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Proposed Committee Substitute by the Committee on Criminal Justice

1 A bill to be entitled

2 An act relating to the Department of Law Enforcement;
3 amending s. 943.05, F.S.; providing that if fingerprints
4 submitted to the Department of Law Enforcement for
5 background screening are identified with the fingerprints
6 of a person having a criminal history record, the
7 department may make the fingerprints available for all
8 purposes and uses authorized for arrest fingerprint cards;
9 amending s. 943.053, F.S.; clarifying the fees charged for
10 requests for criminal history information; amending s.
11 943.0542, F.S.; authorizing a qualified entity requesting
12 screening information concerning an employee or volunteer,
13 or a person applying to be an employee or volunteer, to
14 submit the request electronically; requiring the qualified
15 entity to maintain a signed waiver allowing the release of
16 the state and national criminal history record information
17 to the qualified entity; amending s. 943.0581, F.S.;
18 revising the information to be included in an application
19 for an administrative expunction of any nonjudicial record
20 of an arrest of a minor or an adult made contrary to law
21 or by mistake; clarifying responsibility for submitting an
22 application for an administrative expunction; amending s.
23 943.06, F.S.; adding the Secretary of Children and Family
24 Services, or the secretary's designated assistant, to the
25 Criminal and Juvenile Justice Information Systems Council;
26 amending 943.08, F.S.; revising the duties of the Criminal
27 and Juvenile Justice Information Systems Council; amending
28 s. 943.081, F.S.; specifying and clarifying the principles
29 adopted by the Criminal and Juvenile Justice Information



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30 Systems Council as the guiding principles for the
31 management of public safety system information technology
32 resources; creating the citizen support organization for
33 Florida Missing Children's Day; authorizing the Department
34 of Law Enforcement to establish a citizen support
35 organization to provide assistance, funding, and
36 promotional support for activities authorized for "Florida
37 Missing Children's Day"; providing for duties and
38 functions of the support organization; providing that the
39 support organization is not a lobbyist; providing for the
40 use and management of department property; providing for
41 an annual audit; providing an effective date.

42

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

44

45 Section 1. Subsection (3) is added to section 943.05,
46 Florida Statutes, to read:

47 943.05 Criminal Justice Information Program; duties; crime
48 reports.--

49 (3) If fingerprints submitted to the department for
50 background screening, whether retained or not, are identified
51 with the fingerprints of a person having a criminal history
52 record, such fingerprints may thereafter be available for all
53 purposes and uses authorized for arrest fingerprint cards,
54 including, but not limited to, entry into the statewide automated
55 fingerprint identification system to augment or replace the
56 fingerprints that identify the criminal history record.

57 Section 2. Paragraph (b) of subsection (3) of section
58 943.053, Florida Statutes, is amended to read:

59 943.053 Dissemination of criminal justice information;



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60 fees.--

61 (3)

62 (b) The fee per record for criminal history information
63 provided pursuant to this subsection and to s. 943.0542 is \$23
64 per name submitted, except that the fee for vendors of the
65 Department of Children and Family Services, the Department of
66 Juvenile Justice, and the Department of Elderly Affairs shall be
67 \$8 for each name submitted; the fee for a state criminal history
68 provided for application processing as required by law to be
69 performed by the Department of Agriculture and Consumer Services
70 shall be \$15 for each name submitted; and the fee for requests
71 under s. 943.0542, which implements the National Child Protection
72 Act shall be \$18 for each volunteer name submitted. The state
73 offices of the Public Defender shall not be assessed a fee for
74 Florida criminal history information or wanted person
75 information.

76 Section 3. Paragraphs (b) and (c) of subsection (2) of
77 section 943.0542, Florida Statutes, are amended to read:

78 943.0542 Access to criminal history information provided by
79 the department to qualified entities.--

80 (2)

81 (b) A qualified entity shall submit to the department a
82 request for screening an employee or volunteer or person applying
83 to be an employee or volunteer on a completed fingerprint card,
84 or the request may be submitted electronically. The qualified
85 entity must maintain, ~~with~~ a signed waiver allowing the release
86 of the state and national criminal history record information to
87 the qualified entity.

