

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Judiciary Committee

BILL: CS/SB 2624

SPONSOR: Judiciary Committee and Senator Fasano

SUBJECT: Law Enforcement Department

DATE: April 28, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Fav/1 amendment
2.	<u>Chinn</u>	<u>Maclure</u>	<u>JU</u>	Fav/CS
3.	_____	_____	<u>GO</u>	_____
4.	_____	_____	<u>JA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 2624 amends several sections of the Florida Statutes relating to the Florida Department of Law Enforcement (FDLE). Significant features of the committee substitute include:

- Requiring the FDLE to review its records to determine whether a person who is attempting to purchase a firearm has been adjudicated mentally defective or has been committed to a mental institution and, as a result, is prohibited by federal law from purchasing a firearm. Currently, the FDLE does not have access to this background information. The committee substitute requires the clerks of court to submit these records to the FDLE.
- Increasing the amount of time that protective services can be provided to a witness or victim who is at risk of harm upon certification by a state attorney or the statewide prosecutor.
- Providing immunity from civil liability for damages when an agency responds in good faith to a request to publicly release information relating to a missing child, commonly known as an Amber Alert.
- Requiring each clerk of the court to submit to the FDLE a disposition report for each disposition relating to an offender who is a minor.
- Expanding the list of offenses that cannot be sealed or expunged to include voyeurism and also include offenses specified as predicate offenses for registration as a sexual predator or a sexual offender. This will result in the offenses of false imprisonment, luring or enticing a child, and certain offenses related to pornography being ineligible for sealing or expunction.

- Providing that a sealed criminal history record can be used by a criminal justice agency in conducting a criminal history background check for approval of firearms purchases as required by state or federal law.
- Authorizing the FDLE to retain fingerprints of law enforcement officers (and other criminal justice agency employees if submitted by the employing agency) for the purpose of checking arrest fingerprint cards against fingerprints of officers or other criminal justice agency employees. The FDLE must inform an agency if an arrest record is identified as belonging to an officer or other criminal justice agency employee.
- Creating the first degree misdemeanor offense of using a name or emblem of the FDLE to convey the impression that a product is approved, endorsed, or authorized by the FDLE.

This committee substitute substantially amends the following sections of the Florida Statutes: 68.07, 790.065, 914.25, 937.021, 938.07, 938.27, 943.05, 943.052, 943.053, 943.0585, 943.059, 943.13, 943.1715, 943.1716, 943.257, and 943.401. This committee substitute repeals section 943.2569, Florida Statutes, and creates unnumbered sections of the Florida Statutes.

II. Present Situation:

Sale and Delivery of Firearms

Federal law provides that it is unlawful for any person to sell a firearm to any person knowing or having reasonable cause to believe that such person has been adjudicated as a mental defective or has been committed to any mental institution.¹ Before a licensed firearm dealer can sell or deliver a firearm to another person, the dealer is required to contact the Florida Department of Law Enforcement (FDLE), which then conducts a records check on the potential buyer.² The FDLE is required to review criminal history records to determine if the potential buyer has been convicted of a felony or other enumerated offense. The FDLE notifies the dealer if the records check of the potential buyer discloses any disqualifying information. The FDLE does not have access to information relating to whether a potential buyer has been adjudicated mentally defective or committed to a mental institution. As such, this information is not part of the FDLE's record check.

Protective Services for Certain Victims and Witnesses

Section 914.25, F.S., provides that, upon certification from a state attorney or the statewide prosecutor that a victim or witness who is critical to a criminal investigation or prosecution is at risk of harm, law enforcement may provide protective services. If the victim or witness needs to be temporarily relocated, the state attorney or the statewide prosecutor must notify the FDLE, which coordinates the temporary relocation. Protective services, including temporary relocation, may be provided for up to one year or until the risk giving rise to the certification has diminished, whichever occurs sooner. The state attorney or the statewide prosecutor can recertify a victim or witness at risk of harm for an additional year. The lead law enforcement agency that provides protective services may seek reimbursement for expenses from the Victim and Witness

¹ 18 U.S.C. 922(d)(4).

² See s. 790.065, F.S.

