

By Senator Wilson

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

24  
25   Be It Enacted by the Legislature of the State of Florida:

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

29           943.052 Disposition reporting.—The Criminal Justice

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30 Information Program shall, by rule, establish procedures and a  
31 format for each criminal justice agency to monitor its records  
32 and submit reports, as provided by this section, to the program.  
33 The disposition report shall be developed by the program and  
34 shall include the offender-based transaction system number.

35 (2) Each clerk of the court shall submit the uniform  
36 dispositions to the program or in a manner acceptable to the  
37 program. The report shall be submitted at least once a month  
38 and, when acceptable by the program, may be submitted in an  
39 automated format. The disposition report is mandatory for all  
40 criminal and delinquency dispositions ~~relating to adult~~  
41 ~~offenders only~~. Beginning July 1, 2009, each clerk of the court  
42 shall submit disposition information concerning all juvenile  
43 arrest records submitted to the department without disposition  
44 information between July 1, 1996, and July 1, 2009 ~~2008, a~~  
45 ~~disposition report for each disposition relating to a minor~~  
46 ~~offender is mandatory~~.

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

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

57 Section 2. Subsections (1), (2), (3), and (4) of section  
58 943.053, Florida Statutes, are amended to read:

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59 943.053 Dissemination of criminal justice information;  
60 fees.—

61 (1) The department ~~of Law Enforcement~~ shall disseminate  
62 criminal justice information only in accordance with federal and  
63 state laws, regulations, and rules.

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

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

72 1. Minors and adults shall be available on a priority basis  
73 to criminal justice agencies for criminal justice purposes free  
74 of charge.

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

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

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88 information by the private sector or noncriminal justice  
89 agencies as provided in this subsection shall be assessed  
90 without regard to the quantity or category of criminal history  
91 record information requested.

92 (b) Fees under this subsection are to offset the cost of  
93 producing the record information, including the total cost of  
94 creating, storing, maintaining, updating, retrieving, improving,  
95 and providing criminal history information in a centralized,  
96 automated database, including personnel, technology, and  
97 infrastructure expenses.

98 (c) ~~(b)~~ The fee per record for criminal history information  
99 provided under ~~pursuant to~~ this subsection and s. 943.0542 is  
100 \$24 per name submitted, except that the fee for vendors of the  
101 Department of Children and Family Services, the Department of  
102 Juvenile Justice, and the Department of Elderly Affairs shall be  
103 \$8 for each name submitted; the fee for a state criminal history  
104 provided for application processing as required by law to be  
105 performed by the Department of Agriculture and Consumer Services  
106 shall be \$15 for each name submitted; and the fee for requests  
107 under s. 943.0542, which implements the National Child  
108 Protection Act, shall be \$18 for each volunteer name submitted.  
109 The state offices of the Public Defender shall not be assessed a  
110 fee for Florida criminal history information or wanted person  
111 information.

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

115 Section 3. Section 985.04, Florida Statutes, is amended to  
116 read:

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117        (Substantial rewording of section. See  
118        s. 985.04, F.S., for present text.)  
119        985.04 Oaths; confidentiality of information.—  
120        (1) OATHS.—Authorized agents of the department may  
121        administer oaths and affirmations.  
122        (2) CONFIDENTIALITY.—Except as provided in subsection (3)  
123        and ss. 943.053 and 985.11, all information relating to a  
124        juvenile which is obtained under this chapter in the discharge  
125        of an official duty by any judge, any employee of the court, any  
126        authorized agent of the department, the Parole Commission, the  
127        Department of Corrections, the juvenile justice circuit boards,  
128        any law enforcement agency, or any licensed professional or  
129        licensed community agency representative participating in the  
130        assessment or treatment of a juvenile is confidential and exempt  
131        from the provisions of s. 119.07(1) and s. 24(a), Art. I of the  
132        State Constitution. The name, photograph, address, and crime or  
133        arrest report of a minor who is adjudicated as an adult or who  
134        has been found to have committed an offense that would be a  
135        felony if committed by an adult, is not exempt from s. 119.07(1)  
136        and s. 24(a), Art. I of the State Constitution.  
137        (3) AUTHORIZED DISCLOSURE.—Information relating to  
138        juveniles which is authorized for disclosure under this  
139        subsection and ss. 943.053 and 985.11 may not be used for any  
140        purpose other than that authorized by law.  
141        (a) Confidential information described in subsection (2)  
142        may be disclosed:  
143        1. To, and may be used only for the discharge of an  
144        official duty by, authorized personnel of the court, the  
145        department and its designees, the Department of Corrections, the

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146 Parole Commission, law enforcement agencies, school  
147 superintendents and their designees, licensed professional or  
148 licensed community agency representatives participating in the  
149 assessment or treatment of a juvenile, and others entitled under  
150 this chapter to receive that information.

