

By Senator Fasano

11-70A-06

1 A bill to be entitled
2 An act relating to the Department of Law
3 Enforcement; amending s. 790.065, F.S.;
4 requiring the department to review other
5 records in addition to criminal history records
6 to evaluate a potential buyer or transferee of
7 a firearm, including an adjudication of mental
8 defectiveness or a commitment to a mental
9 institution as criteria that prohibit a person
10 from purchasing a firearm; providing
11 definitions; requiring the department to
12 maintain an automated database of persons who
13 are prohibited from purchasing a firearm;
14 requiring each clerk of court to submit certain
15 court records to the department within a
16 certain period; requiring the department to
17 delete certain records from the automated
18 database upon the request of an individual
19 meeting specified conditions; authorizing the
20 department to disclose collected data to other
21 federal or state agencies with regard to the
22 sale or transfer of a firearm; authorizing the
23 department to disclose certain information to
24 the Department of Agriculture and Consumer
25 Services for determining the eligibility of an
26 applicant for a concealed weapons or concealed
27 firearms license; requiring the clerk of court
28 or mental hospital to provide additional
29 information upon request following an appeal of
30 an unapproved sale or transfer of a firearm;
31 amending s. 914.25, F.S.; providing for

1 recertification for protective services for an
2 additional period, with reimbursement for
3 expenses from the Victim and Witness Protection
4 Review Committee; providing for unlimited
5 protective services for a victim or witness
6 without reimbursement; amending s. 937.021,
7 F.S.; providing immunity to the department,
8 other law enforcement agencies, and media
9 representatives from civil liability for
10 complying in good faith with a request to
11 record or report information of an Amber Alert
12 or Missing Child Alert; providing that a
13 technical or clerical error or incorrect or
14 incomplete information does not overcome the
15 presumption of good faith in reporting
16 information about an Amber Alert or Missing
17 Child Alert; providing that it is a
18 discretionary decision of a law enforcement
19 agency or its employees to report, record, or
20 display Amber Alert or Missing Child Alert
21 information; amending s. 938.07, F.S.;
22 requiring that a portion of certain court costs
23 imposed for a conviction of driving or boating
24 under the influence be deposited into the
25 department's Operating Trust Fund instead of
26 the Criminal Justice Standards and Training
27 Trust Fund; amending s. 938.27, F.S.; requiring
28 that investigative costs recovered on behalf of
29 the department be deposited into the Forfeiture
30 and Investigative Trust Fund; amending s.
31 943.05, F.S.; authorizing the department to

1 retain fingerprints in certain circumstances
2 and use retained fingerprints for certain
3 purposes; amending s. 943.052, F.S.; requiring
4 that disposition reports for dispositions
5 relating to minor offenders are mandatory after
6 a specified date; amending s. 68.07, F.S.;
7 requiring a set of fingerprints as part of a
8 name-change petition; amending s. 943.053,
9 F.S.; requiring the department to make certain
10 information available to judges; limiting the
11 use of information; authorizing a criminal
12 justice agency to obtain a criminal history
13 background check of a noncertified agency
14 employee by submitting fingerprints to the
15 department; requiring that a criminal history
16 check be provided by the department in certain
17 circumstances; amending s. 943.0585, F.S.;
18 prohibiting a court from expunging a criminal
19 history record containing certain sexual
20 offenses or certain offenses that require
21 registration as a sexual offender; requiring a
22 valid certificate of eligibility for expunction
23 in a petition to expunge a criminal history
24 record; specifying the time during which a
25 certificate of eligibility for expunction is
26 valid; requiring that a trial must not have
27 occurred in order for a person to obtain a
28 statement from the state attorney authorizing
29 the expunction of a criminal record;
30 authorizing a person who has secured a prior
31 sealing or expunction of a criminal history

1 record to seek a certificate of eligibility for
2 expunction if the criminal history record was
3 previously sealed for a specified time and is
4 otherwise eligible for expunction; providing
5 that a person who is seeking authorization for
6 employment or access to a seaport may not deny
7 or fail to acknowledge an arrest covered by an
8 expunged record; providing that the department
9 may acknowledge an expunged criminal history
10 record under certain circumstances; amending s.
11 943.059, F.S.; enumerating certain sexual
12 offenses and offenses that require registration
13 as a sexual offender which may not be sealed;
14 requiring a valid certificate of eligibility
15 for sealing in a petition to seal a criminal
16 history record; specifying the period during
17 which a certificate of eligibility for sealing
18 is valid; providing that information in a
19 sealed criminal record is available to a
20 criminal justice agency to conduct a criminal
21 history background check for approval of a
22 firearms purchase or transfer; prohibiting a
23 person from denying arrests covered by his or
24 her sealed criminal record when attempting to
25 purchase a firearm; providing that a person who
26 is seeking authorization for employment or
27 access to a seaport may not deny or fail to
28 acknowledge an arrest covered by a sealed
29 record; providing that the department may
30 acknowledge a sealed criminal history record
31 under certain circumstances; amending s.

1 943.13, F.S.; requiring the department to enter
2 the fingerprints of law enforcement or
3 correctional officers into a statewide
4 automated fingerprint identification system;
5 requiring the department to search each arrest
6 fingerprint card received against fingerprints
7 retained in the statewide automated fingerprint
8 identification system; providing for
9 refingerprinting by a certain date; amending
10 ss. 943.1715 and 943.1716, F.S.; deleting the
11 minimum number of hours required for basic
12 skills training and continued employment
13 training relating to diverse populations for
14 law enforcement officers; repealing s.
15 943.2569, F.S., relating to an annual financial
16 audit of criminal justice selection centers;
17 amending s. 943.257, F.S.; authorizing the
18 Criminal Justice Standards and Training
19 Commission and the advisory board of a criminal
20 justice selection center to inspect and copy
21 any documents from a center in order to conduct
22 oversight responsibilities, including documents
23 pertaining to any internal or independent
24 audits; amending s. 943.401, F.S.; requiring
25 the department to investigate all public
26 assistance that is provided by the state;
27 requiring public assistance recipients to
28 consent in writing to an investigation into
29 their employment and financial histories by the
30 Agency for Workforce Innovation; requiring the
31 department to report the results of the

1 investigations to the Agency for Workforce
2 Innovation; authorizing the department to
3 purchase goodwill and promotional materials;
4 limiting the annual amount of such
5 expenditures; prohibiting the unauthorized use
6 of the department's emblems and names;
7 providing a penalty; providing an effective
8 date.

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

11
12 Section 1. Effective February 1, 2007, paragraph (a)
13 of subsection (2) of section 790.065, Florida Statutes, is
14 amended to read:

15 790.065 Sale and delivery of firearms.--

16 (2) Upon receipt of a request for a criminal history
17 record check, the Department of Law Enforcement shall, during
18 the licensee's call or by return call, forthwith:

19 (a) Review criminal history records and other records
20 that have been provided to the department to determine if the
21 potential buyer or transferee:

22 1. Has been convicted of a felony and is prohibited
23 from receipt or possession of a firearm pursuant to s. 790.23;

24 2. Has been convicted of a misdemeanor crime of
25 domestic violence, and therefore is prohibited from purchasing
26 a firearm; ~~or~~

27 3. Has had adjudication of guilt withheld or
28 imposition of sentence suspended on any felony or misdemeanor
29 crime of domestic violence unless 3 years have elapsed since
30 probation or any other conditions set by the court have been
31 fulfilled or expunction has occurred; or

1 4. Has been adjudicated mentally defective or has been
2 committed to a mental institution by a court and as a result
3 is prohibited by federal law from purchasing a firearm.

