

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, harass or defraud certain
13 persons, to which information the inmate or
14 offender has had access by means of
15 correctional work or other program
16 participation; providing penalties; providing
17 that an inmate or offender convicted of such
18 offense is prohibited from subsequent
19 participation in such programs; providing that
20 an inmate or offender convicted of such offense
21 is subject to forfeiture of gain-time;
22 providing for adoption of rules by the
23 department; providing an effective date.

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

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

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

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1 (1) Except as otherwise provided by law or in this
2 section, the following records and information of the
3 Department of Corrections are confidential and exempt from the
4 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
5 Constitution:

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

8 (b) Preplea, pretrial intervention, presentence or
9 postsentence investigative records.

10 (c) Information regarding a person in the federal
11 witness protection program.

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

14 (e) Information which if released would jeopardize a
15 person's safety.

16 (f) Information concerning a victim's statement and
17 identity.

18 (g) The identity of an executioner.

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

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

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

1 (b) Information specified in paragraphs (1)(c), (e),
2 and (h) to the Office of the Governor, the Legislature, the
3 Parole Commission, the Department of Health and Rehabilitative
4 Services, a private correctional facility or program that
5 operates under contract, the Department of Legal Affairs, a
6 state attorney, the court, or a law enforcement agency. A
7 request for records or information pursuant to this paragraph
8 must be in writing and a statement provided demonstrating a
9 need for the records or information.

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

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

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

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

1 confidentiality agreement, and the department must approve the
2 request in writing.

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

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

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

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

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

1 (d) The requested records contain information required
2 to process an application or claim by the inmate or offender
3 with the Internal Revenue Service, the Social Security
4 Administration, the Department of Labor and Employment
5 Security, or any other similar application or claim with a
6 state agency or federal agency.

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

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

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

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

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

1 addresses, telephone numbers, social security numbers,
 2 photographs, and places of employment of the spouses and
 3 children of such persons; and the names and locations of
 4 schools and day care facilities attended by the children of
 5 such persons.

6 (b) An inmate or offender in the correctional system
 7 or under correctional supervision, whether on parole,
 8 probation, postrelease supervision, or any other form of
 9 supervision, is prohibited from disclosing or using personal
 10 information, about health care clinicians, educational
 11 personnel and other state officers or employees whose duties
 12 are performed in whole or in part in the state correctional
 13 system with intent to obtain a benefit or with intent to harm,
 14 harass or defraud state officers, employees and others. Any
 15 person who violates this section commits a felony of the third
 16 degree, punishable as provided in s. 775.082, s. 775.083, or
 17 s. 775.084. For the purposes of this subsection, the term
 18 "harass" shall be defined as to engage in a course of conduct
 19 directed at a specific person that causes substantial
 20 emotional distress in such person and serves no legitimate
 21 purpose.

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

1 rules to prohibit the subsequent participation of an inmate
2 who has been convicted of an offense under paragraph (b) in
3 any correctional work or other correctional program that
4 provides inmates access to personal information about certain
5 persons. The department may also adopt rules to implement the
6 forefeiture or deletion of gain-time.

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

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