151 2. Upon order of the court.

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

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

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

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

173 3. The department when the child is in the care and custody  
174 or under the jurisdiction or supervision of the department and

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175 has a known history of criminal sexual behavior with other  
176 juveniles; is an alleged juvenile sexual offender, as defined in  
177 s. 39.01; has pled guilty or nolo contendere to, or has been  
178 found to have committed, an offense specified in chapter 794,  
179 chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless  
180 of adjudication; or has been placed in a probation or commitment  
181 program for any felony offense.

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

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

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204 the purposes of complying with those sections.

205 (4) INTERAGENCY AGREEMENTS.—Within each county, the  
206 sheriff, the chiefs of police, the district school  
207 superintendent, and the department shall enter into an  
208 interagency agreement for the purpose of sharing information, as  
209 authorized under subsection (2), concerning juvenile offenders  
210 among all organizations. The agreement must specify the  
211 conditions under which summary criminal history information is  
212 to be made available to appropriate school personnel and the  
213 conditions under which school records are to be made available  
214 to appropriate department personnel. The agencies entering into  
215 the agreement must comply with s. 943.0525 and all applicable  
216 state and federal laws and regulations, and must maintain the  
217 confidentiality of information that is otherwise exempt from s.  
218 119.07(1), as provided by law.

219 (5) RECORD RETENTION.—Records maintained by the department,  
220 including copies of records maintained by the court:

221 (a) May not be destroyed by the department for a period of  
222 25 years after a child's final referral to the department,  
223 unless the child dies, if the records pertain to a child found  
224 to have committed a delinquent act that would be a crime  
225 specified in s. 435.03 or s. 435.04 if committed by an adult.  
226 Such records must be sealed by the court for use only in meeting  
227 the screening requirements for personnel in ss. 402.3055,  
228 435.03, and 435.04.

229 (b) Other than those subject to paragraph (a), shall be  
230 retained by the department until the record is expunged pursuant  
231 to chapter 943.

232 (6) PENALTIES.—



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233 (a) Any employee of a district school board who knowingly  
234 and willfully discloses information received under paragraph  
235 (3) (c) to an unauthorized person commits a misdemeanor of the  
236 second degree, punishable as provided in s. 775.082 or s.  
237 775.083.

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

241 Section 4. Section 985.11, Florida Statutes, is amended to  
242 read:

243 985.11 Fingerprinting and photographing.—

244 ~~(1) (a) A child who is charged with or found to have~~  
245 ~~committed an offense that would be a felony if committed by an~~  
246 ~~adult shall be fingerprinted and the fingerprints must be~~  
247 ~~submitted to the Department of Law Enforcement as provided in s.~~  
248 ~~943.051(3) (a).~~

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

253 ~~1. Assault, as defined in s. 784.011.~~

254 ~~2. Battery, as defined in s. 784.03.~~

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

256 ~~4. Unlawful use of destructive devices or bombs, as defined~~  
257 ~~in s. 790.1615(1).~~

258 ~~5. Negligent treatment of children, as defined in former s.~~  
259 ~~827.05.~~

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

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- 262 ~~7. Open carrying of a weapon, as defined in s. 790.053.~~
- 263 ~~8. Exposure of sexual organs, as defined in s. 800.03.~~
- 264 ~~9. Unlawful possession of a firearm, as defined in s.~~
- 265 ~~790.22(5).~~
- 266 ~~10. Petit theft, as defined in s. 812.014.~~
- 267 ~~11. Cruelty to animals, as defined in s. 828.12(1).~~
- 268 ~~12. Arson, resulting in bodily harm to a firefighter, as~~
- 269 ~~defined in s. 806.031(1).~~
- 270 ~~13. Unlawful possession or discharge of a weapon or firearm~~
- 271 ~~at a school-sponsored event or on school property as defined in~~
- 272 ~~s. 790.115.~~

273

274 A law enforcement agency:

- 275 1. Shall fingerprint a child and submit the fingerprints to
- 276 the Department of Law Enforcement as required under s.
- 277 943.051(3).
- 278 2. May fingerprint and photograph a child taken into
- 279 custody upon probable cause that such child has committed any
- 280 other violation of law, other than those specified in s.
- 281 943.051(3), as the agency deems appropriate. Such fingerprint
- 282 records may be submitted to the Department of Law Enforcement
- 283 for inclusion in the state criminal history records and may be
- 284 used only by criminal justice agencies for criminal justice
- 285 purposes.

