

2024 Regular Session

HOUSE BILL NO. 116

BY REPRESENTATIVE MCMAKIN

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

1 AN ACT

2 To amend and reenact R.S. 44:11 and 32(D), relative to the confidential nature of personnel
3 records of public employees; to provide relative to a public employee's expectation
4 of privacy; to provide for the action to enforce disclosure of personnel records; to
5 provide for the confidentiality of certain information in evaluation reports; to provide
6 relative to the disclosure of the home address of certain public employees; to provide
7 for the statement of a reason for non-disclosure; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 44:11 and 32(D) are is hereby amended and reenacted to read as
10 follows:

11 §11. Confidential nature of certain personnel records; exceptions

12 A.(1) In addition to recognizing that it is essential to the maintenance of a
13 democratic society that public business be performed in an open and public matter
14 as provided in R.S. 44:5, the legislature further recognizes that the right of privacy
15 is limited by society's right to be informed about legitimate subjects of public
16 interest. Toward this end, a public employee's reasonable expectation of privacy as
17 it relates to his personnel records, except as provided in this Chapter, and the
18 provisions of this Chapter shall be construed liberally so as to facilitate, rather than
19 hinder, access to public records.

1 (2) The personnel records of a public employee shall be public records and
2 shall be subject to disclosure in accordance with this Section. Any action to enforce
3 this Subsection shall be tried by preference and in a summary manner as provided
4 in R.S. 44:35.

5 B. Notwithstanding anything contained in this Chapter or any other law to
6 the contrary, the following items in the personnel records of a public employee of
7 any public body shall be confidential:

8 (1) The home telephone number of the public employee where such
9 employee has chosen to have a private or unlisted home telephone number because
10 of the nature of his occupation with such body.

11 (2) The home telephone number of the public employee where such
12 employee has requested that the number be confidential.

13 (3) The home address of the public employee where such employee has
14 requested that the address be confidential.

15 (4) The name and account number of any financial institution to which the
16 public employee's wages or salary are directly deposited by an electronic direct
17 deposit payroll system or other direct deposit payroll system.

18 (5) Opinions contained in evaluation reports.

19 ~~B. The provisions of R.S. 44:11(A)(3) shall not apply to the personnel~~
20 ~~records of a city or parish school board to the extent that the home address of any~~
21 ~~employee of a city or parish school board shall be made available to recognized~~
22 ~~educational groups.~~

23 C. Notwithstanding any other provision of this Chapter, the social security
24 number and financial institution direct deposit information as contained in the
25 personnel records of a public employee of any public body shall be confidential.
26 However, when the employee's social security number or financial institution direct
27 deposit information is required to be disclosed pursuant to any other provision of
28 law, including such purposes as child support enforcement, health insurance, and

1 retirement reporting, the social security number or financial institution direct deposit
2 information of the employee shall be disclosed pursuant to such provision of law.

3 D. Notwithstanding anything contained in this Chapter or any other law to
4 the contrary, all medical records, claim forms, insurance applications, requests for
5 the payment of benefits, and all other health records of public employees, public
6 officials, and their dependents in the personnel records of any public body shall be
7 confidential. However, nothing in this Chapter shall be intended to limit access to
8 employee records under the Code of Civil Procedure or Code of Evidence.

9 ~~E. The provisions of Paragraph (A)(3) of this Section shall not apply to the~~
10 ~~home address of a member of the Firefighters' Retirement System if that information~~
11 ~~is requested by a member of the Louisiana Legislature, an agency or employer~~
12 ~~reporting information to the system, or a recognized association of system members.~~

13 * * *

14 §32. Duty to permit examination; prevention of alteration; payment for overtime;
15 copies provided; fees

16 * * *

17 D. In any case in which a record is requested and a question is raised by the
18 custodian of the record as to whether it is a public record, such custodian shall within
19 five days, exclusive of Saturdays, Sundays, and legal public holidays, of the receipt
20 of the request, in writing for such record, notify in writing the person making such
21 request of his determination and the reasons therefor. Such written notification shall
22 contain a reference to the basis under law which the custodian has determined
23 exempts a record, or any part thereof, from inspection, copying, or reproduction. If
24 the custodian determines a personnel record is exempt, the custodian may not refer
25 to a court decision as the basis to exempt the record.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 116 Engrossed

2024 Regular Session

McMakin

Abstract: Provides for the nature of personnel records of public employees as public records and provides for the enforcement of the Public Records Law as it relates to personnel records of public employees.

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 as an item 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 liberally to as 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 refer 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.