Protection Review Committee, which is part of the Florida Violent Crime and Drug Control Council that serves in an advisory capacity to the FDLE.³

Missing Child Reports

The FDLE maintains the Missing Children Information Clearinghouse (MCIC), which is a central repository of information regarding missing children. In cooperation with several other state agencies, the FDLE administers the Amber Alert program to aid in the recovery of missing children. The purpose of the program is to broadcast to the public information relating to a missing or abducted child believed to be in danger, through the use of radio and television broadcasts, road signs, and lottery machines. A Missing Child Alert can be issued in cases in which the criteria for the issuance of an Amber Alert have not been met.

Trust Funds

Section 938.07, F.S., provides that a court cost of \$135 shall be added to any fine for driving under the influence or boating under the influence. This money is statutorily divided as follows: \$25 is to be deposited in the Emergency Medical Services Trust Fund; \$60 is to be deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund; and \$50 is to be deposited in the Criminal Justice Standards and Training Trust Fund of the FDLE to be used for operational expenses in conducting the statewide criminal analysis laboratory system established in statute.⁴ In audit report number 03-042, which was released in October 2002, the Auditor General reported that, contrary to s. 938.07, F.S., the FDLE was placing the \$50 portion of DUI court costs in its Operating Trust Fund rather than in the Criminal Justice Standards and Training Trust Fund. In an October 2005 audit, the Auditor General noted “continued noncompliance with this law.”⁵

Section 938.27, F.S., provides that in all criminal cases, convicted persons are liable for payment of investigative costs incurred by law enforcement agencies. Investigative costs that are recovered must be returned to the agency that incurred the expense and deposited into that agency’s operating trust fund.

Disposition Reporting

The FDLE maintains the Criminal Justice Information Program, which acts as the state’s central criminal justice information repository. Law enforcement agencies are required to submit arrest information to the FDLE. Section 943.052, F.S., requires each clerk of court to submit

³ See s. 943.031(6), F.S., which establishes the Victim and Witness Protection Review Committee within the Florida Violent Crime and Drug Control Council. The committee maintains criteria for disbursing funds to reimburse law enforcement agencies for witness protection costs and reviews and approves or denies reimbursement requests. The lead agency must provide a plan for how the funds are to be distributed among any agencies that cooperate in providing protective services.

⁴ Section 943.32, F.S., establishes a statewide criminal analysis laboratory system to be composed of state operated laboratories under the jurisdiction of the FDLE and locally funded laboratories in Broward, Dade, Indian River, Monroe, Palm Beach, and Pinellas Counties as well as other laboratories that render criminal analysis laboratory services to criminal justice agencies in the state.

⁵ See Report No. 2005-042, Department of Law Enforcement, Criminal Justice Standards and Training Trust Fund and Accountability for Evidence and Seized Property, Operational Audit.

disposition information to the FDLE.⁶ This information indicates, for example, whether a person had been acquitted or convicted of the offense for which they were arrested. The section provides that disposition reports must be submitted at least once a month and provides that the report is mandatory for dispositions relating to adult offenders only.

Name Change Petitions

Section 68.07, F.S., currently provides that a petition for change of name must include a *copy* of the petitioner's fingerprints taken by a law enforcement agency, except where a former name is being restored. After the filing of a final judgment granting a name change, the clerk is required to send a report to the FDLE. Along with additional information, the report must contain a copy of the petitioner's fingerprints.

Fingerprint Submission for Criminal History Background Checks

Section 943.13, F.S., provides minimum qualifications for a person employed as a law enforcement or correctional officer. A person who has been convicted of any felony or a misdemeanor involving perjury or false statement is not eligible to be an officer. An employing agency is required to conduct a fingerprint-based criminal history background check as a condition of employment of an officer. The employing agency keeps the processed fingerprints on file. The FDLE does not retain the fingerprints. As a result, unless the agency later resubmits the fingerprints, they are not subsequently checked to ensure that the officer has not been arrested for or convicted of a disqualifying criminal offense.

Expunction and Sealing of Records

Current law provides for the sealing or expunction of criminal history records in limited circumstances.⁷ The arrested individual must apply to the FDLE for a certificate of eligibility for sealing or expunction and pay a \$75 fee. A record may not be sealed or expunged if the person was adjudicated guilty of the offense. Criminal history records relating to certain offenses such as sexual battery or drug trafficking may not be expunged or sealed if the defendant was found guilty or pled guilty, even if adjudication was withheld.⁸ Even if the FDLE grants an individual a certificate of eligibility, sealing or expunction is not automatic - the court may deny the petition. An individual may only have one arrest (and related proceedings) sealed, and then later expunged, in his or her lifetime.

