



168352

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/27/2015	.	
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The Committee on Criminal Justice (Clemens) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1) and (2) of section 985.04,
Florida Statutes, are amended to read:

985.04 Oaths; records; confidential information.—

(1) (a) Except as provided in subsections (2), (3), (6), and
(7) and s. 943.053, all information obtained under this chapter
in the discharge of official duty by any judge, any employee of



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11 the court, any authorized agent of the department, the Florida
12 Commission on Offender Review, the Department of Corrections,
13 the juvenile justice circuit boards, any law enforcement agent,
14 or any licensed professional or licensed community agency
15 representative participating in the assessment or treatment of a
16 juvenile is confidential and exempt from s. 119.07(1) and s.
17 24(a), Art. I of the State Constitution. This exemption applies
18 to information obtained before, on, or after the effective date
19 of this exemption.

20 (b) Such confidential and exempt information may be
21 disclosed only to the authorized personnel of the court, the
22 department and its designees, the Department of Corrections, the
23 Florida Commission on Offender Review, law enforcement agents,
24 school superintendents and their designees, any licensed
25 professional or licensed community agency representative
26 participating in the assessment or treatment of a juvenile, and
27 others entitled under this chapter to receive that information,
28 or upon order of the court.

29 (c) Within each county, the sheriff, the chiefs of police,
30 the district school superintendent, and the department shall
31 enter into an interagency agreement for the purpose of sharing
32 information about juvenile offenders among all parties. The
33 agreement must specify the conditions under which summary
34 criminal history information is to be made available to
35 appropriate school personnel, and the conditions under which
36 school records are to be made available to appropriate
37 department personnel. Such agreement shall require notification
38 to any classroom teacher of assignment to the teacher's
39 classroom of a juvenile who has been placed in a probation or



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40 commitment program for a felony offense. The agencies entering
41 into such agreement must comply with s. 943.0525, and must
42 maintain the confidentiality of information that is otherwise
43 exempt from s. 119.07(1), as provided by law.

44 (2) Notwithstanding any other provisions of this chapter,
45 the name, photograph, address, and crime or arrest report of a
46 child:

47 (a) Taken into custody ~~if the child has been taken into~~
48 ~~eustody~~ by a law enforcement officer for a violation of law
49 which, if committed by an adult, would be a felony;

50 (b) Charged with a violation of law which, if committed by
51 an adult, would be a felony ~~Found by a court to have committed~~
52 ~~three or more violations of law which, if committed by an adult,~~
53 ~~would be misdemeanors;~~

54 (c) Found to have committed an offense which, if committed
55 by an adult, would be a felony; or ~~Transferred to the adult~~
56 ~~system under s. 985.557, indicted under s. 985.56, or waived~~
57 ~~under s. 985.556;~~

58 (d) Transferred to adult court, pursuant to part X of this
59 chapter, ~~Taken into custody by a law enforcement officer for a~~
60 ~~violation of law subject to s. 985.557(2) (b) or (d); or~~

61 (e) ~~Transferred to the adult system but sentenced to the~~
62 ~~juvenile system under s. 985.565~~

63
64 are ~~shall~~ not ~~be~~ considered confidential and exempt from s.
65 119.07(1) solely because of the child's age.

66 (e) This subsection is subject to the Open Government
67 Sunset Review Act in accordance with s. 119.15 and shall stand
68 repealed on October 2, 2020, unless reviewed and saved from



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69 repeal through reenactment by the Legislature.

70 Section 2. Subsections (3), (8), (9), and (10) of section
71 943.053, Florida Statutes, are amended to read:

72 943.053 Dissemination of criminal justice information;
73 fees.—

74 (3) (a) Criminal history information, ~~including information~~
75 relating to an adult ~~minors~~, compiled by the Criminal Justice
76 Information Program from intrastate sources shall be available
77 on a priority basis to criminal justice agencies for criminal
78 justice purposes free of charge. After providing the program
79 with all known personal identifying information, persons in the
80 private sector and noncriminal justice agencies may be provided
81 criminal history information upon tender of fees as established
82 in this subsection and in the manner prescribed by rule of the
83 Department of Law Enforcement. ~~Any access to criminal history~~
84 ~~information by the private sector or noncriminal justice~~
85 ~~agencies as provided in this subsection shall be assessed~~
86 ~~without regard to the quantity or category of criminal history~~
87 ~~record information requested.~~

88 (b)1. Criminal history information relating to a juvenile
89 compiled by the Criminal Justice Information Program from
90 intrastate sources shall be released as provided in this
91 section. Such information is confidential and exempt from s.
92 119.07(1) and s. 24(a), Art. I of the State Constitution, unless
93 such juvenile has been:

94 a. Taken into custody by a law enforcement officer for a
95 violation of law which, if committed by an adult, would be a
96 felony;

97 b. Charged with a violation of law which, if committed by



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98 an adult, would be a felony;

99 c. Found to have committed an offense which, if committed
100 by an adult, would be a felony; or

101 d. Transferred to adult court pursuant to part X of chapter
102 985,

103
104 and provided the criminal history record has not been expunged
105 or sealed under any law applicable to such record.

