

By Senator Wilson

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1 A bill to be entitled

2 An act relating to juvenile records; amending s. 943.052,  
3 F.S.; requiring each clerk of court to submit information  
4 concerning juvenile arrest records to the Department of  
5 Law Enforcement; amending s. 943.053, F.S.; revising the  
6 criteria for disseminating criminal justice information;  
7 amending s. 985.04, F.S.; providing for agents of the  
8 Department of Juvenile Justice to administer oaths and  
9 affirmations; providing confidentiality for certain  
10 information; providing for authorized disclosures;  
11 providing for an interagency agreement; providing for  
12 records retention; providing penalties for violations of  
13 disclosure laws; amending s. 985.11, F.S.; requiring that  
14 fingerprints and photographs be taken from certain  
15 juveniles for use in investigating other violations of  
16 law; requiring that the photographs and fingerprints be  
17 retained in a separate file; amending ss. 985.045,  
18 1006.08, and 1012.797, F.S., relating to court records and  
19 duties of school superintendents concerning charges  
20 against students and employees; conforming cross-  
21 references; providing an effective date.

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

24  
25 Section 1. Subsections (2) and (3) of section 943.052,  
26 Florida Statutes, are amended to read:

27 943.052 Disposition reporting.--The Criminal Justice  
28 Information Program shall, by rule, establish procedures and a  
29 format for each criminal justice agency to monitor its records

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30 and submit reports, as provided by this section, to the program.

31 The disposition report shall be developed by the program and  
32 shall include the offender-based transaction system number.

33 (2) Each clerk of the court shall submit the uniform  
34 dispositions to the program or in a manner acceptable to the  
35 program. The report shall be submitted at least once a month and,  
36 when acceptable by the program, may be submitted in an automated  
37 format. The disposition report is mandatory for all criminal and  
38 delinquency dispositions ~~relating to adult offenders only.~~

39 Beginning July 1, 2009, each clerk of the court shall submit  
40 disposition information concerning all juvenile arrest records  
41 submitted to the department without disposition information  
42 between July 1, 1996, and July 1, 2009 ~~2008, a disposition report~~  
43 ~~for each disposition relating to a minor offender is mandatory.~~

44 (3)(a) The Department of Corrections shall submit  
45 information to the program relating to the receipt or discharge  
46 of any person who is sentenced to a state correctional  
47 institution.

48 ~~(b) The Department of Juvenile Justice shall submit~~  
49 ~~information to the program relating to the receipt or discharge~~  
50 ~~of any minor who is found to have committed an offense that would~~  
51 ~~be a felony if committed by an adult, or is found to have~~  
52 ~~committed a misdemeanor specified in s. 943.051(3), and is~~  
53 ~~committed to the custody of the Department of Juvenile Justice.~~

54 Section 2. Subsections (1), (2), (3), and (4) of section  
55 943.053, Florida Statutes, are amended to read:

56 943.053 Dissemination of criminal justice information;  
57 fees.--

58 (1) The department ~~of Law Enforcement~~ shall disseminate

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59 criminal justice information only in accordance with federal and  
60 state laws, regulations, and rules.

61 (2) Criminal justice information derived from federal  
62 criminal justice information systems or criminal justice  
63 information systems of other states may ~~shall~~ not be disseminated  
64 in a manner inconsistent with the laws, regulations, or rules of  
65 the originating agency.

66 (3) (a) Criminal history information, ~~including information~~  
67 ~~relating to minors,~~ compiled by the Criminal Justice Information  
68 Program from intrastate sources for:

69 1. Minors and adults shall be available on a priority basis  
70 to criminal justice agencies for criminal justice purposes free  
71 of charge.

72 2. Adults may be provided to any person who supplies the  
73 program with all known identifying information and tenders fees  
74 as established in this subsection and in the manner prescribed by  
75 rule of the department.