4 a. As used in this subparagraph, the term "adjudicated
5 mentally defective" means a determination by a court that a
6 person, as a result of marked subnormal intelligence, or
7 mental illness, incompetency, condition, or disease, is a
8 danger to himself or herself or to others or lacks the mental
9 capacity to contract or manage his or her own affairs. The
10 term includes a judicial finding of incapacity under s.
11 744.331(6)(a), an acquittal by reason of insanity of a person
12 charged with a criminal offense, and a judicial finding that a
13 criminal defendant is not competent to stand trial.

14 b. As used in this subparagraph, the term "committed
15 to a mental institution" means involuntary commitment,
16 commitment for mental defectiveness or mental illness, or
17 commitment for substance abuse. The term includes involuntary
18 inpatient placement as defined in s. 394.467, involuntary
19 assessment and stabilization under s. 397.6818, and
20 involuntary substance abuse treatment under s. 397.6957, but
21 does not include a person in a mental institution for
22 observation or a person who has been discharged from a mental
23 institution based upon the initial review by the physician or
24 a voluntary admission to a mental institution.

25 c. In order to check for such conditions, the
26 department shall compile and maintain an automated database of
27 persons who are prohibited from purchasing a firearm based on
28 court records of adjudications of mental defectiveness or
29 commitments to mental institutions. Each clerk of court shall
30 submit these records to the department within 1 month after
31 the order of adjudication or commitment is rendered. Reports

1 may be submitted in an automated format. The reports must, at
2 a minimum, include the name, any known alias or former name,
3 the sex, and the date of birth of the individual. The
4 department shall delete any mental health record from the
5 database upon the request of an individual when at least 5
6 years have elapsed since the individual's restoration to
7 capacity by court order after being adjudicated an
8 incapacitated person under s. 744.331 or similar laws of any
9 other state, or, in the case of an individual who was
10 previously committed to a mental institution under chapter 394
11 or similar laws of any other state, when the individual
12 produces a certificate from a licensed psychiatrist stating
13 that he or she has not suffered from such disability for at
14 least 5 years prior to the date of the request for removal of
15 the record. If the department has received a subsequent record
16 of an adjudication of mental defectiveness or commitment to a
17 mental institution for such individual, the 5-year timeframe
18 shall be calculated from the most recent adjudication of
19 incapacitation or commitment.

20 d. The department may disclose the collected data to
21 federal or state agencies for use exclusively in determining
22 the lawfulness of a firearm sale or transfer. The department
23 may also disclose any applicable collected data to the
24 Department of Agriculture and Consumer Services for purposes
25 of determining a person's eligibility for a concealed weapons
26 or concealed firearms license upon receipt of an applicant
27 fingerprint submission forwarded pursuant to s. 790.06(6)(a).
28 If a potential buyer or transferee appeals a nonapproval based
29 on such records, the clerks of court and mental institutions
30 shall, upon request by the department, provide information to
31 help determine whether the potential buyer or transferee is

1 the same person as the subject of the record. Photographs and
2 other data that may confirm or negate identity must be made
3 available to the department for such purposes, notwithstanding
4 any other provision of state law to the contrary. Information
5 that is made confidential or exempt from disclosure by law
6 shall remain confidential or exempt when transferred to the
7 department.

8 Section 2. Subsections (4) and (5) of section 914.25,
9 Florida Statutes, are amended to read:

10 914.25 Protective services for certain victims and
11 witnesses.--

12 (4)(a) When a victim or witness is certified as
13 provided in subsection (3), a law enforcement agency, in
14 consultation with the certifying state attorney or the
15 statewide prosecutor, may provide appropriate protective
16 services. If a victim or witness needs to be temporarily
17 relocated, the statewide prosecutor or the state attorney must
18 notify the Department of Law Enforcement. The Department of
19 Law Enforcement, in consultation with the statewide prosecutor
20 or the state attorney, and any other law enforcement agency
21 involved in the criminal investigation or prosecution, shall
22 coordinate the temporary relocation of the victim or witness.

23 (b) Protective services, including temporary
24 relocation services, may initially be provided for up to 1
25 year or until the risk giving rise to the certification has
26 diminished, whichever occurs sooner. ~~If deemed necessary,~~ The
27 statewide prosecutor or the state attorney may, at the end of
28 the certification year, recertify a victim or witness at risk
29 of harm for an additional period of up to 1 year or until the
30 risk giving rise to the certification has diminished,
31 whichever occurs first. A victim or witness at risk of harm

1 may be certified and recertified annually as provided in this
2 section to provide a maximum of 4 years of eligibility for
3 protective services.

4 (5) The lead law enforcement agency that provides
5 protective services, as authorized in this section, may seek
6 reimbursement for its reasonable expenses from the Victim and
7 Witness Protection Review Committee, pursuant to ~~the~~
8 ~~provisions of s. 943.031.~~ This section does not prevent any
9 law enforcement agency from providing protective services at
10 the agency's expense beyond the 4-year maximum period
11 established in this section. Any additional expenditures for
12 protective services are not eligible for reimbursement under
13 this section.

14 Section 3. Subsection (3) is added to section 937.021,
15 Florida Statutes, to read:

16 937.021 Missing child reports.--

17 (3)(a) Upon receiving a request to record, report,
18 transmit, display, or release Amber Alert or Missing Child
19 Alert information from the law enforcement agency having
20 jurisdiction over the missing or endangered child, the
21 Department of Law Enforcement as the state Amber Alert
22 coordinator; any state or local law enforcement agency and the
23 personnel of these agencies; any radio or television network,
24 broadcaster, or other media representative; or any agency,
25 employee, individual, or entity is immune from civil liability
26 for damages for complying in good faith with the request and
27 is presumed to have acted in good faith in recording,
28 reporting, transmitting, displaying, or releasing Amber Alert
29 or Missing Child Alert information pertaining to such child.

30 (b) The presumption of good faith is not overcome if a
31 technical or clerical error is made by an agency, employee,

1 individual, or entity acting at the request of the local law
2 enforcement agency having jurisdiction, or if the Amber Alert
3 or Missing Child Alert information is incomplete or incorrect
4 because the information received from the local law
5 enforcement agency was incomplete or incorrect.

6 (c) Neither this subsection nor any other provision of
7 law creates a duty of the agency, employee, individual, or
8 entity to record, report, transmit, display, or release the
9 Amber Alert or Missing Child Alert information received from
10 the local law enforcement agency having jurisdiction. The
11 decision to do so is discretionary with the agency, employee,
12 individual, or entity receiving that information from the
13 local law enforcement agency having jurisdiction.

14 Section 4. Section 938.07, Florida Statutes, is
15 amended to read:

16 938.07 Driving or boating under the
17 influence.--Notwithstanding any other provision of s. 316.193
18 or s. 327.35, a court cost of \$135 shall be added to any fine
19 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
20 remit the funds to the Department of Revenue, \$25 of which
21 shall be deposited in the Emergency Medical Services Trust
22 Fund, \$50 shall be deposited in the Operating Criminal Justice
23 ~~Standards and Training~~ Trust Fund of the Department of Law
24 Enforcement to be used for operational expenses in conducting
25 the statewide criminal analysis laboratory system established
26 in s. 943.32, and \$60 shall be deposited in the Brain and
27 Spinal Cord Injury Rehabilitation Trust Fund created in s.
28 381.79.