⁶ See also Rule 11C-4.006, F.A.C., and s. 943.045(9), F.S. Section 943.045(9), F.S., defines the term "disposition" as "details relating to the termination of an individual criminal defendant's relationship with a criminal justice agency, including information disclosing that the law enforcement agency has elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings, that a court has dealt with the individual, or that the individual has been incarcerated, paroled, pardoned, released, or granted clemency. Dispositions include, but are not limited to, acquittals, dismissals, pleas, convictions, adjudications, youthful offender determinations, determinations of mental capacity, placements in intervention programs, pardons, probations, paroles, and releases from correctional institutions."

⁷ See generally ss. 943.0585 and 943.059, F.S.

⁸ Offenses in this category include numerous sex crimes, plus communications fraud, offenses by public employees, drug trafficking, or violation of pretrial release conditions.

The arresting agency keeps possession of a sealed record, but the record is confidential and exempt from the public records laws.⁹ A sealed record does not appear on a criminal history search requested by a member of the public, but is still available for review by the arrested person and by certain government agencies for specific purposes. The arresting agency must physically destroy an expunged record.¹⁰ The FDLE does not destroy an expunged record, but keeps a copy of the record as a confidential and exempt record.

An individual who has had an arrest sealed or expunged may lawfully deny the arrest in most circumstances. The FDLE record of an expunged criminal history record is still available to certain governmental entities for specific purposes.¹¹

Current law provides that a person is not required to wait a minimum of ten years prior to being eligible for an expunction when the charges were dismissed prior to trial, adjudication, or withholding of adjudication. Otherwise, the criminal history record must be sealed for at least 10 years before such record is eligible for expunction.

Officer Training

As a condition of employment, a law enforcement officer must complete a basic skills training program. Every four years, an officer is required to have 40 hours of continued training.¹² Sections 943.171 through 943.17295, F.S., require training in a number of specific areas such as victims' assistance, juvenile sexual offender investigations, and domestic violence cases. Section 943.1715, F.S., provides that each basic skills course must include a minimum of eight hours training in "interpersonal skills with diverse populations." Section 943.1716, F.S., mandates that a continued education course must contain eight hours of instruction in the subject of interpersonal skills relating to diverse populations, with an emphasis on the awareness of cultural differences.

Criminal Justice Selection Centers

Florida has selection centers throughout the state that evaluate criminal justice applicants for employment with agencies in the region. The centers are each under the direction and control of a postsecondary public school or a criminal justice agency.¹³ Section 943.2569, F.S., requires that each center provide for an annual financial audit and a management letter. However, a postsecondary public school or criminal justice agency that administers a center is required to conduct these annual financial audits pursuant to s. 11.45(2)(c), F.S. or s. 218.39(1), F.S. A recent Auditor General report suggested that the need for a separate audit requirement in s. 943.2569, F.S., is not apparent.¹⁴

⁹ Section 943.059(4), F.S.

¹⁰ Section 943.0585(4), F.S.

¹¹ A record that is sealed or expunged is provided to the appropriate state or local government agency should the arrested person apply for employment with a criminal justice agency; admission to the Florida Bar; employment with the Department of Children and Families; or the Department of Juvenile Justice; employment in a sensitive position (whether employed by an agency; or by a contractor); or employment in a school or day care center.

¹² Section 943.135, F.S.

¹³ Section 943.256, F.S.

¹⁴ Report No. 2005-042, pages 7-8.

Public Assistance Fraud

Section 943.401, F.S., provides that the FDLE must investigate fraud in public assistance provided under ch. 409, F.S., or ch. 414, F.S. The references to these chapters are outdated because functions that were previously handled by the former Department of Health and Rehabilitative Services are now located in other state agencies that do not come under the provisions of ch. 409, F.S., or ch. 414, F.S.

Unauthorized Wearing of Law Enforcement Insignia

Section 843.085, F.S., provides that it is a first degree misdemeanor for an unauthorized person to wear law enforcement insignia in a manner that could deceive a reasonable person into believing that its display is authorized by a law enforcement agency.

