

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 13, 2004 LB 868

SENATOR REDFIELD: Well, actually, Senator Raikes, we didn't realize that there was this loophole. When we worked through the identity theft issues, we thought we had very carefully protected personal information in every instance where government held those records, and it was only in the conversations that I had with the Department of Education that we in fact came to the realization that this did not occur in this one instance.

SENATOR RAIKES: Are there federal statutes, do you know, that may bear on whether or not this information is protected?

SENATOR REDFIELD: I do not know, Senator Raikes, but I will tell you that in our public records law the terminology is "may be withheld," so it is still at the discretion of the agency where, if there is a need for law enforcement or anyone else who might need those records, they would be released, but that they would have the choice to withhold them where they don't feel it's in the best interest of the child.

SENATOR RAIKES: Let me understand that, Senator. So the...so the agency would have the discretion to determine whether or not the request was bona fide in the sense it's really necessary?

SENATOR REDFIELD: Yes. If you look at the opening statement in the public records law, as it currently exists in 84-712.05, it says, "The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records." So the word...operative word there is "may," not "shall."

SENATOR RAIKES: Okay. Thank you, Senator Redfield. And thank you, Mr. Speaker.

SPEAKER BROMM: Thank you, Senator Raikes and Senator Redfield. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. I'm