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SB-690 State Bar of California: disclosures. (2017-2018)

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Senate Bill No. 690

CHAPTER 433

An act to amend Section 6060.25 of the Business and Professions Code, relating to attorneys, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 02, 2017. Filed with Secretary of State October 02, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 690, Jackson. State Bar of California: disclosures.

The State Bar Act provides for the licensure and regulation of attorneys by the State Bar of California, a public corporation governed by a board of trustees, and provides that the State Bar is subject to the Bagley-Keene Open Meeting Act and the California Public Records Act, as specified. That act requires an applicant for admission to the State Bar to, among other things, take and pass the California bar examination. That act prohibits the State Bar from disclosing any identifying information submitted by an applicant for admission and provides that all such information is confidential.

This bill would authorize the disclosure of specified information, subject to state and federal laws protecting education records, submitted by an applicant to the State Bar for admission and license to practice, including the names of applicants who have passed any examination administered by the State Bar. The authorization would apply commencing January 1, 2016. The bill would also prohibit the State Bar from disclosing, and would provide for the confidentiality of, any information received from an educational or testing entity collected by the State Bar for the purposes of conducting a specified study, except for aggregate, summary, or statistical data that does not identify any person and does not provide substantial risk of identification of any person.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6060.25 of the Business and Professions Code is amended to read:

6060.25. (a) Notwithstanding any other law, any identifying information submitted by an applicant to the State Bar for admission and a license to practice law and all State Bar admission records, including, but not limited to, bar examination scores, law school

grade point average (GPA), undergraduate GPA, Law School Admission Test scores, race or ethnicity, and any information contained within the State Bar Admissions database or any file or other data created by the State Bar with information submitted by the applicant that may identify an individual applicant, other than information described in subdivision (b), shall be confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(b) Subject to existing state and federal laws protecting education records, subdivision (a) does not prohibit the disclosure of any of the following:

(1) The names of applicants who have passed any examination administered, given, or prescribed by the Committee of Bar Examiners.

(2) Information that is provided at the request of an applicant to another jurisdiction where the applicant is seeking admission to the practice of law.

(3) Information provided to a law school that is necessary for the purpose of the law school's compliance with accreditation or regulatory requirements. Beginning with the release of results from the July 2018 bar examination, the information provided to a law school shall also include the bar examination results of the law school's graduates allocated to the law school and the scores of any graduate allocated to the law school who did not pass the bar examination and who consents to the release of his or her scores to the law school. Consent of a law school graduate to the release of his or her scores may be obtained by a check-off on the graduate's application to take the bar examination. For purposes of this paragraph, "scores" means the same scores reported to a graduate who did not successfully pass the bar examination.

(4) Information provided to the National Conference of Bar Examiners or a successor nonprofit organization in connection to the State Bar's administration of any examination.

(5) This subdivision shall apply retroactively to January 1, 2016.

(c) Disclosure of any of the information in paragraphs (2) to (4), inclusive, of subdivision (b) shall not constitute a waiver under Section 6254.5 of the Government Code of the exemption from disclosure provided for in subdivision (a) of this section.

(d) (1) Notwithstanding any other law except existing state and federal laws protecting education records, any information received from an educational or testing entity that is collected by the State Bar for the purpose of conducting a Law School Bar Exam Performance Study as the State Bar has been directed to do by the California Supreme Court by letter dated February 28, 2017, other than aggregate, summary, or statistical data that does not identify any person and does not provide substantial risk of identification of any person, shall be confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(2) Nothing in this subdivision is intended to impact any litigation pending on the effective date of the measure that added this subdivision.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 6060.25 of the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

This act appropriately balances the public's right of access to information collected by the State Bar for the purpose of conducting a Law School Bar Exam Performance Study with the need to protect the privacy and confidentiality of that information.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the State Bar to fulfill its licensing and regulatory duties relating to admission to practice, it is necessary that this act take effect immediately.