29 Section 5. Subsection (7) of section 938.27, Florida
30 Statutes, is amended to read:

31 938.27 Judgment for costs on conviction.--

1 (7) Investigative costs ~~that which~~ are recovered shall
2 be returned to the appropriate investigative agency ~~that which~~
3 incurred the expense. Such costs ~~shall~~ include actual expenses
4 incurred in conducting the investigation and prosecution of
5 the criminal case; however, costs may also include the
6 salaries of permanent employees. Any investigative costs
7 recovered on behalf of a state agency must be remitted to the
8 Department of Revenue for deposit in the agency operating
9 trust fund, and a report of the payment must be sent to the
10 agency, except that any investigative costs recovered on
11 behalf of the Department of Law Enforcement shall be deposited
12 in the department's Forfeiture and Investigative Support Trust
13 Fund under s. 943.362.

14 Section 6. Paragraphs (g) and (h) are added to
15 subsection (2) of section 943.05, Florida Statutes, to read:

16 943.05 Criminal Justice Information Program; duties;
17 crime reports.--

18 (2) The program shall:

19 (g) Retain fingerprints submitted by criminal and
20 noncriminal justice agencies to the department for a criminal
21 history background screening, as provided by law, and enter
22 the fingerprints in the statewide automated fingerprint
23 identification system authorized by paragraph (b). Such
24 fingerprints shall be available for all purposes and uses
25 authorized for arrest fingerprint cards entered into the
26 statewide automated fingerprint identification system pursuant
27 to s. 943.051.

28 (h) Search all arrest fingerprint cards received under
29 s. 943.051 against the fingerprints retained in the statewide
30 automated fingerprint identification system under paragraph
31 (g). Any arrest record that is identified with the retained

1 fingerprints of a person subject to background screening as
2 provided in paragraph (g) shall be reported to the appropriate
3 agency. Agencies may participate in this search process by
4 paying an annual fee to the department and informing the
5 department of any change in the affiliation, employment,
6 contractual status, or place of affiliation, employment, or
7 contracting of the persons whose fingerprints are retained
8 under paragraph (g). The department shall adopt a rule setting
9 the amount of the annual fee to be imposed upon each
10 participating agency for performing searches and establishing
11 the procedures for the retention of fingerprints and the
12 dissemination of search results. The fee may be borne as
13 provided by law. Fees may be waived or reduced by the
14 executive director for good cause. Consistent with the
15 recognition of criminal justice agencies expressed in s.
16 943.053(3), these services shall be provided to criminal
17 justice agencies for criminal justice purposes free of charge.

18 Section 7. Subsection (2) of section 943.052, Florida
19 Statutes, is amended to read:

20 943.052 Disposition reporting.--The Criminal Justice
21 Information Program shall, by rule, establish procedures and a
22 format for each criminal justice agency to monitor its records
23 and submit reports, as provided by this section, to the
24 program. The disposition report shall be developed by the
25 program and shall include the offender-based transaction
26 system number.

27 (2) Each clerk of the court shall submit the uniform
28 dispositions to the program or in a manner acceptable to the
29 program. The report shall be submitted at least once a month
30 and, when acceptable by the program, may be submitted in an
31 automated format. The disposition report is mandatory for

1 dispositions relating to adult offenders only. Beginning July
2 1, 2008, a disposition report for each disposition relating to
3 a minor offender is mandatory.

4 Section 8. Subsections (2) and (5) of section 68.07,
5 Florida Statutes, are amended to read:

6 68.07 Change of name.--

7 (2) The petition shall include a set ~~copy~~ of the
8 petitioner's fingerprints taken by a law enforcement agency
9 except where a former name is being restored and be verified
10 and show:

11 (a) That petitioner is a bona fide resident of and
12 domiciled in the county where the change of name is sought.

13 (b) If known, the date and place of birth of
14 petitioner, petitioner's father's name, mother's maiden name,
15 and where petitioner has resided since birth.

16 (c) If petitioner is married, the name of petitioner's
17 spouse and if petitioner has children, the names and ages of
18 each and where they reside.

19 (d) If petitioner's name has previously been changed
20 and when and where and by what court.

21 (e) Petitioner's occupation and where petitioner is
22 employed and has been employed for 5 years next preceding
23 filing of the petition. If petitioner owns and operates a
24 business, the name and place of it shall be stated and
25 petitioner's connection therewith and how long petitioner has
26 been identified with said business. If petitioner is in a
27 profession, the profession shall be stated, where the
28 petitioner has practiced the profession and if a graduate of a
29 school or schools, the name or names thereof, time of
30 graduation, and degrees received.

31

1 (f) Whether the petitioner has been generally known or
2 called by any other names and if so, by what names and where.

3 (g) Whether petitioner has ever been adjudicated a
4 bankrupt and if so, where and when.

5 (h) Whether petitioner has ever been arrested for or
6 charged with, pled guilty or nolo contendere to, or been found
7 to have committed a criminal offense, regardless of
8 adjudication, and if so, when and where.

9 (i) Whether any money judgment has ever been entered
10 against petitioner and if so, the name of the judgment
11 creditor, the amount and date thereof, the court by which
12 entered, and whether the judgment has been satisfied.

13 (j) That the petition is filed for no ulterior or
14 illegal purpose and granting it will not in any manner invade
15 the property rights of others, whether partnership, patent,
16 good will, privacy, trademark, or otherwise.

17 (k) That the petitioner's civil rights have never been
18 suspended, or if the petitioner's civil rights have been
19 suspended, that full restoration of civil rights has occurred.

20 (5) The clerk must, upon the filing of the final
21 judgment, send a report of the judgment to the Department of
22 Law Enforcement on a form to be furnished by that department.
23 The Department of Law Enforcement must send a copy of the
24 report to the Department of Highway Safety and Motor Vehicles,
25 which may be delivered by electronic transmission. The report
26 must contain sufficient information to identify the
27 petitioner, including a ~~set copy~~ of the petitioner's
28 fingerprints taken by a law enforcement agency, the new name
29 of the petitioner, and the file number of the judgment. Any
30 information retained by the Department of Law Enforcement and
31 the Department of Highway Safety and Motor Vehicles may be

1 revised or supplemented by said departments to reflect changes
2 made by the final judgment. With respect to a person convicted
3 of a felony in another state or of a federal offense, the
4 Department of Law Enforcement must send the report to the
5 respective state's office of law enforcement records or to the
6 office of the Federal Bureau of Investigation. The Department
7 of Law Enforcement may forward the report to any other law
8 enforcement agency it believes may retain information related
9 to the petitioner. Any costs associated with fingerprinting
10 must be paid by the petitioner.

11 Section 9. Present subsections (5), (6), (7), (8), and
12 (9) of section 943.053, Florida Statutes, are redesignated as
13 subsections (6), (7), (8), (9), and (10), respectively, and
14 new subsections (5), (11), and (12) are added to that section,
15 to read:

16 943.053 Dissemination of criminal justice information;
17 fees.--

18 (5) Notwithstanding s. 943.0525, or any user agreement
19 adopted pursuant thereto, and notwithstanding the
20 confidentiality of sealed records as provided in s. 943.059,
21 the department shall make criminal justice information
22 available on-line to each judge in the state court system in
23 order to assist the judge in case-related decisionmaking.
24 On-line access shall be provided without charge to the state
25 court system. Sealed records received by courts under this
26 section remain confidential and exempt from s. 119.07(1). The
27 information provided pursuant to this subsection does not
28 replace any information required to be provided to the courts
29 by any other agency or entity. Information provided under this
30 subsection may be used only for the official court business
31

1 for which it was requested and may not be further
2 disseminated.