76 3. Minors who are adjudicated as adults, or who have been  
77 found to have committed an offense that would be a felony if  
78 committed by an adult, may be provided to any person who supplies  
79 ~~After providing~~ the program with all known identifying  
80 information, ~~persons in the private sector and~~ tenders  
81 ~~noncriminal justice agencies may be provided criminal history~~  
82 ~~information upon tender of fees as established in this subsection~~  
83 and in the manner prescribed by rule of the department ~~of Law~~  
84 ~~Enforcement.~~

85 (b) Such Fees under this subsection are to offset the cost  
86 of producing the record information, including the total cost of  
87 creating, storing, maintaining, updating, retrieving, improving,

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88 and providing criminal history information in a centralized,  
89 automated database, including personnel, technology, and  
90 infrastructure expenses. Any access to criminal history  
91 information by the private sector or noncriminal justice agencies  
92 under ~~as provided in~~ this subsection shall be assessed without  
93 regard to the quantity or category of criminal history record  
94 information requested. Fees may be waived or reduced by the  
95 executive director of the department ~~of Law Enforcement~~ for good  
96 cause shown.

97 (c) ~~(b)~~ The fee per record for criminal history information  
98 provided under ~~pursuant to~~ this subsection is \$23 per name  
99 submitted, except that the fee for vendors of the Department of  
100 Children and Family Services, the Department of Juvenile Justice,  
101 and the Department of Elderly Affairs shall be \$8 for each name  
102 submitted; the fee for a state criminal history provided for  
103 application processing as required by law to be performed by the  
104 Department of Agriculture and Consumer Services shall be \$15 for  
105 each name submitted; and the fee for requests under the National  
106 Child Protection Act shall be \$18 for each volunteer name  
107 submitted. The state offices of the Public Defender shall not be  
108 assessed a fee for Florida criminal history information or wanted  
109 person information.

110 (4) Criminal justice information provided by the department  
111 ~~of Law Enforcement~~ shall be used only for the purpose stated in  
112 the request.

113 Section 3. Section 985.04, Florida Statutes, is amended to  
114 read:

115 (Substantial rewording of section. See  
116 s. 985.04, F.S., for present text.)

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117 985.04 Oaths; confidentiality of information.--

118 (1) OATHS.--Authorized agents of the department may  
119 administer oaths and affirmations.

120 (2) CONFIDENTIALITY.--Except as provided in subsection (3)  
121 and ss. 943.053 and 985.11, all information relating to a  
122 juvenile which is obtained under this chapter in the discharge of  
123 an official duty by any judge, any employee of the court, any  
124 authorized agent of the department, the Parole Commission, the  
125 Department of Corrections, the juvenile justice circuit boards,  
126 any law enforcement agency, or any licensed professional or  
127 licensed community agency representative participating in the  
128 assessment or treatment of a juvenile is confidential and exempt  
129 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the  
130 State Constitution. The name, photograph, address, and crime or  
131 arrest report of a minor who is adjudicated as an adult or who  
132 has been found to have committed an offense that would be a  
133 felony if committed by an adult, is not exempt from s. 119.07(1)  
134 and s. 24(a), Art. I of the State Constitution.

135 (3) AUTHORIZED DISCLOSURE.--Information relating to  
136 juveniles which is authorized for disclosure under this  
137 subsection and ss. 943.053 and 985.11 may not be used for any  
138 purpose other than that authorized by law.

139 (a) Confidential information described in subsection (2)  
140 may be disclosed:

141 1. To, and may be used only for the discharge of an  
142 official duty by, authorized personnel of the court, the  
143 department and its designees, the Department of Corrections, the  
144 Parole Commission, law enforcement agencies, school  
145 superintendents and their designees, licensed professional or

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146 licensed community agency representatives participating in the  
147 assessment or treatment of a juvenile, and others entitled under  
148 this chapter to receive that information.

149 2. Upon order of the court.

150 (b) A law enforcement agency may release a copy of the  
151 juvenile offense report to the victim of the offense. However,  
152 information gained by the victim under this chapter, including  
153 the next of kin of a homicide victim, regarding any case handled  
154 in juvenile court may not be revealed to any person except to the  
155 extent that is reasonably necessary in pursuit of legal remedies.

156 (c) The superintendent of a child's school shall be  
157 notified by:

158 1. A law enforcement agency when a child is taken into  
159 custody by a law enforcement officer for an offense that would  
160 have been a felony if committed by an adult or for committing a  
161 crime of violence.

