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LEGISLATIVE ACTION

Senate

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House

Floor: 3/AD/2R

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Senator Braynon moved the following:

Senate Amendment

Delete lines 934 - 1994

and insert:

787.06(3)(g) ~~and (h)~~, former s. 787.06(3)(h), s. 794.011,
excluding s. 794.011(10), s. 794.05, former s. 796.03, former s.
796.035, s. 800.04, s. 827.071, s. 847.0135(5), s. 847.0145, or
s. 985.701(1) when committed against a person 16 years of age or
younger.

(c)1. In a criminal case in which the defendant is charged
with a sexual offense, evidence of the defendant's commission of



12 other crimes, wrongs, or acts involving a sexual offense is
13 admissible and may be considered for its bearing on any matter
14 to which it is relevant.

15 2. For the purposes of this paragraph, the term "sexual
16 offense" means conduct proscribed by s. 787.025(2)(c), s.
17 787.06(3)(b), (d), (f), or (g), ~~or (h)~~, former s. 787.06(3)(h),
18 s. 794.011, excluding s. 794.011(10), s. 794.05, former s.
19 796.03, former s. 796.035, s. 825.1025(2)(b), s. 827.071, s.
20 847.0135(5), s. 847.0145, or s. 985.701(1).

21 Section 17. Paragraph (a) of subsection (1) of section
22 772.102, Florida Statutes, is amended to read:

23 772.102 Definitions.—As used in this chapter, the term:

24 (1) "Criminal activity" means to commit, to attempt to
25 commit, to conspire to commit, or to solicit, coerce, or
26 intimidate another person to commit:

27 (a) Any crime that is chargeable by indictment or
28 information under the following provisions:

29 1. Section 210.18, relating to evasion of payment of
30 cigarette taxes.

31 2. Section 414.39, relating to public assistance fraud.

32 3. Section 440.105 or s. 440.106, relating to workers'
33 compensation.

34 4. Part IV of chapter 501, relating to telemarketing.

35 5. Chapter 517, relating to securities transactions.

36 6. Section 550.235 or s. 550.3551, relating to dogracing
37 and horseracing.

38 7. Chapter 550, relating to jai alai frontons.

39 8. Chapter 552, relating to the manufacture, distribution,
40 and use of explosives.



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- 41 9. Chapter 562, relating to beverage law enforcement.
- 42 10. Section 624.401, relating to transacting insurance
- 43 without a certificate of authority, s. 624.437(4)(c)1., relating
- 44 to operating an unauthorized multiple-employer welfare
- 45 arrangement, or s. 626.902(1)(b), relating to representing or
- 46 aiding an unauthorized insurer.
- 47 11. Chapter 687, relating to interest and usurious
- 48 practices.
- 49 12. Section 721.08, s. 721.09, or s. 721.13, relating to
- 50 real estate timeshare plans.
- 51 13. Chapter 782, relating to homicide.
- 52 14. Chapter 784, relating to assault and battery.
- 53 15. Chapter 787, relating to kidnapping or human
- 54 trafficking.
- 55 16. Chapter 790, relating to weapons and firearms.
- 56 17. Former section 796.03, s. 796.04, s. 796.05, or s.
- 57 796.07, relating to prostitution.
- 58 18. Chapter 806, relating to arson.
- 59 19. Section 810.02(2)(c), relating to specified burglary of
- 60 a dwelling or structure.
- 61 20. Chapter 812, relating to theft, robbery, and related
- 62 crimes.
- 63 21. Chapter 815, relating to computer-related crimes.
- 64 22. Chapter 817, relating to fraudulent practices, false
- 65 pretenses, fraud generally, and credit card crimes.
- 66 23. Section 827.071, relating to commercial sexual
- 67 exploitation of children.
- 68 24. Chapter 831, relating to forgery and counterfeiting.
- 69 25. Chapter 832, relating to issuance of worthless checks



70 and drafts.
71 26. Section 836.05, relating to extortion.
72 27. Chapter 837, relating to perjury.
73 28. Chapter 838, relating to bribery and misuse of public
74 office.
75 29. Chapter 843, relating to obstruction of justice.
76 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
77 s. 847.07, relating to obscene literature and profanity.
78 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
79 849.25, relating to gambling.
80 32. Chapter 893, relating to drug abuse prevention and
81 control.
82 33. Section 914.22 or s. 914.23, relating to witnesses,
83 victims, or informants.
84 34. Section 918.12 or s. 918.13, relating to tampering with
85 jurors and evidence.
86 Section 18. Paragraph (m) of subsection (1) of section
87 775.0877, Florida Statutes, is amended to read:
88 775.0877 Criminal transmission of HIV; procedures;
89 penalties.—
90 (1) In any case in which a person has been convicted of or
91 has pled nolo contendere or guilty to, regardless of whether
92 adjudication is withheld, any of the following offenses, or the
93 attempt thereof, which offense or attempted offense involves the
94 transmission of body fluids from one person to another:
95 (m) Sections ~~796.03~~, 796.07~~7~~, and 796.08, relating to
96 prostitution; ~~or~~
97 (n) Section 381.0041(11)(b), relating to donation of blood,
98 plasma, organs, skin, or other human tissue; or~~7~~



