

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/HB 293 — Public Records/Juvenile Criminal History Records

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Pritchett and others (CS/SB 700 by Fiscal Policy Committee and Senators Soto and Evers)

The bill addresses the inconsistencies that exist between s. 985.04(1), F.S. (making the majority of juvenile records confidential), and s. 943.053, F.S. (allowing a juvenile's criminal history information to be disseminated in the same manner as that of an adult), by:

- Ensuring that the specified juvenile records deemed to be not confidential and exempt under s. 943.053, F.S., are identical to the juvenile records deemed to be not confidential and exempt under s. 985.04, F.S.; and
- Requiring the Florida Department of Law Enforcement (FDLE) to release juvenile criminal history records in a manner that takes into account the records' confidential and exempt status.

Section 985.04, F.S., Confidential Information of Juveniles

The bill amends s. 985.04(1), F.S., clarifying that juvenile records obtained under ch. 985, F.S., are confidential and exempt (rather than just confidential). The changes apply to records obtained before, on, and after the effective date of the bill.

Section 985.04(2), F.S., is amended to specify that the following juvenile records are not confidential and exempt:

- Records of a juvenile taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony;
- Records of a juvenile who is charged with a violation of law which, if committed by an adult, would be a felony;
- Records of a juvenile who has been found to have committed an offense which, if committed by an adult, would be a felony; or
- Records of a juvenile who has been transferred to adult court pursuant to ch. 985, part X, F.S.

The bill removes language specifying that the records of juveniles who have been found to have committed three or more misdemeanor violations are not confidential and exempt. These records are now confidential and exempt.

The bill authorizes a custodian of public records to choose not to post a juvenile's arrest or booking photograph on the custodian's website even though the photograph is not confidential and exempt or otherwise restricted from publication by law. This authorization does not restrict public access to the record.

Section 943.053, F.S., Dissemination of Criminal History Information

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The bill amends s. 943.053, F.S., to make the list of juvenile records deemed to be not confidential and exempt identical to the list of juvenile records deemed to be not confidential and exempt under s. 985.04(2), F.S. Because the language regarding three or more misdemeanors is not included on the list, the FDLE is no longer tasked with determining whether the juvenile had three or more misdemeanors before releasing such records to the private sector and noncriminal justice agencies. Records relating to misdemeanors are now confidential and exempt.

The bill amends s. 943.053(3), F.S., to establish a separate process to disseminate juvenile criminal history information. Under this process, juvenile criminal history information, including the information that is confidential and exempt, is available to:

- A criminal justice agency for criminal justice purposes on a priority basis and free of charge;
- The person to whom the record relates or his or her attorney;
- The parent, guardian, or legal custodian of the person to whom the record relates, provided such person has not reached the age of majority, been emancipated by a court, or been legally married; or
- An agency or entity specified in ss. 943.0585(4) or 943.059(4), F.S., for the stated purposes, and to any person within the agency or entity who has direct responsibility for employment, access authorization, or licensure decisions.

Juvenile criminal history information not confidential and exempt may be released to the private sector and noncriminal justice agencies upon tender of fees and in the same manner that criminal history information relating to adults is released.

Juvenile records deemed confidential and exempt under s. 943.053, F.S., which are released by the sheriff, the Department of Corrections, or the Department of Juvenile Justice to private entities under contract with each entity retain their confidential and exempt status upon release to these private entities.

The bill repeals all new public records exemptions created in the bill on October 2, 2021, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 114-2