

By the Committees on Appropriations; Governmental Oversight and Accountability; and Judiciary; and Senator Ring

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1 A bill to be entitled
2 An act relating to clerks of the court; amending s.
3 28.13, F.S.; providing requirements for the storage of
4 papers and electronic filings and requiring that they
5 be stamped with the date and time of submission;
6 requiring the clerk to retain control and custody of
7 filed documents; amending s. 28.222, F.S.; authorizing
8 the clerk to remove certain court records from the
9 Official Records; amending s. 28.24, F.S.; deleting
10 provisions exempting specified persons from service
11 fees; amending s. 28.244, F.S.; increasing the
12 threshold amount for automatic repayment of
13 overpayments; amending s. 28.345, F.S.; requiring that
14 the clerk provide access to public records without
15 charge to certain persons, subject to a limitation and
16 an exception; authorizing the clerk to provide public
17 records in an electronic format under certain
18 circumstances; amending s. 101.151, F.S.; clarifying
19 when the office title "Clerk of the Circuit Court and
20 Comptroller" may be used; amending s. 119.0714, F.S.;
21 requiring that certain requests for maintenance of a
22 public record exemption specify certain information;
23 amending s. 194.032, F.S.; requiring that the property
24 appraiser, rather than the clerk, provide the property
25 record card to a petitioner regardless of whether the
26 petitioner initiates evidence exchange, unless the
27 property record card is available online from the
28 property appraiser; amending s. 938.30, F.S.;
29 providing that the state is not required to pay fees

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30 to enforce judgment for costs and fines; amending s.
31 985.045, F.S.; providing that the office of the public
32 defender shall have access to certain juvenile records
33 before an appointment of representation; providing an
34 effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Section 28.13, Florida Statutes, is amended to
39 read:

40 28.13 ~~To keep~~ Papers and electronic filings.—The clerk of
41 the circuit court must maintain ~~shall keep~~ all papers and
42 electronic filings ~~filed~~ in the clerk's office with the utmost
43 care and security, storing them with related case arranged in
44 appropriate files and affixing a stamp, which may be electronic,
45 to each submission indicating ~~(endorsing upon each~~ the date and
46 time that when the submission same was filed. The clerk may),
47 ~~and shall~~ not permit any attorney or other person to remove
48 filed documents from the control or custody ~~take papers once~~
49 ~~filed out of the office~~ of the clerk without leave of the court,
50 except as otherwise ~~is hereinafter~~ provided by law.

51 Section 2. Present subsections (4) through (6) of section
52 28.222, Florida Statutes, are renumbered as subsections (5)
53 through (7), respectively, and a new subsection (4) is added to
54 that section to read:

55 28.222 Clerk to be county recorder.—

56 (4) The county recorder shall remove recorded court
57 documents from the Official Records pursuant to a sealing or
58 expunction order.

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59 Section 3. Section 28.24, Florida Statutes, is amended to
60 read:

61 28.24 Service charges ~~by clerk of the circuit court.~~The
62 clerk of the circuit court shall charge for services rendered
63 manually or electronically by the clerk's office in recording
64 documents and instruments and in performing other specified the
65 duties. These charges may ~~enumerated in amounts~~ not ~~to~~ exceed
66 those specified in this section, except as provided in s.

67 28.345. ~~Notwithstanding any other provision of this section, the~~
68 ~~clerk of the circuit court shall provide without charge to the~~
69 ~~state attorney, public defender, guardian ad litem, public~~
70 ~~guardian, attorney ad litem, criminal conflict and civil~~
71 ~~regional counsel, and private court-appointed counsel paid by~~
72 ~~the state, and to the authorized staff acting on behalf of each,~~
73 ~~access to and a copy of any public record, if the requesting~~
74 ~~party is entitled by law to view the exempt or confidential~~
75 ~~record, as maintained by and in the custody of the clerk of the~~
76 ~~circuit court as provided in general law and the Florida Rules~~
77 ~~of Judicial Administration. The clerk of the circuit court may~~
78 ~~provide the requested public record in an electronic format in~~
79 ~~lieu of a paper format when capable of being accessed by the~~
80 ~~requesting entity.~~

