

HB 7103

2015

1 A bill to be entitled

2 An act relating to public records; amending s. 985.04,  
3 F.S.; specifying that certain confidential information  
4 obtained under chapter 985, F.S., relating to juvenile  
5 justice, is exempt from public records requirements;  
6 providing applicability; revising applicability of  
7 public records requirements with respect to the arrest  
8 records of certain juvenile offenders; providing for  
9 future review and repeal of such applicability  
10 provisions; amending s. 943.053, F.S.; providing an  
11 exemption from public records requirements for  
12 juvenile information compiled by the Criminal Justice  
13 Information Program from intrastate sources; providing  
14 exceptions; providing for future review and repeal of  
15 the exemption; providing for release by the Department  
16 of Law Enforcement of the criminal history information  
17 of a juvenile which has been deemed confidential and  
18 exempt under certain circumstances; amending ss.  
19 496.4101 and 943.056, F.S.; conforming provisions to  
20 changes made by the act; providing a statement of  
21 public necessity; providing an effective date.

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

24  
25 Section 1. Subsections (1) and (2) of section 985.04,  
26 Florida Statutes, are amended to read:

27 985.04 Oaths; records; confidential information.—

28 (1) (a) Except as provided in subsections (2), (3), (6),  
29 and (7) and s. 943.053, all information obtained under this  
30 chapter in the discharge of official duty by any judge, any  
31 employee of the court, any authorized agent of the department,  
32 the Florida Commission on Offender Review, the Department of  
33 Corrections, the juvenile justice circuit boards, any law  
34 enforcement agent, or any licensed professional or licensed  
35 community agency representative participating in the assessment  
36 or treatment of a juvenile is confidential and exempt from s.  
37 119.07(1) and s. 24(a), Art. I of the State Constitution. This  
38 exemption applies to information obtained before, on, or after  
39 the effective date of this exemption.

40 (b) Such confidential and exempt information ~~and~~ may be  
41 disclosed only to the authorized personnel of the court, the  
42 department and its designees, the Department of Corrections, the  
43 Florida Commission on Offender Review, law enforcement agents,  
44 school superintendents and their designees, any licensed  
45 professional or licensed community agency representative  
46 participating in the assessment or treatment of a juvenile, and  
47 others entitled under this chapter to receive that information,  
48 or upon order of the court.

49 (c) Within each county, the sheriff, the chiefs of police,  
50 the district school superintendent, and the department shall  
51 enter into an interagency agreement for the purpose of sharing  
52 information about juvenile offenders among all parties. The

53 agreement must specify the conditions under which summary  
54 criminal history information is to be made available to  
55 appropriate school personnel, and the conditions under which  
56 school records are to be made available to appropriate  
57 department personnel. Such agreement shall require notification  
58 to any classroom teacher of assignment to the teacher's  
59 classroom of a juvenile who has been placed in a probation or  
60 commitment program for a felony offense. The agencies entering  
61 into such agreement must comply with s. 943.0525, and must  
62 maintain the confidentiality of information that is otherwise  
63 exempt from s. 119.07(1), as provided by law.

64 (2) Notwithstanding any other provisions of this chapter,  
65 the name, photograph, address, and crime or arrest report of a  
66 child:

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

70 (b) Charged with a violation of law which, if committed by  
71 an adult, would be a felony;

72 (c) Found to have committed an offense which, if committed  
73 by an adult, would be a felony; or

74 (d) Transferred to adult court pursuant to part X,

75 ~~(b) Found by a court to have committed three or more~~  
76 ~~violations of law which, if committed by an adult, would be~~  
77 ~~misdemeanors;~~

78 ~~(c) Transferred to the adult system under s. 985.557,~~

79 ~~indicted under s. 985.56, or waived under s. 985.556;~~  
 80 ~~(d) Taken into custody by a law enforcement officer for a~~  
 81 ~~violation of law subject to s. 985.557(2) (b) or (d); or~~  
 82 ~~(e) Transferred to the adult system but sentenced to the~~  
 83 ~~juvenile system under s. 985.565~~

84  
 85 are shall not be considered confidential and exempt from s.  
 86 119.07(1) solely because of the child's age.

87 (d) This subsection is subject to the Open Government  
 88 Sunset Review Act in accordance with s. 119.15 and shall stand  
 89 repealed on October 2, 2020, unless reviewed and saved from  
 90 repeal through reenactment by the Legislature.

