

By Representative Mackey

1 A bill to be entitled
2 An act relating to access to public records and
3 information by inmates and other offenders
4 under correctional supervision; amending s.
5 945.10, F.S., relating to confidential
6 information and other information available to
7 inmates and offenders in the correctional
8 system or under supervision; prohibiting
9 certain disclosure or use of certain "personal
10 information about another," as defined, by an
11 inmate or offender with intent to obtain a
12 benefit or to harm or defraud another, to which
13 information the inmate or offender has had
14 access by means of correctional work or other
15 program participation; providing penalties;
16 providing that an inmate or offender convicted
17 of such offense is prohibited from subsequent
18 participation in such programs; providing that
19 an inmate or offender convicted of such offense
20 is subject to forfeiture of gain-time;
21 providing for adoption of rules by the
22 department; providing an effective date.

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24 Be It Enacted by the Legislature of the State of Florida:

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26 Section 1. Section 945.10, Florida Statutes, 1996
27 Supplement, is amended to read:

28 945.10 Confidential information; illegal acts;
29 penalties.--

30 (1) Except as otherwise provided by law or in this
31 section, the following records and information of the

1 Department of Corrections are confidential and exempt from the
2 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
3 Constitution:

4 (a) Mental health, medical, or substance abuse records
5 of an inmate or an offender.

6 (b) Preplea, pretrial intervention, presentence or
7 postsentence investigative records.

8 (c) Information regarding a person in the federal
9 witness protection program.

10 (d) Parole Commission records which are confidential
11 or exempt from public disclosure by law.

12 (e) Information which if released would jeopardize a
13 person's safety.

14 (f) Information concerning a victim's statement and
15 identity.

16 (g) The identity of an executioner.

17 (h) Records that are otherwise confidential or exempt
18 from public disclosure by law.

19 (2) The records and information specified in
20 paragraphs (1)(b)-(h) may be released as follows unless
21 expressly prohibited by federal law:

22 (a) Information specified in paragraphs (1)(b), (d),
23 and (f) to the Office of the Governor, the Legislature, the
24 Parole Commission, the Department of Health and Rehabilitative
25 Services, a private correctional facility or program that
26 operates under a contract, the Department of Legal Affairs, a
27 state attorney, the court, or a law enforcement agency. A
28 request for records or information pursuant to this paragraph
29 need not be in writing.

30 (b) Information specified in paragraphs (1)(c), (e),
31 and (h) to the Office of the Governor, the Legislature, the

1 Parole Commission, the Department of Health and Rehabilitative
2 Services, a private correctional facility or program that
3 operates under contract, the Department of Legal Affairs, a
4 state attorney, the court, or a law enforcement agency. A
5 request for records or information pursuant to this paragraph
6 must be in writing and a statement provided demonstrating a
7 need for the records or information.

8 (c) Information specified in paragraph (1)(b) to an
9 attorney representing an inmate under sentence of death,
10 except those portions of the records containing a victim's
11 statement or address, or the statement or address of a
12 relative of the victim. A request for records of information
13 pursuant to this paragraph must be in writing and a statement
14 provided demonstrating a need for the records or information.

15 (d) Information specified in paragraph (1)(b) to a
16 public defender representing a defendant, except those
17 portions of the records containing a victim's statement or
18 address, or the statement or address of a relative of the
19 victim. A request for records or information pursuant to this
20 paragraph need not be in writing.

21 (e) Information specified in paragraph (1)(b) to state
22 or local governmental agencies. A request for records or
23 information pursuant to this paragraph must be in writing and
24 a statement provided demonstrating a need for the records or
25 information.

26 (f) Information specified in paragraph (1)(b) to a
27 person conducting legitimate research. A request for records
28 and information pursuant to this paragraph must be in writing,
29 the person requesting the records or information must sign a
30 confidentiality agreement, and the department must approve the
31 request in writing.

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2 Records and information released under this subsection remain
3 confidential and exempt from the provisions of s. 119.07(1)
4 and s. 24(a), Art. I of the State Constitution when held by
5 the receiving person or entity.