3 (11) A criminal justice agency that is authorized
4 under federal rules or law to conduct a criminal history
5 background check on an agency employee who is not certified by
6 the Criminal Justice Standards and Training Commission under
7 s. 943.12 may submit to the department the fingerprints of the
8 noncertified employee to obtain state and national criminal
9 history information. Effective January 15, 2007, fingerprints
10 submitted shall be retained and entered in the statewide
11 automated fingerprint identification system authorized by s.
12 943.05 and shall be available for all purposes and uses
13 authorized for arrest fingerprint cards entered in the
14 statewide automated fingerprint identification system pursuant
15 to s. 943.051. The department shall search all arrest
16 fingerprint cards received pursuant to s. 943.051 against the
17 fingerprints retained in the statewide automated fingerprint
18 identification system pursuant to this section. In addition to
19 the purposes and uses authorized for arrest fingerprint cards
20 for which submitted fingerprints may be used, any arrest
21 record that is identified with the retained employee
22 fingerprints must be reported to the submitting employing
23 agency.

24 (12) Notwithstanding any other provision of law, when
25 a criminal history check or a duty to disclose the absence of
26 a criminal history check is mandated by state law or when a
27 privilege or benefit is conferred by state law in return for
28 exercising an option of conducting a criminal history check,
29 the referenced criminal history check, whether an initial or
30 renewal check, shall include the state criminal history
31 provided by the department as set forth in this section. Such

1 criminal history information may be provided by a private
2 vendor only if that information is directly obtained from the
3 department for each request. A national criminal history check
4 that is required or authorized by state law shall be submitted
5 by and through the department in the manner established by the
6 department for such checks, unless otherwise required by
7 federal law. The fee for criminal history information as
8 established by state law or, in the case of national checks,
9 by the Federal Government, shall be borne by the person or
10 entity submitting the request, or as provided by law. Criminal
11 history information provided by any other governmental entity
12 of this state or any private entity may not be substituted for
13 criminal history information provided by the department if the
14 criminal history check or a duty to disclose the absence of a
15 criminal history check is required by statute or is made a
16 condition of a privilege or benefit by law.

17 Section 10. Section 943.0585, Florida Statutes, is
18 amended to read:

19 943.0585 Court-ordered expunction of criminal history
20 records.--The courts of this state have jurisdiction over
21 their own procedures, including the maintenance, expunction,
22 and correction of judicial records containing criminal history
23 information to the extent such procedures are not inconsistent
24 with the conditions, responsibilities, and duties established
25 by this section. Any court of competent jurisdiction may order
26 a criminal justice agency to expunge the criminal history
27 record of a minor or an adult who complies with the
28 requirements of this section. The court shall not order a
29 criminal justice agency to expunge a criminal history record
30 until the person seeking to expunge a criminal history record
31 has applied for and received a certificate of eligibility for

1 expunction pursuant to subsection (2). A criminal history
2 record that relates to a violation of s. 393.135, s. 394.4593,
3 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 810.14, s.
4 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s.
5 847.0135, s. 847.0145, s. 893.135, s. 916.1075, ~~or~~ a
6 violation enumerated in s. 907.041, or any violation specified
7 as a predicate offense for registration as a sexual predator
8 pursuant to s. 775.21, without regard to whether that offense
9 alone is sufficient to require such registration, or as a
10 sexual offender pursuant to s. 943.0435, may not be expunged,
11 without regard to whether adjudication was withheld, if the
12 defendant was found guilty of or pled guilty or nolo
13 contendere to the offense, or if the defendant, as a minor,
14 was found to have committed, or pled guilty or nolo contendere
15 to committing, the offense as a delinquent act. The court may
16 only order expunction of a criminal history record pertaining
17 to one arrest or one incident of alleged criminal activity,
18 except as provided in this section. The court may, at its sole
19 discretion, order the expunction of a criminal history record
20 pertaining to more than one arrest if the additional arrests
21 directly relate to the original arrest. If the court intends
22 to order the expunction of records pertaining to such
23 additional arrests, such intent must be specified in the
24 order. A criminal justice agency may not expunge any record
25 pertaining to such additional arrests if the order to expunge
26 does not articulate the intention of the court to expunge a
27 record pertaining to more than one arrest. This section does
28 not prevent the court from ordering the expunction of only a
29 portion of a criminal history record pertaining to one arrest
30 or one incident of alleged criminal activity. Notwithstanding
31 any law to the contrary, a criminal justice agency may comply

1 with laws, court orders, and official requests of other
2 jurisdictions relating to expunction, correction, or
3 confidential handling of criminal history records or
4 information derived therefrom. This section does not confer
5 any right to the expunction of any criminal history record,
6 and any request for expunction of a criminal history record
7 may be denied at the sole discretion of the court.

8 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY
9 RECORD.--Each petition to a court to expunge a criminal
10 history record is complete only when accompanied by:

11 (a) A valid certificate of eligibility for expunction
12 issued by the department pursuant to subsection (2).

13 (b) The petitioner's sworn statement attesting that
14 the petitioner:

15 1. Has never, prior to the date on which the petition
16 is filed, been adjudicated guilty of a criminal offense or
17 comparable ordinance violation or been adjudicated delinquent
18 for committing a felony or a misdemeanor specified in s.
19 943.051(3)(b).

20 2. Has not been adjudicated guilty of, or adjudicated
21 delinquent for committing, any of the acts stemming from the
22 arrest or alleged criminal activity to which the petition
23 pertains.

24 3. Has never secured a prior sealing or expunction of
25 a criminal history record under this section, former s.
26 893.14, former s. 901.33, or former s. 943.058, or from any
27 jurisdiction outside the state, unless the expunction is
28 sought for a criminal history record that was previously
29 sealed for 10 years pursuant to paragraph (2)(h) and the
30 record is otherwise eligible for expunction.

31

1 4. Is eligible for such an expunction to the best of
2 his or her knowledge or belief and does not have any other
3 petition to expunge or any petition to seal pending before any
4 court.

5
6 Any person who knowingly provides false information on such
7 sworn statement to the court commits a felony of the third
8 degree, punishable as provided in s. 775.082, s. 775.083, or
9 s. 775.084.

10 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
11 to petitioning the court to expunge a criminal history record,
12 a person seeking to expunge a criminal history record shall
13 apply to the department for a certificate of eligibility for
14 expunction. The department shall, by rule adopted pursuant to
15 chapter 120, establish procedures pertaining to the
16 application for and issuance of certificates of eligibility
17 for expunction. A certificate of eligibility for expunction is
18 valid for 12 months after the date stamped on the certificate
19 when issued by the Department of Law Enforcement. After that
20 time, the petitioner must reapply to the department for a new
21 certificate of eligibility. Eligibility for a renewed
22 certification of eligibility must be based on the status of
23 the applicant and the law in effect at the time of the most
24 recent application. The department shall issue a certificate
25 of eligibility for expunction to a person who is the subject
26 of a criminal history record if that person:

27 (a) Has obtained, and submitted to the department, a
28 written, certified statement from the appropriate state
29 attorney or statewide prosecutor which indicates:

30 1. That an indictment, information, or other charging
31 document was not filed or issued in the case.

1 2. That an indictment, information, or other charging
2 document, if filed or issued in the case, was dismissed or
3 nolle prosequi by the state attorney or statewide prosecutor,
4 or was dismissed by a court of competent jurisdiction, and
5 that none of the charges related to the arrest or alleged
6 criminal activity to which the petition to expunge pertains
7 resulted in a trial, without regard to whether the outcome of
8 the trial was other than an adjudication of guilt.