162 2. The state attorney when a child is formally charged with  
163 a felony or a delinquent act that would be a felony if committed  
164 by an adult. The information obtained by the superintendent under  
165 this section must be released within 48 hours after receipt to  
166 the principal of the school. The principal must immediately  
167 notify the child's immediate classroom teachers. Upon  
168 notification, the principal may begin disciplinary actions under  
169 s. 1006.09.

170 3. The department when the child is in the care and custody  
171 or under the jurisdiction or supervision of the department and  
172 has a known history of criminal sexual behavior with other  
173 juveniles; is an alleged juvenile sexual offender, as defined in  
174 s. 39.01; has pled guilty or nolo contendere to, or has been

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175 found to have committed, an offense specified in chapter 794,  
176 chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless  
177 of adjudication; or has been placed in a probation or commitment  
178 program for any felony offense.

179 (d) Records in the custody of the department regarding  
180 children may be inspected only upon order of the secretary of the  
181 department or his or her authorized agent by persons who have  
182 sufficient reason and upon such conditions for their use and  
183 disposition as the secretary or his or her authorized agent  
184 considers proper. The information in such records may be  
185 disclosed only to other employees of the department who have a  
186 need therefor in order to perform their official duties; to other  
187 persons as authorized by rule of the department; and, upon  
188 request, to the Department of Corrections. The secretary or his  
189 or her authorized agent may permit properly qualified persons to  
190 inspect and make abstracts from records for statistical purposes  
191 under whatever conditions upon their use and disposition the  
192 secretary or his or her authorized agent considers proper if  
193 adequate assurances are given that children's names and other  
194 identifying information will not be disclosed by the applicant.

195 (e) Sealed records under paragraph (5) (a) may be disclosed  
196 only for use in meeting the screening requirements for personnel  
197 in ss. 402.3055, 435.03, and 435.04; however, current criminal  
198 history information must be obtained from the Department of Law  
199 Enforcement in accordance with s. 943.053. The information shall  
200 be released to those persons specified in this subsection for the  
201 purposes of complying with those sections.

202 (4) INTERAGENCY AGREEMENTS.--Within each county, the  
203 sheriff, the chiefs of police, the district school

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204 superintendent, and the department shall enter into an  
205 interagency agreement for the purpose of sharing information, as  
206 authorized under subsection (2), concerning juvenile offenders  
207 among all organizations. The agreement must specify the  
208 conditions under which summary criminal history information is to  
209 be made available to appropriate school personnel and the  
210 conditions under which school records are to be made available to  
211 appropriate department personnel. The agencies entering into the  
212 agreement must comply with s. 943.0525 and all applicable state  
213 and federal laws and regulations, and must maintain the  
214 confidentiality of information that is otherwise exempt from s.  
215 119.07(1), as provided by law.

216 (5) RECORD RETENTION.--Records maintained by the  
217 department, including copies of records maintained by the court:

218 (a) May not be destroyed by the department for a period of  
219 25 years after a child's final referral to the department, unless  
220 the child dies, if the records pertain to a child found to have  
221 committed a delinquent act that would be a crime specified in s.  
222 435.03 or s. 435.04 if committed by an adult. Such records must  
223 be sealed by the court for use only in meeting the screening  
224 requirements for personnel in ss. 402.3055, 435.03, and 435.04.

225 (b) For records other than those subject to paragraph (a),  
226 shall be retained by the department until the record is expunged  
227 under chapter 943.

228 (6) PENALTIES.--

229 (a) Any employee of a district school board who knowingly  
230 and willfully discloses information received under paragraph  
231 (3)(c) to an unauthorized person commits a misdemeanor of the  
232 second degree, punishable as provided in s. 775.082 or s.



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233 | 775.083.

234 |     (b) The court may punish by contempt any person who  
235 | releases or uses sealed records under paragraph (5) (a) for any  
236 | purpose not authorized by paragraph (3) (e).

