

By the Committee on Governmental Oversight and Accountability;  
and Senator Wilson

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1                                   A bill to be entitled  
2           An act relating to criminal justice; providing  
3           legislative intent; requiring state agencies and  
4           regulatory boards to prepare reports that identify and  
5           evaluate restrictions on licensing and employment;  
6           amending s. 112.011, F.S.; prohibiting state agencies  
7           from denying an application for a license, permit,  
8           certificate, or employment based on a person's lack of  
9           civil rights; providing an exception; amending s.  
10          768.096, F.S.; requiring an employer to review the  
11          results of a criminal background investigation;  
12          requiring an employer not to place an employee who has  
13          a criminal record in a position where conduct similar  
14          to the employee's past criminal conduct would be  
15          facilitated; requiring an employer to determine that  
16          the criminal background investigation does not  
17          demonstrate that the employee is unsuitable for the  
18          particular work to be performed or the context of the  
19          employment in general; amending s. 943.0585, F.S.;  
20          clarifying under what circumstances a person may  
21          legally deny the existence of an expunged criminal  
22          history record; authorizing the disclosure of the  
23          contents of an expunged record upon receipt of a  
24          written, notarized request from the record subject;  
25          requiring clerks of the court to post information  
26          relating to procedures to seal or expunge criminal  
27          history records on the clerk's website; amending s.  
28          943.059, F.S.; clarifying under what circumstances a  
29          person may legally deny the existence of a sealed

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30 criminal history record; authorizing a court to seal a  
31 criminal history record of a person who had a prior  
32 criminal history record sealed or expunged; providing  
33 an effective date.

34  
35 Be It Enacted by the Legislature of the State of Florida:

36  
37 Section 1. Restrictions on the employment of ex-offenders;  
38 legislative intent; state agency reporting requirements.-

39 (1) The Legislature declares that it is the goal of this  
40 state to provide to prospective employees a clear statement of  
41 which crimes would disqualify ex-offenders from which  
42 occupations. It is the intent of the Legislature to make  
43 opportunities for employment available to ex-offenders so that  
44 they will be less likely to revert to criminal behavior, insofar  
45 as the employment of such persons does not detract from the  
46 safety of the public. The Legislature further declares that  
47 state agencies should identify all restrictions imposed by the  
48 agencies or by boards that regulate professions and occupations  
49 on employment and should make an effort to define each  
50 restriction as narrowly as possible while continuing to maintain  
51 public safety.

52 (2) Each state agency, including, but not limited to,  
53 professional and occupational regulatory boards, shall, by  
54 December 31, 2010, and every 8 years thereafter, submit to the  
55 Governor, the President of the Senate, and the Speaker of the  
56 House of Representatives a report that includes:

57 (a) A list of all agency or board policies that disqualify  
58 from employment or licensure persons who have been convicted of

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59 a crime and have completed any incarceration and restitution to  
60 which they have been sentenced for such a crime.

61 (b) A determination of whether the disqualifying policies  
62 are readily available to prospective employers and licensees.

63 (c) The identification and evaluation of alternatives to  
64 the disqualifying policies to promote the employment of ex-  
65 offenders and protect the public.

66 (d) An evaluation of whether the disqualifying polices are  
67 too broad and whether crimes or acts of moral turpitude that  
68 disqualify a person from licensure should be more specifically  
69 or narrowly identified.

70 Section 2. Section 112.011, Florida Statutes, is amended to  
71 read:

72 112.011 Disqualification from licensing and public  
73 employment based on criminal conviction ~~Felons; removal of~~  
74 ~~disqualifications for employment, exceptions.-~~

75 (1) (a) Except as provided in s. 775.16, a person may ~~shall~~  
76 not be disqualified from employment by the state, any of its  
77 agencies or political subdivisions, or any municipality solely  
78 because of a prior conviction for a crime. However, a person may  
79 be denied employment by the state, any of its agencies or  
80 political subdivisions, or any municipality by reason of the  
81 prior conviction for a crime if the crime was a felony or first  
82 degree misdemeanor and directly related to the position of  
83 employment sought.