81
82 Charges

83
84 (1) For examining, comparing, correcting, verifying, and
85 certifying transcripts of record in appellate proceedings,
86 prepared by attorney for appellant or someone else other than
87 clerk, per page.....5.00

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88 (2) For preparing, numbering, and indexing an original
 89 record of appellate proceedings, per instrument.....3.50
 90 (3) For certifying copies of any instrument in the public
 91 records.....2.00
 92 (4) For verifying any instrument presented for
 93 certification prepared by someone other than clerk, per page.3.50
 94 (5) (a) For making copies by photographic process of any
 95 instrument in the public records consisting of pages of not more
 96 than 14 inches by 8 1/2 inches, per page.....1.00
 97 (b) For making copies by photographic process of any
 98 instrument in the public records of more than 14 inches by 8 1/2
 99 inches, per page.....5.00
 100 (6) For making microfilm copies of any public records:
 101 (a) 16 mm 100' microfilm roll.....42.00
 102 (b) 35 mm 100' microfilm roll.....60.00
 103 (c) Microfiche, per fiche.....3.50
 104 (7) For copying any instrument in the public records by
 105 other than photographic process, per page.....6.00
 106 (8) For writing any paper other than herein specifically
 107 mentioned, same as for copying, including signing and sealing7.00
 108 (9) For indexing each entry not recorded.....1.00
 109 (10) For receiving money into the registry of court:
 110 (a)1. First \$500, percent.....3
 111 2. Each subsequent \$100, percent.....1.5
 112 (b) Eminent domain actions, per deposit.....170.00
 113 (11) For examining, certifying, and recording plats and for
 114 recording condominium exhibits larger than 14 inches by 8 1/2
 115 inches:
 116 (a) First page.....30.00

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117 (b) Each additional page.....15.00

118 (12) For recording, indexing, and filing any instrument not
119 more than 14 inches by 8 1/2 inches, including required notice
120 to property appraiser where applicable:

121 (a) First page or fraction thereof.....5.00

122 (b) Each additional page or fraction thereof.....4.00

123 (c) For indexing instruments recorded in the official
124 records which contain more than four names, per additional name1.00

125 (d) An additional service charge must ~~shall~~ be paid to the
126 clerk of the circuit court to be deposited in the Public Records
127 Modernization Trust Fund for each instrument listed in s.

128 28.222, except judgments received from the courts and notices of
129 lis pendens, recorded in the official records:

130 1. First page.....1.00

131 2. Each additional page.....0.50

132
133 Said fund must ~~shall~~ be held in trust by the clerk and used
134 exclusively for equipment and maintenance of equipment,
135 personnel training, and technical assistance in modernizing the
136 public records system of the office. In a county where the duty
137 of maintaining official records exists in an office other than
138 the office of the clerk of the circuit court, the clerk of the
139 circuit court is entitled to 25 percent of the moneys deposited
140 into the trust fund for equipment, maintenance of equipment,
141 training, and technical assistance in modernizing the system for
142 storing records in the office of the clerk of the circuit court.
143 The fund may not be used for the payment of travel expenses,
144 membership dues, bank charges, staff-recruitment costs, salaries
145 or benefits of employees, construction costs, general operating

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146 expenses, or other costs not directly related to obtaining and
147 maintaining equipment for public records systems or for the
148 purchase of furniture or office supplies and equipment not
149 related to the storage of records. On or before December 1,
150 1995, and on or before December 1 of each year immediately
151 preceding each year during which the trust fund is scheduled for
152 legislative review under s. 19(f)(2), Art. III of the State
153 Constitution, each clerk of the circuit court shall file a
154 report on the Public Records Modernization Trust Fund with the
155 President of the Senate and the Speaker of the House of
156 Representatives. The report must itemize each expenditure made
157 from the trust fund since the last report was filed; each
158 obligation payable from the trust fund on that date; and the
159 percentage of funds expended for each of the following:
160 equipment, maintenance of equipment, personnel training, and
161 technical assistance. The report must indicate the nature of the
162 system each clerk uses to store, maintain, and retrieve public
163 records and the degree to which the system has been upgraded
164 since the creation of the trust fund.

