

CHAPTER 2011-221

Committee Substitute for House Bill No. 579

An act relating to public records; amending s. 1004.55, F.S.; providing an exemption from public records requirements for all records that relate to a client of a regional autism center who receives the services of a center or participates in center activities and the client's family; providing for release of specified confidential and exempt information by a center under certain circumstances; providing an exemption from public records requirements for personal identifying information of a donor or prospective donor to a regional autism center if such donor or prospective donor wishes to remain anonymous; providing for review and repeal of the exemptions; providing a statement of public necessity; providing an effective date.

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

Section 1. Subsection (6) is added to section 1004.55, Florida Statutes, to read:

1004.55 Regional autism centers; public record exemptions.—

(6)(a) CLIENT RECORDS.—

1. All records that relate to a client of a regional autism center who receives the services of a center or participates in center activities, and all records that relate to the client's family, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. A client who receives the services of a center, if competent, or the client's parent or legal guardian if the client is incompetent, shall be provided with a copy of the client's individual record upon request.

3. A regional autism center may release the confidential and exempt records as follows:

a. To physicians, attorneys, or governmental entities having need of the confidential and exempt information to aid a client, as authorized by the client, if competent, or the client's parent or legal guardian if the client is incompetent.

b. In response to a subpoena or to persons authorized by order of court.

c. To the State Board of Education or the Board of Governors of the State University System when the director of the center deems it necessary for the treatment of the client, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

4. Provided that personal identifying information of a client or the client's family has been removed, a regional autism center may release information contained in the confidential and exempt records as follows:

a. To a person engaged in bona fide research if that person agrees to sign a confidentiality agreement with the regional autism center, agrees to maintain the confidentiality of the information received, and, to the extent permitted by law and after the research has concluded, destroy any confidential information obtained.

b. For statistical and research purposes by the director of the center or designee, provided that any confidential and exempt information is removed in the reporting of such statistical or research data.

(b) DONOR INFORMATION.—Personal identifying information of a donor or prospective donor to a regional autism center who desires to remain anonymous is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) REVIEW AND REPEAL.—This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2016, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that all records that relate to a client of a regional autism center who receives the services of a center or participates in center activities, and all records that relate to the client's family, be made confidential and exempt from public records requirements. Matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. The private and confidential nature of personal health matters pervades both the public and private health care sectors. For these reasons, the individual's expectation of and right to privacy in all matters regarding his or her personal health necessitates this exemption. The Legislature further finds that it is a public necessity to protect records regarding clients of a regional autism center or the client's family, because the release of such records could be defamatory to the client or could cause unwarranted damage to the name or reputation of that client or the client's family. Information contained in records and communications of a regional autism center relating to the condition of autism or related disorders contain sensitive personal information that, if released, could cause harm to a client of the center or his or her family. Protecting such records ensures an environment in which the discussion of the condition of autism or related disorders can be conducted in a free and open manner, thus enabling individuals with autism and their families to receive appropriate diagnostic and treatment information and cope more effectively with the enormous challenges posed by neurodevelopmental disorders and sensory impairments.

(2) The Legislature also finds that it is a public necessity that personal identifying information of a donor or prospective donor to a regional autism

center be made confidential and exempt from public records requirements if such donor or prospective donor desires to remain anonymous. If the identity of a prospective or actual donor who desires to remain anonymous is subject to disclosure, there is a chilling effect on donations because donors are concerned about disclosure of personal information leading to theft and, in particular, identity theft, including personal safety and security. Therefore, the Legislature finds that it is a public necessity to make confidential and exempt from public records requirements information that would identify a donor or prospective donor to a regional autism center if such donor or prospective donor wishes to remain anonymous.

Section 3. This act shall take effect July 1, 2011.

Approved by the Governor June 24, 2011.

Filed in Office Secretary of State June 24, 2011.