84 (b) Except as provided in s. 775.16, a person ~~whose civil~~  
85 ~~rights have been restored shall not be disqualified to practice,~~  
86 ~~pursue, or engage in any occupation, trade, vocation,~~  
87 ~~profession, or business for which a license, permit, or~~

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88 ~~certificate is required to be issued by the state, any of its~~  
89 ~~agencies or political subdivisions, or any municipality solely~~  
90 ~~because of a prior conviction for a crime. However, a person~~  
91 ~~whose civil rights have been restored~~ may be denied a license,  
92 permit, or certification to pursue, practice, or engage in an  
93 occupation, trade, vocation, profession, or business by reason  
94 of the prior conviction for a crime if the crime was a felony or  
95 first degree misdemeanor relevant to the standards normally  
96 associated with, or determined by the regulatory authority to be  
97 necessary for the protection of the public or other parties for  
98 and directly related to the specific occupation, trade,  
99 vocation, profession, or business for which the license, permit,  
100 or certificate is sought.

101 (c) Notwithstanding any law to the contrary, a state agency  
102 may not deny an application for a license, permit, certificate,  
103 or employment based on the applicant's lack of civil rights.  
104 However, this paragraph does not apply to applications for a  
105 license to carry a concealed weapon or firearm under chapter  
106 790.

107 (2) (a) This section does ~~shall~~ not apply ~~be applicable~~ to  
108 any law enforcement or correctional agency.

109 (b) This section shall not be applicable to the employment  
110 practices of any fire department relating to the hiring of  
111 firefighters. An applicant for employment with any fire  
112 department who has ~~with~~ a prior felony conviction shall be  
113 excluded from employment for a period of 4 years after  
114 expiration of sentence or final release by the Parole Commission  
115 unless the applicant, prior to the expiration of the 4-year  
116 period, has received a full pardon or has had his or her civil

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117 rights restored.

118 (c) This section does ~~shall~~ not apply ~~be applicable~~ to the  
119 employment practices of any county or municipality relating to  
120 the hiring of personnel for positions deemed to be critical to  
121 security or public safety pursuant to ss. 125.5801 and 166.0442.

122 (3) Any complaint concerning the violation of this section  
123 shall be adjudicated in accordance with the procedures set forth  
124 in chapter 120 for administrative and judicial review.

125 Section 3. Section 768.096, Florida Statutes, is amended to  
126 read:

127 768.096 Employer presumption against negligent hiring.—

128 (1) In a civil action for the death of, or injury or damage  
129 to, a third person caused by the intentional tort of an  
130 employee, such employee's employer is presumed not to have been  
131 negligent in hiring such employee if, before hiring the  
132 employee, the employer conducted a background investigation of  
133 the prospective employee and the investigation did not reveal  
134 any information that reasonably demonstrated the unsuitability  
135 of the prospective employee for the particular work to be  
136 performed or for the context of the employment in general. A  
137 background investigation under this section must include:

138 (a) Obtaining a criminal background investigation on the  
139 prospective employee under subsection (2);

140 (b) Making a reasonable effort to contact references and  
141 former employers of the prospective employee concerning the  
142 suitability of the prospective employee for employment;

143 (c) Requiring the prospective employee to complete a job  
144 application form that includes questions concerning whether he  
145 or she has ever been convicted of a crime, including details

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146 concerning the type of crime, the date of conviction and the  
147 penalty imposed, and whether the prospective employee has ever  
148 been a defendant in a civil action for intentional tort,  
149 including the nature of the intentional tort and the disposition  
150 of the action;

151 (d) Obtaining, with written authorization from the  
152 prospective employee, a check of the driver's license record of  
153 the prospective employee if such a check is relevant to the work  
154 the employee will be performing and if the record can reasonably  
155 be obtained; and ~~or~~

156 (e) Interviewing the prospective employee.

157 (2) To satisfy the criminal-background-investigation  
158 requirement of this section, an employer must request and obtain  
159 from the Department of Law Enforcement a check of the  
160 information as reported and reflected in the Florida Crime  
161 Information Center system as of the date of the request. The  
162 employer must review and consider the results of the criminal  
163 background investigation and, if the prospective employee has  
164 engaged in past criminal conduct, ensure that the employee will  
165 not be assigned to particular work that would place the employee  
166 in a position where conduct that is similar to the employee's  
167 past criminal conduct is facilitated and determine that,  
168 notwithstanding the past criminal conduct of the employee, any  
169 information revealed by the investigation did not otherwise  
170 demonstrate the unsuitability of the employee for the particular  
171 work to be performed or context of the employment in general.

172 (3) The election by an employer not to conduct the  
173 investigation specified in subsection (1) does not raise any  
174 presumption that the employer failed to use reasonable care in

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175 hiring an employee.