88 (c) Each such request must be accompanied by a fee for a
89 statewide criminal history check by the department established



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90 ~~by, which shall approximate the actual cost of producing the~~
91 ~~record information, as provided in s. 943.053, plus the amount~~
92 ~~currently prescribed~~ ~~required~~ by the Federal Bureau of
93 Investigation for the national criminal history check in
94 compliance with the National Child Protection Act of 1993, as
95 amended.

96 Section 4. Section 943.0581, Florida Statutes, is amended
97 to read:

98 943.0581 Administrative expunction.--

99 (1) Notwithstanding any law dealing generally with the
100 preservation and destruction of public records, the department
101 may adopt a ~~provide, by rule adopted~~ pursuant to chapter 120, for
102 the administrative expunction of any nonjudicial record of an
103 arrest of a minor or an adult made contrary to law or by mistake.

104 (2) A law enforcement agency shall apply to the department
105 in the manner prescribed by rule for the administrative
106 expunction of any nonjudicial record of any arrest of a minor or
107 an adult who is subsequently determined by the agency, at its
108 discretion, or by the final order of a court of competent
109 jurisdiction, to have been arrested contrary to law or by
110 mistake.

111 (3) An adult or, in the case of a minor child, the parent
112 or legal guardian of the minor child, may apply to the department
113 in the manner prescribed by rule for the administrative
114 expunction of any nonjudicial record of an arrest alleged to have
115 been made contrary to law or by mistake, provided that the
116 application is supported by the endorsement of the head of the
117 arresting agency or his or her designee, or the state attorney of
118 the judicial circuit in which the arrest occurred or his or her
119 designee.



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120 (4) An application for administrative expunction shall
121 include ~~an affidavit executed by the chief of the law enforcement~~
122 ~~agency, sheriff, or department head of the state law enforcement~~
123 ~~agency in which the affiant verifies that he or she has reviewed~~
124 ~~the record of the arrest and that the arrest was contrary to law~~
125 ~~or was a mistake. The affidavit shall include the date and time~~
126 ~~of the arrest, the name of the arresting officer, the name of the~~
127 ~~person arrested, the offender-based tracking system (OBTS)~~
128 ~~number, and the crime or crimes charged. The application shall be~~
129 ~~on the submitting agency's letterhead and signed by the head of~~
130 ~~the submitting agency or his or her designee.~~

131 (5) If the person was arrested on a warrant, capias, or
132 pick-up order, a request for an administrative expunction may be
133 made by the sheriff of the county where the warrant, capias, or
134 pick-up order was issued or his or her designee, or by the state
135 attorney of the judicial circuit where the warrant, capias, or
136 pick-up order was issued or his or her designee.

137 (6)-(5) An ~~or~~ application ~~or~~ endorsement, ~~or~~ affidavit made
138 under this section ~~is not shall be~~ admissible as evidence in any
139 judicial or administrative proceeding or otherwise be construed
140 in any way as an admission of liability in connection with an
141 arrest.

142 Section 5. Subsection (1) of section 943.06, Florida
143 Statutes, is amended to read:

144 943.06 Criminal and Juvenile Justice Information Systems
145 Council.--There is created a Criminal and Juvenile Justice
146 Information Systems Council within the department.

