

1 A bill to be entitled
 2 An act relating to the Department of Law Enforcement;
 3 amending s. 943.05, F.S.; providing that if fingerprints
 4 submitted to the Department of Law Enforcement for
 5 background screening are identified with the fingerprints
 6 of a person having a criminal history record, the
 7 department may make the fingerprints available for all
 8 purposes and uses authorized for arrest fingerprint cards;
 9 amending s. 943.053, F.S.; clarifying the fees charged for
 10 requests for criminal history information; amending s.
 11 943.0542, F.S.; authorizing a qualified entity requesting
 12 screening information concerning an employee or volunteer,
 13 or a person applying to be an employee or volunteer, to
 14 submit the request electronically; requiring the qualified
 15 entity to maintain a signed waiver allowing the release of
 16 the state and national criminal history record information
 17 to the qualified entity; amending s. 943.0581, F.S.;
 18 revising the information to be included in an application
 19 for an administrative expunction of any nonjudicial record
 20 of an arrest of a minor or an adult made contrary to law
 21 or by mistake; clarifying responsibility for submitting an
 22 application for an administrative expunction; amending s.
 23 943.06, F.S.; adding the Secretary of Children and Family
 24 Services, or the secretary's designated assistant, to the
 25 Criminal and Juvenile Justice Information Systems Council;
 26 amending 943.08, F.S.; revising the duties of the Criminal
 27 and Juvenile Justice Information Systems Council; amending
 28 s. 943.081, F.S.; specifying and clarifying the principles

29 | adopted by the Criminal and Juvenile Justice Information
 30 | Systems Council as the guiding principles for the
 31 | management of public safety system information technology
 32 | resources; creating the citizen support organization for
 33 | Florida Missing Children's Day; authorizing the Department
 34 | of Law Enforcement to establish a citizen support
 35 | organization to provide assistance, funding, and
 36 | promotional support for activities authorized for "Florida
 37 | Missing Children's Day"; providing for duties and
 38 | functions of the support organization; providing that the
 39 | support organization is not a lobbyist; providing for the
 40 | use and management of department property; providing for
 41 | an annual audit; providing an effective date.

42 |

43 | Be It Enacted by the Legislature of the State of Florida:

44 |

45 | Section 1. Subsection (3) is added to section 943.05,
 46 | Florida Statutes, to read:

47 | 943.05 Criminal Justice Information Program; duties; crime
 48 | reports.--

49 | (3) If fingerprints submitted to the department for
 50 | background screening, whether retained or not, are identified
 51 | with the fingerprints of a person having a criminal history
 52 | record, such fingerprints may thereafter be available for all
 53 | purposes and uses authorized for arrest fingerprint cards,
 54 | including, but not limited to, entry into the statewide
 55 | automated fingerprint identification system to augment or
 56 | replace the fingerprints that identify the criminal history

57 record.

58 Section 2. Paragraph (b) of subsection (3) of section
59 943.053, Florida Statutes, is amended to read:

60 943.053 Dissemination of criminal justice information;
61 fees.--

62 (3)

63 (b) The fee per record for criminal history information
64 provided pursuant to this subsection and to s. 943.0542 is \$23
65 per name submitted, except that the fee for vendors of the
66 Department of Children and Family Services, the Department of
67 Juvenile Justice, and the Department of Elderly Affairs shall be
68 \$8 for each name submitted; the fee for a state criminal history
69 provided for application processing as required by law to be
70 performed by the Department of Agriculture and Consumer Services
71 shall be \$15 for each name submitted; and the fee for requests
72 under s. 943.0542, which implements the National Child
73 Protection Act shall be \$18 for each volunteer name submitted.
74 The state offices of the Public Defender shall not be assessed a
75 fee for Florida criminal history information or wanted person
76 information.

77 Section 3. Paragraphs (b) and (c) of subsection (2) of
78 section 943.0542, Florida Statutes, are amended to read:

79 943.0542 Access to criminal history information provided
80 by the department to qualified entities.--

81 (2)

82 (b) A qualified entity shall submit to the department a
83 request for screening an employee or volunteer or person
84 applying to be an employee or volunteer on a completed

85 | fingerprint card, or the request may be submitted
 86 | electronically. The qualified entity must maintain, with a
 87 | signed waiver allowing the release of the state and national
 88 | criminal history record information to the qualified entity.