176 Section 4. Section 943.0585, Florida Statutes, is amended  
177 to read:

178 943.0585 Court-ordered expunction of criminal history  
179 records.—The courts of this state have jurisdiction over their  
180 own procedures, including the maintenance, expunction, and  
181 correction of judicial records containing criminal history  
182 information to the extent such procedures are not inconsistent  
183 with the conditions, responsibilities, and duties established by  
184 this section. Any court of competent jurisdiction may order a  
185 criminal justice agency to expunge the criminal history record  
186 of a minor or an adult who complies with the requirements of  
187 this section. The court shall not order a criminal justice  
188 agency to expunge a criminal history record until the person  
189 seeking to expunge a criminal history record has applied for and  
190 received a certificate of eligibility for expunction pursuant to  
191 subsection (2). A criminal history record that relates to a  
192 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
193 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
194 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
195 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
196 any violation specified as a predicate offense for registration  
197 as a sexual predator pursuant to s. 775.21, without regard to  
198 whether that offense alone is sufficient to require such  
199 registration, or for registration as a sexual offender pursuant  
200 to s. 943.0435, may not be expunged, without regard to whether  
201 adjudication was withheld, if the defendant was found guilty of  
202 or pled guilty or nolo contendere to the offense, or if the  
203 defendant, as a minor, was found to have committed, or pled

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204 guilty or nolo contendere to committing, the offense as a  
205 delinquent act. The court may only order expunction of a  
206 criminal history record pertaining to one arrest or one incident  
207 of alleged criminal activity, except as provided in this  
208 section. The court may, at its sole discretion, order the  
209 expunction of a criminal history record pertaining to more than  
210 one arrest if the additional arrests directly relate to the  
211 original arrest. If the court intends to order the expunction of  
212 records pertaining to such additional arrests, such intent must  
213 be specified in the order. A criminal justice agency may not  
214 expunge any record pertaining to such additional arrests if the  
215 order to expunge does not articulate the intention of the court  
216 to expunge a record pertaining to more than one arrest. This  
217 section does not prevent the court from ordering the expunction  
218 of only a portion of a criminal history record pertaining to one  
219 arrest or one incident of alleged criminal activity.

220 Notwithstanding any law to the contrary, a criminal justice  
221 agency may comply with laws, court orders, and official requests  
222 of other jurisdictions relating to expunction, correction, or  
223 confidential handling of criminal history records or information  
224 derived therefrom. This section does not confer any right to the  
225 expunction of any criminal history record, and any request for  
226 expunction of a criminal history record may be denied at the  
227 sole discretion of the court.

228 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each  
229 petition to a court to expunge a criminal history record is  
230 complete only when accompanied by:

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



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233 (b) The petitioner's sworn statement attesting that the  
234 petitioner:

235 1. Has never, prior to the date on which the petition is  
236 filed, been adjudicated guilty of a criminal offense or  
237 comparable ordinance violation, or been adjudicated delinquent  
238 for committing any felony or a misdemeanor specified in s.  
239 943.051(3)(b).

240 2. Has not been adjudicated guilty of, or adjudicated  
241 delinquent for committing, any of the acts stemming from the  
242 arrest or alleged criminal activity to which the petition  
243 pertains.

244 3. Has never secured a prior sealing or expunction of a  
245 criminal history record under this section, former s. 893.14,  
246 former s. 901.33, or former s. 943.058, or from any jurisdiction  
247 outside the state, unless expunction is sought of a criminal  
248 history record previously sealed for 10 years pursuant to  
249 paragraph (2)(h) and the record is otherwise eligible for  
250 expunction.

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

254  
255 Any person who knowingly provides false information on such  
256 sworn statement to the court commits a felony of the third  
257 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
258 775.084.

259 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to  
260 petitioning the court to expunge a criminal history record, a  
261 person seeking to expunge a criminal history record shall apply

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262 to the department for a certificate of eligibility for  
263 expunction. The department shall, by rule adopted pursuant to  
264 chapter 120, establish procedures pertaining to the application  
265 for and issuance of certificates of eligibility for expunction.  
266 A certificate of eligibility for expunction is valid for 12  
267 months after the date stamped on the certificate when issued by  
268 the department. After that time, the petitioner must reapply to  
269 the department for a new certificate of eligibility. Eligibility  
270 for a renewed certification of eligibility must be based on the  
271 status of the applicant and the law in effect at the time of the  
272 renewal application. The department shall issue a certificate of  
273 eligibility for expunction to a person who is the subject of a  
274 criminal history record if that person:

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

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

280 2. That an indictment, information, or other charging  
281 document, if filed or issued in the case, was dismissed or nolle  
282 prosequi by the state attorney or statewide prosecutor, or was  
283 dismissed by a court of competent jurisdiction, and that none of  
284 the charges related to the arrest or alleged criminal activity  
285 to which the petition to expunge pertains resulted in a trial,  
286 without regard to whether the outcome of the trial was other  
287 than an adjudication of guilt.

