

By Senator Thurston

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 943.0515, F.S.; specifying that certain information
4 retained by the Criminal Justice Information Program
5 relating to juvenile offenders is exempt from public
6 records requirements; providing for future legislative
7 review and repeal of the exemption; amending s.
8 943.053, F.S.; deleting exceptions from an exemption
9 from public records requirements for certain
10 information relating to juvenile offenders; providing
11 for future legislative review and repeal of the
12 exemption; conforming a provision to changes made by
13 the act; providing a statement of public necessity;
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Subsection (1) of section 943.0515, Florida
19 Statutes, is amended to read:

20 943.0515 Retention of criminal history records of minors.—

21 (1) (a) 1. The Criminal Justice Information Program shall
22 retain the criminal history record of a minor who is classified
23 as a serious or habitual juvenile offender or committed to a
24 juvenile correctional facility or juvenile prison under chapter
25 985 for 5 years after the date the offender reaches 21 years of
26 age, at which time the record shall be expunged unless it meets
27 the criteria of paragraph (2) (a) or paragraph (2) (b).

28 2. Such information held by the program is confidential and
29 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

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30 Constitution. This subparagraph is subject to the Open
31 Government Sunset Review Act in accordance with s. 119.15 and
32 shall stand repealed on October 2, 2022, unless reviewed and
33 saved from repeal through reenactment by the Legislature.

34 (b)1. If the minor is not classified as a serious or
35 habitual juvenile offender or committed to a juvenile
36 correctional facility or juvenile prison under chapter 985, the
37 program shall retain the minor's criminal history record for 2
38 years after the date the minor reaches 19 years of age, at which
39 time the record shall be expunged unless it meets the criteria
40 of paragraph (2) (a) or paragraph (2) (b).

41 2. A minor described in subparagraph 1. may apply to the
42 department to have his or her criminal history record expunged
43 before the minor reaches 21 years of age. To be eligible for
44 expunction under this subparagraph, the minor must be 18 years
45 of age or older and less than 21 years of age and have not been
46 charged by the state attorney with or found to have committed
47 any criminal offense within the 5-year period before the
48 application date. The only offenses eligible to be expunged
49 under this subparagraph are those that the minor committed
50 before the minor reached 18 years of age. A criminal history
51 record expunged under this subparagraph requires the approval of
52 the state attorney for each circuit in which an offense
53 specified in the criminal history record occurred. A minor
54 seeking to expunge a criminal history record under this
55 subparagraph shall apply to the department for expunction in the
56 manner prescribed by rule. An application for expunction under
57 this subparagraph shall include:

58 a. A processing fee of \$75 to the department for placement

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59 in the Department of Law Enforcement Operating Trust Fund,
60 unless such fee is waived by the executive director.

61 b. A full set of fingerprints of the applicant taken by a
62 law enforcement agency for purposes of identity verification.

63 c. A sworn, written statement from the minor seeking relief
64 that he or she is no longer under court supervision applicable
65 to the disposition of the arrest or alleged criminal activity to
66 which the application to expunge pertains and that he or she has
67 not been charged with or found to have committed a criminal
68 offense, in any jurisdiction of the state or within the United
69 States, within the 5-year period before the application date. A
70 person who knowingly provides false information on the sworn
71 statement required by this sub-subparagraph commits a
72 misdemeanor of the first degree, punishable as provided in s.
73 775.082 or s. 775.083.

74 3. A minor who applies, but who is not approved for early
75 expunction in accordance with subparagraph 2., shall have his or
76 her criminal history record expunged at age 21 if eligible under
77 subparagraph 1.

78 Section 2. Paragraphs (b) and (c) of subsection (3) of
79 section 943.053, Florida Statutes, are amended to read:

80 943.053 Dissemination of criminal justice information;
81 fees.—

82 (3)

83 (b)1. Criminal history information relating to a juvenile
84 compiled by the Criminal Justice Information Program from
85 intrastate sources shall be released as provided in this
86 section. Such information is confidential and exempt from s.
87 119.07(1) and s. 24(a), Art. I of the State Constitution, unless

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88 such juvenile has been:

89 ~~a. Taken into custody by a law enforcement officer for a~~
90 ~~violation of law which, if committed by an adult, would be a~~
91 ~~felony;~~

92 ~~b. Charged with a violation of law which, if committed by~~
93 ~~an adult, would be a felony;~~

94 ~~c. Found to have committed an offense which, if committed~~
95 ~~by an adult, would be a felony; or~~

96 ~~d. transferred to adult court pursuant to part X of chapter~~
97 ~~985, and provided the criminal history record has not been~~
98 ~~expunged or sealed under any law applicable to such record.~~

99 2. This paragraph is subject to the Open Government Sunset
100 Review Act in accordance with s. 119.15 and shall stand repealed
101 on October 2, 2022 ~~2021~~, unless reviewed and saved from repeal
102 through reenactment by the Legislature.

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

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

109 b. The person to whom the record relates, or his or her
110 attorney;

111 c. The parent, guardian, or legal custodian of the person
112 to whom the record relates, provided such person has not reached
113 the age of majority, been emancipated by a court, or been
114 legally married; or

115 d. An agency or entity specified in s. 943.0585(4) or s.
116 943.059(4), for the purposes specified therein, and to any

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117 person within such agency or entity who has direct
118 responsibility for employment, access authorization, or
119 licensure decisions.

120 2. After providing the program with all known personal
121 identifying information, the criminal history information
122 relating to a juvenile which is not confidential and exempt
123 under this subsection may be released to the private sector and
124 noncriminal justice agencies not specified in s. 943.0585(4) or
125 s. 943.059(4) in the same manner as provided in paragraph (a).
126 Criminal history information relating to a juvenile which is not
127 confidential and exempt under this subsection is the entire
128 criminal history information relating to a juvenile who has been
129 transferred to adult court pursuant to part X of chapter 985
130 satisfies any of the criteria listed in sub-subparagraphs
131 (b)1.a.-d., except for any portion of such juvenile's criminal
132 history record which has been expunged or sealed under any law
133 applicable to such record.

134 3. All criminal history information relating to juveniles,
135 other than that provided to criminal justice agencies for
136 criminal justice purposes, shall be provided upon tender of fees
137 as established in this subsection and in the manner prescribed
138 by rule of the Department of Law Enforcement.

139 Section 3. The Legislature finds that it is a public
140 necessity that the criminal history information of juveniles be
141 made confidential and exempt from s. 119.07(1), Florida
142 Statutes, and s. 24(a), Article I of the State Constitution
143 under ss. 943.0515 and 943.053, Florida Statutes. Many
144 individuals who have either completed their sanctions and
145 received treatment or who were never charged in the juvenile

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146 justice system have found it difficult to obtain employment. The
147 presence of an arrest or a criminal history record in these
148 individuals' juvenile past and certain criminal history
149 information relating to a juvenile compiled by the Criminal
150 Justice Information Program creates an unnecessary barrier to
151 becoming productive members of society, thus frustrating the
152 rehabilitative purpose of the juvenile system. The Legislature
153 therefore finds that it is in the best interest of the public
154 that individuals with juvenile criminal history records are
155 given the opportunity to become contributing members of society.
156 Therefore, prohibiting the unfettered release of juvenile
157 criminal history records and certain criminal history
158 information relating to a juvenile compiled by the Criminal
159 Justice Information Program is of greater importance than any
160 public benefit that may be derived from the full disclosure and
161 release of such arrest records and information.

162 Section 4. This act shall take effect July 1, 2017.