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99 (o) Section 787.06(3)(b), (d), (f), and (g), relating to
100 human trafficking,

101
102 the court shall order the offender to undergo HIV testing, to be
103 performed under the direction of the Department of Health in
104 accordance with s. 381.004, unless the offender has undergone
105 HIV testing voluntarily or pursuant to procedures established in
106 s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or
107 rule providing for HIV testing of criminal offenders or inmates,
108 subsequent to her or his arrest for an offense enumerated in
109 paragraphs (a)-(n) for which she or he was convicted or to which
110 she or he pled nolo contendere or guilty. The results of an HIV
111 test performed on an offender pursuant to this subsection are
112 not admissible in any criminal proceeding arising out of the
113 alleged offense.

114 Section 19. Paragraph (a) of subsection (4) and paragraph
115 (b) of subsection (10) of section 775.21, Florida Statutes, are
116 amended to read:

117 775.21 The Florida Sexual Predators Act.—

118 (4) SEXUAL PREDATOR CRITERIA.—

119 (a) For a current offense committed on or after October 1,
120 1993, upon conviction, an offender shall be designated as a
121 “sexual predator” under subsection (5), and subject to
122 registration under subsection (6) and community and public
123 notification under subsection (7) if:

124 1. The felony is:

125 a. A capital, life, or first-degree felony violation, or
126 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
127 is a minor and the defendant is not the victim’s parent or



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128 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
129 violation of a similar law of another jurisdiction; or

130 b. Any felony violation, or any attempt thereof, of s.
131 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a
132 minor and the defendant is not the victim's parent or guardian;
133 s. 787.06(3)(b), (d), (f), or (g), ~~or (h)~~; former s.
134 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05;
135 former s. 796.03; former s. 796.035; s. 800.04; s.
136 810.145(8)(b); s. 825.1025(2)(b); s. 827.071; s. 847.0135(5); s.
137 847.0145; or s. 985.701(1); or a violation of a similar law of
138 another jurisdiction, and the offender has previously been
139 convicted of or found to have committed, or has pled nolo
140 contendere or guilty to, regardless of adjudication, any
141 violation of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
142 the victim is a minor and the defendant is not the victim's
143 parent or guardian; s. 787.06(3)(b), (d), (f), or (g), ~~or (h)~~;
144 former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s.
145 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.
146 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
147 847.0135(6); s. 847.0145; or s. 985.701(1); or a violation of a
148 similar law of another jurisdiction;

149 2. The offender has not received a pardon for any felony or
150 similar law of another jurisdiction that is necessary for the
151 operation of this paragraph; and

152 3. A conviction of a felony or similar law of another
153 jurisdiction necessary to the operation of this paragraph has
154 not been set aside in any postconviction proceeding.

155 (10) PENALTIES.—

156 (b) A sexual predator who has been convicted of or found to



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157 have committed, or has pled nolo contendere or guilty to,
158 regardless of adjudication, any violation, or attempted
159 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
160 the victim is a minor and the defendant is not the victim's
161 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
162 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.
163 827.071; s. 847.0133; s. 847.0135(5); s. 847.0145; or s.
164 985.701(1); or a violation of a similar law of another
165 jurisdiction when the victim of the offense was a minor, and who
166 works, whether for compensation or as a volunteer, at any
167 business, school, child care facility, park, playground, or
168 other place where children regularly congregate, commits a
169 felony of the third degree, punishable as provided in s.
170 775.082, s. 775.083, or s. 775.084.

171 Section 20. Paragraph (a) of subsection (3) of section
172 787.01, Florida Statutes, is amended to read:

173 787.01 Kidnapping; kidnapping of child under age 13,
174 aggravating circumstances.—

175 (3) (a) A person who commits the offense of kidnapping upon
176 a child under the age of 13 and who, in the course of committing
177 the offense, commits one or more of the following:

- 178 1. Aggravated child abuse, as defined in s. 827.03;
- 179 2. Sexual battery, as defined in chapter 794, against the
180 child;
- 181 3. Lewd or lascivious battery, lewd or lascivious
182 molestation, lewd or lascivious conduct, or lewd or lascivious
183 exhibition, in violation of s. 800.04 or s. 847.0135(5);
- 184 4. A violation of former s. 796.03 or s. 796.04, relating
185 to prostitution, upon the child; ~~or~~



186 5. Exploitation of the child or allowing the child to be
187 exploited, in violation of s. 450.151; ~~or~~

188 6. A violation of s. 787.06(3)(g), relating to human
189 trafficking,

190
191 commits a life felony, punishable as provided in s. 775.082, s.
192 775.083, or s. 775.084.