288 3. That the criminal history record does not relate to a  
289 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
290 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.

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291 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
292 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
293 any violation specified as a predicate offense for registration  
294 as a sexual predator pursuant to s. 775.21, without regard to  
295 whether that offense alone is sufficient to require such  
296 registration, or for registration as a sexual offender pursuant  
297 to s. 943.0435, where the defendant was found guilty of, or pled  
298 guilty or nolo contendere to any such offense, or that the  
299 defendant, as a minor, was found to have committed, or pled  
300 guilty or nolo contendere to committing, such an offense as a  
301 delinquent act, without regard to whether adjudication was  
302 withheld.

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

306 (c) Has submitted to the department a certified copy of the  
307 disposition of the charge to which the petition to expunge  
308 pertains.

309 (d) Has never, prior to the date on which the application  
310 for a certificate of eligibility is filed, been adjudicated  
311 guilty of a criminal offense or comparable ordinance violation,  
312 or been adjudicated delinquent for committing any felony or a  
313 misdemeanor specified in s. 943.051(3)(b).

314 (e) Has not been adjudicated guilty of, or adjudicated  
315 delinquent for committing, any of the acts stemming from the  
316 arrest or alleged criminal activity to which the petition to  
317 expunge pertains.

318 (f) Has never secured a prior sealing or expunction of a  
319 criminal history record under this section, former s. 893.14,

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320 former s. 901.33, or former s. 943.058, unless expunction is  
321 sought of a criminal history record previously sealed for 10  
322 years pursuant to paragraph (h) and the record is otherwise  
323 eligible for expunction.

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

327 (h) Has previously obtained a court order sealing the  
328 record under this section, former s. 893.14, former s. 901.33,  
329 or former s. 943.058 for a minimum of 10 years because  
330 adjudication was withheld or because all charges related to the  
331 arrest or alleged criminal activity to which the petition to  
332 expunge pertains were not dismissed prior to trial, without  
333 regard to whether the outcome of the trial was other than an  
334 adjudication of guilt. The requirement for the record to have  
335 previously been sealed for a minimum of 10 years does not apply  
336 when a plea was not entered or all charges related to the arrest  
337 or alleged criminal activity to which the petition to expunge  
338 pertains were dismissed prior to trial.

339 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.—

340 (a) In judicial proceedings under this section, a copy of  
341 the completed petition to expunge shall be served upon the  
342 appropriate state attorney or the statewide prosecutor and upon  
343 the arresting agency; however, it is not necessary to make any  
344 agency other than the state a party. The appropriate state  
345 attorney or the statewide prosecutor and the arresting agency  
346 may respond to the court regarding the completed petition to  
347 expunge.

348 (b) If relief is granted by the court, the clerk of the

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349 court shall certify copies of the order to the appropriate state  
350 attorney or the statewide prosecutor and the arresting agency.  
351 The arresting agency is responsible for forwarding the order to  
352 any other agency to which the arresting agency disseminated the  
353 criminal history record information to which the order pertains.  
354 The department shall forward the order to expunge to the Federal  
355 Bureau of Investigation. The clerk of the court shall certify a  
356 copy of the order to any other agency which the records of the  
357 court reflect has received the criminal history record from the  
358 court.

359 (c) For an order to expunge entered by a court prior to  
360 July 1, 1992, the department shall notify the appropriate state  
361 attorney or statewide prosecutor of an order to expunge which is  
362 contrary to law because the person who is the subject of the  
363 record has previously been convicted of a crime or comparable  
364 ordinance violation or has had a prior criminal history record  
365 sealed or expunged. Upon receipt of such notice, the appropriate  
366 state attorney or statewide prosecutor shall take action, within  
367 60 days, to correct the record and petition the court to void  
368 the order to expunge. The department shall seal the record until  
369 such time as the order is voided by the court.

