

By the Committee on Criminal Justice and Senator Williams

307-2182-98

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

22  
23 Be It Enacted by the Legislature of the State of Florida:  
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25           Section 1. Section 945.10, Florida Statutes, is  
26 amended to read:  
27           945.10 Confidential information; illegal acts;  
28 penalties.--

29           (1) Except as otherwise provided by law or in this  
30 section, the following records and information of the  
31 Department of Corrections are confidential and exempt from the

1 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
2 Constitution:

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

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

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

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

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

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

15 (g) The identity of an executioner.

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

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

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

29 (b) Information specified in paragraphs (1)(c), (e),  
30 and (h) to the Office of the Governor, the Legislature, the  
31 Parole Commission, the Department of Health and Rehabilitative

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

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

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

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

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

31

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

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

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

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

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

29 (d) The requested records contain information required  
30 to process an application or claim by the inmate or offender  
31 with the Internal Revenue Service, the Social Security

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

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

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

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

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

19 (6)(a) As used in this subsection:

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

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

3 2. The terms "another person" and "such person" mean  
4 any person described in subparagraph 1.

5 3. The term "harass" means engaging in a course of  
6 conduct directed at another person which causes substantial  
7 emotional distress to such person and serves no legitimate  
8 purpose.

9 (b) An inmate or offender in the correctional system  
10 or under correctional supervision, whether on parole,  
11 probation, postrelease supervision, or any other form of  
12 supervision, is prohibited from disclosing or using personal  
13 information about another person with the intent to obtain a  
14 benefit from, harass, harm, or defraud such person. Any inmate  
15 or offender who violates this section commits a felony of the  
16 third degree, punishable as provided in s. 775.082, s.  
17 775.083, or s. 775.084.

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

1 personal information about another person. The department may  
2 also adopt rules to implement the forfeiture or deletion of  
3 gain-time.

4 Section 2. This act shall take effect October 1, 1998.

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
7 COMMITTEE SUBSTITUTE FOR  
8 Senate Bill 1556

- 9 . Provides that it is a third degree felony for an inmate  
10 under supervision who obtains access to confidential  
11 information regarding a correctional officer or employee  
12 to disclose or use that information with the intent to  
13 obtain a benefit from, defraud, harass, or harm the  
14 officer or employee.  
15 . Defines the terms "harass," "another person" and "such  
16 person."