

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 812

INTRODUCER: Senator Simon

SUBJECT: Public Records/Sealed Criminal History Records

DATE: January 16, 2026

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Wyant	Stokes	CJ	Pre-meeting
2. _____	_____	ACJ	_____
3. _____	_____	RC	_____

I. Summary:

SB 812 amends s. 943.059, F.S., to expand a public records exemption to include sealed criminal history records of persons adjudicated guilty of certain nonviolent misdemeanor offenses. A criminal history record of a minor or an adult which is ordered sealed by a court pursuant to s. 943.059, F.S., is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution and is available only to specified persons.

The exemption is repealed October 2, 2031, unless reenacted by the Legislature.

The bill provides a statement of necessity as required by the State Constitution, and because it expands the public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill takes effect on the same day as SB 810 or any similar legislation. As filed, SB 810 takes effect on July 1, 2026.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive branch and local government agencies.

Violation of Public Record Law

Any person who willfully and knowingly violates any public record law commits a first degree misdemeanor.^{5,6}

Pursuant to s. 119.105, F.S., any person who comes into possession of exempt or confidential information contained in police reports is prohibited from using that information for any commercial solicitation of the victims or the relatives of the victims of the reported crimes or accidents, and is further prohibited from knowingly disclosing such information to any third party for the purpose of such solicitation during the period of time that the information remains exempt or confidential. Any person who violates such prohibitions commits a third degree felony.^{7,8}

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act⁹ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁰ public records or open meetings exemptions, with specified exceptions.¹¹ The act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹² In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹³

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2024-2026) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 1, (2024-2026).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.10(2)(a), F.S.

⁶ A first degree misdemeanor is punishable by a term of imprisonment not exceeding 1 year and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁷ Section 119.10(2)(b), F.S.

⁸ A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082, 775.083, and 775.084, F.S.

⁹ Section 119.15, F.S.

¹⁰ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹¹ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹² Section 119.15(3), F.S.

¹³ Section 119.15(6)(b), F.S.

An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁴
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹⁵ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.¹⁶

The Act also requires specified questions to be considered during the review process.¹⁷ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.¹⁸ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.¹⁹

Court-ordered Sealing of Criminal History Records

“Sealing of a criminal history record” means the preservation of a record under such circumstances that it is secure and inaccessible to any person not having a legal right of access to the record or the information contained and preserved therein.²⁰ This process differs from an “expunction of a criminal history record,”²¹ which means the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody thereof, or as prescribed by the court issuing the order, except that criminal history records in the custody of the Florida Department of Law Enforcement (FDLE) must be retained in all cases for the purposes of evaluating subsequent requests by the subject of the record for sealing or

¹⁴ Section 119.15(6)(b)1., F.S.

¹⁵ Section 119.15(6)(b)2., F.S.

¹⁶ Section 119.15(6)(b)3., F.S.

¹⁷ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

¹⁸ See generally s. 119.15, F.S.

¹⁹ Section 119.15(7), F.S.

²⁰ Section 943.045(19), F.S.

²¹ Section 943.045(16), F.S.

expunction, or for the purposes of recreating the record in the event an order to expunge is vacated by a court of competent jurisdiction.

The criminal history record of a minor or an adult which is ordered sealed by a court is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution and is only available to the following persons:²²

- The subject of the record;
- The subject's attorney;
- Criminal justice agencies for their respective criminal justice purposes, which include conducting a criminal history background check for approval of firearms purchases or transfers as authorized by state or federal law;
- Judges in the state courts system for the purpose of assisting them in their case-related decision making responsibilities; or,
- To certain entities for their respective licensing access authorization and employment purposes.