III. Effect of Proposed Changes:

Provided is a section-by-section analysis of Committee Substitute for Senate Bill 2624:

Section 1, which is effective February 1, 2006, amends s. 790.065, F.S., to require the Florida Department of Law Enforcement (FDLE) to compile and maintain an automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.¹⁵ The clerks of court must submit these records to the FDLE within one month of the rendition of the adjudication or commitment.

The section provides a procedure by which an individual can request that the FDLE delete a mental health record in certain circumstances. The FDLE is authorized to disclose the mental health data to agencies of the federal government and other states for use exclusively in determining the lawfulness of a firearm sale or transfer; FDLE may also disclose the information to the Department of Agriculture and Consumer Services for determining eligibility for issuance of a concealed weapons or firearms license.

When a potential buyer appeals a non-approval based on mental health records, the clerks of court and mental institutions must, upon request, provide information to help determine whether the potential buyer is the same person as the subject of the record. Any identifying information that is provided to the FDLE, which is confidential or exempt from disclosure, must retain such confidential or exempt status when transferred to the FDLE.

Section 2 amends s. 914.25, F.S., relating to the certification by a state attorney or the statewide prosecutor that a victim or witness who is critical to a criminal investigation or prosecution is at risk of harm. At the end of the first year of certification, the state attorney or statewide prosecutor may recertify the victim or witness for an additional year or until the risk giving rise to the certification has diminished, whichever occurs first. Certification may be renewed annually to allow a maximum of four years of eligibility for protective services.

¹⁵ The committee substitute defines the terms “adjudicated mentally defective” and “committed to a mental institution.”

Section 914.25, F.S., does not prevent any agency from providing protective services at the agency's expense beyond the four-year maximum period, but the agency cannot seek reimbursement for any additional expenditures from the Victim and Witness Protection Review Committee.

Section 3 amends s. 937.021, F.S., to provide that, upon receiving a request to release Amber Alert or Missing Child Alert information, any agency, employee, individual, or entity is immune from civil liability for damages for complying in good faith with the request. A person is presumed to have acted in good faith in releasing information pertaining to the missing child, and this presumption is not overcome if a technical or clerical error is made or if the alert information is incomplete because the information received from the local law enforcement agency was incomplete or incorrect. There is no duty to release the alert information, and the decision to release the information is discretionary with the agency receiving the information.

Section 4 amends s. 938.07, F.S., to provide that the \$50 that the FDLE receives from the \$135 DUI court costs shall be deposited in the FDLE's Operating Trust Fund rather than the Criminal Justice Standards and Training Trust Fund.

Section 5 amends s. 938.27, F.S., to provide that investigative costs recovered on the FDLE's behalf shall be deposited in the FDLE's Forfeiture and Investigative Support Trust Fund rather than the Operating Trust Fund.

Section 6 amends s. 943.05, F.S., to authorize the Criminal Justice Information Program to retain fingerprints submitted by a criminal justice agency authorized to conduct a criminal background check on the agency's employee (other than officer), and to search all arrest fingerprints against the fingerprints retained. Agencies wishing to participate in having the submitted fingerprints searched against arrest fingerprints will be required to pay an annual fee to the FDLE. The FDLE is required to adopt a rule setting the amount of the annual fee and establishing procedures for retaining fingerprints and disseminating search results.

Section 7 amends s. 943.052, F.S., to require clerks of court, beginning July 1, 2008, to submit disposition reports relating to offenders who are minors to the Criminal Justice Information Program.

Section 8 amends s. 68.07, F.S., to clarify that change of name petitions must include an original set of the petitioner's fingerprints.

Section 9 amends s. 943.053, F.S., to provide that the FDLE shall make online access to Florida criminal justice information available to each judge in the state courts system for the purpose of assisting judges in their case-related decision making responsibilities. This access is free. Sealed records received by the courts remain confidential and exempt from public disclosure.

A criminal justice agency authorized to conduct a criminal background check on an agency employee (other than an officer) may submit the employee's fingerprint identification

information to the FDLE. Effective December 15, 2005,¹⁶ the FDLE will retain this information and will search all arrest fingerprint cards against the fingerprints of the agency employee.