370 (d) On or after July 1, 1992, the department or any other  
371 criminal justice agency is not required to act on an order to  
372 expunge entered by a court when such order does not comply with  
373 the requirements of this section. Upon receipt of such an order,  
374 the department must notify the issuing court, the appropriate  
375 state attorney or statewide prosecutor, the petitioner or the  
376 petitioner's attorney, and the arresting agency of the reason  
377 for noncompliance. The appropriate state attorney or statewide

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378 prosecutor shall take action within 60 days to correct the  
379 record and petition the court to void the order. No cause of  
380 action, including contempt of court, shall arise against any  
381 criminal justice agency for failure to comply with an order to  
382 expunge when the petitioner for such order failed to obtain the  
383 certificate of eligibility as required by this section or such  
384 order does not otherwise comply with the requirements of this  
385 section.

386 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any  
387 criminal history record of a minor or an adult which is ordered  
388 expunged by a court of competent jurisdiction pursuant to this  
389 section must be physically destroyed or obliterated by any  
390 criminal justice agency having custody of such record; except  
391 that any criminal history record in the custody of the  
392 department must be retained in all cases. A criminal history  
393 record ordered expunged that is retained by the department is  
394 confidential and exempt from the provisions of s. 119.07(1) and  
395 s. 24(a), Art. I of the State Constitution and not available to  
396 any person or entity except upon order of a court of competent  
397 jurisdiction. A criminal justice agency may retain a notation  
398 indicating compliance with an order to expunge.

399 (a) The person who is the subject of a criminal history  
400 record that is expunged under this section or under other  
401 provisions of law, including former s. 893.14, former s. 901.33,  
402 and former s. 943.058, may lawfully deny or fail to acknowledge  
403 the arrests and subsequent dispositions covered by the expunged  
404 record, except when the subject of the record:

405 1. Is a candidate for employment with a criminal justice  
406 agency;

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- 407           2. Is a defendant in a criminal prosecution;
- 408           3. Concurrently or subsequently petitions for relief under  
409 this section or s. 943.059;
- 410           4. Is a candidate for admission to The Florida Bar;
- 411           5. Is seeking to be employed or licensed by or to contract  
412 with the Department of Children and Family Services, the Agency  
413 for Health Care Administration, the Agency for Persons with  
414 Disabilities, or the Department of Juvenile Justice or to be  
415 employed or used by such contractor or licensee in a sensitive  
416 position having direct contact with children, the  
417 developmentally disabled, the aged, or the elderly as provided  
418 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
419 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),  
420 chapter 916, s. 985.644, chapter 400, or chapter 429;
- 421           6. Is seeking to be employed or licensed by the Department  
422 of Education, any district school board, any university  
423 laboratory school, any charter school, any private or parochial  
424 school, or any local governmental entity that licenses child  
425 care facilities; or
- 426           7. Is seeking authorization from a Florida seaport  
427 identified in s. 311.09 for employment within or access to one  
428 or more of such seaports pursuant to s. 311.12 or s. 311.125.
- 429           (b) Subject to the exceptions in paragraph (a), a person  
430 who has been granted an expunction under this section, former s.  
431 893.14, former s. 901.33, or former s. 943.058 may not be held  
432 under any provision of law of this state to commit perjury or to  
433 be otherwise liable for giving a false statement by reason of  
434 such person's failure to recite or acknowledge an expunged  
435 criminal history record, including a failure to recite or

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436 acknowledge on an employment application.

437 (c) Information relating to the existence of an expunged  
438 criminal history record which is provided in accordance with  
439 paragraph (a) is confidential and exempt from the provisions of  
440 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
441 except that the department shall disclose the existence of a  
442 criminal history record ordered expunged to the entities set  
443 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their  
444 respective licensing, access authorization, and employment  
445 purposes, and to criminal justice agencies for their respective  
446 criminal justice purposes. It is unlawful for any employee of an  
447 entity set forth in subparagraph (a)1., subparagraph (a)4.,  
448 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to  
449 disclose information relating to the existence of an expunged  
450 criminal history record of a person seeking employment, access  
451 authorization, or licensure with such entity or contractor,  
452 except to the person to whom the criminal history record relates  
453 or to persons having direct responsibility for employment,  
454 access authorization, or licensure decisions. Any person who  
455 violates this paragraph commits a misdemeanor of the first  
456 degree, punishable as provided in s. 775.082 or s. 775.083.

