



Jeff Landry
Governor

State of Louisiana
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June 20, 2024

The Honorable Phillip R. DeVillier
Speaker of the House
Louisiana House of Representatives
Box 94062
Baton Rouge, LA 70804

The Honorable Michelle Fontenot
Clerk of the House
State Capitol
900 N. 3rd St.
Baton Rouge, LA 70802

RE: House Bill 116 of the 2024 Regular Session by Representative Dixon McMakin

Dear Speaker DeVillier and Clerk Fontenot:

Please be advised that I have vetoed House Bill 116 of the 2024 Regular Legislative Session. This bill designates all personnel records of a public employee as public records. While some personnel records are undoubtedly public records under R.S. 44:1(2)(a), we must not ignore a public employee's right to privacy. Public employee personnel records include sensitive information such as emergency contacts, background checks, tax and payroll deductions, credit reports, dates of birth, beneficiary information, secondary employment information, school transcripts, prescribed medications, and other similar information.

Louisiana Constitution article 1, § 5 guarantees that "every person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches, seizures, or invasions of privacy." When a public employee has a reasonable expectation of privacy, a court will weigh the public records disclosure interest against the privacy interest. *Webb v. City of Shreveport*, 371 So.2d 316, 319 (La. App. 2nd Cir. 1979). Disclosure is warranted when the public's right of access is sufficiently compelling to override the individual's right to privacy. *Rasier, LLC v. City of New Orleans*, 16-0930 (La.App. 4 Cir. 6/14/17), 222 So. 3d 806, 818 (citing *Angelo Iafrate Const., L.L.C. v. State ex. Rel. Dept. of Transp. And Development*, 03-0892 (La.App. 1 Cir. 5/14/04) 879 So.2d 250); *Capital City Press v. East Baton Rouge Parish Metropolitan Council*, 696 So.2d at 567; *Shane v. Parish of Jefferson*, 14-2225, (La. 12/8/15) 209 So. 3d. 726, 741.

Additionally, House Bill 116 also forbids a custodian from citing a court decision as the basis for withholding a record. This has legal problems as "statutory interpretation and the construction to be given to legislative acts is a matter of law and rests with the judicial branch of the government." *Bourgeois v. A.P. Green Indus., Inc.*, 00-1528 (La. 4/3/01), 783 So. 2d 1251, 1260.

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President Henry and Secretary Dixon

June 20, 2024

Page 2

I look forward to continuing to work with Representative McMakin on refining our public records law and clarifying the provisions of 44:11 to ensure the public can easily access records where an employee does not have a reasonable expectation of privacy. However, for the reasons explained above, House Bill 116 will not become law.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Landry", with a long horizontal flourish extending to the right.

Jeff Landry
Governor

Enclosure: Returned House Bill 116