147 (1) The council shall be composed of 15 ~~14~~ members,
148 consisting of the Attorney General or a designated assistant; the
149 executive director of the Department of Law Enforcement or a



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150 designated assistant; the secretary of the Department of
151 Corrections or a designated assistant; the chair of the Parole
152 Commission or a designated assistant; the Secretary of Juvenile
153 Justice or a designated assistant; the executive director of the
154 Department of Highway Safety and Motor Vehicles or a designated
155 assistant; the Secretary of Children and Family Services or a
156 designated assistant; the State Courts Administrator or a
157 designated assistant; 1 public defender appointed by the Florida
158 Public Defender Association, Inc.; 1 state attorney appointed by
159 the Florida Prosecuting Attorneys Association, Inc.; and 5
160 members, to be appointed by the Governor, consisting of 2
161 sheriffs, 2 police chiefs, and 1 clerk of the circuit court.

162 Section 6. Section 943.08, Florida Statutes, is amended to
163 read:

164 (Substantial rewording of section. See s.
165 943.08, F.S., for present text.)

166 943.08 Duties; Criminal and Juvenile Justice Information
167 Systems Council.--

168 (1) The council shall facilitate the identification,
169 standardization, sharing, and coordination of criminal and
170 juvenile justice data and other public safety system data among
171 federal, state, and local agencies.

172 (2) The council shall adopt uniform information-exchange
173 standards, methodologies, and best practices, applying national
174 standards and models where appropriate, in order to guide local
175 and state criminal justice agencies when procuring, implementing,
176 or modifying information systems.

177 (3) The council shall provide statewide oversight and
178 support the development of plans and policies relating to public
179 safety information systems in order to facilitate the effective



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180 identification, standardization, access, sharing, integrating,
181 and coordinating of criminal and juvenile justice data among
182 federal, state, and local agencies. The council shall make
183 recommendations addressing each of the following:

184 (a) Privacy of data.

185 (b) Security of systems.

186 (c) Functional and information-sharing standards.

187 (d) Accuracy, timeliness, and completeness of data.

188 (e) Access to data and systems.

189 (f) Transmission of data and information.

190 (g) Dissemination of information.

191 (h) Training.

192 (i) Other areas that effect the sharing of criminal and
193 juvenile justice information and other public safety system
194 information.

195 (4) The council shall provide oversight to the operation of
196 the Florida Criminal Justice Network (CJNet), for which the
197 Department of Law Enforcement shall serve as custodial manager
198 pursuant to s. 943.0544. Criminal justice agencies participating
199 in the Florida Criminal Justice Network shall adhere to CJNet
200 standards and policies.

201 Section 7. Section 943.081, Florida Statutes, is amended to
202 read:

203 943.081 Public safety system information technology
204 resources; guiding principles.--The following guiding principles
205 adopted by the Criminal and Juvenile Justice Information Systems
206 Council are hereby adopted as guiding principles for the
207 management of public safety system information technology
208 resources:

209 (1) Cooperative planning by public safety system entities



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210 is a prerequisite for the effective development of systems to
211 enable sharing of data.

212 (2) The planning process, as well as coordination of
213 development efforts, should identify and include all principals
214 from the outset.

215 (3) Public safety system entities should be committed to
216 maximizing information sharing and moving away from proprietary
217 positions taken relative to data they capture and maintain.

218 (4) Public safety system entities should maximize public
219 access to data, and in so doing, should specifically implement
220 guidelines and practices that address ~~while complying with~~
221 ~~legitimate security, privacy, and confidentiality requirements.~~

222 (5) Public safety system entities should strive for
223 electronic sharing of information ~~via networks versus a reliance~~
224 ~~on magnetic and other media.~~

225 (6) The practice by public safety system entities of
226 charging each other for data should, insofar as possible, be
227 eliminated. Further, when the capture of data for mutual benefit
228 can be accomplished, the costs for the development, capture, and
229 network for access to that data should be shared.

230 (7) The redundant capture of data should, insofar as
231 possible, be eliminated. Redundant capture of data should be
232 discouraged unless there is a specific business need for it.

233 (8) Public safety systems should adhere to information-
234 exchange standards approved by the council.

235 (9) The council should adopt where possible applicable
236 national standards for data exchange.