165 (e) An additional service charge of \$4 per page shall be
166 paid to the clerk of the circuit court for each instrument
167 listed in s. 28.222, except judgments received from the courts
168 and notices of lis pendens, recorded in the official records.
169 From the additional \$4 service charge collected:

170 1. If the counties maintain legal responsibility for the
171 costs of the court-related technology needs as defined in s.
172 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
173 Florida Association of Court Clerks and Comptrollers, Inc., for
174 the cost of development, implementation, operation, and

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175 maintenance of the clerks' Comprehensive Case Information
176 System; \$1.90 shall be retained by the clerk to be deposited in
177 the Public Records Modernization Trust Fund and used exclusively
178 for funding court-related technology needs of the clerk as
179 defined in s. 29.008(1)(f)2. and (h); and \$2 shall be
180 distributed to the board of county commissioners to be used
181 exclusively to fund court-related technology, and court
182 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
183 state trial courts, state attorney, public defender, and
184 criminal conflict and civil regional counsel in that county. If
185 the counties maintain legal responsibility for the costs of the
186 court-related technology needs as defined in s. 29.008(1)(f)2.
187 and (h), notwithstanding any other provision of law, the county
188 is not required to provide additional funding beyond that
189 provided herein for the court-related technology needs of the
190 clerk as defined in s. 29.008(1)(f)2. and (h). All court records
191 and official records are the property of the State of Florida,
192 including any records generated as part of the Comprehensive
193 Case Information System funded pursuant to this paragraph and
194 the clerk of court is designated as the custodian of such
195 records, except in a county where the duty of maintaining
196 official records exists in a county office other than the clerk
197 of court or comptroller, such county office is designated the
198 custodian of all official records, and the clerk of court is
199 designated the custodian of all court records. The clerk of
200 court or any entity acting on behalf of the clerk of court,
201 including an association, may ~~shall~~ not charge a fee to any
202 agency as defined in s. 119.011, the Legislature, or the State
203 Court System for copies of records generated by the

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204 Comprehensive Case Information System or held by the clerk of
205 court or any entity acting on behalf of the clerk of court,
206 including an association.

207 2. If the state becomes legally responsible for the costs
208 of court-related technology needs as defined in s.
209 29.008(1)(f)2. and (h), whether by operation of general law or
210 by court order, \$4 shall be remitted to the Department of
211 Revenue for deposit into the General Revenue Fund.

212 (13) Oath, administering, attesting, and sealing, not
213 otherwise provided for herein.....3.50

214 (14) For validating certificates, any authorized bonds,
215 each.....3.50

216 (15) For preparing affidavit of domicile.....5.00

217 (16) For exemplified certificates, including signing and
218 sealing.....7.00

219 (17) For authenticated certificates, including signing and
220 sealing.....7.00

221 (18) (a) For issuing and filing a subpoena for a witness,
222 not otherwise provided for herein (includes writing, preparing,
223 signing, and sealing).....7.00

224 (b) For signing and sealing only.....2.00

225 (19) For approving bond.....8.50

226 (20) For searching of records, for each year's search...2.00

227 (21) For processing an application for a tax deed sale
228 (includes application, sale, issuance, and preparation of tax
229 deed, and disbursement of proceeds of sale), other than excess
230 proceeds.....60.00

231 (22) For disbursement of excess proceeds of tax deed sale,
232 first \$100 or fraction thereof.....10.00

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233 (23) Upon receipt of an application for a marriage license,
 234 for preparing and administering of oath; issuing, sealing, and
 235 recording of the marriage license; and providing a certified
 236 copy.....30.00

237 (24) For solemnizing matrimony.....30.00

238 (25) For sealing any court file or expungement of any
 239 record.....42.00

240 (26) (a) For receiving and disbursing all restitution
 241 payments, per payment.....3.50

242 (b) For receiving and disbursing all partial payments,
 243 other than restitution payments, for which an administrative
 244 processing service charge is not imposed pursuant to s. 28.246,
 245 per month.....5.00

246 (c) For setting up a payment plan, a one-time
 247 administrative processing charge in lieu of a per month charge
 248 under paragraph (b).....25.00

249 (27) Postal charges incurred by the clerk of the circuit
 250 court in any mailing by certified or registered mail must ~~shall~~
 251 be paid by the party at whose instance the mailing is made.