457 (d) The department may disclose the contents of an expunged  
458 record to the subject of the record upon the receipt of a  
459 written, notarized request from the subject of the record.

460 (5) INFORMATION.—Each website for the office of a clerk of  
461 court must include information relating to procedures to seal or  
462 expunge criminal history records. This information must include  
463 the link to related information on the website of the  
464 department.



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465        (6)~~(5)~~ STATUTORY REFERENCES.—Any reference to any other  
466 chapter, section, or subdivision of the Florida Statutes in this  
467 section constitutes a general reference under the doctrine of  
468 incorporation by reference.

469        Section 5. Section 943.059, Florida Statutes, is amended to  
470 read:

471        943.059 Court-ordered sealing of criminal history records.—  
472 The courts of this state shall continue to have jurisdiction  
473 over their own procedures, including the maintenance, sealing,  
474 and correction of judicial records containing criminal history  
475 information to the extent such procedures are not inconsistent  
476 with the conditions, responsibilities, and duties established by  
477 this section. Any court of competent jurisdiction may order a  
478 criminal justice agency to seal the criminal history record of a  
479 minor or an adult who complies with the requirements of this  
480 section. The court shall not order a criminal justice agency to  
481 seal a criminal history record until the person seeking to seal  
482 a criminal history record has applied for and received a  
483 certificate of eligibility for sealing pursuant to subsection  
484 (2). A criminal history record that relates to a violation of s.  
485 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.  
486 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter  
487 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
488 916.1075, a violation enumerated in s. 907.041, or any violation  
489 specified as a predicate offense for registration as a sexual  
490 predator pursuant to s. 775.21, without regard to whether that  
491 offense alone is sufficient to require such registration, or for  
492 registration as a sexual offender pursuant to s. 943.0435, may  
493 not be sealed, without regard to whether adjudication was

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494 withheld, if the defendant was found guilty of or pled guilty or  
495 nolo contendere to the offense, or if the defendant, as a minor,  
496 was found to have committed or pled guilty or nolo contendere to  
497 committing the offense as a delinquent act. The court may only  
498 order sealing of a criminal history record pertaining to one  
499 arrest or one incident of alleged criminal activity, except as  
500 provided in this section. The court may, at its sole discretion,  
501 order the sealing of a criminal history record pertaining to  
502 more than one arrest if the additional arrests directly relate  
503 to the original arrest. If the court intends to order the  
504 sealing of records pertaining to such additional arrests, such  
505 intent must be specified in the order. A criminal justice agency  
506 may not seal any record pertaining to such additional arrests if  
507 the order to seal does not articulate the intention of the court  
508 to seal records pertaining to more than one arrest. This section  
509 does not prevent the court from ordering the sealing of only a  
510 portion of a criminal history record pertaining to one arrest or  
511 one incident of alleged criminal activity. Notwithstanding any  
512 law to the contrary, a criminal justice agency may comply with  
513 laws, court orders, and official requests of other jurisdictions  
514 relating to sealing, correction, or confidential handling of  
515 criminal history records or information derived therefrom. This  
516 section does not confer any right to the sealing of any criminal  
517 history record, and any request for sealing a criminal history  
518 record may be denied at the sole discretion of the court.

519 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each  
520 petition to a court to seal a criminal history record is  
521 complete only when accompanied by:

522 (a) A valid certificate of eligibility for sealing issued

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523 by the department pursuant to subsection (2).

524 (b) The petitioner's sworn statement attesting that the  
525 petitioner:

526 1. Has never, prior to the date on which the petition is  
527 filed, been adjudicated guilty of a criminal offense or  
528 comparable ordinance violation, or been adjudicated delinquent  
529 for committing any felony or a misdemeanor specified in s.  
530 943.051(3)(b).

531 2. Has not been adjudicated guilty of or adjudicated  
532 delinquent for committing any of the acts stemming from the  
533 arrest or alleged criminal activity to which the petition to  
534 seal pertains.

535 3. Has never secured a prior sealing, except as provided in  
536 subsection (6), or expunction of a criminal history record under  
537 this section, former s. 893.14, former s. 901.33, former s.  
538 943.058, or from any jurisdiction outside the state.

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

542  
543 Any person who knowingly provides false information on such  
544 sworn statement to the court commits a felony of the third  
545 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
546 775.084.