6 (3) Due to substantial concerns regarding
7 institutional security and unreasonable and excessive demands
8 on personnel and resources if an inmate or an offender has
9 unlimited or routine access to records of the Department of
10 Corrections, an inmate or an offender who is under the
11 jurisdiction of the department may not have unrestricted
12 access to the department's records or to information contained
13 in the department's records. However, except as to another
14 inmate's or offender's records, the department may permit
15 limited access to its records if an inmate or an offender
16 makes a written request and demonstrates an exceptional need
17 for information contained in the department's records and the
18 information is otherwise unavailable. Exceptional
19 circumstances include, but are not limited to:

20 (a) The inmate or offender requests documentation to
21 resolve a conflict between the inmate's court documentation
22 and the commitment papers or court orders received by the
23 department regarding the inmate or offender.

24 (b) The inmate's or offender's release is forthcoming
25 and a prospective employer requests, in writing, documentation
26 of the inmate's or offender's work performance.

27 (c) The inmate or offender needs information
28 concerning the amount of victim restitution paid during the
29 inmate's or offender's incarceration.

30 (d) The requested records contain information required
31 to process an application or claim by the inmate or offender

1 with the Internal Revenue Service, the Social Security
2 Administration, the Department of Labor and Employment
3 Security, or any other similar application or claim with a
4 state agency or federal agency.

5 (e) The inmate or offender wishes to obtain the
6 current address of a relative whose address is in the
7 department's records and the relative has not indicated a
8 desire not to be contacted by the inmate or offender.

9 (f) Other similar circumstances that do not present a
10 threat to the security, order, or rehabilitative objectives of
11 the correctional system or to any person's safety.

12 (4) The Department of Corrections shall adopt rules to
13 prevent disclosure of confidential records or information to
14 unauthorized persons.

15 (5) The Department of Corrections and the Parole
16 Commission shall mutually cooperate with respect to
17 maintaining the confidentiality of records that are exempt
18 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
19 the State Constitution.

20 (6)(a) For purposes of this section, the term
21 "personal information about another" means the home addresses,
22 telephone numbers, social security numbers, and photographs of
23 health care clinicians of the Department of Corrections who
24 are licensed or certified pursuant to chapter 458, chapter
25 459, chapter 464, chapter 465, chapter 466, or chapter 490 and
26 of educational personnel of the Department of Corrections who
27 are certified pursuant to s. 231.17 and of other state
28 officers and employees whose duties are performed in whole or
29 in part in state correctional institutions; the home
30 addresses, telephone numbers, social security numbers,
31 photographs, and places of employment of the spouses and

1 children of such persons; and the names and locations of
2 schools and day care facilities attended by the children of
3 such persons.

4 (b) An inmate or offender in the correctional system
5 or under correctional supervision, whether on parole,
6 probation, postrelease supervision, or any other form of
7 supervision, is prohibited from disclosing or using personal
8 information about another with intent to obtain a benefit or
9 with intent to harm or defraud another that the inmate or
10 person has access to by means of participation in a
11 correctional work program or other correctional program. Any
12 person who violates this section commits a felony of the third
13 degree, punishable as provided in s. 775.082, s. 775.083, or
14 s. 775.084.

15 (c) An inmate or offender who has been convicted of an
16 offense under paragraph (b) is prohibited from subsequently
17 participating in any correctional work or other correctional
18 program that provides inmates or offenders with access to
19 personal information about persons who are not in the
20 correctional system or under correctional supervision. If,
21 during a term of imprisonment, an inmate or offender is
22 convicted of the offense under paragraph (b), the inmate or
23 offender shall be subject to forfeiture of all or any part of
24 his or her gain-time pursuant to rules adopted by the
25 department. The department shall adopt rules to implement this
26 subsection.

27 Section 2. This act shall take effect October 1 of the
28 year in which enacted.

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HOUSE SUMMARY

Prohibits certain disclosure or use of certain "personal information about another," as defined, by an inmate or offender with intent to obtain a benefit or to harm or defraud another, to which information the inmate or offender has had access by means of correctional work or other program participation. Provides penalties. Provides that an inmate or offender convicted of such offense is prohibited from subsequent participation in such programs. Provides that an inmate or offender convicted of such offense is subject to forfeiture of gain-time. Provides for adoption of rules by the department.