

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative Bracy offered the following:

4
 5 **Amendment (with title amendment)**

6 Between lines 259 and 260, insert:

7 Section 5. For the purpose of incorporating the amendment
 8 made by this act to section 943.053, Florida Statutes, in a
 9 reference thereto, subsection (4) of section 110.1127, Florida
 10 Statutes, is reenacted to read:

11 110.1127 Employee background screening and
 12 investigations.—

13 (4) Background screening and investigations shall be
 14 conducted at the expense of the employing agency. If
 15 fingerprinting is required, the fingerprints shall be taken by
 16 the employing agency, a law enforcement agency, or a vendor as
 17 authorized pursuant to s. 435.04, submitted to the Department of

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18 Law Enforcement for state processing, and forwarded by the
19 Department of Law Enforcement to the Federal Bureau of
20 Investigation for national processing. The agency or vendor
21 shall remit the processing fees required by s. 943.053 to the
22 Department of Law Enforcement.

23 Section 6. For the purpose of incorporating the amendment
24 made by this act to section 943.053, Florida Statutes, in a
25 reference thereto, paragraph (a) of subsection (3) of section
26 373.6055, Florida Statutes, is reenacted to read:

27 373.6055 Criminal history checks for certain water
28 management district employees and others.—

29 (3) (a) The fingerprint-based criminal history check shall
30 be performed on any person described in subsection (1) pursuant
31 to the applicable water management district's security plan for
32 buildings, facilities, and structures. With respect to employees
33 or others with regular access, such checks shall be performed at
34 least once every 5 years or at other more frequent intervals as
35 provided by the water management district's security plan for
36 buildings, facilities, and structures. Each individual subject
37 to the criminal history check shall file a complete set of
38 fingerprints which are taken in a manner required by the
39 Department of Law Enforcement and the water management district
40 security plan. Fingerprints shall be submitted to the Department
41 of Law Enforcement for state processing and to the Federal
42 Bureau of Investigation for federal processing. The results of
43 each fingerprint-based check shall be reported to the requesting

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44 water management district. The costs of the checks, consistent
45 with s. 943.053(3), shall be paid by the water management
46 district or other employing entity or by the individual checked.

47 Section 7. For the purpose of incorporating the amendment
48 made by this act to section 943.053, Florida Statutes, in a
49 reference thereto, subsection (6) of section 408.809, Florida
50 Statutes, is reenacted to read:

51 408.809 Background screening; prohibited offenses.—

52 (6) The costs associated with obtaining the required
53 screening must be borne by the licensee or the person subject to
54 screening. Licensees may reimburse persons for these costs. The
55 Department of Law Enforcement shall charge the agency for
56 screening pursuant to s. 943.053(3). The agency shall establish
57 a schedule of fees to cover the costs of screening.

58 Section 8. For the purpose of incorporating the amendment
59 made by this act to section 943.053, Florida Statutes, in a
60 reference thereto, subsection (1) of section 943.046, Florida
61 Statutes, is reenacted to read:

62 943.046 Notification of criminal offender information.—

63 (1) Any state or local law enforcement agency may release
64 to the public any criminal history information and other
65 information regarding a criminal offender, including, but not
66 limited to, public notification by the agency of the
67 information, unless the information is confidential and exempt
68 from s. 119.07(1) and s. 24(a), Art. I of the State
69 Constitution. However, this section does not contravene any

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70 provision of s. 943.053 which relates to the method by which an
71 agency or individual may obtain a copy of an offender's criminal
72 history record.

73 Section 9. For the purpose of incorporating the amendment
74 made by this act to section 943.053, Florida Statutes, in a
75 reference thereto, paragraph (h) of subsection (2) of section
76 943.05, Florida Statutes, is reenacted to read:

77 943.05 Criminal Justice Information Program; duties; crime
78 reports.—

79 (2) The program shall:

80 (h) For each agency or qualified entity that officially
81 requests retention of fingerprints or for which retention is
82 otherwise required by law, search all arrest fingerprint
83 submissions received under s. 943.051 against the fingerprints
84 retained in the statewide automated biometric identification
85 system under paragraph (g).

86 1. Any arrest record that is identified with the retained
87 fingerprints of a person subject to background screening as
88 provided in paragraph (g) shall be reported to the appropriate
89 agency or qualified entity.

