

By the Committee on Criminal Justice; and Senator Soto

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1 A bill to be entitled  
2 An act relating to public records; amending s. 985.04,  
3 F.S.; specifying that certain confidential information  
4 obtained under ch. 985, F.S., relating to juvenile  
5 justice, is exempt from public records requirements;  
6 providing applicability; revising applicability of  
7 public records requirements with respect to the arrest  
8 records of certain juvenile offenders; providing for  
9 future review and repeal of such applicability  
10 provisions; amending s. 943.053, F.S.; providing an  
11 exemption from public records requirements for  
12 juvenile information compiled by the Criminal Justice  
13 Information Program from intrastate sources; providing  
14 exceptions; providing for future review and repeal of  
15 the exemption; providing for release by the Department  
16 of Law Enforcement of the criminal history information  
17 of a juvenile which has been deemed confidential and  
18 exempt under certain circumstances; amending ss.  
19 496.4101 and 943.056, F.S.; conforming provisions to  
20 changes made by the act; providing a statement of  
21 public necessity; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Subsections (1) and (2) of section 985.04,  
26 Florida Statutes, are amended to read:

27 985.04 Oaths; records; confidential information.—

28 (1) (a) Except as provided in subsections (2), (3), (6), and  
29 (7) and s. 943.053, all information obtained under this chapter

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30 in the discharge of official duty by any judge, any employee of  
31 the court, any authorized agent of the department, the Florida  
32 Commission on Offender Review, the Department of Corrections,  
33 the juvenile justice circuit boards, any law enforcement agent,  
34 or any licensed professional or licensed community agency  
35 representative participating in the assessment or treatment of a  
36 juvenile is confidential and exempt from s. 119.07(1) and s.  
37 24(a), Art. I of the State Constitution. This exemption applies  
38 to information obtained before, on, or after the effective date  
39 of this exemption.

40 (b) Such confidential and exempt information may be  
41 disclosed only to the authorized personnel of the court, the  
42 department and its designees, the Department of Corrections, the  
43 Florida Commission on Offender Review, law enforcement agents,  
44 school superintendents and their designees, any licensed  
45 professional or licensed community agency representative  
46 participating in the assessment or treatment of a juvenile, and  
47 others entitled under this chapter to receive that information,  
48 or upon order of the court.

49 (c) Within each county, the sheriff, the chiefs of police,  
50 the district school superintendent, and the department shall  
51 enter into an interagency agreement for the purpose of sharing  
52 information about juvenile offenders among all parties. The  
53 agreement must specify the conditions under which summary  
54 criminal history information is to be made available to  
55 appropriate school personnel, and the conditions under which  
56 school records are to be made available to appropriate  
57 department personnel. Such agreement shall require notification  
58 to any classroom teacher of assignment to the teacher's

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59 classroom of a juvenile who has been placed in a probation or  
60 commitment program for a felony offense. The agencies entering  
61 into such agreement must comply with s. 943.0525, and must  
62 maintain the confidentiality of information that is otherwise  
63 exempt from s. 119.07(1), as provided by law.

64 (2) Notwithstanding any other provisions of this chapter,  
65 the name, photograph, address, and crime or arrest report of a  
66 child:

67 (a) ~~Taken into custody if the child has been taken into~~  
68 ~~eustody~~ by a law enforcement officer for a violation of law  
69 which, if committed by an adult, would be a felony;

70 (b) Charged with a violation of law which, if committed by  
71 an adult, would be a felony ~~Found by a court to have committed~~  
72 ~~three or more violations of law which, if committed by an adult,~~  
73 ~~would be misdemeanors;~~

74 (c) Found to have committed an offense which, if committed  
75 by an adult, would be a felony; or ~~Transferred to the adult~~  
76 ~~system under s. 985.557, indicted under s. 985.56, or waived~~  
77 ~~under s. 985.556;~~

78 (d) Transferred to adult court, pursuant to part X of this  
79 chapter, ~~Taken into custody by a law enforcement officer for a~~  
80 ~~violation of law subject to s. 985.557(2)(b) or (d); or~~

81 ~~(e) Transferred to the adult system but sentenced to the~~  
82 ~~juvenile system under s. 985.565~~

83  
84 are ~~shall~~ not be considered confidential and exempt from s.  
85 119.07(1) solely because of the child's age.

86 (e) This subsection is subject to the Open Government  
87 Sunset Review Act in accordance with s. 119.15 and shall stand

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88 repealed on October 2, 2020, unless reviewed and saved from  
89 repeal through reenactment by the Legislature.