106 2. This paragraph is subject to the Open Government Sunset
107 Review Act in accordance with s. 119.15 and shall stand repealed
108 on October 2, 2020, unless reviewed and saved from repeal
109 through reenactment by the Legislature.

110 (c)1. Criminal history information relating to juveniles,
111 including criminal history information consisting in whole or in
112 part of information that is confidential and exempt under
113 paragraph (b), shall be available to:

114 a. A criminal justice agency for criminal justice purposes
115 on a priority basis and free of charge;

116 b. The person to whom the record relates, or his or her
117 attorney;

118 c. The parent, guardian, or legal custodian of the person
119 to whom the record relates, provided such person has not reached
120 the age of majority, been emancipated by a court, or been
121 legally married; or

122 d. An agency or entity specified in s. 943.0585(4) or s.
123 943.059(4), for the purposes specified therein, and to any
124 person within such agency or entity who has direct
125 responsibility for employment, access authorization, or
126 licensure decisions.



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127 2. After providing the program with all known personal
128 identifying information, the criminal history information
129 relating to a juvenile which is not confidential and exempt
130 under this subsection may be released to the private sector and
131 noncriminal justice agencies not specified in s. 943.0585(4) or
132 s. 943.059(4) in the same manner as provided in paragraph (a).
133 Criminal history information relating to a juvenile which is not
134 confidential and exempt under this subsection is the entire
135 criminal history information relating to a juvenile who
136 satisfies any of the criteria listed in subparagraph (b)1.,
137 except for any portion of such juvenile's criminal history
138 record which has been expunged or sealed under any law
139 applicable to such record.

140 3. All criminal history information relating to juveniles,
141 other than that provided to criminal justice agencies for
142 criminal justice purposes, shall be provided upon tender of fees
143 as established in this subsection and in the manner prescribed
144 by rule of the Department of Law Enforcement.

145 (d) The fee for access to criminal history information
146 relating to juveniles by the private sector or a noncriminal
147 justice agency shall be assessed without regard to the size or
148 category of criminal history record information requested.

149 (e) ~~(b)~~ The fee per record for criminal history information
150 provided pursuant to this subsection and s. 943.0542 is \$24 per
151 name submitted, except that the fee for the guardian ad litem
152 program and vendors of the Department of Children and Families,
153 the Department of Juvenile Justice, and the Department of
154 Elderly Affairs shall be \$8 for each name submitted; the fee for
155 a state criminal history provided for application processing as



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156 required by law to be performed by the Department of Agriculture
157 and Consumer Services shall be \$15 for each name submitted; and
158 the fee for requests under s. 943.0542, which implements the
159 National Child Protection Act, shall be \$18 for each volunteer
160 name submitted. The state offices of the Public Defender shall
161 not be assessed a fee for Florida criminal history information
162 or wanted person information.

163 (8) Notwithstanding ~~the provisions of~~ s. 943.0525, and any
164 user agreements adopted pursuant thereto, and notwithstanding
165 the confidentiality of sealed records as provided for in s.
166 943.059 and juvenile records as provided for in paragraph
167 (3) (b), the sheriff of any county that has contracted with a
168 private entity to operate a county detention facility pursuant
169 to ~~the provisions of~~ s. 951.062 shall provide that private
170 entity, in a timely manner, copies of the Florida criminal
171 history records for its inmates. The sheriff may assess a charge
172 for the Florida criminal history records pursuant to ~~the~~
173 ~~provisions of~~ chapter 119. Sealed records and confidential
174 juvenile records received by the private entity under this
175 section remain confidential and exempt from ~~the provisions of~~ s.
176 119.07(1).

177 (9) Notwithstanding ~~the provisions of~~ s. 943.0525, and any
178 user agreements adopted pursuant thereto, and notwithstanding
179 the confidentiality of sealed records as provided for in s.
180 943.059 and juvenile records as provided for in paragraph
181 (3) (b), the Department of Corrections shall provide, in a timely
182 manner, copies of the Florida criminal history records for
183 inmates housed in a private state correctional facility to the
184 private entity under contract to operate the facility pursuant



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185 to ~~the provisions of~~ s. 944.105. The department may assess a
186 charge for the Florida criminal history records pursuant to the
187 provisions of chapter 119. Sealed records and confidential
188 juvenile records received by the private entity under this
189 section remain confidential and exempt from ~~the provisions of~~ s.
190 119.07(1).