89 | (c) Each such request must be accompanied by a fee for a
 90 | statewide criminal history check by the department established
 91 | by, which shall approximate the actual cost of producing the
 92 | ~~record information, as provided in~~ s. 943.053, plus the amount
 93 | currently prescribed ~~required~~ by the Federal Bureau of
 94 | Investigation for the national criminal history check in
 95 | compliance with the National Child Protection Act of 1993, as
 96 | amended.

97 | Section 4. Section 943.0581, Florida Statutes, is amended
 98 | to read:

99 | 943.0581 Administrative expunction.--

100 | (1) Notwithstanding any law dealing generally with the
 101 | preservation and destruction of public records, the department
 102 | may adopt a provide, ~~by rule adopted~~ pursuant to chapter 120,
 103 | for the administrative expunction of any nonjudicial record of
 104 | an arrest of a minor or an adult made contrary to law or by
 105 | mistake.

106 | (2) A law enforcement agency shall apply to the department
 107 | in the manner prescribed by rule for the administrative
 108 | expunction of any nonjudicial record of any arrest of a minor or
 109 | an adult who is subsequently determined by the agency, at its
 110 | discretion, or by the final order of a court of competent
 111 | jurisdiction, to have been arrested contrary to law or by
 112 | mistake.

113 (3) An adult or, in the case of a minor child, the parent
 114 or legal guardian of the minor child, may apply to the
 115 department in the manner prescribed by rule for the
 116 administrative expunction of any nonjudicial record of an arrest
 117 alleged to have been made contrary to law or by mistake,
 118 provided that the application is supported by the endorsement of
 119 the head of the arresting agency or his or her designee, or the
 120 state attorney of the judicial circuit in which the arrest
 121 occurred or his or her designee.

122 (4) An application for administrative expunction shall
 123 include ~~an affidavit executed by the chief of the law~~
 124 ~~enforcement agency, sheriff, or department head of the state law~~
 125 ~~enforcement agency in which the affiant verifies that he or she~~
 126 ~~has reviewed the record of the arrest and that the arrest was~~
 127 ~~contrary to law or was a mistake. The affidavit shall include~~
 128 ~~the date and time of the arrest, the name of the arresting~~
 129 ~~officer, the name of the person arrested, the offender-based~~
 130 tracking system (OBTS) number, and the crime or crimes charged.
 131 The application shall be on the submitting agency's letterhead
 132 and shall be signed by the head of the submitting agency or his
 133 or her designee.

134 (5) If the person was arrested on a warrant, capias, or
 135 pick-up order, a request for an administrative expunction may be
 136 made by the sheriff of the county where the warrant, capias, or
 137 pick-up order was issued or his or her designee, or by the state
 138 attorney of the judicial circuit where the warrant, capias, or
 139 pick-up order was issued or his or her designee.

140 (6) ~~(5)~~ An ~~no~~ application or, ~~endorsement, or affidavit~~

141 made under this section is not ~~shall be~~ admissible as evidence
 142 in any judicial or administrative proceeding or otherwise be
 143 construed in any way as an admission of liability in connection
 144 with an arrest.

145 Section 5. Subsection (1) of section 943.06, Florida
 146 Statutes, is amended to read:

147 943.06 Criminal and Juvenile Justice Information Systems
 148 Council.--There is created a Criminal and Juvenile Justice
 149 Information Systems Council within the department.