90 2. To participate in this search process, agencies or
91 qualified entities must notify each person fingerprinted that
92 his or her fingerprints will be retained, pay an annual fee to
93 the department unless otherwise provided by law, and inform the
94 department of any change in the affiliation, employment, or
95 contractual status of each person whose fingerprints are

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96 retained under paragraph (g) if such change removes or
97 eliminates the agency or qualified entity's basis or need for
98 receiving reports of any arrest of that person, so that the
99 agency or qualified entity is not obligated to pay the upcoming
100 annual fee for the retention and searching of that person's
101 fingerprints to the department. The department shall adopt a
102 rule setting the amount of the annual fee to be imposed upon
103 each participating agency or qualified entity for performing
104 these searches and establishing the procedures for the retention
105 of fingerprints and the dissemination of search results. The fee
106 may be borne by the agency, qualified entity, or person subject
107 to fingerprint retention or as otherwise provided by law.
108 Consistent with the recognition of criminal justice agencies
109 expressed in s. 943.053(3), these services shall be provided to
110 criminal justice agencies for criminal justice purposes free of
111 charge. Qualified entities that elect to participate in the
112 fingerprint retention and search process are required to timely
113 remit the fee to the department by a payment mechanism approved
114 by the department. If requested by the qualified entity, and
115 with the approval of the department, such fees may be timely
116 remitted to the department by a qualified entity upon receipt of
117 an invoice for such fees from the department. Failure of a
118 qualified entity to pay the amount due on a timely basis or as
119 invoiced by the department may result in the refusal by the
120 department to permit the qualified entity to continue to

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121 participate in the fingerprint retention and search process
122 until all fees due and owing are paid.

123 3. Agencies that participate in the fingerprint retention
124 and search process may adopt rules pursuant to ss. 120.536(1)
125 and 120.54 to require employers to keep the agency informed of
126 any change in the affiliation, employment, or contractual status
127 of each person whose fingerprints are retained under paragraph
128 (g) if such change removes or eliminates the agency's basis or
129 need for receiving reports of any arrest of that person, so that
130 the agency is not obligated to pay the upcoming annual fee for
131 the retention and searching of that person's fingerprints to the
132 department.

133 Section 10. For the purpose of incorporating the amendment
134 made by this act to section 943.053, Florida Statutes, in a
135 reference thereto, paragraph (c) of subsection (2) of section
136 943.0542, Florida Statutes, is reenacted to read:

137 943.0542 Access to criminal history information provided
138 by the department to qualified entities.—

139 (2)

140 (c) Each such request must be accompanied by payment of a
141 fee for a statewide criminal history check by the department
142 established by s. 943.053, plus the amount currently prescribed
143 by the Federal Bureau of Investigation for the national criminal
144 history check in compliance with the National Child Protection
145 Act of 1993, as amended. Payments must be made in the manner
146 prescribed by the department by rule.

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147 Section 11. For the purpose of incorporating the amendment
148 made by this act to section 943.053, Florida Statutes, in a
149 reference thereto, subsection (5) of section 943.0543, Florida
150 Statutes, is reenacted to read:

151 943.0543 National Crime Prevention and Privacy Compact;
152 ratification and implementation.—

153 (5) This compact and this section do not affect or abridge
154 the obligations and responsibilities of the department under
155 other provisions of this chapter, including s. 943.053, and do
156 not alter or amend the manner, direct or otherwise, in which the
157 public is afforded access to criminal history records under
158 state law.

159 Section 12. For the purpose of incorporating the
160 amendments made by this act to sections 943.053 and 985.04,
161 Florida Statutes, in references thereto, subsection (2) of
162 section 985.045, Florida Statutes, is reenacted to read:

163 985.045 Court records.—

164 (2) The clerk shall keep all official records required by
165 this section separate from other records of the circuit court,
166 except those records pertaining to motor vehicle violations,
167 which shall be forwarded to the Department of Highway Safety and
168 Motor Vehicles. Except as provided in ss. 943.053 and
169 985.04(6)(b) and (7), official records required by this chapter
170 are not open to inspection by the public, but may be inspected
171 only upon order of the court by persons deemed by the court to
172 have a proper interest therein, except that a child and the

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173 parents, guardians, or legal custodians of the child and their
174 attorneys, law enforcement agencies, the Department of Juvenile
175 Justice and its designees, the Florida Commission on Offender
176 Review, the Department of Corrections, and the Justice
177 Administrative Commission shall always have the right to inspect
178 and copy any official record pertaining to the child. Public
179 defender offices shall have access to official records of
180 juveniles on whose behalf they are expected to appear in
181 detention or other hearings before an appointment of
182 representation. The court may permit authorized representatives
183 of recognized organizations compiling statistics for proper
184 purposes to inspect, and make abstracts from, official records
185 under whatever conditions upon the use and disposition of such
186 records the court may deem proper and may punish by contempt
187 proceedings any violation of those conditions.

