

By the Committee on Fiscal Policy; and Senator Soto

594-03755-16

2016700c1

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; authorizing a
9 custodian to not post on the custodian's website
10 certain arrest or booking photographs of a child;
11 providing for future review and repeal of such
12 applicability provisions; amending s. 943.053, F.S.;
13 providing an exemption from public records
14 requirements for juvenile information compiled by the
15 Criminal Justice Information Program from intrastate
16 sources; providing exceptions; providing for future
17 review and repeal of the exemption; providing for
18 release by the Department of Law Enforcement of the
19 criminal history information of a juvenile which has
20 been deemed confidential and exempt under certain
21 circumstances; amending ss. 496.4101 and 943.056,
22 F.S.; conforming provisions to changes made by the
23 act; providing a statement of public necessity;
24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Subsections (1) and (2) of section 985.04,
29 Florida Statutes, are amended to read:

30 985.04 Oaths; records; confidential information.—

31 (1) (a) Except as provided in subsections (2), (3), (6), and
32 (7) and s. 943.053, all information obtained under this chapter

594-03755-16

2016700c1

33 in the discharge of official duty by any judge, any employee of
34 the court, any authorized agent of the department, the Florida
35 Commission on Offender Review, the Department of Corrections,
36 the juvenile justice circuit boards, any law enforcement agent,
37 or any licensed professional or licensed community agency
38 representative participating in the assessment or treatment of a
39 juvenile is confidential and exempt from s. 119.07(1) and s.
40 24(a), Art. I of the State Constitution. This exemption applies
41 to information obtained before, on, or after the effective date
42 of this exemption.

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

52 (c) Within each county, the sheriff, the chiefs of police,
53 the district school superintendent, and the department shall
54 enter into an interagency agreement for the purpose of sharing
55 information about juvenile offenders among all parties. The
56 agreement must specify the conditions under which summary
57 criminal history information is to be made available to
58 appropriate school personnel, and the conditions under which
59 school records are to be made available to appropriate
60 department personnel. Such agreement shall require notification
61 to any classroom teacher of assignment to the teacher's

594-03755-16

2016700c1

62 classroom of a juvenile who has been placed in a probation or
63 commitment program for a felony offense. The agencies entering
64 into such agreement must comply with s. 943.0525, and must
65 maintain the confidentiality of information that is otherwise
66 exempt from s. 119.07(1), as provided by law.

67 (2) (a) Notwithstanding any other provisions of this
68 chapter, the name, photograph, address, and crime or arrest
69 report of a child:

70 1. (a) Taken into custody ~~if the child has been taken into~~
71 ~~custody~~ by a law enforcement officer for a violation of law
72 which, if committed by an adult, would be a felony;

73 2. Charged with a violation of law which, if committed by
74 an adult, would be a felony;

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

77 4. Transferred to adult court pursuant to part X of this
78 chapter,

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

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

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

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

88
89 are shall not be considered confidential and exempt from s.
90 119.07(1) solely because of the child's age. For arrest or

594-03755-16

2016700c1

91 booking photographs of a child not confidential and exempt under
92 this subsection, a custodian of public records may choose not to
93 electronically post such arrest or booking photograph on the
94 custodian's website, although this does not restrict public
95 access to records as provided under this subsection.

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

100 Section 2. Subsections (3), (8), (9), and (10) of section
101 943.053, Florida Statutes, are amended to read:

102 943.053 Dissemination of criminal justice information;
103 fees.—

104 (3) (a) Criminal history information, ~~including information~~
105 relating to an adult ~~minors~~, compiled by the Criminal Justice
106 Information Program from intrastate sources shall be available
107 on a priority basis to criminal justice agencies for criminal
108 justice purposes free of charge. After providing the program
109 with all known personal identifying information, persons in the
110 private sector and noncriminal justice agencies may be provided
111 criminal history information upon tender of fees as established
112 in this subsection and in the manner prescribed by rule of the
113 Department of Law Enforcement. ~~Any access to criminal history~~
114 ~~information by the private sector or noncriminal justice~~
115 ~~agencies as provided in this subsection shall be assessed~~
116 ~~without regard to the quantity or category of criminal history~~
117 ~~record information requested.~~

118 (b)1. Criminal history information relating to a juvenile
119 compiled by the Criminal Justice Information Program from

594-03755-16

2016700c1

120 intrastate sources shall be released as provided in this
121 section. Such information is confidential and exempt from s.
122 119.07(1) and s. 24(a), Art. I of the State Constitution, unless
123 such juvenile has been:

124 a. Taken into custody by a law enforcement officer for a
125 violation of law which, if committed by an adult, would be a
126 felony;

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

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

131 d. Transferred to adult court pursuant to part X of chapter
132 985,

133
134 and provided the criminal history record has not been expunged
135 or sealed under any law applicable to such record.

