

By the Committee on Criminal Justice

591-01974-21

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1 A bill to be entitled

2 An act relating to a review under the Open Government  
3 Sunset Review Act; amending ss. 943.053 and 985.04,  
4 F.S.; abrogating the scheduled repeals of public  
5 records exemptions relating to criminal history  
6 information of juveniles; providing an effective date.  
7

8 Be It Enacted by the Legislature of the State of Florida:  
9

10 Section 1. Subsection (3) of section 943.053, Florida  
11 Statutes, is amended to read:

12 943.053 Dissemination of criminal justice information;  
13 fees.—

14 (3) (a) Criminal history information relating to an adult,  
15 compiled by the Criminal Justice Information Program from  
16 intrastate sources shall be available on a priority basis to  
17 criminal justice agencies for criminal justice purposes free of  
18 charge. After providing the program with all known personal  
19 identifying information, persons in the private sector and  
20 noncriminal justice agencies may be provided criminal history  
21 information upon tender of fees as established in this  
22 subsection and in the manner prescribed by rule of the  
23 Department of Law Enforcement.

24 (b) ~~1.~~ Criminal history information relating to a juvenile  
25 compiled by the Criminal Justice Information Program from  
26 intrastate sources shall be released as provided in this  
27 section. Such information is confidential and exempt from s.  
28 119.07(1) and s. 24(a), Art. I of the State Constitution, unless  
29 such juvenile has been:

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30       ~~1.a.~~ Taken into custody by a law enforcement officer for a  
31 violation of law which, if committed by an adult, would be a  
32 felony;

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

35       ~~3.e.~~ Found to have committed an offense which, if committed  
36 by an adult, would be a felony; or

37       ~~4.d.~~ Transferred to adult court pursuant to part X of  
38 chapter 985,

39  
40 and provided the criminal history record has not been expunged  
41 or sealed under any law applicable to such record.

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43 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~  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

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

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

52       b. The person to whom the record relates, or his or her  
53 attorney;

54       c. The parent, guardian, or legal custodian of the person  
55 to whom the record relates, provided such person has not reached  
56 the age of majority, been emancipated by a court, or been  
57 legally married; or

58       d. An agency or entity specified in s. 943.0585(6) or s.

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59 943.059(6), for the purposes specified therein, and to any  
60 person within such agency or entity who has direct  
61 responsibility for employment, access authorization, or  
62 licensure decisions.

63 2. After providing the program with all known personal  
64 identifying information, the criminal history information  
65 relating to a juvenile which is not confidential and exempt  
66 under this subsection may be released to the private sector and  
67 noncriminal justice agencies not specified in s. 943.0585(6) or  
68 s. 943.059(6) in the same manner as provided in paragraph (a).  
69 Criminal history information relating to a juvenile which is not  
70 confidential and exempt under this subsection is the entire  
71 criminal history information relating to a juvenile who  
72 satisfies any of the criteria listed in subparagraphs (b)1.-4.  
73 ~~sub-subparagraphs (b)1.a.-d.~~, except for any portion of such  
74 juvenile's criminal history record which has been expunged or  
75 sealed under any law applicable to such record.

76 3. All criminal history information relating to juveniles,  
77 other than that provided to criminal justice agencies for  
78 criminal justice purposes, shall be provided upon tender of fees  
79 as established in this subsection and in the manner prescribed  
80 by rule of the Department of Law Enforcement.

81 (d) The fee for access to criminal history information by  
82 the private sector or a noncriminal justice agency shall be  
83 assessed without regard to the size or category of criminal  
84 history record information requested.

85 (e) The fee per record for criminal history information  
86 provided pursuant to this subsection and s. 943.0542 is \$24 per  
87 name submitted, except that the fee for the guardian ad litem

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88 program and vendors of the Department of Children and Families,  
89 the Department of Juvenile Justice, the Agency for Persons with  
90 Disabilities, and the Department of Elderly Affairs shall be \$8  
91 for each name submitted; the fee for a state criminal history  
92 provided for application processing as required by law to be  
93 performed by the Department of Agriculture and Consumer Services  
94 shall be \$15 for each name submitted; and the fee for requests  
95 under s. 943.0542, which implements the National Child  
96 Protection Act, shall be \$18 for each volunteer name submitted.  
97 The state offices of the Public Defender shall not be assessed a  
98 fee for Florida criminal history information or wanted person  
99 information.

100 Section 2. Subsection (2) of section 985.04, Florida  
101 Statutes, is amended to read:

102 985.04 Oaths; records; confidential information.—

103 (2) (a) ~~1.~~ Notwithstanding any other provisions of this  
104 chapter, the name, photograph, address, and crime or arrest  
105 report of a child:

106 1.a. Taken into custody by a law enforcement officer for a  
107 violation of law which, if committed by an adult, would be a  
108 felony;

109 2.b. Charged with a violation of law which, if committed by  
110 an adult, would be a felony;

111 3.e. Found to have committed an offense which, if committed  
112 by an adult, would be a felony; or

113 4.d. Transferred to adult court pursuant to part X of this  
114 chapter,

115  
116 are not considered confidential and exempt from s. 119.07(1)

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117 solely because of the child's age.

118 (b)2. A public records custodian may choose not to  
119 electronically publish on the custodian's website the arrest or  
120 booking photographs of a child which are not confidential and  
121 exempt under this section or otherwise restricted from  
122 publication by law; however, this paragraph ~~subparagraph~~ does  
123 not restrict public access to records as provided by s. 119.07.

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

128 Section 3. This act shall take effect October 1, 2021.