252 (28) For furnishing an electronic copy of information
 253 contained in a computer database: a fee as provided for in
 254 chapter 119.

255 Section 4. Section 28.244, Florida Statutes, is amended to
 256 read:

257 28.244 Refunds.—A clerk of the circuit court or a filing
 258 officer of another office where records are filed who receives
 259 payment for services provided and thereafter determines that an
 260 overpayment has occurred shall refund to the person who made the
 261 payment the amount of any overpayment that exceeds \$10 ~~\$5~~. If

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262 the amount of the overpayment is \$10 ~~\$5~~ or less, the clerk of
263 the circuit court or a filing officer of another office where
264 records are filed is not required to refund the amount of the
265 overpayment unless the person who made the overpayment makes a
266 written request.

267 Section 5. Section 28.345, Florida Statutes, is amended to
268 read:

269 28.345 State access to records; exemption from court-
270 related fees and charges.-

271 (1) Notwithstanding any other provision of law, the clerk
272 of the circuit court shall, upon request, provide access to
273 public records without charge to the state attorney, public
274 defender, guardian ad litem, public guardian, attorney ad litem,
275 criminal conflict and civil regional counsel, and private court-
276 appointed counsel paid by the state, and to authorized staff
277 acting on their behalf. The clerk of court may provide the
278 requested public record in an electronic format in lieu of a
279 paper format if the requesting entity is capable of accessing
280 such public record electronically.

281 (2) Notwithstanding any other provision of this chapter or
282 law to the contrary, judges and those court staff acting on
283 behalf of judges, state attorneys, guardians ad litem, public
284 guardians, attorneys ad litem, court-appointed private counsel,
285 criminal conflict and civil regional counsel, ~~and~~ public
286 defenders, and state agencies, while acting in their official
287 capacity, ~~and state agencies,~~ are exempt from all court-related
288 fees and charges assessed by the clerks of the circuit courts.

289 (3) The exemptions from fees or charges provided in this
290 section apply only to state agencies and state entities and the

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291 party represented by the agency or entity.

292 Section 6. Paragraph (a) of subsection (2) of section
293 101.151, Florida Statutes, is amended to read:

294 101.151 Specifications for ballots.—

295 (2) (a) The ballot must include ~~shall have~~ the following
296 office titles above ~~under which shall appear~~ the names of the
297 candidates for the respective offices in the following order:

298 1. The office titles of President and Vice President above
299 ~~and thereunder~~ the names of the candidates for President and
300 Vice President of the United States nominated by the political
301 party that received the highest vote for Governor in the last
302 general election of the Governor in this state, followed by.
303 ~~Then shall appear~~ the names of other candidates for President
304 and Vice President of the United States who have been properly
305 nominated.

306 2. The office titles of United States Senator and
307 Representative in Congress.

308 3. The office titles of Governor and Lieutenant Governor;
309 Attorney General; Chief Financial Officer; Commissioner of
310 Agriculture; State Attorney, with the applicable judicial
311 circuit; and Public Defender, with the applicable judicial
312 circuit.

313 4. The office titles of State Senator and State
314 Representative, with the applicable district for the office
315 printed beneath.

316 5. The office titles of Clerk of the Circuit Court, or,
317 when the Clerk of the Circuit Court also serves as the County
318 Comptroller, Clerk of the Circuit Court and Comptroller,
319 ~~(whichever is applicable and when authorized by law;)~~ Clerk of

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320 the County Court, ~~(when authorized by law;)~~ Sheriff; Property
321 Appraiser; Tax Collector; District Superintendent of Schools;
322 and Supervisor of Elections.

323 6. The office titles of Board of County Commissioners, with
324 the applicable district printed beneath each office, and such
325 other county and district offices as are involved in the
326 election, in the order fixed by the Department of State,
327 followed, in the year of their election, by "Party Offices," and
328 thereunder the offices of state and county party executive
329 committee members.

330 Section 7. Paragraph (f) is added to subsection (2) of
331 section 119.0714, Florida Statutes, and section (3) is amended,
332 to read:

333 119.0714 Court files; court records; official records.—

334 (2) COURT RECORDS.—

335 (f) A request for maintenance of a public records exemption
336 in s. 119.071(4)(d)2. made pursuant to s. 119.071(4)(d)3. must
337 specify the document type, name, identification number, and page
338 number of the court record that contains the exempt information.

