

GREEN SHEET REDIGEST

HB 116

2024 Regular Session

McMakin

PUBLIC RECORDS: Provides relative to the disclosure of personnel records of public employees.

DIGEST

Present law (R.S. 44:31) generally provides that except as otherwise provided in law, any person of the age of majority may inspect, and any person may copy or reproduce any public record. Further provides that the burden of proving that a public record is not subject to inspection, copying, or reproduction shall rest with the custodian. Proposed law retains present law.

Present law (R.S. 44:11) provides that certain items in the personnel records of a public employee shall be confidential. Proposed law retains present law and expressly provides that, except as provided for in present law, personnel records of public employees are public records subject to disclosure.

Proposed law adds opinions contained in evaluation reports, information required to be kept confidential pursuant to federal law, and information that may put the employee or another employee at risk of harm as items in the personnel records of a public employee that shall be confidential.

Present law provides that the home address of the public employee shall remain confidential when such employee has requested that the address be confidential; except (a) the home address of any employee of a city or parish school board shall be made available to recognized educational groups and (b) the home address of a member of the Firefighters' Retirement System if that information is requested by a legislator, an agency or employer reporting information to the system, or a recognized association of system members.

Proposed law removes the exceptions that allow the home address of any employee of a city or parish school board and members of the Firefighters' Retirement System to be made available to certain persons.

Present law (R.S. 44:5) provides that the legislature recognizes that it is essential to the maintenance of a democratic society that public business be performed in an open and public manner, and that the Public Records Law shall be construed liberally so as to facilitate, rather than hinder, access to public records.

Proposed law retains present law and further provides that the legislature recognizes that the right of privacy is limited by society's right to be informed about legitimate subjects of public interest. Provides that a public employee's reasonable expectation of privacy as it relates to his personnel records shall be construed to facilitate, rather than hinder, access to public records.

Present law (R.S. 44:35) authorizes a person who has been denied the right to inspect, copy, reproduce, or obtain a copy of a public record to institute proceedings for the issuance of a writ of mandamus and injunctive or declaratory relief in the district court for the parish in which the office of the custodian is located. Further provides that any suit to enforce the provisions of the Public Records Law shall be tried by preference and in a summary matter.

Proposed law retains present law and further provides that any action to enforce the disclosure of personnel records of a public employee shall be tried by preference and in a summary manner as provided in present law.

Present law (R.S. 44:32) provides that if a record is requested and the custodian determines that it is not a public record, the custodian shall notify the requestor in writing of his determination and the reasons therefore with a reference to the basis under law for the

custodian's determination. Proposed law requires that if the record is a personnel record, the custodian may not cite solely to a court decision as the basis to exempt the record.

(Amends R.S. 44:11 and 32(D))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Remove the exceptions that allow the home address of an employee of a city or parish school board and members of the Firefighters' Retirement System to be made available to certain persons.
2. Add opinions contained in evaluation reports as an item in the personnel records of a public employee that shall be confidential.
3. Prohibit a custodian from referring to a court decision as the basis to exempt a personnel record from a public record request.
4. Provide that an employee's expectation of privacy shall be construed liberally, rather than providing that an employee has no reasonable expectation of privacy as it relates to his personnel records.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the engrossed bill

1. Remove language specifying that provisions should be construed liberally so as to facilitate access to public records.
2. Provide that public employee personnel records are subject to disclosure.
3. Exempt information required to be kept confidential pursuant to federal law and information that may put the employee or another employee at risk of harm from being accessed through a public records request for a public employee's personnel record.
4. Provide that a custodian of records cannot cite solely to a court decision as the basis to exempt a personnel record.