

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

67 1. (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 2. Charged with a violation of law which, if committed by  
71 an adult, would be a felony;

72 3. Found to have committed an offense which, if committed  
73 by an adult, would be a felony; or

74 4. Transferred to adult court pursuant to part X of this  
75 chapter,

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

79 ~~(c) Transferred to the adult system under s. 985.557,~~  
 80 ~~indicted under s. 985.56, or waived under s. 985.556;~~

81 ~~(d) Taken into custody by a law enforcement officer for a~~  
 82 ~~violation of law subject to s. 985.557(2) (b) or (d); or~~

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

85  
 86 are ~~shall~~ not ~~be~~ considered confidential and exempt from s.  
 87 119.07(1) solely because of the child's age.

88 (b) This subsection is subject to the Open Government  
 89 Sunset Review Act in accordance with s. 119.15 and shall stand  
 90 repealed on October 2, 2021, unless reviewed and saved from  
 91 repeal through reenactment by the Legislature.

92 Section 2. Subsections (3), (8), (9), and (10) of section  
 93 943.053, Florida Statutes, are amended to read:

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

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

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

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

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

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

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

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

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

128 2. This paragraph is subject to the Open Government Sunset  
 129 Review Act in accordance with s. 119.15 and shall stand repealed  
 130 on October 2, 2021, unless reviewed and saved from repeal

131 through reenactment by the Legislature.

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

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

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

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

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

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

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

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

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

171 (e) ~~(b)~~ The fee per record for criminal history information  
172 provided pursuant to this subsection and s. 943.0542 is \$24 per  
173 name submitted, except that the fee for the guardian ad litem  
174 program and vendors of the Department of Children and Families,  
175 the Department of Juvenile Justice, and the Department of  
176 Elderly Affairs shall be \$8 for each name submitted; the fee for  
177 a state criminal history provided for application processing as  
178 required by law to be performed by the Department of Agriculture  
179 and Consumer Services shall be \$15 for each name submitted; and  
180 the fee for requests under s. 943.0542, which implements the  
181 National Child Protection Act, shall be \$18 for each volunteer  
182 name submitted. The state offices of the Public Defender shall

183 not be assessed a fee for Florida criminal history information  
184 or wanted person information.

185 (8) Notwithstanding ~~the provisions of~~ s. 943.0525, and any  
186 user agreements adopted pursuant thereto, and notwithstanding  
187 the confidentiality of sealed records as provided for in s.  
188 943.059 and juvenile records as provided for in paragraph  
189 (3)(b), the sheriff of any county that has contracted with a  
190 private entity to operate a county detention facility pursuant  
191 to ~~the provisions of~~ s. 951.062 shall provide that private  
192 entity, in a timely manner, copies of the Florida criminal  
193 history records for its inmates. The sheriff may assess a charge  
194 for the Florida criminal history records pursuant to ~~the~~  
195 ~~provisions of~~ chapter 119. Sealed records and confidential  
196 juvenile records received by the private entity under this  
197 section remain confidential and exempt from ~~the provisions of~~ s.  
198 119.07(1).

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



209 ~~provisions of~~ chapter 119. Sealed records and confidential  
 210 juvenile records received by the private entity under this  
 211 section remain confidential and exempt from ~~the provisions of~~ s.  
 212 119.07(1).

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

234 Section 3. Paragraph (b) of subsection (3) of section

235 496.4101, Florida Statutes, is amended to read:

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

238 (3)

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

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

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

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

260 Section 5. The Legislature finds that it is a public

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

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