9 3. That the criminal history record does not relate to
10 a violation of s. 393.135, s. 394.4593, s. 787.025, chapter
11 794, s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
12 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.
13 847.0145, s. 893.135, s. 916.1075, or a violation enumerated
14 in s. 907.041, or any violation specified as a predicate
15 offense for registration as a sexual predator pursuant to s.
16 775.21, without regard to whether that offense alone is
17 sufficient to require such registration, or as a sexual
18 offender pursuant to s. 943.0435, where the defendant was
19 found guilty of, or pled guilty or nolo contendere to any such
20 offense, or that the defendant, as a minor, was found to have
21 committed, or pled guilty or nolo contendere to committing,
22 such an offense as a delinquent act, without regard to whether
23 adjudication was withheld.

24 (b) Remits a \$75 processing fee to the department for
25 placement in the Department of Law Enforcement Operating Trust
26 Fund, unless such fee is waived by the executive director.

27 (c) Has submitted to the department a certified copy
28 of the disposition of the charge to which the petition to
29 expunge pertains.

30 (d) Has never, prior to the date on which the
31 application for a certificate of eligibility is filed, been

1 adjudicated guilty of a criminal offense or comparable
2 ordinance violation or been adjudicated delinquent for
3 committing a felony or a misdemeanor specified in s.
4 943.051(3)(b).

5 (e) Has not been adjudicated guilty of, or adjudicated
6 delinquent for committing, any of the acts stemming from the
7 arrest or alleged criminal activity to which the petition to
8 expunge pertains.

9 (f) Has never secured a prior sealing or expunction of
10 a criminal history record under this section, former s.
11 893.14, former s. 901.33, or former s. 943.058, unless
12 expunction is sought of a criminal history record previously
13 sealed for 10 years pursuant to paragraph (h) and the record
14 is otherwise eligible for expunction.

15 (g) Is no longer under court supervision applicable to
16 the disposition of the arrest or alleged criminal activity to
17 which the petition to expunge pertains.

18 (h) Has previously obtained a court order sealing the
19 record under this section, former s. 893.14, former s. 901.33,
20 or former s. 943.058 for a minimum of 10 years because
21 adjudication was withheld or because all charges related to
22 the arrest or alleged criminal activity to which the petition
23 to expunge pertains were not dismissed prior to trial, without
24 regard to whether the outcome of the trial was other than an
25 adjudication of guilt. The requirement for the record to have
26 previously been sealed for a minimum of 10 years does not
27 apply when a plea was not entered or all charges related to
28 the arrest or alleged criminal activity to which the petition
29 to expunge pertains were dismissed prior to trial. ~~Is not~~
30 required to wait a minimum of 10 years prior to being eligible
31 for an expunction of such records because all charges related

1 ~~to the arrest or criminal activity to which the petition to~~
2 ~~expunge pertains were dismissed prior to trial, adjudication,~~
3 ~~or the withholding of adjudication. Otherwise, such criminal~~
4 ~~history record must be sealed under this section, former s.~~
5 ~~893.14, former s. 901.33, or former s. 943.058 for at least 10~~
6 ~~years before such record is eligible for expunction.~~

7 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--

8 (a) In judicial proceedings under this section, a copy
9 of the completed petition to expunge shall be served upon the
10 appropriate state attorney or the statewide prosecutor and
11 upon the arresting agency; however, it is not necessary to
12 make any agency other than the state a party. The appropriate
13 state attorney or the statewide prosecutor and the arresting
14 agency may respond to the court regarding the completed
15 petition to expunge.

16 (b) If relief is granted by the court, the clerk of
17 the court shall certify copies of the order to the appropriate
18 state attorney or the statewide prosecutor and the arresting
19 agency. The arresting agency is responsible for forwarding the
20 order to any other agency to which the arresting agency
21 disseminated the criminal history record information to which
22 the order pertains. The department shall forward the order to
23 expunge to the Federal Bureau of Investigation. The clerk of
24 the court shall certify a copy of the order to any other
25 agency which the records of the court reflect has received the
26 criminal history record from the court.

27 (c) For an order to expunge entered by a court prior
28 to July 1, 1992, the department shall notify the appropriate
29 state attorney or statewide prosecutor of an order to expunge
30 which is contrary to law because the person who is the subject
31 of the record has previously been convicted of a crime or

1 comparable ordinance violation or has had a prior criminal
2 history record sealed or expunged. Upon receipt of such
3 notice, the appropriate state attorney or statewide prosecutor
4 shall take action, within 60 days, to correct the record and
5 petition the court to void the order to expunge. The
6 department shall seal the record until such time as the order
7 is voided by the court.

8 (d) On or after July 1, 1992, the department or any
9 other criminal justice agency is not required to act on an
10 order to expunge entered by a court when such order does not
11 comply with the requirements of this section. Upon receipt of
12 such an order, the department must notify the issuing court,
13 the appropriate state attorney or statewide prosecutor, the
14 petitioner or the petitioner's attorney, and the arresting
15 agency of the reason for noncompliance. The appropriate state
16 attorney or statewide prosecutor shall take action within 60
17 days to correct the record and petition the court to void the
18 order. No cause of action, including contempt of court, shall
19 arise against any criminal justice agency for failure to
20 comply with an order to expunge when the petitioner for such
21 order failed to obtain the certificate of eligibility as
22 required by this section or such order does not otherwise
23 comply with the requirements of this section.

24 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
25 criminal history record of a minor or an adult which is
26 ordered expunged by a court of competent jurisdiction pursuant
27 to this section must be physically destroyed or obliterated by
28 any criminal justice agency having custody of such record;
29 except that any criminal history record in the custody of the
30 department must be retained in all cases. A criminal history
31 record ordered expunged that is retained by the department is

1 confidential and exempt from the provisions of s. 119.07(1)
2 and s. 24(a), Art. I of the State Constitution and not
3 available to any person or entity except upon order of a court
4 of competent jurisdiction. A criminal justice agency may
5 retain a notation indicating compliance with an order to
6 expunge.

7 (a) The person who is the subject of a criminal
8 history record that is expunged under this section or under
9 other provisions of law, including former s. 893.14, former s.
10 901.33, and former s. 943.058, may lawfully deny or fail to
11 acknowledge the arrests covered by the expunged record, except
12 when the subject of the record:

13 1. Is a candidate for employment with a criminal
14 justice agency;

15 2. Is a defendant in a criminal prosecution;

16 3. Concurrently or subsequently petitions for relief
17 under this section or s. 943.059;

18 4. Is a candidate for admission to The Florida Bar;

19 5. Is seeking to be employed or licensed by or to
20 contract with the Department of Children and Family Services
21 or the Department of Juvenile Justice or to be employed or
22 used by such contractor or licensee in a sensitive position
23 having direct contact with children, the developmentally
24 disabled, the aged, or the elderly as provided in s.
25 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.

26 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
27 916.106(10) and (13), s. 985.407, or chapter 400; ~~or~~

28 6. Is seeking to be employed or licensed by the
29 Department of Education, any district school board, any
30 university laboratory school, any charter school, any private
31

1 or parochial school, or any local governmental entity that
2 licenses child care facilities; ~~or-~~

3 7. Is seeking authorization from a Florida seaport
4 identified in s. 311.09 for employment within or access to one
5 or more of such seaports, pursuant to s. 311.12 or s. 311.125.