Information relating to the existence of a sealed criminal history record is confidential and exempt except that the department must disclose the sealed criminal history record to certain entities. It is a first degree misdemeanor to disclose information relating to the existence of a sealed criminal history record of a person seeking employment, access authorization, or licensure with such entity or contractor, except the disclosure to the person the criminal history record relates to or to persons having direct responsibility for employment, access authorization, or licensure decisions.²³

The subject of the sealed criminal history record may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject:²⁴

- Is a candidate for employment with a criminal justice agency;
- Is a defendant in a criminal prosecution;
- Concurrently or subsequently petitions for relief under this section;
- Is a candidate for admission to The Florida Bar;
- Is seeking to be employed or licensed by or contract with the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the disabled, or the elderly;
- Is seeking to be employed or licensed by, or contract with, the Department of Education, a district unit, special district unit, virtual instruction program, charter or private school, alternative school, or a local governmental entity that licenses child care facilities;
- Is attempting to purchase a firearm from a licenses importer, licensed manufacturer, or licensed dealer and is subject to a criminal history check under state or federal law;
- Is seeking to be licensed by the Division of Insurance Agent and Agency Services within the Department of Financial Services;

²² Section 943.059(6)(a), F.S.

²³ Section 943.059(6)(d), F.S.

²⁴ Section 943.059(6)(b), F.S.

- Is seeking to be appointed as a guardian pursuant to s. 744.3125, F.S.; or
- Is seeking to be licensed by the Bureau of License Issuance of the Division of Licensing within the Department of Agriculture and Consumer Services to carry a concealed weapon or concealed firearm.

III. Effect of Proposed Changes:

The bill amends s. 943.059, F.S., to expand a public records exemption to include sealed criminal history records of persons adjudicated guilty of certain nonviolent misdemeanor offenses. A criminal history record of a minor or an adult which is ordered sealed by a court pursuant to s. 943.059, F.S., is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

SB 810 provides a person is eligible to petition a court to seal a criminal history record if a petition to seal pertains to a misdemeanor offense that the person was adjudicated guilty of and such offense was not a violent offense or a misdemeanor offense relating to:

- Domestic violence;²⁵
- Driving under the influence;²⁶
- Violation of an injunction for protection against domestic violence;²⁷
- Violation of pretrial release when the arrest was for an act of dating violence;²⁸
- Violation of an injunction for protection for repeat violence, sexual violence, or dating violence;²⁹
- Violation of an injunction for protection against stalking or cyberstalking;³⁰
- Sexual cyberharassment;³¹
- An unnatural and lascivious act;³²
- Exposure of sexual organs;³³

The exemption is repealed October 2, 2031, unless reenacted by the Legislature.

The bill provides it is a public necessity that sealed criminal history records for persons adjudicated guilty of certain nonviolent misdemeanor offenses be made confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, and made available only in accordance with s. 943.059(6), F.S. Sealed criminal history records that remain accessible may create barriers to obtaining work, housing, or other resources necessary to be a productive member of society. The Legislature finds increasing opportunities for persons to seal a criminal history record promotes economic stability, reduces crime and recidivism, and makes communities safer.

²⁵ Sections 741.28 and 741.29, F.S.

²⁶ Section 316.193, F.S.

²⁷ Section 741.31, F.S.

²⁸ Section 741.046, F.S.

²⁹ Section 784.047, F.S.

³⁰ Section 784.0487, F.S.

³¹ Section 784.049, F.S.

³² Section 800.02, F.S.

³³ Section 800.03, F.S.

The bill takes effect on the same day as SB 810 or any similar legislation. As filed, SB 810 takes effect on July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require the cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill expands an exemption to criminal history records with misdemeanors adjudicated guilty, therefore, the bill requires a two-thirds vote of each chamber for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to seal criminal records pertaining to misdemeanors adjudicated with guilt, and the bill exempts only such records from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

While the bill provides a public necessity statement for subparagraph (1)(b)2., it does not include subparagraph (1)(b)1. Under subparagraph (1)(b)1., a person may receive a sealing for more than one withhold of adjudication. This expands the number of sealings a person may receive.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 943.059 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.