

By Senator Soto

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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), and
29 (7) and s. 943.053, all information obtained under this chapter

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

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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 ~~custody~~ 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.

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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

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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 chapter
124 985,

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

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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,

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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

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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

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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,

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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.

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