90 Section 2. Subsections (3), (8), (9), and (10) of section  
91 943.053, Florida Statutes, are amended to read:

92 943.053 Dissemination of criminal justice information;  
93 fees.—

94 (3)(a) Criminal history information, ~~including information~~  
95 relating to an adult ~~minors~~, compiled by the Criminal Justice  
96 Information Program from intrastate sources shall be available  
97 on a priority basis to criminal justice agencies for criminal  
98 justice purposes free of charge. After providing the program  
99 with all known personal identifying information, persons in the  
100 private sector and noncriminal justice agencies may be provided  
101 criminal history information upon tender of fees as established  
102 in this subsection and in the manner prescribed by rule of the  
103 Department of Law Enforcement. ~~Any access to criminal history~~  
104 ~~information by the private sector or noncriminal justice~~  
105 ~~agencies as provided in this subsection shall be assessed~~  
106 ~~without regard to the quantity or category of criminal history~~  
107 ~~record information requested.~~

108 (b)1. Criminal history information relating to a juvenile  
109 compiled by the Criminal Justice Information Program from  
110 intrastate sources shall be released as provided in this  
111 section. Such information is confidential and exempt from s.  
112 119.07(1) and s. 24(a), Art. I of the State Constitution, unless  
113 such juvenile has been:

114 a. Taken into custody by a law enforcement officer for a  
115 violation of law which, if committed by an adult, would be a  
116 felony;

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117 b. Charged with a violation of law which, if committed by  
118 an adult, would be a felony;

119 c. Found to have committed an offense which, if committed  
120 by an adult, would be a felony; or

121 d. Transferred to adult court pursuant to part X of chapter  
122 985,

123  
124 and provided the criminal history record has not been expunged  
125 or sealed under any law applicable to such record.

126 2. This paragraph is subject to the Open Government Sunset  
127 Review Act in accordance with s. 119.15 and shall stand repealed  
128 on October 2, 2020, unless reviewed and saved from repeal  
129 through reenactment by the Legislature.

130 (c)1. Criminal history information relating to juveniles,  
131 including criminal history information consisting in whole or in  
132 part of information that is confidential and exempt under  
133 paragraph (b), shall be available to:

134 a. A criminal justice agency for criminal justice purposes  
135 on a priority basis and free of charge;

136 b. The person to whom the record relates, or his or her  
137 attorney;

138 c. The parent, guardian, or legal custodian of the person  
139 to whom the record relates, provided such person has not reached  
140 the age of majority, been emancipated by a court, or been  
141 legally married; or

142 d. An agency or entity specified in s. 943.0585(4) or s.  
143 943.059(4), for the purposes specified therein, and to any  
144 person within such agency or entity who has direct  
145 responsibility for employment, access authorization, or

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146 licensure decisions.

147 2. After providing the program with all known personal  
148 identifying information, the criminal history information  
149 relating to a juvenile which is not confidential and exempt  
150 under this subsection may be released to the private sector and  
151 noncriminal justice agencies not specified in s. 943.0585(4) or  
152 s. 943.059(4) in the same manner as provided in paragraph (a).  
153 Criminal history information relating to a juvenile which is not  
154 confidential and exempt under this subsection is the entire  
155 criminal history information relating to a juvenile who  
156 satisfies any of the criteria listed in subparagraph (b)1.,  
157 except for any portion of such juvenile's criminal history  
158 record which has been expunged or sealed under any law  
159 applicable to such record.

160 3. All criminal history information relating to juveniles,  
161 other than that provided to criminal justice agencies for  
162 criminal justice purposes, shall be provided upon tender of fees  
163 as established in this subsection and in the manner prescribed  
164 by rule of the Department of Law Enforcement.

165 (d) The fee for access to criminal history information by  
166 the private sector or a noncriminal justice agency shall be  
167 assessed without regard to the size or category of criminal  
168 history record information requested.

169 (e) ~~(b)~~ The fee per record for criminal history information  
170 provided pursuant to this subsection and s. 943.0542 is \$24 per  
171 name submitted, except that the fee for the guardian ad litem  
172 program and vendors of the Department of Children and Families,  
173 the Department of Juvenile Justice, and the Department of  
174 Elderly Affairs shall be \$8 for each name submitted; the fee for

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175 a state criminal history provided for application processing as  
176 required by law to be performed by the Department of Agriculture  
177 and Consumer Services shall be \$15 for each name submitted; and  
178 the fee for requests under s. 943.0542, which implements the  
179 National Child Protection Act, shall be \$18 for each volunteer  
180 name submitted. The state offices of the Public Defender shall  
181 not be assessed a fee for Florida criminal history information  
182 or wanted person information.

183 (8) Notwithstanding ~~the provisions of~~ s. 943.0525, and any  
184 user agreements adopted pursuant thereto, and notwithstanding  
185 the confidentiality of sealed records as provided for in s.  
186 943.059 and juvenile records as provided for in paragraph  
187 (3) (b), the sheriff of any county that has contracted with a  
188 private entity to operate a county detention facility pursuant  
189 to ~~the provisions of~~ s. 951.062 shall provide that private  
190 entity, in a timely manner, copies of the Florida criminal  
191 history records for its inmates. The sheriff may assess a charge  
192 for the Florida criminal history records pursuant to ~~the~~  
193 ~~provisions of~~ chapter 119. Sealed records and confidential  
194 juvenile records received by the private entity under this  
195 section remain confidential and exempt from ~~the provisions of~~ s.  
196 119.07(1).