6 (b) Subject to the exceptions in paragraph (a), a
7 person who has been granted an expunction under this section,
8 former s. 893.14, former s. 901.33, or former s. 943.058 may
9 not be held under any provision of law of this state to commit
10 perjury or to be otherwise liable for giving a false statement
11 by reason of such person's failure to recite or acknowledge an
12 expunged criminal history record.

13 (c) Information relating to the existence of an
14 expunged criminal history record which is provided in
15 accordance with paragraph (a) is confidential and exempt from
16 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
17 State Constitution, except that the department shall disclose
18 the existence of a criminal history record ordered expunged to
19 the entities set forth in subparagraphs (a)1., 4., 5., ~~and 6.~~
20 and 7. for their respective licensing, access authorization,
21 and employment purposes, and to criminal justice agencies for
22 their respective criminal justice purposes. It is unlawful for
23 any employee of an entity set forth in subparagraph (a)1.,
24 subparagraph (a)4., subparagraph (a)5., ~~or~~ subparagraph (a)6.,
25 or subparagraph (a)7. to disclose information relating to the
26 existence of an expunged criminal history record of a person
27 seeking employment, access authorization, or licensure with
28 such entity or contractor, except to the person to whom the
29 criminal history record relates or to persons having direct
30 responsibility for employment, access authorization, or
31 licensure decisions. Any person who violates this paragraph

1 commits a misdemeanor of the first degree, punishable as
2 provided in s. 775.082 or s. 775.083.

3 (5) STATUTORY REFERENCES.--Any reference to any other
4 chapter, section, or subdivision of the Florida Statutes in
5 this section constitutes a general reference under the
6 doctrine of incorporation by reference.

7 Section 11. Section 943.059, Florida Statutes, is
8 amended to read:

9 943.059 Court-ordered sealing of criminal history
10 records.--The courts of this state shall continue to have
11 jurisdiction over their own procedures, including the
12 maintenance, sealing, and correction of judicial records
13 containing criminal history information to the extent such
14 procedures are not inconsistent with the conditions,
15 responsibilities, and duties established by this section. Any
16 court of competent jurisdiction may order a criminal justice
17 agency to seal the criminal history record of a minor or an
18 adult who complies with the requirements of this section. The
19 court shall not order a criminal justice agency to seal a
20 criminal history record until the person seeking to seal a
21 criminal history record has applied for and received a
22 certificate of eligibility for sealing pursuant to subsection
23 (2). A criminal history record that relates to a violation of
24 s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03,
25 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
26 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
27 893.135, s. 916.1075, ~~or~~ a violation enumerated in s. 907.041,
28 or any violation specified as a predicate offense for
29 registration as a sexual predator pursuant to s. 775.21,
30 without regard to whether that offense alone is sufficient to
31 require such registration, or as a sexual offender pursuant to

1 | s. 943.0435, may not be sealed, without regard to whether
2 | adjudication was withheld, if the defendant was found guilty
3 | of or pled guilty or nolo contendere to the offense, or if the
4 | defendant, as a minor, was found to have committed or pled
5 | guilty or nolo contendere to committing the offense as a
6 | delinquent act. The court may only order sealing of a criminal
7 | history record pertaining to one arrest or one incident of
8 | alleged criminal activity, except as provided in this section.
9 | The court may, at its sole discretion, order the sealing of a
10 | criminal history record pertaining to more than one arrest if
11 | the additional arrests directly relate to the original arrest.
12 | If the court intends to order the sealing of records
13 | pertaining to such additional arrests, such intent must be
14 | specified in the order. A criminal justice agency may not seal
15 | any record pertaining to such additional arrests if the order
16 | to seal does not articulate the intention of the court to seal
17 | records pertaining to more than one arrest. This section does
18 | not prevent the court from ordering the sealing of only a
19 | portion of a criminal history record pertaining to one arrest
20 | or one incident of alleged criminal activity. Notwithstanding
21 | any law to the contrary, a criminal justice agency may comply
22 | with laws, court orders, and official requests of other
23 | jurisdictions relating to sealing, correction, or confidential
24 | handling of criminal history records or information derived
25 | therefrom. This section does not confer any right to the
26 | sealing of any criminal history record, and any request for
27 | sealing a criminal history record may be denied at the sole
28 | discretion of the court.

29 | (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each
30 | petition to a court to seal a criminal history record is
31 | complete only when accompanied by:

1 (a) A valid certificate of eligibility for sealing
2 issued by the department pursuant to subsection (2).

3 (b) The petitioner's sworn statement attesting that
4 the petitioner:

5 1. Has never, prior to the date on which the petition
6 is filed, been adjudicated guilty of a criminal offense or
7 comparable ordinance violation or been adjudicated delinquent
8 for committing a felony or a misdemeanor specified in s.
9 943.051(3)(b).

10 2. Has not been adjudicated guilty of or adjudicated
11 delinquent for committing any of the acts stemming from the
12 arrest or alleged criminal activity to which the petition to
13 seal pertains.

14 3. Has never secured a prior sealing or expunction of
15 a criminal history record under this section, former s.
16 893.14, former s. 901.33, former s. 943.058, or from any
17 jurisdiction outside the state.

18 4. Is eligible for such a sealing to the best of his
19 or her knowledge or belief and does not have any other
20 petition to seal or any petition to expunge pending before any
21 court.

22
23 Any person who knowingly provides false information on such
24 sworn statement to the court commits a felony of the third
25 degree, punishable as provided in s. 775.082, s. 775.083, or
26 s. 775.084.

27 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
28 petitioning the court to seal a criminal history record, a
29 person seeking to seal a criminal history record shall apply
30 to the department for a certificate of eligibility for
31 sealing. A certificate of eligibility for sealing is valid for

1 12 months after the date stamped on the certificate when
2 issued by the Department of Law Enforcement. After that time,
3 the petitioner must reapply to the department for a new
4 certificate of eligibility. Eligibility for a renewed
5 certification of eligibility must be based on the status of
6 the applicant and the law in effect at the time of the most
7 recent application. The department shall, by rule adopted
8 pursuant to chapter 120, establish procedures pertaining to
9 the application for and issuance of certificates of
10 eligibility for sealing. The department shall issue a
11 certificate of eligibility for sealing to a person who is the
12 subject of a criminal history record provided that such
13 person:

14 (a) Has submitted to the department a certified copy
15 of the disposition of the charge to which the petition to seal
16 pertains.

17 (b) Remits a \$75 processing fee to the department for
18 placement in the Department of Law Enforcement Operating Trust
19 Fund, unless such fee is waived by the executive director.

20 (c) Has never, prior to the date on which the
21 application for a certificate of eligibility is filed, been
22 adjudicated guilty of a criminal offense or comparable
23 ordinance violation or been adjudicated delinquent for
24 committing a felony or a misdemeanor specified in s.
25 943.051(3)(b).

26 (d) Has not been adjudicated guilty of or adjudicated
27 delinquent for committing any of the acts stemming from the
28 arrest or alleged criminal activity to which the petition to
29 seal pertains.

30
31

1 (e) Has never secured a prior sealing or expunction of
2 a criminal history record under this section, former s.
3 893.14, former s. 901.33, or former s. 943.058.

4 (f) Is no longer under court supervision applicable to
5 the disposition of the arrest or alleged criminal activity to
6 which the petition to seal pertains.

7 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

8 (a) In judicial proceedings under this section, a copy
9 of the completed petition to seal shall be served upon the
10 appropriate state attorney or the statewide prosecutor and
11 upon the arresting agency; however, it is not necessary to
12 make any agency other than the state a party. The appropriate
13 state attorney or the statewide prosecutor and the arresting
14 agency may respond to the court regarding the completed
15 petition to seal.