91 Section 2. Subsections (3), (8), (9), and (10) of section  
 92 943.053, Florida Statutes, are amended to read:

93 943.053 Dissemination of criminal justice information;  
 94 fees.—

95 (3) (a) Criminal history information, ~~including information~~  
 96 relating to an adult ~~minors~~, compiled by the Criminal Justice  
 97 Information Program from intrastate sources shall be available  
 98 on a priority basis to criminal justice agencies for criminal  
 99 justice purposes free of charge. After providing the program  
 100 with all known personal identifying information, persons in the  
 101 private sector and noncriminal justice agencies may be provided  
 102 criminal history information upon tender of fees as established  
 103 in this subsection and in the manner prescribed by rule of the  
 104 Department of Law Enforcement. ~~Any access to criminal history~~

105 ~~information by the private sector or noncriminal justice~~  
106 ~~agencies as provided in this subsection shall be assessed~~  
107 ~~without regard to the quantity or category of criminal history~~  
108 ~~record information requested.~~

109 (b)1. Criminal history information relating to a juvenile  
110 compiled by the Criminal Justice Information Program from  
111 intrastate sources shall be released as provided in this  
112 section. Such information is confidential and exempt from s.  
113 119.07(1) and s. 24(a), Art. I of the State Constitution, unless  
114 such juvenile has been:

115 a. Taken into custody by a law enforcement officer for a  
116 violation of law which, if committed by an adult, would be a  
117 felony;

118 b. Charged with a violation of law which, if committed by  
119 an adult, would be a felony;

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

122 d. Transferred to adult court pursuant to part X of  
123 chapter 985,

124  
125 and provided the criminal history record has not been expunged  
126 or sealed under any law applicable to such record.

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

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

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

137 b. The person to whom the record relates, or his or her  
138 attorney;

139 c. The parent, guardian, or legal custodian of the person  
140 to whom the record relates, provided such person has not reached  
141 the age of majority, been emancipated by a court, or been  
142 legally married; or

143 d. An agency or entity specified in s. 943.0585(4) or s.  
144 943.059(4), for the purposes specified therein, and to any  
145 person within such agency or entity who has direct  
146 responsibility for employment, access authorization, or  
147 licensure decisions.

148 2. After providing the program with all known personal  
149 identifying information, the criminal history information  
150 relating to a juvenile which is not confidential and exempt  
151 under this subsection may be released to the private sector and  
152 noncriminal justice agencies not specified in s. 943.0585(4) or  
153 s. 943.059(4) in the same manner as provided in paragraph (a).  
154 Criminal history information relating to a juvenile which is not  
155 confidential and exempt under this subsection is the entire  
156 criminal history information relating to a juvenile who

HB 7103

2015

157 satisfies any of the criteria listed in sub-subparagraphs  
158 (b)1.a. through (b)1.d., except for any portion of such  
159 juvenile's criminal history record which has been expunged or  
160 sealed under any law applicable to such record.

161 3. All criminal history information relating to juveniles,  
162 other than that provided to criminal justice agencies for  
163 criminal justice purposes, shall be provided upon tender of fees  
164 as established in this subsection and in the manner prescribed  
165 by rule of the Department of Law Enforcement.

166 (d) The fee for access to criminal history information by  
167 the private sector or a noncriminal justice agency shall be  
168 assessed without regard to the size or category of criminal  
169 history record information requested.

170 (e) ~~(b)~~ The fee per record for criminal history information  
171 provided pursuant to this subsection and s. 943.0542 is \$24 per  
172 name submitted, except that the fee for the guardian ad litem  
173 program and vendors of the Department of Children and Families,  
174 the Department of Juvenile Justice, and the Department of  
175 Elderly Affairs shall be \$8 for each name submitted; the fee for  
176 a state criminal history provided for application processing as  
177 required by law to be performed by the Department of Agriculture  
178 and Consumer Services shall be \$15 for each name submitted; and  
179 the fee for requests under s. 943.0542, which implements the  
180 National Child Protection Act, shall be \$18 for each volunteer  
181 name submitted. The state offices of the Public Defender shall  
182 not be assessed a fee for Florida criminal history information

HB 7103

2015

183 or wanted person information.

184 (8) Notwithstanding ~~the provisions of~~ s. 943.0525, and any  
185 user agreements adopted pursuant thereto, and notwithstanding  
186 the confidentiality of sealed records as provided for in s.  
187 943.059 and juvenile records as provided for in paragraph  
188 (3) (b), the sheriff of any county that has contracted with a  
189 private entity to operate a county detention facility pursuant  
190 to ~~the provisions of~~ s. 951.062 shall provide that private  
191 entity, in a timely manner, copies of the Florida criminal  
192 history records for its inmates. The sheriff may assess a charge  
193 for the Florida criminal history records pursuant to ~~the~~  
194 ~~provisions of~~ chapter 119. Sealed records and confidential  
195 juvenile records received by the private entity under this  
196 section remain confidential and exempt from ~~the provisions of~~ s.  
197 119.07(1).

