities under certain circumstances; providing a penalty for unlawful disclosure of such information; adding clarifying language; making editorial changes; providing for retroactive application; removing the October 2, 2003, repeal of the exemption scheduled pursuant to the Open Government Sunset Review Act of 1995; providing for future review and 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. Notwithstanding the October 2, 2003, repeal of said section scheduled pursuant to the Open Government Sunset Review Act of 1995, section 409.821, Florida Statutes, is amended to read:

409.821 Florida Kidcare program public records exemption Sections 409.810-409.820; confidential information.—Notwithstanding any other law to the contrary, any information identifying a Florida Kidcare program applicant or enrollee, as defined in s. 409.811, held by the Agency for Health Care Administration, the Department of Children and Family Services, the Department of Health, or the Florida Healthy Kids Corporation contained in an application for determination of eligibility for the Florida Kidcare program which identifies applicants, including medical information and family financial information, and any information obtained through quality assurance activities and patient satisfaction surveys which identifies program participants, obtained by the Florida Kidcare program under ss. 409.810-409.820, is confidential and is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such information may be disclosed to another governmental entity only if disclosure is necessary for the entity to perform its duties and responsibilities under the Florida Kidcare program. The receiving governmental entity must maintain the confidential and exempt status of such information. Furthermore, such information may not be released to any person Except as otherwise provided by law, program staff or staff or agents affiliated with the program may not release, without the written consent of the program applicant or the parent or guardian of the applicant, to any state or federal agency, to any private business or person, or to any other entity, any confidential information received under ss. 409.810-409.820. This exemption applies to any information identifying a Florida Kidcare program applicant or enrollee held by the Agency for Health Care Administration, the Department of Children and Family Services, the Department of Health, or the Florida Healthy Kids Corporation before, on,

or after the effective date of this exemption. A violation of this section is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Section 409.821, Florida Statutes, is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, Florida Statutes, and shall stand repealed on October 2, 2008, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. The Legislature finds that it is a public necessity that any information identifying a Florida Kidcare program applicant or enrollee, irrespective of whether such information is located in an application or other record, be held confidential and exempt in order to protect sensitive personal, financial, and medical information. If the exemption were not expanded to include such identifying information contained in other records in addition to the application, the purpose of the exemption would be defeated. Applicant and enrollee identifying information would be available pursuant to a public records request via other records, thereby causing an unwarranted invasion into the life and privacy of the program applicants and enrollees. In addition, expanding the public records exemption to include the identifying information of a program applicant or enrollee contained in other records in addition to the application is necessary in order for the Agency for Health Care Administration, the Department of Children and Family Services, the Department of Health, and the Florida Healthy Kids Corporation to effectively and efficiently administer the Florida Kidcare program. If such identifying information contained in other records were not granted the same protection afforded the identifying information contained in the application, the administration of the Florida Kidcare program would be significantly impaired because applicants would be less inclined to apply to the program due to the fact that such identifying information would be made available to the public, which would cause an unwarranted invasion into the life and privacy of program applicants and enrollees, thereby significantly decreasing the number of program enrollees. Finally, it is a public necessity that such identifying information be held confidential and exempt in order to comply with federal law. The current exemption only applies to such information contained in an application for the Florida Kidcare program. The expansion of the exemption to include identifying information contained in any other records in addition to the application ensures compliance with federal law. In addition to the applicant, the identifying information of a program enrollee should also be held confidential and exempt. The expansion of the exemption is a public necessity in order for Florida to adhere to federal law requiring that certain program applicant and enrollee identifying information be protected from public disclosure.

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

Approved by the Governor June 4, 2003.

Filed in Office Secretary of State June 4, 2003.