237 |     Section 4. Section 985.11, Florida Statutes, is amended to  
238 | read:

239 |     985.11 Fingerprinting and photographing.--

240 |     (1) (a) ~~A child who is charged with or found to have~~  
241 | ~~committed an offense that would be a felony if committed by an~~  
242 | ~~adult shall be fingerprinted and the fingerprints must be~~  
243 | ~~submitted to the Department of Law Enforcement as provided in s.~~  
244 | ~~943.051(3) (a).~~

245 |     ~~(b) A child who is charged with or found to have committed~~  
246 | ~~one of the following offenses shall be fingerprinted, and the~~  
247 | ~~fingerprints shall be submitted to the Department of Law~~  
248 | ~~Enforcement as provided in s. 943.051(3) (b):~~

249 |         ~~1. Assault, as defined in s. 784.011.~~

250 |         ~~2. Battery, as defined in s. 784.03.~~

251 |         ~~3. Carrying a concealed weapon, as defined in s. 790.01(1).~~

252 |         ~~4. Unlawful use of destructive devices or bombs, as defined~~  
253 | ~~in s. 790.1615(1).~~

254 |         ~~5. Negligent treatment of children, as defined in former s.~~  
255 | ~~827.05.~~

256 |         ~~6. Assault on a law enforcement officer, a firefighter, or~~  
257 | ~~other specified officers, as defined in s. 784.07(2) (a).~~

258 |         ~~7. Open carrying of a weapon, as defined in s. 790.053.~~

259 |         ~~8. Exposure of sexual organs, as defined in s. 800.03.~~

260 |         ~~9. Unlawful possession of a firearm, as defined in s.~~  
261 | ~~790.22(5).~~

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262       ~~10. Petit theft, as defined in s. 812.014.~~

263       ~~11. Cruelty to animals, as defined in s. 828.12(1).~~

264       ~~12. Arson, resulting in bodily harm to a firefighter, as~~  
265 ~~defined in s. 806.031(1).~~

266       ~~13. Unlawful possession or discharge of a weapon or firearm~~  
267 ~~at a school-sponsored event or on school property as defined in~~  
268 ~~s. 790.115.~~

269  
270 A law enforcement agency:

271       1. Shall fingerprint a child and submit the fingerprints to  
272 the Department of Law Enforcement as required under s.  
273 943.051(3).

274       2. May fingerprint and photograph a child taken into  
275 custody upon probable cause that such child has committed any  
276 other violation of law, other than those specified in s.  
277 943.051(3), as the agency deems appropriate. Such fingerprint  
278 records may be submitted to the Department of Law Enforcement for  
279 inclusion in the state criminal history records and may be used  
280 only by criminal justice agencies for criminal justice purposes.

281       (b) Such fingerprint records and photographs of children  
282 shall be retained by the law enforcement agency in a separate  
283 file, and these records and all copies thereof must be marked  
284 "Juvenile Confidential." These records are not available for  
285 public disclosure and inspection under s. 119.07(1) except as  
286 provided in ss. 943.053 and 985.04 ~~985.04(2)~~, but shall be  
287 available to other law enforcement agencies, criminal justice  
288 agencies, state attorneys, the courts, the child, the parents or  
289 legal custodians of the child, their attorneys, and any other  
290 person authorized by the court to have access to such records. In

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291 ~~addition, such records may be submitted to the Department of Law~~  
292 ~~Enforcement for inclusion in the state criminal history records~~  
293 ~~and used by criminal justice agencies for criminal justice~~  
294 ~~purposes.~~ These records may, in the discretion of the court, be  
295 open to inspection by anyone upon a showing of cause. The  
296 fingerprint and photograph records shall be produced in the court  
297 whenever directed by the court. Any photograph taken pursuant to  
298 this section may be shown by a law enforcement officer to any  
299 victim or witness of a crime for the purpose of identifying the  
300 person who committed such crime.

301 (c) The court is ~~shall be~~ responsible for the  
302 fingerprinting of any child at the disposition hearing if the  
303 child has been adjudicated or had adjudication withheld for any  
304 felony in the case currently before the court.