339 (3) OFFICIAL RECORDS.—

340 ~~(a) A~~ ~~Any~~ person who prepares or files a record for
341 recording in the official records as provided in chapter 28 may
342 not include in that record a social security number or a bank
343 account, debit, charge, or credit card number unless otherwise
344 expressly required by law.

345 (a) ~~(b)1.~~ If a social security number or a bank account,
346 debit, charge, or credit card number is included in an official
347 record, such number may be made available as part of the
348 official records available for public inspection and copying

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349 unless redaction is requested by the holder of such number or by
350 the holder's attorney or legal guardian.

351 1.2- If such record is in electronic format, on January 1,
352 2011, and thereafter, the county recorder must use his or her
353 best effort, as provided in paragraph (d)~~(h)~~, to keep social
354 security numbers confidential and exempt as provided for in s.
355 119.071(5)(a), and to keep complete bank account, debit, charge,
356 and credit card numbers exempt as provided for in s.
357 119.071(5)(b), without any person having to request redaction.

358 2.3- Section 119.071(5)(a)7. and 8. does not apply to the
359 county recorder with respect to official records.

360 (b)~~(e)~~ The holder of a social security number or a bank
361 account, debit, charge, or credit card number, or the holder's
362 attorney or legal guardian, may request that a county recorder
363 redact from an image or copy of an official record placed on a
364 county recorder's publicly available Internet website or on a
365 publicly available Internet website used by a county recorder to
366 display public records, or otherwise made electronically
367 available to the public, his or her social security number or
368 bank account, debit, charge, or credit card number contained in
369 that official record.

370 1.~~(d)~~ A request for redaction must be a signed, legibly
371 written request and must be delivered by mail, facsimile,
372 electronic transmission, or in person to the county recorder.
373 The request must specify the identification page number of the
374 record that contains the number to be redacted.

375 2.~~(e)~~ The county recorder does not have a duty to inquire
376 beyond the written request to verify the identity of a person
377 requesting redaction.

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378 3.~~(f)~~ A fee may not be charged for redacting a social
379 security number or a bank account, debit, charge, or credit card
380 number.

381 (c)~~(g)~~ A county recorder shall immediately and
382 conspicuously post signs throughout his or her offices for
383 public viewing, and shall immediately and conspicuously post on
384 any Internet website or remote electronic site made available by
385 the county recorder and used for the ordering or display of
386 official records or images or copies of official records, a
387 notice stating, in substantially similar form, the following:

388 1. On or after October 1, 2002, any person preparing or
389 filing a record for recordation in the official records may not
390 include a social security number or a bank account, debit,
391 charge, or credit card number in such document unless required
392 by law.

393 2. Any person has a right to request a county recorder to
394 remove from an image or copy of an official record placed on a
395 county recorder's publicly available Internet website or on a
396 publicly available Internet website used by a county recorder to
397 display public records, or otherwise made electronically
398 available to the general public, any social security number
399 contained in an official record. Such request must be made in
400 writing and delivered by mail, facsimile, or electronic
401 transmission, or delivered in person, to the county recorder.
402 The request must specify the identification page number that
403 contains the social security number to be redacted. A fee may
404 not be charged for the redaction of a social security number
405 pursuant to such a request.

406 (d)~~(h)~~ If the county recorder accepts or stores official

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407 records in an electronic format, the county recorder must use
408 his or her best efforts to redact all social security numbers
409 and bank account, debit, charge, or credit card numbers from
410 electronic copies of the official record. The use of an
411 automated program for redaction is ~~shall be~~ deemed to be the
412 best effort in performing the redaction and is ~~shall be~~ deemed
413 in compliance with the requirements of this subsection.

414 (e) ~~(i)~~ The county recorder is not liable for the
415 inadvertent release of social security numbers, or bank account,
416 debit, charge, or credit card numbers, filed with the county
417 recorder.

418 (f) A request for maintenance of a public records exemption
419 in s. 119.071(4)(d)2. made pursuant to s. 119.071(4)(d)3. must
420 specify the document type, name, identification number, and page
421 number of the official record that contains the exempt
422 information.