When a criminal history check or a duty to disclose the absence of a criminal history check is mandated by state law, or when a privilege or benefit is conferred by state law in return for exercising an option of conducting a criminal history check, the check must include a Florida criminal history provided by the FDLE. Florida criminal history information may be provided by a private vendor only if that information is directly obtained from the FDLE for each request.

When a national criminal history check is required or authorized by state law, the national criminal history check must be submitted by and through the FDLE unless otherwise required by federal law.

The fee for criminal history information, as established by state law, or in the case of national checks, by the federal government, shall be borne by the person or entity submitting the request or as provided by law.

Criminal history information provided by another governmental entity of the state or a private entity cannot be substituted for criminal history information provided by the FDLE if the check is required by statute or is made a condition of a privilege or benefit by law.

Sections 10-11 amend, respectively, s. 943.0585, F.S. (court-ordered expunction of criminal history records), and s. 943.059, F.S. (court-ordered sealing of criminal history records). The changes expand the list of offenses that cannot be sealed or expunged to include voyeurism¹⁷ and also include offenses specified as predicate offenses for registration as a sexual predator or a sexual offender.¹⁸ This will result in the offenses of false imprisonment and luring or enticing a child and certain offenses related to pornography being ineligible for sealing or expunction.

A certificate of eligibility for sealing or expunction is valid for 12 months after the date stamped on the certificate when issued by the FDLE. After that time, the petitioner must reapply to the FDLE for a new certificate of eligibility. Eligibility for a renewed certification will be based on the law in effect and the status of the applicant at the time of the most recent application.

Section 943.059(4), F.S., currently provides, in part, that, even though sealed criminal history records are confidential and exempt, these records are available to “criminal justice agencies for their respective criminal justice purposes.” The committee substitute indicates that “criminal justice purposes” include criminal history background checks for approval of firearms purchases or transfers as authorized by state or federal law. The sealed records are also available to certain entities provided in this section for licensing, access authorization, and employment purposes.

Two other exceptions are added to the list of exceptions to the general rule that a person may lawfully deny or fail to acknowledge arrests covered by a sealed record: a person who is

¹⁶ The effective date of December 15, 2005, for the retention of certain employee fingerprints will allow for completion of system configurations in the new Integrated Criminal History System.

¹⁷ Section 810.14, F.S.

¹⁸ See ss. 775.21 and 943.0435, F.S.

attempting to purchase a firearm; and a person who is seeking authorization from a Florida seaport for employment within or access to one or more seaports.

Current law provides that a person is not required to wait a minimum of ten years prior to being eligible for an expunction when the charges were dismissed prior to trial, adjudication, or withholding of adjudication. Otherwise, the criminal history record must be sealed for at least ten years before such record is eligible for expunction. These criteria are amended to provide that the FDLE may issue a certificate of eligibility for expunction if the person have previously obtained a court order sealing the record for a minimum of ten years because adjudication was withheld or because all charges related to the arrest were not dismissed prior to trial, regardless of whether the outcome of the trial was other than an adjudication of guilt. The requirement for the record to have previously been sealed for a minimum of ten years does not apply when a plea was not entered or all charges related to the arrest or to which the petition to expunge pertains were dismissed prior to trial. In short, under the provisions of the committee substitute, unless the charges were dismissed prior to trial, the record cannot be sealed unless ten years has elapsed since the record was sealed. If the person went to trial and was acquitted, or if the person was convicted but adjudication was withheld, or if the person pled guilty or nolo contendere and adjudication was withheld, the record must be sealed for ten years before it can be expunged. [As under current law, a record cannot be sealed or expunged if it resulted in an adjudication of guilt either by way of a plea or after a trial.]

Section 12 amends s. 943.13, F.S., to require that, beginning December 15, 2005, the FDLE must retain and enter into the statewide automated fingerprint identification system all fingerprints of officers submitted as required by s. 943.13, F.S., and all fingerprints of officers that are submitted to the department for any other reason. The FDLE will then search all arrest fingerprint cards against the fingerprints of the officers submitted as required by this statute and report to the employing agency if a fingerprint from an arrest card is identified as matching an officer's fingerprints. By January 1, 2007, an officer whose fingerprints are not retained by the FDLE must be re-fingerprinted and the fingerprints must be forwarded to the FDLE.