305 (2) If the child is not referred to the court, or if the  
306 child is found not to have committed a violation of law, the  
307 court may, after notice to the law enforcement agency involved,  
308 order the originals and copies of the fingerprints and  
309 photographs destroyed. Unless otherwise ordered by the court, if  
310 the child is found to have committed an offense which would be a  
311 felony if it had been committed by an adult, then the law  
312 enforcement agency having custody of the fingerprint and  
313 photograph records shall retain the originals and immediately  
314 thereafter forward adequate duplicate copies to the court along  
315 with the written offense report relating to the matter for which  
316 the child was taken into custody. Except as otherwise provided by  
317 this subsection, the clerk of the court, after the disposition  
318 hearing on the case, shall forward duplicate copies of the  
319 fingerprints and photographs, together with the child's name,

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320 address, date of birth, age, and sex, to:

321 (a) The sheriff of the county in which the child was taken  
322 into custody, in order to maintain a central child identification  
323 file in that county.

324 (b) The law enforcement agency of each municipality having  
325 a population in excess of 50,000 persons and located in the  
326 county of arrest, if so requested specifically or by a general  
327 request by that agency.

328 (3) This section does not prohibit the fingerprinting or  
329 photographing of child traffic violators. All records of ~~such~~  
330 traffic violations shall be kept in the full name of the violator  
331 and are ~~shall be~~ open to inspection and publication in the same  
332 manner as adult traffic violations. This section does not apply  
333 to the photographing of children by the department ~~of Juvenile~~  
334 ~~Justice~~ or the Department of Children and Family Services.

335 Section 5. Subsection (2) of section 985.045, Florida  
336 Statutes, is amended to read:

337 985.045 Court records.--

338 (2) The clerk shall keep all official records required by  
339 this section separate from other records of the circuit court,  
340 except those records pertaining to motor vehicle violations,  
341 which shall be forwarded to the Department of Highway Safety and  
342 Motor Vehicles. Except as provided in ss. 943.053 and 985.04  
343 ~~985.04(6)(b) and (7)~~, official records required by this chapter  
344 are not open to inspection by the public, but may be inspected  
345 only upon order of the court by persons deemed by the court to  
346 have a proper interest therein, except that a child and the  
347 parents, guardians, or legal custodians of the child and their  
348 attorneys, law enforcement agencies, the Department of Juvenile

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349 Justice and its designees, the Parole Commission, the Department  
350 of Corrections, and the Justice Administrative Commission shall  
351 always have the right to inspect and copy any official record  
352 pertaining to the child. The court may permit authorized  
353 representatives of recognized organizations compiling statistics  
354 for proper purposes to inspect, and make abstracts from, official  
355 records under whatever conditions upon the use and disposition of  
356 such records the court may deem proper and may punish by contempt  
357 proceedings any violation of those conditions.

358 Section 6. Subsection (2) of section 1006.08, Florida  
359 Statutes, is amended to read:

360 1006.08 District school superintendent duties relating to  
361 student discipline and school safety.--

362 (2) Notwithstanding s. 985.04 ~~the provisions of s.~~  
363 ~~985.04(7)~~ or any other ~~provision of~~ law to the contrary, the  
364 court shall, within 48 hours of the finding, notify the  
365 appropriate district school superintendent of the name and  
366 address of any student found to have committed a delinquent act,  
367 or who has had adjudication of a delinquent act withheld which,  
368 if committed by an adult, would be a felony, or the name and  
369 address of any student found guilty of a felony. Notification  
370 must ~~shall~~ include the specific delinquent act found to have been  
371 committed or for which adjudication was withheld, or the specific  
372 felony for which the student was found guilty.

373 Section 7. Subsection (1) of section 1012.797, Florida  
374 Statutes, is amended to read:

375 1012.797 Notification of district school superintendent of  
376 certain charges against or convictions of employees.--

377 (1) Notwithstanding s. 985.04 ~~the provisions of s.~~

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378 ~~985.04(7)~~ or any other ~~provision of~~ law to the contrary, a law  
379 enforcement agency shall, within 48 hours, notify the appropriate  
380 district school superintendent of the name and address of any  
381 employee of the school district who is charged with a felony or  
382 with a misdemeanor involving the abuse of a minor child or the  
383 sale or possession of a controlled substance. The notification  
384 must ~~shall~~ include the specific charge for which the employee of  
385 the school district was arrested. The ~~Such~~ notification shall  
386 include other education providers such as the Florida School for  
387 the Deaf and the Blind, university lab schools, and private  
388 elementary and secondary schools.

389 Section 8. This act shall take effect July 1, 2008.