188 Section 13. For the purpose of incorporating the
189 amendments made by this act to sections 943.053 and 985.04,
190 Florida Statutes, in references thereto, paragraph (b) of
191 subsection (1) of section 985.11, Florida Statutes, is reenacted
192 to read:

193 985.11 Fingerprinting and photographing.—

194 (1)

195 (b) Unless the child is issued a civil citation or is
196 participating in a similar diversion program pursuant to s.
197 985.12, a child who is charged with or found to have committed
198 one of the following offenses shall be fingerprinted, and the

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199 fingerprints shall be submitted to the Department of Law
200 Enforcement as provided in s. 943.051(3)(b):

- 201 1. Assault, as defined in s. 784.011.
- 202 2. Battery, as defined in s. 784.03.
- 203 3. Carrying a concealed weapon, as defined in s.
204 790.01(1).
- 205 4. Unlawful use of destructive devices or bombs, as
206 defined in s. 790.1615(1).
- 207 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 208 6. Assault on a law enforcement officer, a firefighter, or
209 other specified officers, as defined in s. 784.07(2)(a).
- 210 7. Open carrying of a weapon, as defined in s. 790.053.
- 211 8. Exposure of sexual organs, as defined in s. 800.03.
- 212 9. Unlawful possession of a firearm, as defined in s.
213 790.22(5).
- 214 10. Petit theft, as defined in s. 812.014.
- 215 11. Cruelty to animals, as defined in s. 828.12(1).
- 216 12. Arson, resulting in bodily harm to a firefighter, as
217 defined in s. 806.031(1).
- 218 13. Unlawful possession or discharge of a weapon or
219 firearm at a school-sponsored event or on school property as
220 defined in s. 790.115.

221

222 A law enforcement agency may fingerprint and photograph a child
223 taken into custody upon probable cause that such child has
224 committed any other violation of law, as the agency deems

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225 appropriate. Such fingerprint records and photographs shall be
226 retained by the law enforcement agency in a separate file, and
227 these records and all copies thereof must be marked "Juvenile
228 Confidential." These records are not available for public
229 disclosure and inspection under s. 119.07(1) except as provided
230 in ss. 943.053 and 985.04(2), but shall be available to other
231 law enforcement agencies, criminal justice agencies, state
232 attorneys, the courts, the child, the parents or legal
233 custodians of the child, their attorneys, and any other person
234 authorized by the court to have access to such records. In
235 addition, such records may be submitted to the Department of Law
236 Enforcement for inclusion in the state criminal history records
237 and used by criminal justice agencies for criminal justice
238 purposes. These records may, in the discretion of the court, be
239 open to inspection by anyone upon a showing of cause. The
240 fingerprint and photograph records shall be produced in the
241 court whenever directed by the court. Any photograph taken
242 pursuant to this section may be shown by a law enforcement
243 officer to any victim or witness of a crime for the purpose of
244 identifying the person who committed such crime.

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246
247 **T I T L E A M E N D M E N T**

248 Remove line 20 and insert:

249 changes made by the act; reenacting s. 110.1127(4), F.S.,
250 relating to employee background screening and investigations, to

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 293 (2016)

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251 incorporate the amendment made by the act to s. 943.053, F.S.,
252 in a reference thereto; reenacting s. 373.6055(3)(a), F.S.,
253 relating to criminal history checks for certain water
254 managaement district employees and others, to incorporate the
255 amendment made by the act to s. 943.053, F.S., in a reference
256 thereto; reenacting s. 408.809(6), F.S., relating to background
257 screening, to incorporate the amendment made by the act to s.
258 943.053, F.S., in a reference thereto; reenacting s. 943.046(1),
259 F.S., relating to notification of criminal offender information,
260 to incorporate the amendment made by the act to s. 943.053,
261 F.S., in a reference thereto; reenacting s. 943.05(2)(h), F.S.,
262 relating to Criminal Justice Information Program, to incorporate
263 the amendment made by the act to s. 943.053, F.S., in a
264 reference thereto; reenacting s. 943.0542(2)(c), F.S., relating
265 to access to criminal history information provided by the
266 department to qualified entities, to incorporate the amendment
267 made by the act to s. 943.053, F.S., in a reference thereto;
268 reenacting s. 943.0543(5), F.S., relating to National Crime
269 Prevention and Privacy Compact, to incorporate the amendment
270 made by the act to s. 943.053, F.S., in a reference thereto;
271 reenacting s. 985.045(2), F.S., relating to court records, to
272 incorporate the amendments made by the act to ss. 943.053 and
273 985.04, F.S., in references thereto; reenacting s. 985.11(1)(b),
274 F.S., relating to fingerprinting and photographing, to
275 incorporate the amendments made by the act to ss. 943.053 and
276 985.04, F.S., in references thereto; providing a statement of

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