286 (b) Such fingerprint records and photographs of children

287 shall be retained by the law enforcement agency in a separate

288 file, and these records and all copies thereof must be marked

289 "Juvenile Confidential." These records are not available for

290 public disclosure and inspection under s. 119.07(1) except as

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291 provided in ss. 943.053 and 985.04 ~~985.04(2)~~, but shall be made  
292 available to other law enforcement agencies, criminal justice  
293 agencies, state attorneys, the courts, the child, the parents or  
294 legal custodians of the child, their attorneys, and any other  
295 person authorized by the court to have access to such records.  
296 ~~In addition, such records may be submitted to the Department of~~  
297 ~~Law Enforcement for inclusion in the state criminal history~~  
298 ~~records and used by criminal justice agencies for criminal~~  
299 ~~justice purposes.~~ These records may, in the discretion of the  
300 court, be open to inspection by anyone upon a showing of cause.  
301 The fingerprint and photograph records shall be produced in the  
302 court whenever directed by the court. Any photograph taken  
303 pursuant to this section may be shown by a law enforcement  
304 officer to any victim or witness of a crime for the purpose of  
305 identifying the person who committed such crime.

306 (c) The court shall fingerprint each ~~be responsible for the~~  
307 ~~fingerprinting of any~~ child at the disposition hearing if the  
308 child has been adjudicated or had adjudication withheld for any  
309 felony in the case currently before the court.

310 (2) If the child is not referred to the court, or if the  
311 child is found not to have committed a violation of law, the  
312 court may, after notice to the law enforcement agency involved,  
313 order the originals and copies of the fingerprints and  
314 photographs destroyed. Unless otherwise ordered by the court, if  
315 the child is found to have committed an offense which would be a  
316 felony if it had been committed by an adult, then the law  
317 enforcement agency having custody of the fingerprint and  
318 photograph records shall retain the originals and immediately  
319 thereafter forward adequate duplicate copies to the court along

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320 with the written offense report relating to the matter for which  
321 the child was taken into custody. Except as otherwise provided  
322 by this subsection, the clerk of the court, after the  
323 disposition hearing on the case, shall forward duplicate copies  
324 of the fingerprints and photographs, together with the child's  
325 name, address, date of birth, age, and sex, to:

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

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

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

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

343 985.045 Court records.—

344 (2) The clerk shall keep all official records required by  
345 this section separate from other records of the circuit court,  
346 except those records pertaining to motor vehicle violations,  
347 which shall be forwarded to the Department of Highway Safety and  
348 Motor Vehicles. Except as provided in ss. 943.053 and 985.04

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349 ~~985.04(6)(b) and (7)~~, official records required by this chapter  
350 are not open to inspection by the public, but may be inspected  
351 only upon order of the court by persons deemed by the court to  
352 have a proper interest therein, except that a child and the  
353 parents, guardians, or legal custodians of the child and their  
354 attorneys, law enforcement agencies, the Department of Juvenile  
355 Justice and its designees, the Parole Commission, the Department  
356 of Corrections, and the Justice Administrative Commission shall  
357 always have the right to inspect and copy any official record  
358 pertaining to the child. The court may permit authorized  
359 representatives of recognized organizations compiling statistics  
360 for proper purposes to inspect, and make abstracts from,  
361 official records under whatever conditions upon the use and  
362 disposition of such records the court may deem proper and may  
363 punish by contempt proceedings any violation of those  
364 conditions.

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

367 1006.08 District school superintendent duties relating to  
368 student discipline and school safety.-

369 (2) Notwithstanding s. 985.04 ~~the provisions of s.~~  
370 ~~985.04(7)~~ or any other ~~provision of~~ law to the contrary, the  
371 court shall, within 48 hours of the finding, notify the  
372 appropriate district school superintendent of the name and  
373 address of any student found to have committed a delinquent act,  
374 or who has had adjudication of a delinquent act withheld which,  
375 if committed by an adult, would be a felony, or the name and  
376 address of any student found guilty of a felony. The  
377 notification must ~~shall~~ include the specific delinquent act

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378 found to have been committed or for which adjudication was  
379 withheld, or the specific felony for which the student was found  
380 guilty.

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

383 1012.797 Notification of district school superintendent of  
384 certain charges against or convictions of employees.-

385 (1) Notwithstanding s. 985.04 ~~the provisions of s.~~  
386 ~~985.04(7)~~ or any ~~other provision of~~ law to the contrary, a law  
387 enforcement agency shall, within 48 hours, notify the  
388 appropriate district school superintendent of the name and  
389 address of any employee of the school district who is charged  
390 with a felony or with a misdemeanor involving the abuse of a  
391 minor child or the sale or possession of a controlled substance.  
392 The notification must ~~shall~~ include the specific charge for  
393 which the employee of the school district was arrested. The ~~Such~~  
394 notification shall include other education providers such as the  
395 Florida School for the Deaf and the Blind, university lab  
396 schools, and private elementary and secondary schools.

397 Section 8. This act shall take effect July 1, 2009.