237 ~~(8) With respect to statewide databases:~~

238 ~~(a) Only data that can best be compiled, preserved, and~~
239 ~~shared through a central database should be captured at the state~~



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240 ~~level.~~

241 ~~(b) Remote access to distributed databases should be~~
242 ~~considered and provided for, instead of central repositories.~~

243 ~~(c) Statistical data that may be required infrequently or~~
244 ~~on a one-time basis should be captured via sampling or other~~
245 ~~methods.~~

246 ~~(d) Only data that are auditable, or that otherwise can be~~
247 ~~determined to be accurate, valid, and reliable should be~~
248 ~~maintained.~~

249 ~~(9) Methods of sharing data among different protocols must~~
250 ~~be developed without requiring major redesign or replacement of~~
251 ~~individual systems.~~

252 Section 8. Citizen support organization for Florida Missing
253 Children's Day.--

254 (1) The Department of Law Enforcement may establish a
255 citizen support organization to provide assistance, funding, and
256 promotional support for activities authorized for Florida Missing
257 Children's Day under s. 683.23, Florida Statutes.

258 (2) As used in this section, the term "citizen support
259 organization" means an organization that is:

260 (a) A Florida corporation not for profit incorporated under
261 chapter 617, Florida Statutes, and approved by the Department of
262 State.

263 (b) Organized and operated to conduct programs and
264 activities; raise funds; request and receive grants, gifts, and
265 bequests of money; acquire, receive, hold, invest, and
266 administer, in its own name, securities, funds, objects of value,
267 or other property, either real or personal; and make expenditures
268 to or for the direct or indirect benefit of the department in
269 furtherance of Florida Missing Children's Day.



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270 (3) The citizen support organization is not a registered
271 lobbyist within the meaning of s. 11.045, Florida Statutes.

272 (4) The citizen support organization is specifically
273 authorized to collect and expend funds to be used for awards;
274 public awareness and awards ceremonies, workshops, and other
275 meetings, including distribution materials for public education
276 and awareness; travel; Internet and web-hosting services;
277 administrative costs, including personnel costs; costs of audits;
278 and costs of facilities rental.

279 (5) The activities of the citizen support organization must
280 be determined by the department to be consistent with the goals
281 and mission of the department and in the best interests of the
282 state and approved in writing by the department to operate for
283 the direct or indirect benefit of the department. The approval
284 shall be given in a letter of agreement from the department.

285 (6) (a) The department may fix and collect charges for the
286 rental of facilities and properties managed by the department and
287 may permit, without charge, appropriate use of administrative
288 services, property, and facilities of the department by the
289 citizen support organization, subject to this section. The use
290 must be directly in keeping with the approved purposes of the
291 citizen support organization and may not be made at times or
292 places that would unreasonably interfere with opportunities for
293 the public to use such facilities for established purposes. Any
294 money received from rentals of facilities and properties managed
295 by the department may be held in the operating trust fund of the
296 department or in a separate depository account in the name of the
297 citizen support organization and subject to the provisions of the
298 letter of agreement with the department. The letter of agreement
299 must provide that any funds held in the separate depository



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300 account in the name of the citizen support organization must
301 revert to the department if the citizen support organization is
302 no longer approved by the department to operate in the best
303 interests of the state.

304 (b) The department may adopt rules with which a citizen
305 support organization must comply in order to use department
306 administrative services, property, or facilities.

307 (c) The department may not permit the use of any
308 administrative services, property, or facilities of the state by
309 a citizen support organization which does not provide equal
310 membership and employment opportunities to all persons regardless
311 of race, color, religion, gender, age, or national origin.

312 (7) The citizen support organization shall provide for an
313 annual financial audit in accordance with s. 215.981, Florida
314 Statutes. Copies of the audit will be provided to the department,
315 the Office of Policy and Budget within the Executive Office of
316 the Governor, and the Florida Cabinet.

317 Section 9. This act shall take effect July 1, 2008.