547 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to  
548 petitioning the court to seal a criminal history record, a  
549 person seeking to seal a criminal history record shall apply to  
550 the department for a certificate of eligibility for sealing. The  
551 department shall, by rule adopted pursuant to chapter 120,

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552 establish procedures pertaining to the application for and  
553 issuance of certificates of eligibility for sealing. A  
554 certificate of eligibility for sealing is valid for 12 months  
555 after the date stamped on the certificate when issued by the  
556 department. After that time, the petitioner must reapply to the  
557 department for a new certificate of eligibility. Eligibility for  
558 a renewed certification of eligibility must be based on the  
559 status of the applicant and the law in effect at the time of the  
560 renewal application. The department shall issue a certificate of  
561 eligibility for sealing to a person who is the subject of a  
562 criminal history record provided that such person:

563 (a) Has submitted to the department a certified copy of the  
564 disposition of the charge to which the petition to seal  
565 pertains.

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

569 (c) Has never, prior to the date on which the application  
570 for a certificate of eligibility is filed, been adjudicated  
571 guilty of a criminal offense or comparable ordinance violation,  
572 or been adjudicated delinquent for committing any felony or a  
573 misdemeanor specified in s. 943.051(3)(b).

574 (d) Has not been adjudicated guilty of or adjudicated  
575 delinquent for committing any of the acts stemming from the  
576 arrest or alleged criminal activity to which the petition to  
577 seal pertains.

578 (e) Has never secured a prior sealing, except as provided  
579 in subsection (6), or expunction of a criminal history record  
580 under this section, former s. 893.14, former s. 901.33, or

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581 former s. 943.058.

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

585 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.—

586 (a) In judicial proceedings under this section, a copy of  
587 the completed petition to seal shall be served upon the  
588 appropriate state attorney or the statewide prosecutor and upon  
589 the arresting agency; however, it is not necessary to make any  
590 agency other than the state a party. The appropriate state  
591 attorney or the statewide prosecutor and the arresting agency  
592 may respond to the court regarding the completed petition to  
593 seal.

594 (b) If relief is granted by the court, the clerk of the  
595 court shall certify copies of the order to the appropriate state  
596 attorney or the statewide prosecutor and to the arresting  
597 agency. The arresting agency is responsible for forwarding the  
598 order to any other agency to which the arresting agency  
599 disseminated the criminal history record information to which  
600 the order pertains. The department shall forward the order to  
601 seal to the Federal Bureau of Investigation. The clerk of the  
602 court shall certify a copy of the order to any other agency  
603 which the records of the court reflect has received the criminal  
604 history record from the court.

605 (c) For an order to seal entered by a court prior to July  
606 1, 1992, the department shall notify the appropriate state  
607 attorney or statewide prosecutor of any order to seal which is  
608 contrary to law because the person who is the subject of the  
609 record has previously been convicted of a crime or comparable

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610 ordinance violation or has had a prior criminal history record  
611 sealed, except as provided in subsection (6), or expunged. Upon  
612 receipt of such notice, the appropriate state attorney or  
613 statewide prosecutor shall take action, within 60 days, to  
614 correct the record and petition the court to void the order to  
615 seal. The department shall seal the record until such time as  
616 the order is voided by the court.

617 (d) On or after July 1, 1992, the department or any other  
618 criminal justice agency is not required to act on an order to  
619 seal entered by a court when such order does not comply with the  
620 requirements of this section. Upon receipt of such an order, the  
621 department must notify the issuing court, the appropriate state  
622 attorney or statewide prosecutor, the petitioner or the  
623 petitioner's attorney, and the arresting agency of the reason  
624 for noncompliance. The appropriate state attorney or statewide  
625 prosecutor shall take action within 60 days to correct the  
626 record and petition the court to void the order. No cause of  
627 action, including contempt of court, shall arise against any  
628 criminal justice agency for failure to comply with an order to  
629 seal when the petitioner for such order failed to obtain the  
630 certificate of eligibility as required by this section or when  
631 such order does not comply with the requirements of this  
632 section.

633 (e) An order sealing a criminal history record pursuant to  
634 this section does not require that such record be surrendered to  
635 the court, and such record shall continue to be maintained by  
636 the department and other criminal justice agencies.

