

Regular Session, 2012

HOUSE BILL NO. 1113

BY REPRESENTATIVE JOHNSON

PUBLIC RECORDS: Exempts the La. Licensed Professional Counselors Board of Examiners from certain provisions of Public Records Law

1 AN ACT

2 To amend and reenact R.S. 44:9(F) and (G) and to enact R.S. 44:4(45), relative to public
3 records; to provide relative to the exemption of certain records in the possession of
4 the Louisiana Licensed Professional Counselors Board of Examiners; to provide for
5 the continued confidentiality of such records; to provide relative to the disclosure of
6 certain confidential information to the Louisiana Licensed Professional Counselors
7 Board of Examiners; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 44:9(F) and (G) are hereby amended and reenacted and R.S. 44:4(45)
10 is hereby enacted to read as follows:

11 §4. Applicability

12 This Chapter shall not apply:

13 * * *

14 (45) To any records, writings, accounts, recordings, letters, exhibits, pictures,
15 drawings, charts, photographs, or copies or memoranda thereof, and any report or
16 examinations or evaluations or any other information or data concerning the fitness
17 of any person to receive or continue to hold a license or certificate to practice
18 counseling and therapy in the custody or control of the Louisiana Licensed
19 Professional Counselors Board of Examiners; however, any final action taken by the
20 board, and any legal grounds upon which such action is based, relative to the fitness

1 of any person to receive or to continue to hold a license or certificate to practice
2 counseling and therapy may be released to the public.

3 * * *

4 §9. Records of violations of municipal ordinances and of state statutes classified as
5 a misdemeanor or felony

6 * * *

7 F. For investigative purposes only, the Department of Public Safety and
8 Corrections may maintain a confidential, nonpublic record of the arrest and
9 disposition. Upon specific request therefor and on a confidential basis, the
10 information contained in this record may be released to the following entities who
11 shall maintain the confidentiality of such record: any law enforcement agency,
12 criminal justice agency, the Louisiana State Board of Medical Examiners, the
13 Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the
14 Louisiana State Board of Examiners of Psychologists, the Louisiana State Board of
15 Social Work Examiners, the Emergency Medical Services Certification Commission,
16 Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, the
17 Louisiana Supreme Court Committee on Bar Admissions, the Louisiana Licensed
18 Professional Counselors Board of Examiners, or any person or entity requesting a
19 record of all criminal arrests and convictions pursuant to R.S. 15:587.1.

20 G. "Expungement" means removal of a record from public access but does
21 not mean destruction of the record. An expunged record is confidential, but remains
22 available for use by law enforcement agencies, criminal justice agencies, the
23 Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing,
24 the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of
25 Psychologists, the Louisiana State Board of Social Work Examiners, the Emergency
26 Medical Services Certification Commission, the Louisiana Attorney Disciplinary
27 Board, Office of Disciplinary Counsel, the Louisiana Supreme Court Committee on
28 Bar Admissions, the Louisiana Licensed Professional Counselors Board of

1 Examiners, or any person or entity requesting a record of all criminal arrests and
2 convictions pursuant to R.S. 15:587.1.

3 * * *

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)]

Johnson

HB No. 1113

Abstract: Provides an exception to the Public Records Law for documents in the possession of the La. Licensed Professional Counselors Board of Examiners.

Present law (R.S. 44:1 et seq.) establishes the Public Records Law, which makes "All books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of this state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of this state" public records.

Proposed law retains present law.

Present law (R.S. 44:4) creates exceptions to the Public Records Law.

Proposed law adds to present law an exception to the Public Records Law for any records, writings, accounts, recordings, letters, exhibits, pictures, drawings, charts, photographs, or copies or memoranda thereof, and any report or examinations or evaluations or any other information or data in the possession of the La. Licensed Professional Counselors Board of Examiners relative to the fitness of a licensed counselor or therapist to hold or maintain his license to practice.

Proposed law further provides that such records relative to the fitness of any person to receive or to continue to hold a license or certificate to practice counseling and therapy may be released to the public once a final disposition has been made by the board regarding the individual's fitness to hold such license or certificate.

Present law (R.S. 44:9) provides procedures for the expungement of misdemeanor and of certain felony offenses from a person's record. Further provides that a nonpublic record of the arrest and disposition of such offenses, though expunged, may be kept by the Dept. of Public Safety and Corrections for investigative purposes. Further authorizes the department to release the nonpublic information to specific entities, who are charged with maintaining the confidentiality of such information.

Proposed law retains present law and adds the La. Licensed Professional Counselors Board of Examiners to the list of entities eligible to receive confidential information pursuant to present law from the Dept. of Public Safety and Corrections.

Present law further defines "expungement". Provides that an expunged record is confidential, but remains available for use by law enforcement agencies, criminal justice agencies, and certain specified boards and offices. Proposed law retains present law and adds to the list of specified boards the La. Licensed Professional Counselors Board of Examiners.

(Amends R.S. 44:9(F) and (G); Adds R.S. 44:4(45))