150 (1) The council shall be composed of 15 ~~14~~ members,
 151 consisting of the Attorney General or a designated assistant;
 152 the executive director of the Department of Law Enforcement or a
 153 designated assistant; the secretary of the Department of
 154 Corrections or a designated assistant; the chair of the Parole
 155 Commission or a designated assistant; the Secretary of Juvenile
 156 Justice or a designated assistant; the executive director of the
 157 Department of Highway Safety and Motor Vehicles or a designated
 158 assistant; the Secretary of Children and Family Services or a
 159 designated assistant; the State Courts Administrator or a
 160 designated assistant; 1 public defender appointed by the Florida
 161 Public Defender Association, Inc.; 1 state attorney appointed by
 162 the Florida Prosecuting Attorneys Association, Inc.; and 5
 163 members, to be appointed by the Governor, consisting of 2
 164 sheriffs, 2 police chiefs, and 1 clerk of the circuit court.

165 Section 6. Section 943.08, Florida Statutes, is amended to
 166 read:

167 (Substantial rewording of section. See s.
 168 943.08, F.S., for present text.)

169 943.08 Duties; Criminal and Juvenile Justice Information
 170 Systems Council.--

171 (1) The council shall facilitate the identification,
 172 standardization, sharing, and coordination of criminal and
 173 juvenile justice data and other public safety system data among
 174 federal, state, and local agencies.

175 (2) The council shall adopt uniform information-exchange
 176 standards, methodologies, and best practices, applying national
 177 standards and models where appropriate, in order to guide local
 178 and state criminal justice agencies when procuring,
 179 implementing, or modifying information systems.

180 (3) The council shall provide statewide oversight and
 181 support the development of plans and policies relating to public
 182 safety information systems in order to facilitate the effective
 183 identification, standardization, access, sharing, integrating,
 184 and coordinating of criminal and juvenile justice data among
 185 federal, state, and local agencies. The council shall make
 186 recommendations addressing each of the following:

- 187 (a) Privacy of data.
- 188 (b) Security of systems.
- 189 (c) Functional and information-sharing standards.
- 190 (d) Accuracy, timeliness, and completeness of data.
- 191 (e) Access to data and systems.
- 192 (f) Transmission of data and information.
- 193 (g) Dissemination of information.
- 194 (h) Training.
- 195 (i) Other areas that effect the sharing of criminal and
 196 juvenile justice information and other public safety system

197 information.

198 (4) The council shall provide oversight to the operation
 199 of the Florida Criminal Justice Network (CJNet), for which the
 200 Department of Law Enforcement shall serve as custodial manager
 201 pursuant to s.943.0544. Criminal justice agencies participating
 202 in the Florida Criminal Justice Network shall adhere to CJNet
 203 standards and policies.

204 Section 7. Section 943.081, Florida Statutes, is amended
 205 to read:

206 943.081 Public safety system information technology
 207 resources; guiding principles.--The following guiding principles
 208 adopted by the Criminal and Juvenile Justice Information Systems
 209 Council are hereby adopted as guiding principles for the
 210 management of public safety system information technology
 211 resources:

212 (1) Cooperative planning by public safety system entities
 213 is a prerequisite for the effective development of systems to
 214 enable sharing of data.

215 (2) The planning process, as well as coordination of
 216 development efforts, should identify and include all principals
 217 from the outset.

218 (3) Public safety system entities should be committed to
 219 maximizing information sharing and moving away from proprietary
 220 positions taken relative to data they capture and maintain.

221 (4) Public safety system entities should maximize public
 222 access to data, and in so doing, should specifically implement
 223 guidelines and practices that address ~~while complying with~~
 224 ~~legitimate security, privacy, and confidentiality requirements.~~

225 (5) Public safety system entities should strive for
 226 electronic sharing of information ~~via networks versus a reliance~~
 227 ~~on magnetic and other media.~~

228 (6) The practice by public safety system entities of
 229 charging each other for data should, insofar as possible, be
 230 eliminated. Further, when the capture of data for mutual benefit
 231 can be accomplished, the costs for the development, capture, and
 232 network for access to that data should be shared.

233 (7) The redundant capture of data should, insofar as
 234 possible, be eliminated. Redundant capture of data should be
 235 discouraged unless there is a specific business need for it.

236 (8) Public safety systems should adhere to information-
 237 exchange standards approved by the council.

238 (9) The council should adopt where possible applicable
 239 national standards for data exchange.