16 (b) If relief is granted by the court, the clerk of
17 the court shall certify copies of the order to the appropriate
18 state attorney or the statewide prosecutor and to the
19 arresting agency. The arresting agency is responsible for
20 forwarding the order to any other agency to which the
21 arresting agency disseminated the criminal history record
22 information to which the order pertains. The department shall
23 forward the order to seal to the Federal Bureau of
24 Investigation. The clerk of the court shall certify a copy of
25 the order to any other agency which the records of the court
26 reflect has received the criminal history record from the
27 court.

28 (c) For an order to seal entered by a court prior to
29 July 1, 1992, the department shall notify the appropriate
30 state attorney or statewide prosecutor of any order to seal
31 which is contrary to law because the person who is the subject

1 of the record has previously been convicted of a crime or
2 comparable ordinance violation or has had a prior criminal
3 history record sealed or expunged. Upon receipt of such
4 notice, the appropriate state attorney or statewide prosecutor
5 shall take action, within 60 days, to correct the record and
6 petition the court to void the order to seal. The department
7 shall seal the record until such time as the order is voided
8 by the court.

9 (d) On or after July 1, 1992, the department or any
10 other criminal justice agency is not required to act on an
11 order to seal entered by a court when such order does not
12 comply with the requirements of this section. Upon receipt of
13 such an order, the department must notify the issuing court,
14 the appropriate state attorney or statewide prosecutor, the
15 petitioner or the petitioner's attorney, and the arresting
16 agency of the reason for noncompliance. The appropriate state
17 attorney or statewide prosecutor shall take action within 60
18 days to correct the record and petition the court to void the
19 order. No cause of action, including contempt of court, shall
20 arise against any criminal justice agency for failure to
21 comply with an order to seal when the petitioner for such
22 order failed to obtain the certificate of eligibility as
23 required by this section or when such order does not comply
24 with the requirements of this section.

25 (e) An order sealing a criminal history record
26 pursuant to this section does not require that such record be
27 surrendered to the court, and such record shall continue to be
28 maintained by the department and other criminal justice
29 agencies.

30 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
31 criminal history record of a minor or an adult which is

1 ordered sealed by a court of competent jurisdiction pursuant
2 to this section is confidential and exempt from the provisions
3 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
4 and is available only to the person who is the subject of the
5 record, to the subject's attorney, to criminal justice
6 agencies for their respective criminal justice purposes, which
7 include conducting a criminal history background check for
8 approval of firearms purchases or transfers as authorized by
9 state or federal law, or to those entities set forth in
10 subparagraphs (a)1., 4., 5., ~~and 6., and 8.~~ for their
11 respective licensing, access authorization, and employment
12 purposes.

13 (a) The subject of a criminal history record sealed
14 under this section or under other provisions of law, including
15 former s. 893.14, former s. 901.33, and former s. 943.058, may
16 lawfully deny or fail to acknowledge the arrests covered by
17 the sealed record, except when the subject of the record:

- 18 1. Is a candidate for employment with a criminal
19 justice agency;
- 20 2. Is a defendant in a criminal prosecution;
- 21 3. Concurrently or subsequently petitions for relief
22 under this section or s. 943.0585;
- 23 4. Is a candidate for admission to The Florida Bar;
- 24 5. Is seeking to be employed or licensed by or to
25 contract with the Department of Children and Family Services
26 or the Department of Juvenile Justice or to be employed or
27 used by such contractor or licensee in a sensitive position
28 having direct contact with children, the developmentally
29 disabled, the aged, or the elderly as provided in s.
30 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
31 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.

1 415.103, s. 916.106(10) and (13), s. 985.407, or chapter 400;
2 ~~or~~

3 6. Is seeking to be employed or licensed by the
4 Department of Education, any district school board, any
5 university laboratory school, any charter school, any private
6 or parochial school, or any local governmental entity that
7 licenses child care facilities;~~-~~

8 7. Is attempting to purchase a firearm from a licensed
9 importer, licensed manufacturer, or licensed dealer and is
10 subject to a criminal history background check under state or
11 federal law; or

12 8. Is seeking authorization from a Florida seaport
13 identified in s. 311.09 for employment within or access to one
14 or more of such seaports, pursuant to s. 311.12 or s. 311.125.

15 (b) Subject to the exceptions in paragraph (a), a
16 person who has been granted a sealing under this section,
17 former s. 893.14, former s. 901.33, or former s. 943.058 may
18 not be held under any provision of law of this state to commit
19 perjury or to be otherwise liable for giving a false statement
20 by reason of such person's failure to recite or acknowledge a
21 sealed criminal history record.

22 (c) Information relating to the existence of a sealed
23 criminal record provided in accordance with the provisions of
24 paragraph (a) is confidential and exempt from the provisions
25 of s. 119.07(1) and s. 24(a), Art. I of the State
26 Constitution, except that the department shall disclose the
27 sealed criminal history record to the entities set forth in
28 subparagraphs (a)1., 4., 5., ~~and 6., and 8.~~ for their
29 respective licensing, access authorization, and employment
30 purposes. It is unlawful for any employee of an entity set
31 forth in subparagraph (a)1., subparagraph (a)4., subparagraph

1 | (a)5., ~~or~~ subparagraph (a)6., or subparagraph (a)8. to
2 | disclose information relating to the existence of a sealed
3 | criminal history record of a person seeking employment, access
4 | authorization, or licensure with such entity or contractor,
5 | except to the person to whom the criminal history record
6 | relates or to persons having direct responsibility for
7 | employment, access authorization, or licensure decisions. Any
8 | person who violates the provisions of this paragraph commits a
9 | misdemeanor of the first degree, punishable as provided in s.
10 | 775.082 or s. 775.083.

11 | (5) STATUTORY REFERENCES.--Any reference to any other
12 | chapter, section, or subdivision of the Florida Statutes in
13 | this section constitutes a general reference under the
14 | doctrine of incorporation by reference.

15 | Section 12. Subsection (5) of section 943.13, Florida
16 | Statutes, is amended to read:

17 | 943.13 Officers' minimum qualifications for employment
18 | or appointment.--On or after October 1, 1984, any person
19 | employed or appointed as a full-time, part-time, or auxiliary
20 | law enforcement officer or correctional officer; on or after
21 | October 1, 1986, any person employed as a full-time,
22 | part-time, or auxiliary correctional probation officer; and on
23 | or after October 1, 1986, any person employed as a full-time,
24 | part-time, or auxiliary correctional officer by a private
25 | entity under contract to the Department of Corrections, to a
26 | county commission, or to the Department of Management Services
27 | shall:

28 | (5) Have documentation of his or her processed
29 | fingerprints on file with the employing agency or, if a
30 | private correctional officer, have documentation of his or her
31 | processed fingerprints on file with the Department of

1 Corrections or the Criminal Justice Standards and Training
2 Commission. If administrative delays are caused by the
3 department or the Federal Bureau of Investigation and the
4 person has complied with subsections (1)-(4) and (6)-(9), he
5 or she may be employed or appointed for a period not to exceed
6 1 calendar year from the date he or she was employed or
7 appointed or until return of the processed fingerprints
8 documenting noncompliance with subsections (1)-(4) or
9 subsection (7), whichever occurs first. Beginning December 15,
10 2007, the department shall retain and enter into the statewide
11 automated fingerprint identification system authorized by s.
12 943.05 all fingerprints submitted to the department as
13 required by this section. Thereafter, the fingerprints shall
14 be available for all purposes and uses authorized for arrest
15 fingerprint cards entered in the statewide automated
16 fingerprint identification system pursuant to s. 943.051. The
17 department shall search all arrest fingerprints cards received
18 pursuant to s. 943.051 against the fingerprints retained in
19 the statewide automated fingerprint identification system
20 pursuant to this section and report to the employing agency
21 any arrest records that are identified with the retained
22 employee's fingerprints. By January 1, 2008, a person who must
23 meet the minimum qualifications provided in this section and
24 whose fingerprints are not retained by the department pursuant
25 to this section must be refingerprinted. These fingerprints
26 must be forwarded to the department for processing and
27 retention.