Sections 13-14 amend, respectively, s. 943.1715, F.S. (basic skills training relating to diverse populations), and s. 943.1716, F.S. (continued employment training relating to diverse populations). The changes retain the requirement that basic skills training and continued education training contain instruction in the subject of interpersonal skills relating to diverse populations but remove the requirement that a minimum of 8 hours training be given in that subject.

Section 15 repeals s. 943.2569, F.S. As previously indicated, s. 943.2569, F.S., requires that each criminal justice selection center provide for an annual financial audit and a management letter. However, a postsecondary public school or criminal justice agency that administers a center is required to conduct these annual financial audits pursuant to s. 11.45(2)(c), F.S., or s. 218.39(1), F.S. A recent Auditor General report suggested that the need for a separate audit requirement in s. 943.2569, F.S., is not apparent. The repeal of the statute will delete the separate audit requirement.

Section 16 amends s. 943.257, F.S., to clarify the oversight role of the FDLE's Criminal Justice Standards and Training Commission (CJSTC) and the criminal justice selection center's advisory

board over a center. The CJSTC or the board may inspect and copy any documents from the center as required for each of these entities to carry out their oversight responsibilities. Documents include information and documents related to applicant evaluations and center expenditures. The CJSTC or board may also inspect and copy internal audits by or on behalf of the center (independent audits are already addressed in current law).

Section 17 amends s. 943.041, F.S., to clarify the FDLE's jurisdiction to investigate public assistance fraud.¹⁹

Section 18 creates an unnumbered section that provides that, in addition to expenditures otherwise authorized by law, the FDLE is authorized to expend not more than \$5,000 annually to "purchase and distribute promotional materials or items that serve to advance with dignity and integrity the goodwill of this state and the department and to provide basic refreshments" at meetings of the department with representatives from other governmental entities.

Section 19 creates an unnumbered section that provides that whoever, without the written permission of the executive director of the FDLE, knowingly uses the words "Florida Department of Law Enforcement," "F.D.L.E.," "FDLE," or "Florida Capitol Police," or who uses a department logo or emblem in connection with any publication or production in a manner reasonably calculated to convey the impression that such publication or production is approved, endorsed, or authorized by the department, commits a first degree misdemeanor. A violation of this new section may be enjoined upon suit by the department or the Department of Legal Affairs upon complaint filed in any court of competent jurisdiction.

Section 20 provides that, except as expressly provided in this act, this act shall take effect July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Section 1 of the committee substitute authorizes the Florida Department of Law Enforcement (FDLE) to disclose to federal agencies and agencies of other states certain court records pertaining to the mental health of the subject of the records. The data may be disclosed exclusively for use in determining the lawfulness of a firearm sale or transfer. The committee substitute authorizes such disclosure although much of the information may already be public record. From the language of the committee substitute, it is unclear exactly what kind of court orders would be collected by the FDLE and placed in its database, and it is, therefore, unclear whether the data to be collected is confidential

¹⁹ The section deletes obsolete references. Additionally, the law currently requires all public assistance recipients to give the agency administering the assistance consent to make inquiry of past and present employers and financial records. The section includes the Agency for Workforce Innovation in the list of agencies because this agency now administers subsidized child day care under the School Readiness program.

and exempt from public records laws. According to staff of the Attorney General's Office, there may be some difference of opinion among the Florida District Courts of Appeal about what mental health records of the clerks of court are or are not confidential and exempt. According to the FDLE, in order to implement the provisions of Section 1, the department will seek an opinion of the Attorney General to clarify which clerk of court records are confidential and exempt, and which ones are not, and to clarify how those records may be handled by the department once collected. The language of this committee substitute does not appear to create a new public records exemption.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The committee substitute requires the clerks of the court to provide information relating to juvenile disposition and to adjudications of mental defectiveness or commitments to mental institutions to the Florida Department of Law Enforcement (FDLE). This may have an indeterminate fiscal impact on the clerks of court.

The committee substitute requires the FDLE to create a system to collect information submitted by the clerks of court on adjudications of mental defectiveness or commitments to mental institutions. The FDLE estimates that the system will cost \$126,600 to create. The FDLE also intends to charge a \$6 retention fee when an agency elects to have the FDLE retain the fingerprints of non-sworn agency personnel as provided for in the committee substitute. The FDLE does not intend to charge this fee for the retention of fingerprints of law enforcement or correctional officers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