136 2. This paragraph is subject to the Open Government Sunset
137 Review Act in accordance with s. 119.15 and shall stand repealed
138 on October 2, 2021, unless reviewed and saved from repeal
139 through reenactment by the Legislature.

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

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

146 b. The person to whom the record relates, or his or her
147 attorney;

148 c. The parent, guardian, or legal custodian of the person

594-03755-16

2016700c1

149 to whom the record relates, provided such person has not reached
150 the age of majority, been emancipated by a court, or been
151 legally married; or

152 d. An agency or entity specified in s. 943.0585(4) or s.
153 943.059(4), for the purposes specified therein, and to any
154 person within such agency or entity who has direct
155 responsibility for employment, access authorization, or
156 licensure decisions.

157 2. After providing the program with all known personal
158 identifying information, the criminal history information
159 relating to a juvenile which is not confidential and exempt
160 under this subsection may be released to the private sector and
161 noncriminal justice agencies not specified in s. 943.0585(4) or
162 s. 943.059(4) in the same manner as provided in paragraph (a).
163 Criminal history information relating to a juvenile which is not
164 confidential and exempt under this subsection is the entire
165 criminal history information relating to a juvenile who
166 satisfies any of the criteria listed in sub-subparagraphs
167 (b)1.a. through (b)1.d., except for any portion of such
168 juvenile's criminal history record which has been expunged or
169 sealed under any law applicable to such record.

170 3. All criminal history information relating to juveniles,
171 other than that provided to criminal justice agencies for
172 criminal justice purposes, shall be provided upon tender of fees
173 as established in this subsection and in the manner prescribed
174 by rule of the Department of Law Enforcement.

175 (d) The fee for access to criminal history information by
176 the private sector or a noncriminal justice agency shall be
177 assessed without regard to the size or category of criminal

594-03755-16

2016700c1

178 history record information requested.

179 (e) ~~(b)~~ The fee per record for criminal history information
180 provided pursuant to this subsection and s. 943.0542 is \$24 per
181 name submitted, except that the fee for the guardian ad litem
182 program and vendors of the Department of Children and Families,
183 the Department of Juvenile Justice, and the Department of
184 Elderly Affairs shall be \$8 for each name submitted; the fee for
185 a state criminal history provided for application processing as
186 required by law to be performed by the Department of Agriculture
187 and Consumer Services shall be \$15 for each name submitted; and
188 the fee for requests under s. 943.0542, which implements the
189 National Child Protection Act, shall be \$18 for each volunteer
190 name submitted. The state offices of the Public Defender shall
191 not be assessed a fee for Florida criminal history information
192 or wanted person information.

193 (8) Notwithstanding ~~the provisions of~~ s. 943.0525, and any
194 user agreements adopted pursuant thereto, and notwithstanding
195 the confidentiality of sealed records as provided for in s.
196 943.059 and juvenile records as provided for in paragraph
197 (3)(b), the sheriff of any county that has contracted with a
198 private entity to operate a county detention facility pursuant
199 to ~~the provisions of~~ s. 951.062 shall provide that private
200 entity, in a timely manner, copies of the Florida criminal
201 history records for its inmates. The sheriff may assess a charge
202 for the Florida criminal history records pursuant to ~~the~~
203 ~~provisions of~~ chapter 119. Sealed records and confidential
204 juvenile records received by the private entity under this
205 section remain confidential and exempt from ~~the provisions of~~ s.
206 119.07(1).