198 (9) Notwithstanding ~~the provisions of~~ s. 943.0525, and any  
199 user agreements adopted pursuant thereto, and notwithstanding  
200 the confidentiality of sealed records as provided for in s.  
201 943.059 and juvenile records as provided for in paragraph  
202 (3) (b), the Department of Corrections shall provide, in a timely  
203 manner, copies of the Florida criminal history records for  
204 inmates housed in a private state correctional facility to the  
205 private entity under contract to operate the facility pursuant  
206 to ~~the provisions of~~ s. 944.105. The department may assess a  
207 charge for the Florida criminal history records pursuant to ~~the~~  
208 ~~provisions of~~ chapter 119. Sealed records and confidential

HB 7103

2015

209 juvenile records received by the private entity under this  
210 section remain confidential and exempt from ~~the provisions of~~ s.  
211 119.07(1).

212 (10) Notwithstanding ~~the provisions of~~ s. 943.0525 and any  
213 user agreements adopted pursuant thereto, and notwithstanding  
214 the confidentiality of sealed records as provided for in s.  
215 943.059 or of juvenile records as provided for in paragraph  
216 (3)(b), the Department of Juvenile Justice or any other state or  
217 local criminal justice agency may provide copies of the Florida  
218 criminal history records for juvenile offenders currently or  
219 formerly detained or housed in a contracted juvenile assessment  
220 center or detention facility or serviced in a contracted  
221 treatment program and for employees or other individuals who  
222 will have access to these facilities, only to the entity under  
223 direct contract with the Department of Juvenile Justice to  
224 operate these facilities or programs pursuant to ~~the provisions~~  
225 ~~of~~ s. 985.688. The criminal justice agency providing such data  
226 may assess a charge for the Florida criminal history records  
227 pursuant to ~~the provisions of~~ chapter 119. Sealed records and  
228 confidential juvenile records received by the private entity  
229 under this section remain confidential and exempt from ~~the~~  
230 ~~provisions of~~ s. 119.07(1). Information provided under this  
231 section shall be used only for the criminal justice purpose for  
232 which it was requested and may not be further disseminated.

233 Section 3. Paragraph (b) of subsection (3) of section  
234 496.4101, Florida Statutes, is amended to read:

235 496.4101 Licensure of professional solicitors and certain  
 236 employees thereof.—

237 (3)

238 (b) Fees for state and federal fingerprint processing and  
 239 fingerprint retention fees shall be borne by the applicant. The  
 240 state cost for fingerprint processing is that authorized in s.  
 241 943.053(3)(e) ~~943.053(3)(b)~~ for records provided to persons or  
 242 entities other than those specified as exceptions therein.

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

245 943.056 Criminal history records; access, review, and  
 246 challenge.—

247 (1) For purposes of verification of the accuracy and  
 248 completeness of a criminal history record, the Department of Law  
 249 Enforcement shall provide, in the manner prescribed by rule,  
 250 such record for review upon verification, by fingerprints, of  
 251 the identity of the requesting person. If a minor, or the parent  
 252 or legal guardian of a minor, requests a copy of the minor's  
 253 criminal history record, the Department of Law Enforcement shall  
 254 provide such copy, including any portions of the record which  
 255 may be confidential under s. 943.053(3)(b), for review upon  
 256 verification, by fingerprints, of the identity of the minor. The  
 257 providing of such record shall not require the payment of any  
 258 fees, except those provided for by federal regulations.

259 Section 5. The Legislature finds that it is a public  
 260 necessity that the criminal history information of juveniles,

HB 7103

2015

261 who have not been adjudicated delinquent of a felony or who have  
262 been found only to have committed misdemeanor offenses and  
263 certain criminal history information relating to a juvenile  
264 compiled by the Criminal Justice Information Program be made  
265 confidential and exempt from s. 119.07(1), Florida Statutes, and  
266 s. 24(a), Article I of the State Constitution under ss. 985.04  
267 and 943.053, Florida Statutes. Many individuals who have either  
268 completed their sanctions and received treatment or who were  
269 never charged in the juvenile justice system have found it  
270 difficult to obtain employment. The presence of an arrest or a  
271 misdemeanor record in these individuals' juvenile past and  
272 certain criminal history information relating to a juvenile  
273 compiled by the Criminal Justice Information Program creates an  
274 unnecessary barrier to becoming productive members of society,  
275 thus frustrating the rehabilitative purpose of the juvenile  
276 system. The Legislature therefore finds that it is in the best  
277 interest of the public that individuals with juvenile  
278 misdemeanor records are given the opportunity to become  
279 contributing members of society. Therefore, prohibiting the  
280 unfettered release of juvenile misdemeanor records and certain  
281 criminal history information relating to a juvenile compiled by  
282 the Criminal Justice Information Program is of greater  
283 importance than any public benefit that may be derived from the  
284 full disclosure and release of such arrest records and  
285 information.

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