191 (10) Notwithstanding ~~the provisions of~~ s. 943.0525 and any
192 user agreements adopted pursuant thereto, and notwithstanding
193 the confidentiality of sealed records as provided for in s.
194 943.059 or of juvenile records as provided for in paragraph
195 (3)(b), the Department of Juvenile Justice or any other state or
196 local criminal justice agency may provide copies of the Florida
197 criminal history records for juvenile offenders currently or
198 formerly detained or housed in a contracted juvenile assessment
199 center or detention facility or serviced in a contracted
200 treatment program and for employees or other individuals who
201 will have access to these facilities, only to the entity under
202 direct contract with the Department of Juvenile Justice to
203 operate these facilities or programs pursuant to ~~the provisions~~
204 ~~of~~ s. 985.688. The criminal justice agency providing such data
205 may assess a charge for the Florida criminal history records
206 pursuant to ~~the provisions of~~ chapter 119. Sealed records and
207 confidential juvenile records received by the private entity
208 under this section remain confidential and exempt from ~~the~~
209 ~~provisions of~~ s. 119.07(1). Information provided under this
210 section shall be used only for the criminal justice purpose for
211 which it was requested and may not be further disseminated.

212 Section 3. Paragraph (b) of subsection (3) of section
213 496.4101, Florida Statutes, is amended to read:



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214 496.4101 Licensure of professional solicitors and certain
215 employees thereof.—

216 (3)

217 (b) Fees for state and federal fingerprint processing and
218 fingerprint retention fees shall be borne by the applicant. The
219 state cost for fingerprint processing is that authorized in s.
220 943.053(3)(e) ~~s. 943.053(3)(b)~~ for records provided to persons
221 or entities other than those specified as exceptions therein.

222 Section 4. Subsection (1) of section 943.056, Florida
223 Statutes, is amended to read:

224 943.056 Criminal history records; access, review, and
225 challenge.—

226 (1) For purposes of verification of the accuracy and
227 completeness of a criminal history record, the Department of Law
228 Enforcement shall provide, in the manner prescribed by rule,
229 such record for review upon verification, by fingerprints, of
230 the identity of the requesting person. If a minor, or the parent
231 or legal guardian of a minor, requests a copy of the minor's
232 criminal history record, the Department of Law Enforcement shall
233 provide such copy, including any portions of the record which
234 may be confidential under s. 943.053(3)(b), for review upon
235 verification, by fingerprints, of the identity of the minor. The
236 providing of such record shall not require the payment of any
237 fees, except those provided for by federal regulations.

238 Section 5. The Legislature finds that it is a public
239 necessity that the criminal history information of juveniles who
240 have not been adjudicated delinquent of a felony or who have
241 been found only to have committed misdemeanor offenses and
242 certain criminal history information relating to a juvenile



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243 compiled by the Criminal Justice Information Program be made
244 confidential and exempt from s. 119.07(1), Florida Statutes, and
245 s. 24(a), Article I of the State Constitution under ss. 985.04
246 and 943.053, Florida Statutes. Many individuals who have either
247 completed their sanctions and received treatment or who were
248 never charged in the juvenile justice system have found it
249 difficult to obtain employment. The presence of an arrest or a
250 misdemeanor record in these individuals' juvenile past and
251 certain criminal history information relating to a juvenile
252 compiled by the Criminal Justice Information Program creates an
253 unnecessary barrier to becoming productive members of society,
254 thus frustrating the rehabilitative purpose of the juvenile
255 system. The Legislature therefore finds that it is in the best
256 interest of the public that individuals with juvenile
257 misdemeanor records are given the opportunity to become
258 contributing members of society. Therefore, prohibiting the
259 unfettered release of juvenile misdemeanor records and certain
260 criminal history information relating to a juvenile compiled by
261 the Criminal Justice Information Program is of greater
262 importance than any public benefit that may be derived from the
263 full disclosure and release of such arrest records and
264 information.

265 Section 6. This act shall take effect upon becoming a law.

266
267 ===== T I T L E A M E N D M E N T =====

268 And the title is amended as follows:

269 Delete everything before the enacting clause
270 and insert:

271 A bill to be entitled



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272 An act relating to public records; amending s. 985.04,
273 F.S.; specifying that certain confidential information
274 obtained under ch. 985, F.S., relating to juvenile
275 justice, is exempt from public records requirements;
276 providing applicability; revising applicability of
277 public records requirements with respect to the arrest
278 records of certain juvenile offenders; providing for
279 future review and repeal of such applicability
280 provisions; amending s. 943.053, F.S.; providing an
281 exemption from public records requirements for
282 juvenile information compiled by the Criminal Justice
283 Information Program from intrastate sources; providing
284 exceptions; providing for future review and repeal of
285 the exemption; providing for release by the Department
286 of Law Enforcement of the criminal history information
287 of a juvenile which has been deemed confidential and
288 exempt under certain circumstances; amending ss.
289 496.4101 and 943.056, F.S.; conforming provisions to
290 changes made by the act; providing a statement of
291 public necessity; providing an effective date.