

## House Bill No. 1695

An act relating to a public records exemption for the Voluntary Pre-kindergarten Education Program; creating s. 1002.72, F.S.; creating an exemption from public records requirements for individual records of children enrolled in the Voluntary Prekindergarten Education Program; providing for retroactive application; providing for exceptions to the exemption; providing for future review and repeal; providing a statement of public necessity; providing an effective date.

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

Section 1. Section 1002.72, Florida Statutes, is created to read:

1002.72 Records of children in the Voluntary Prekindergarten Education Program.—

(1) The individual records of a child enrolled in the Voluntary Prekindergarten Education Program held by an early learning coalition, the Agency for Workforce Innovation, or a Voluntary Prekindergarten Education Program provider are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this section, such records include assessment data, health data, records of teacher observations, and personal identifying information of an enrolled child and his or her parent. This exemption applies to individual records of a child enrolled in the Voluntary Prekindergarten Education Program held by an early learning coalition, the Agency for Workforce Innovation, or a Voluntary Prekindergarten Education Program provider before, on, or after the effective date of this exemption.

(2) A parent has the right to inspect and review the individual Voluntary Prekindergarten Education Program record of his or her child and to obtain a copy of such record.

(3) Confidential and exempt Voluntary Prekindergarten Education Program records may be released to:

(a) The United States Secretary of Education, the United States Secretary of Health and Human Services, and the Comptroller General of the United States for the purpose of federal audits.

(b) Individuals or organizations conducting studies for institutions to develop, validate, or administer assessments or improve instruction.

(c) Accrediting organizations in order to carry out their accrediting functions.

(d) Appropriate parties in connection with an emergency if the information is necessary to protect the health or safety of the child or other individuals.

- (e) The Auditor General in connection with his or her official functions.
- (f) A court of competent jurisdiction in compliance with an order of that court pursuant to a lawfully issued subpoena.
- (g) Parties to an interagency agreement among early learning coalitions, local governmental agencies, Voluntary Prekindergarten Education Program providers, or state agencies for the purpose of implementing the Voluntary Prekindergarten Education Program.

Agencies, organizations, or individuals receiving such confidential and exempt records in order to carry out their official functions must protect the records in a manner that will not permit the personal identification of an enrolled child or his or her parent by persons other than those authorized to receive the records.

(4) This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that the individual records of a child enrolled in the Voluntary Prekindergarten Education Program held by an early learning coalition, the Agency for Workforce Innovation, or a Voluntary Prekindergarten Education Program provider be made confidential and exempt from public records requirements. The exemption for such records, which include assessment data, health data, records of teacher observations, and personal identifying information of an enrolled child and his or her parent, is necessary for the Voluntary Prekindergarten Education Program to work efficiently and effectively. If such records were not made confidential and exempt, the administration of the Voluntary Prekindergarten Education Program would be significantly impaired since parents would be less inclined to allow their children to participate in the program because sensitive, personal information would be made available to the public. The release of such records would cause an unwarranted invasion into the life and privacy of enrolled children and their parents thereby significantly decreasing the number of program enrollees. The Legislature finds that assessment data and records of teacher observations contain sensitive, personal information regarding an enrolled child and the child's progress in the Voluntary Prekindergarten Education Program. Release of such information could cause embarrassment to the child and could stifle the child's progress in the program. The Legislature further finds that it is a public necessity that an enrolled child's health data be made confidential and exempt from public disclosure because such data is of a sensitive and personal nature. Matters of personal health are traditionally private and confidential concerns between a patient and a health care provider. The private and confidential nature of personal health matters pervades both the public and private health care sectors. For these reasons, an individual's expectation of a right to privacy in all matters regarding his or her personal health necessitates such exemption. Finally, the Legislature finds that it is a public necessity that the personal identifying information of a child enrolled in the Voluntary Prekindergarten Education Program and

the personal identifying information of the child's parent be made confidential and exempt from public disclosure. The release of such information could endanger the safety and welfare of 4-year-old children, and the availability of such information could lead to increased opportunities for child abduction or identity theft.

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

Approved by the Governor May 26, 2005.

Filed in Office Secretary of State May 26, 2005.