240 ~~(8) With respect to statewide databases:~~

241 ~~(a) Only data that can best be compiled, preserved, and~~
 242 ~~shared through a central database should be captured at the~~
 243 ~~state level.~~

244 ~~(b) Remote access to distributed databases should be~~
 245 ~~considered and provided for, instead of central repositories.~~

246 ~~(c) Statistical data that may be required infrequently or~~
 247 ~~on a one time basis should be captured via sampling or other~~
 248 ~~methods.~~

249 ~~(d) Only data that are auditable, or that otherwise can be~~
 250 ~~determined to be accurate, valid, and reliable should be~~
 251 ~~maintained.~~

252 ~~(9) Methods of sharing data among different protocols must~~

253 ~~be developed without requiring major redesign or replacement of~~
 254 ~~individual systems.~~

255 Section 8. Citizen support organization for Florida
 256 Missing Children's Day.--

257 (1) The Department of Law Enforcement may establish a
 258 citizen support organization to provide assistance, funding, and
 259 promotional support for activities authorized for Florida
 260 Missing Children's Day under s. 683.23, Florida Statutes.

261 (2) As used in this section, the term "citizen support
 262 organization" means an organization that is:

263 (a) A Florida corporation not for profit incorporated
 264 under chapter 617, Florida Statutes, and approved by the
 265 Department of State.

266 (b) Organized and operated to conduct programs and
 267 activities; raise funds; request and receive grants, gifts, and
 268 bequests of money; acquire, receive, hold, invest, and
 269 administer, in its own name, securities, funds, objects of
 270 value, or other property, either real or personal; and make
 271 expenditures to or for the direct or indirect benefit of the
 272 department in furtherance of Florida Missing Children's Day.

273 (3) The citizen support organization is not a registered
 274 lobbyist within the meaning of s. 11.045, Florida Statutes.

275 (4) The citizen support organization is specifically
 276 authorized to collect and expend funds to be used for awards;
 277 public awareness and awards ceremonies, workshops, and other
 278 meetings, including distribution materials for public education
 279 and awareness; travel; Internet and web-hosting services;
 280 administrative costs, including personnel costs; costs of

281 audits; and costs of facilities rental.

282 (5) The activities of the citizen support organization
 283 must be determined by the department to be consistent with the
 284 goals and mission of the department and in the best interests of
 285 the state and approved in writing by the department to operate
 286 for the direct or indirect benefit of the department. The
 287 approval shall be given in a letter of agreement from the
 288 department.

289 (6) (a) The department may fix and collect charges for the
 290 rental of facilities and properties managed by the department
 291 and may permit, without charge, appropriate use of
 292 administrative services, property, and facilities of the
 293 department by the citizen support organization, subject to this
 294 section. The use must be directly in keeping with the approved
 295 purposes of the citizen support organization and may not be made
 296 at times or places that would unreasonably interfere with
 297 opportunities for the public to use such facilities for
 298 established purposes. Any money received from rentals of
 299 facilities and properties managed by the department may be held
 300 in the operating trust fund of the department or in a separate
 301 depository account in the name of the citizen support
 302 organization and subject to the provisions of the letter of
 303 agreement with the department. The letter of agreement must
 304 provide that any funds held in the separate depository account
 305 in the name of the citizen support organization must revert to
 306 the department if the citizen support organization is no longer
 307 approved by the department to operate in the best interests of
 308 the state.

309 (b) The department may adopt rules with which a citizen
 310 support organization must comply in order to use department
 311 administrative services, property, or facilities.

312 (c) The department may not permit the use of any
 313 administrative services, property, or facilities of the state by
 314 a citizen support organization which does not provide equal
 315 membership and employment opportunities to all persons
 316 regardless of race, color, religion, gender, age, or national
 317 origin.

318 (7) The citizen support organization shall provide for an
 319 independent annual financial audit in accordance with s.
 320 215.981, Florida Statutes. Copies of the audit will be provided
 321 to the department, the Office of Policy and Budget within the
 322 Executive Office of the Governor, and to the Florida Cabinet.

323 Section 9. This act shall take effect July 1, 2008.