

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 116

2024 Regular Session

McMakin

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

Synopsis of Senate Amendments

1. Remove language specifying that when provisions are construed to facilitate access to public records it shall be done so liberally.
2. Provide that information required to be kept confidential pursuant to federal law and information that may put the employee or another employee at risk of harm that is contained in a public employee's personnel file shall be confidential.
3. Provide that a custodian of records cannot cite solely to, rather than refer to, a court decision as the basis to exempt a personnel record.

Digest of Bill as Finally Passed by Senate

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))