197 (9) Notwithstanding ~~the provisions of~~ s. 943.0525, and any  
198 user agreements adopted pursuant thereto, and notwithstanding  
199 the confidentiality of sealed records as provided for in s.  
200 943.059 and juvenile records as provided for in paragraph  
201 (3) (b), the Department of Corrections shall provide, in a timely  
202 manner, copies of the Florida criminal history records for  
203 inmates housed in a private state correctional facility to the

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204 private entity under contract to operate the facility pursuant  
205 to ~~the provisions of~~ s. 944.105. The department may assess a  
206 charge for the Florida criminal history records pursuant to the  
207 provisions of chapter 119. Sealed records and confidential  
208 juvenile records received by the private entity under this  
209 section remain confidential and exempt from ~~the provisions of~~ s.  
210 119.07(1).

211 (10) Notwithstanding ~~the provisions of~~ s. 943.0525 and any  
212 user agreements adopted pursuant thereto, and notwithstanding  
213 the confidentiality of sealed records as provided for in s.  
214 943.059 or of juvenile records as provided for in paragraph  
215 (3) (b), the Department of Juvenile Justice or any other state or  
216 local criminal justice agency may provide copies of the Florida  
217 criminal history records for juvenile offenders currently or  
218 formerly detained or housed in a contracted juvenile assessment  
219 center or detention facility or serviced in a contracted  
220 treatment program and for employees or other individuals who  
221 will have access to these facilities, only to the entity under  
222 direct contract with the Department of Juvenile Justice to  
223 operate these facilities or programs pursuant to ~~the provisions~~  
224 ~~of~~ s. 985.688. The criminal justice agency providing such data  
225 may assess a charge for the Florida criminal history records  
226 pursuant to ~~the provisions of~~ chapter 119. Sealed records and  
227 confidential juvenile records received by the private entity  
228 under this section remain confidential and exempt from ~~the~~  
229 ~~provisions of~~ s. 119.07(1). Information provided under this  
230 section shall be used only for the criminal justice purpose for  
231 which it was requested and may not be further disseminated.

232 Section 3. Paragraph (b) of subsection (3) of section



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233 496.4101, Florida Statutes, is amended to read:

234 496.4101 Licensure of professional solicitors and certain  
235 employees thereof.—

236 (3)

237 (b) Fees for state and federal fingerprint processing and  
238 fingerprint retention fees shall be borne by the applicant. The  
239 state cost for fingerprint processing is that authorized in s.  
240 943.053(3)(e) ~~s. 943.053(3)(b)~~ for records provided to persons  
241 or entities other than those specified as exceptions therein.

242 Section 4. Subsection (1) of section 943.056, Florida  
243 Statutes, is amended to read:

244 943.056 Criminal history records; access, review, and  
245 challenge.—

246 (1) For purposes of verification of the accuracy and  
247 completeness of a criminal history record, the Department of Law  
248 Enforcement shall provide, in the manner prescribed by rule,  
249 such record for review upon verification, by fingerprints, of  
250 the identity of the requesting person. If a minor, or the parent  
251 or legal guardian of a minor, requests a copy of the minor's  
252 criminal history record, the Department of Law Enforcement shall  
253 provide such copy, including any portions of the record which  
254 may be confidential under s. 943.053(3)(b), for review upon  
255 verification, by fingerprints, of the identity of the minor. The  
256 providing of such record shall not require the payment of any  
257 fees, except those provided for by federal regulations.

258 Section 5. The Legislature finds that it is a public  
259 necessity that the criminal history information of juveniles who  
260 have not been adjudicated delinquent of a felony or who have  
261 been found only to have committed misdemeanor offenses and

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262 certain criminal history information relating to a juvenile  
263 compiled by the Criminal Justice Information Program be made  
264 confidential and exempt from s. 119.07(1), Florida Statutes, and  
265 s. 24(a), Article I of the State Constitution under ss. 985.04  
266 and 943.053, Florida Statutes. Many individuals who have either  
267 completed their sanctions and received treatment or who were  
268 never charged in the juvenile justice system have found it  
269 difficult to obtain employment. The presence of an arrest or a  
270 misdemeanor record in these individuals' juvenile past and  
271 certain criminal history information relating to a juvenile  
272 compiled by the Criminal Justice Information Program creates an  
273 unnecessary barrier to becoming productive members of society,  
274 thus frustrating the rehabilitative purpose of the juvenile  
275 system. The Legislature therefore finds that it is in the best  
276 interest of the public that individuals with juvenile  
277 misdemeanor records are given the opportunity to become  
278 contributing members of society. Therefore, prohibiting the  
279 unfettered release of juvenile misdemeanor records and certain  
280 criminal history information relating to a juvenile compiled by  
281 the Criminal Justice Information Program is of greater  
282 importance than any public benefit that may be derived from the  
283 full disclosure and release of such arrest records and  
284 information.

285 Section 6. This act shall take effect upon becoming a law.