28 Section 13. Section 943.1715, Florida Statutes, is
29 amended to read:

30 943.1715 Basic skills training relating to diverse
31 populations.--The commission shall establish and maintain

1 standards for instruction of officers in the subject of
2 interpersonal skills relating to diverse populations, with an
3 emphasis on the awareness of cultural differences. Every basic
4 skills course required in order for officers to obtain initial
5 certification must include ~~a minimum of 8 hours~~ training in
6 interpersonal skills with diverse populations.

7 Section 14. Section 943.1716, Florida Statutes, is
8 amended to read:

9 943.1716 Continued employment training relating to
10 diverse populations.--The commission shall by rule require
11 that each officer receive, as part of the 40 hours of required
12 instruction for continued employment or appointment as an
13 officer, ~~8 hours of~~ instruction in the subject of
14 interpersonal skills relating to diverse populations, with an
15 emphasis on the awareness of cultural differences.

16 Section 15. Section 943.2569, Florida Statutes, is
17 repealed.

18 Section 16. Section 943.257, Florida Statutes, is
19 amended to read:

20 943.257 Independent audit documentation subject to
21 inspection.--The Criminal Justice Standards and Training
22 Commission or a center's advisory board may inspect and copy
23 any documents from the center as required to carry out the
24 commission's or the respective board's oversight
25 responsibilities, including information and documents related
26 to applicant evaluations and center expenditures. The
27 commission or board may inspect and copy the documentation of
28 any internal or independent audits conducted by or on behalf
29 of the centers to ensure that candidate and inservice officer
30 assessments have been made and that expenditures are in
31

1 conformance with the requirements of this act and with other
2 applicable procedures.

3 Section 17. Subsections (1) and (3) of section
4 943.401, Florida Statutes, are amended to read:

5 943.401 Public assistance fraud.--

6 (1)(a) The Department of Law Enforcement shall
7 investigate all public assistance provided to residents of the
8 state or provided to others by the state ~~made under the~~
9 ~~provisions of chapter 409 or chapter 414~~. In the course of
10 such investigation the Department of Law Enforcement shall
11 examine all records, including electronic benefits transfer
12 records and make inquiry of all persons who may have knowledge
13 as to any irregularity incidental to the disbursement of
14 public moneys, food stamps, or other items or benefits
15 authorizations to recipients.

16 (b) All public assistance recipients, as a condition
17 precedent to qualification for public assistance ~~under the~~
18 ~~provisions of chapter 409 or chapter 414~~, shall first give in
19 writing, to the Agency for Health Care Administration, the
20 Department of Health, the Agency for Workforce Innovation, and
21 the Department of Children and Family Services, as
22 appropriate, and to the Department of Law Enforcement, consent
23 to make inquiry of past or present employers and records,
24 financial or otherwise.

25 (3) The results of such investigation shall be
26 reported by the Department of Law Enforcement to the
27 appropriate legislative committees, the Agency for Health Care
28 Administration, the Department of Health, the Agency for
29 Workforce Innovation, and the Department of Children and
30 Family Services, and to such others as the Department of Law
31 Enforcement may determine.

1 Section 18. Authority to purchase goodwill and
2 promotional materials.--

3 (1) The Legislature recognizes that the Department of
4 Law Enforcement functions as one of the state's primary law
5 enforcement representatives in national and international
6 meetings, conferences, and cooperative efforts. The department
7 often hosts delegates from other federal, state, local, and
8 international agencies and is in a position to function as a
9 representative of the state fostering goodwill and effective
10 interagency working relationships. It is the intent of the
11 Legislature that the department be allowed, consistent with
12 the dignity and integrity of the state, to purchase and
13 distribute material and items of collection to those with whom
14 the department has contact in meetings, conferences, and
15 cooperative efforts.

16 (2) In addition to expenditures separately authorized
17 by law, the department may expend not more than \$5,000
18 annually to purchase and distribute promotional materials or
19 items that serve to advance with dignity and integrity the
20 goodwill of this state and the department and to provide basic
21 refreshments at official functions, seminars, or meetings of
22 the department in which dignitaries or representatives from
23 the Federal Government, other states or nationalities, or
24 other agencies are in attendance.

25 Section 19. Unauthorized use of Department of Law
26 Enforcement emblems or names prohibited.--

27 (1) Whoever, except with the written permission of the
28 executive director of the Department of Law Enforcement or as
29 otherwise expressly authorized by the department, knowingly
30 uses the words "Florida Department of Law Enforcement," the
31 initials "F.D.L.E." or "FDLE," or the words "Florida Capitol

1 Police," or any colorable imitation of such words or initials,
2 or who uses a logo or emblem used by the department in
3 connection with any advertisement, circular, book, pamphlet,
4 or other publication, play, motion picture, broadcast,
5 telecast, or other production, in any Internet web page or
6 upon any product in a manner reasonably calculated to convey
7 the impression that such advertisement, circular, book,
8 pamphlet, or other publication, play, motion picture,
9 broadcast, telecast, or other production, Internet web page,
10 or product is approved, endorsed, or authorized by the
11 department commits a misdemeanor of the first degree,
12 punishable as provided in s. 775.082 or s. 775.083, Florida
13 Statutes.

14 (2) A violation of this section may be enjoined upon
15 suit by the department or the Department of Legal Affairs upon
16 complaint filed in any court of competent jurisdiction.

17 Section 20. Except as otherwise expressly provided in
18 this act, this act shall take effect July 1, 2006.

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SENATE SUMMARY

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3 Revises provisions relating to the Department of Law
4 Enforcement. Revises records requirements relating to
5 firearm purchases. Requires maintenance of an automated
6 database of persons prohibited from purchasing firearms.
7 Establishes reporting requirements for clerks of the
8 court, provides for the deletion of records from the
9 database, and authorizes the department to disclose data
10 to specified agencies. Increases the time that protective
11 services can be provided to certain witnesses or victims.
12 Expands the type of offenses that cannot be sealed or
13 expunged. Provides civil immunity for damages when an
14 agency responds to a request to provide information
15 relating to a missing child. Requires a portion of
16 certain court costs imposed for driving or boating under
17 the influence be deposited in the department's Operating
18 Trust Fund. Provides for certain costs to be deposited
19 into the Forfeiture and Investigative Trust Fund.
20 Provides for the department to retain certain
21 fingerprints. Requires the department to make certain
22 information available to judges. Limits the use of
23 certain information. Provides for criminal history
24 background checks of specified employees. Revises certain
25 provisions relating to the expunction of criminal
26 records. Specifies certain offenses that may not be
27 sealed. Provides requirements relating to the records of
28 persons working at seaports. Revises training
29 requirements for certain law enforcement officers.
30 Deletes certain audit requirements. Revises oversight
31 requirements. Prohibits the unauthorized use of certain
department emblems and names. (See bill for details.)