637 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal  
638 history record of a minor or an adult which is ordered sealed by

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639 a court of competent jurisdiction pursuant to this section is  
640 confidential and exempt from the provisions of s. 119.07(1) and  
641 s. 24(a), Art. I of the State Constitution and is available only  
642 to the person who is the subject of the record, to the subject's  
643 attorney, to criminal justice agencies for their respective  
644 criminal justice purposes, which include conducting a criminal  
645 history background check for approval of firearms purchases or  
646 transfers as authorized by state or federal law, to judges in  
647 the state courts system for the purpose of assisting them in  
648 their case-related decisionmaking responsibilities, as set forth  
649 in s. 943.053(5), or to those entities set forth in  
650 subparagraphs (a)1., 4., 5., 6., and 8. for their respective  
651 licensing, access authorization, and employment purposes.

652 (a) The subject of a criminal history record sealed under  
653 this section or under other provisions of law, including former  
654 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
655 deny or fail to acknowledge the arrests and subsequent  
656 dispositions covered by the sealed record, except when the  
657 subject of the record:

- 658 1. Is a candidate for employment with a criminal justice  
659 agency;
- 660 2. Is a defendant in a criminal prosecution;
- 661 3. Concurrently or subsequently petitions for relief under  
662 this section or s. 943.0585;
- 663 4. Is a candidate for admission to The Florida Bar;
- 664 5. Is seeking to be employed or licensed by or to contract  
665 with the Department of Children and Family Services, the Agency  
666 for Health Care Administration, the Agency for Persons with  
667 Disabilities, or the Department of Juvenile Justice or to be

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668 employed or used by such contractor or licensee in a sensitive  
669 position having direct contact with children, the  
670 developmentally disabled, the aged, or the elderly as provided  
671 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
672 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
673 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;

674 6. Is seeking to be employed or licensed by the Department  
675 of Education, any district school board, any university  
676 laboratory school, any charter school, any private or parochial  
677 school, or any local governmental entity that licenses child  
678 care facilities;

679 7. Is attempting to purchase a firearm from a licensed  
680 importer, licensed manufacturer, or licensed dealer and is  
681 subject to a criminal history background check under state or  
682 federal law; or

683 8. Is seeking authorization from a Florida seaport  
684 identified in s. 311.09 for employment within or access to one  
685 or more of such seaports pursuant to s. 311.12 or s. 311.125.

686 (b) Subject to the exceptions in paragraph (a), a person  
687 who has been granted a sealing under this section, former s.  
688 893.14, former s. 901.33, or former s. 943.058 may not be held  
689 under any provision of law of this state to commit perjury or to  
690 be otherwise liable for giving a false statement by reason of  
691 such person's failure to recite or acknowledge a sealed criminal  
692 history record, including failure to recite or acknowledge on an  
693 employment application.

694 (c) Information relating to the existence of a sealed  
695 criminal record provided in accordance with the provisions of  
696 paragraph (a) is confidential and exempt from the provisions of



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697 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
698 except that the department shall disclose the sealed criminal  
699 history record to the entities set forth in subparagraphs (a)1.,  
700 4., 5., 6., and 8. for their respective licensing, access  
701 authorization, and employment purposes. It is unlawful for any  
702 employee of an entity set forth in subparagraph (a)1.,  
703 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or  
704 subparagraph (a)8. to disclose information relating to the  
705 existence of a sealed criminal history record of a person  
706 seeking employment, access authorization, or licensure with such  
707 entity or contractor, except to the person to whom the criminal  
708 history record relates or to persons having direct  
709 responsibility for employment, access authorization, or  
710 licensure decisions. Any person who violates the provisions of  
711 this paragraph commits a misdemeanor of the first degree,  
712 punishable as provided in s. 775.082 or s. 775.083.

713 (5) STATUTORY REFERENCES.—Any reference to any other  
714 chapter, section, or subdivision of the Florida Statutes in this  
715 section constitutes a general reference under the doctrine of  
716 incorporation by reference.

717 (6) SEALING OF CRIMINAL HISTORY RECORD AFTER PRIOR SEALING  
718 OR EXPUNCTION.—A court may seal a person's criminal history  
719 record after a prior criminal history record has been sealed or  
720 expunged only if the person obtains a certificate from the  
721 department to seal the criminal history record. The department  
722 shall issue the certificate only if the person has not been  
723 arrested during the 5-year period following the date of the  
724 court order for the initial expunction or sealing of his or her  
725 criminal history record. All other provisions and requirements

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726 of this section apply to an application to seal a criminal  
727 history record after a prior criminal history record has been  
728 sealed or expunged.

729 Section 6. This act shall take effect July 1, 2009.  
730