423 Section 8. Paragraph (a) of subsection (2) of section
424 194.032, Florida Statutes, is amended to read:

425 194.032 Hearing purposes; timetable.—

426 (2) (a) The clerk of the governing body of the county shall
427 prepare a schedule of appearances before the board based on
428 petitions timely filed with him or her. The clerk shall notify
429 each petitioner of the scheduled time of his or her appearance
430 at least 25 calendar days before the day of the scheduled
431 appearance. The notice must ~~shall~~ indicate whether the petition
432 has been scheduled to be heard at a particular time or during a
433 block of time. If the petition has been scheduled to be heard
434 within a block of time, the beginning and ending of that block
435 of time must ~~shall~~ be indicated on the notice; however, as

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436 provided in paragraph (b), a petitioner may not be required to
437 wait for more than a reasonable time, not to exceed 2 hours,
438 after the beginning of the block of time. If the petitioner
439 checked the appropriate box on the petition form to request a
440 copy of the property record card containing relevant information
441 used in computing the current assessment, the property appraiser
442 must provide the copy to the petitioner upon receipt of the
443 petition from the clerk regardless of whether the petitioner
444 initiates evidence exchange, unless the property record card is
445 available online from the property appraiser ~~clerk shall provide~~
446 ~~the copy of the card along with the notice.~~ Upon receipt of the
447 notice, the petitioner may reschedule the hearing a single time
448 by submitting to the clerk a written request to reschedule, at
449 least 5 calendar days before the day of the originally scheduled
450 hearing.

451 Section 9. Subsections (2) and (6) of section 938.30,
452 Florida Statutes, are amended to read:

453 938.30 Financial obligations in criminal cases;
454 supplementary proceedings.—

455 (2) The court may require a person liable for payment of an
456 obligation to appear and be examined under oath concerning the
457 person's financial ability to pay the obligation. The judge may
458 convert the statutory financial obligation into a court-ordered
459 obligation to perform community service, subject to the
460 provisions of s. 318.18(8), after examining a person under oath
461 and determining the a person's inability to pay. Any person who
462 fails ~~failing~~ to attend a hearing may be arrested on warrant or
463 capias ~~which may be~~ issued by the clerk upon order of the court.

464 (6) If judgment has not been previously entered on any

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465 court-imposed financial obligation, the court may enter judgment
466 thereon and issue any writ necessary to enforce the judgment in
467 the manner allowed in civil cases. Any judgment issued under
468 this section constitutes a civil lien against the judgment
469 debtor's presently owned or after-acquired property, when
470 recorded pursuant to s. 55.10. Supplementary proceedings
471 undertaken by any governmental entity to satisfy a judgment
472 imposed pursuant to this section may proceed without bond and
473 without the payment of statutory fees associated with judgment
474 enforcement.

475 Section 10. Subsection (2) of section 985.045, Florida
476 Statutes, is amended to read:

477 985.045 Court records.—

478 (2) The clerk shall keep all official records required by
479 this section separate from other records of the circuit court,
480 except those records pertaining to motor vehicle violations,
481 which shall be forwarded to the Department of Highway Safety and
482 Motor Vehicles. Except as provided in ss. 943.053 and
483 985.04(6)(b) and (7), official records required by this chapter
484 are not open to inspection by the public, but may be inspected
485 only upon order of the court by persons deemed by the court to
486 have a proper interest therein, except that a child and the
487 parents, guardians, or legal custodians of the child and their
488 attorneys, law enforcement agencies, the Department of Juvenile
489 Justice and its designees, the Parole Commission, the Department
490 of Corrections, and the Justice Administrative Commission shall
491 always have the right to inspect and copy any official record
492 pertaining to the child. Public defender offices shall have
493 access to official records of juveniles on whose behalf they are

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494 expected to appear in detention or other hearings before an
495 appointment of representation. The court may permit authorized
496 representatives of recognized organizations compiling statistics
497 for proper purposes to inspect, and make abstracts from,
498 official records under whatever conditions upon the use and
499 disposition of such records the court may deem proper and may
500 punish by contempt proceedings any violation of those
501 conditions.

502 Section 11. This act shall take effect July 1, 2013.