594-03755-16

2016700c1

207 (9) Notwithstanding ~~the provisions of~~ s. 943.0525, and any
208 user agreements adopted pursuant thereto, and notwithstanding
209 the confidentiality of sealed records as provided for in s.
210 943.059 and juvenile records as provided for in paragraph
211 (3) (b), the Department of Corrections shall provide, in a timely
212 manner, copies of the Florida criminal history records for
213 inmates housed in a private state correctional facility to the
214 private entity under contract to operate the facility pursuant
215 to ~~the provisions of~~ s. 944.105. The department may assess a
216 charge for the Florida criminal history records pursuant to ~~the~~
217 ~~provisions of~~ chapter 119. Sealed records and confidential
218 juvenile records received by the private entity under this
219 section remain confidential and exempt from ~~the provisions of~~ s.
220 119.07(1).

221 (10) Notwithstanding ~~the provisions of~~ s. 943.0525 and any
222 user agreements adopted pursuant thereto, and notwithstanding
223 the confidentiality of sealed records as provided for in s.
224 943.059 or of juvenile records as provided for in paragraph
225 (3) (b), the Department of Juvenile Justice or any other state or
226 local criminal justice agency may provide copies of the Florida
227 criminal history records for juvenile offenders currently or
228 formerly detained or housed in a contracted juvenile assessment
229 center or detention facility or serviced in a contracted
230 treatment program and for employees or other individuals who
231 will have access to these facilities, only to the entity under
232 direct contract with the Department of Juvenile Justice to
233 operate these facilities or programs pursuant to ~~the provisions~~
234 ~~of~~ s. 985.688. The criminal justice agency providing such data
235 may assess a charge for the Florida criminal history records

594-03755-16

2016700c1

236 pursuant to ~~the provisions of~~ chapter 119. Sealed records and
237 confidential juvenile records received by the private entity
238 under this section remain confidential and exempt from ~~the~~
239 ~~provisions of~~ s. 119.07(1). Information provided under this
240 section shall be used only for the criminal justice purpose for
241 which it was requested and may not be further disseminated.

242 Section 3. Paragraph (b) of subsection (3) of section
243 496.4101, Florida Statutes, is amended to read:

244 496.4101 Licensure of professional solicitors and certain
245 employees thereof.—

246 (3)

247 (b) Fees for state and federal fingerprint processing and
248 fingerprint retention fees shall be borne by the applicant. The
249 state cost for fingerprint processing is that authorized in s.
250 943.053(3)(e) ~~943.053(3)(b)~~ for records provided to persons or
251 entities other than those specified as exceptions therein.

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

254 943.056 Criminal history records; access, review, and
255 challenge.—

256 (1) For purposes of verification of the accuracy and
257 completeness of a criminal history record, the Department of Law
258 Enforcement shall provide, in the manner prescribed by rule,
259 such record for review upon verification, by fingerprints, of
260 the identity of the requesting person. If a minor, or the parent
261 or legal guardian of a minor, requests a copy of the minor's
262 criminal history record, the Department of Law Enforcement shall
263 provide such copy, including any portions of the record which
264 may be confidential under s. 943.053(3)(b), for review upon

594-03755-16

2016700c1

265 verification, by fingerprints, of the identity of the minor. The
266 providing of such record shall not require the payment of any
267 fees, except those provided for by federal regulations.

268 Section 5. The Legislature finds that it is a public
269 necessity that the criminal history information of juveniles,
270 who have not been adjudicated delinquent of a felony or who have
271 been found only to have committed misdemeanor offenses and
272 certain criminal history information relating to a juvenile
273 compiled by the Criminal Justice Information Program be made
274 confidential and exempt from s. 119.07(1), Florida Statutes, and
275 s. 24(a), Article I of the State Constitution under ss. 985.04
276 and 943.053, Florida Statutes. Many individuals who have either
277 completed their sanctions and received treatment or who were
278 never charged in the juvenile justice system have found it
279 difficult to obtain employment. The presence of an arrest or a
280 misdemeanor record in these individuals' juvenile past and
281 certain criminal history information relating to a juvenile
282 compiled by the Criminal Justice Information Program creates an
283 unnecessary barrier to becoming productive members of society,
284 thus frustrating the rehabilitative purpose of the juvenile
285 system. The Legislature therefore finds that it is in the best
286 interest of the public that individuals with juvenile
287 misdemeanor records are given the opportunity to become
288 contributing members of society. Therefore, prohibiting the
289 unfettered release of juvenile misdemeanor records and certain
290 criminal history information relating to a juvenile compiled by
291 the Criminal Justice Information Program is of greater
292 importance than any public benefit that may be derived from the
293 full disclosure and release of such arrest records and

594-03755-16

2016700c1

294 information.

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