193 Section 21. Paragraph (a) of subsection (3) of section
194 787.02, Florida Statutes, is amended to read:

195 787.02 False imprisonment; false imprisonment of child
196 under age 13, aggravating circumstances.—

197 (3) (a) A person who commits the offense of false
198 imprisonment upon a child under the age of 13 and who, in the
199 course of committing the offense, commits any offense enumerated
200 in subparagraphs 1.-5., commits a felony of the first degree,
201 punishable by imprisonment for a term of years not exceeding
202 life or as provided in s. 775.082, s. 775.083, or s. 775.084.

203 1. Aggravated child abuse, as defined in s. 827.03;

204 2. Sexual battery, as defined in chapter 794, against the
205 child;

206 3. Lewd or lascivious battery, lewd or lascivious
207 molestation, lewd or lascivious conduct, or lewd or lascivious
208 exhibition, in violation of s. 800.04 or s. 847.0135(5);

209 4. A violation of former s. 796.03 or s. 796.04, relating
210 to prostitution, upon the child; ~~or~~

211 5. Exploitation of the child or allowing the child to be
212 exploited, in violation of s. 450.151; ~~or~~

213 6. A violation of s. 787.06(3)(g), relating to human
214 trafficking.



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215 Section 22. Subsection (1) of section 794.056, Florida
216 Statutes, is amended to read:

217 794.056 Rape Crisis Program Trust Fund.—

218 (1) The Rape Crisis Program Trust Fund is created within
219 the Department of Health for the purpose of providing funds for
220 rape crisis centers in this state. Trust fund moneys shall be
221 used exclusively for the purpose of providing services for
222 victims of sexual assault. Funds credited to the trust fund
223 consist of those funds collected as an additional court
224 assessment in each case in which a defendant pleads guilty or
225 nolo contendere to, or is found guilty of, regardless of
226 adjudication, an offense provided in s. 775.21(6) and (10)(a),
227 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
228 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
229 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
230 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
231 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.
232 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.
233 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
234 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
235 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),
236 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust
237 fund also shall include revenues provided by law, moneys
238 appropriated by the Legislature, and grants from public or
239 private entities.

240 Section 23. Subsection (1) of section 856.022, Florida
241 Statutes, is amended to read:

242 856.022 Loitering or prowling by certain offenders in close
243 proximity to children; penalty.—



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244 (1) Except as provided in subsection (2), this section
245 applies to a person convicted of committing, or attempting,
246 soliciting, or conspiring to commit, any of the criminal
247 offenses proscribed in the following statutes in this state or
248 similar offenses in another jurisdiction against a victim who
249 was under 18 years of age at the time of the offense: s. 787.01,
250 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
251 the offender was not the victim's parent or guardian; s.
252 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;
253 former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s.
254 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
255 847.0137; s. 847.0138; s. 847.0145; s. 985.701(1); or any
256 similar offense committed in this state which has been
257 redesignated from a former statute number to one of those listed
258 in this subsection, if the person has not received a pardon for
259 any felony or similar law of another jurisdiction necessary for
260 the operation of this subsection and a conviction of a felony or
261 similar law of another jurisdiction necessary for the operation
262 of this subsection has not been set aside in any postconviction
263 proceeding.

264 Section 24. Paragraph (a) of subsection (1) of section
265 895.02, Florida Statutes, is amended to read:

266 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

267 (1) "Racketeering activity" means to commit, to attempt to
268 commit, to conspire to commit, or to solicit, coerce, or
269 intimidate another person to commit:

270 (a) Any crime that is chargeable by petition, indictment,
271 or information under the following provisions of the Florida
272 Statutes:



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- 273 1. Section 210.18, relating to evasion of payment of
274 cigarette taxes.
- 275 2. Section 316.1935, relating to fleeing or attempting to
276 elude a law enforcement officer and aggravated fleeing or
277 eluding.
- 278 3. Section 403.727(3)(b), relating to environmental
279 control.
- 280 4. Section 409.920 or s. 409.9201, relating to Medicaid
281 fraud.
- 282 5. Section 414.39, relating to public assistance fraud.
- 283 6. Section 440.105 or s. 440.106, relating to workers'
284 compensation.
- 285 7. Section 443.071(4), relating to creation of a fictitious
286 employer scheme to commit reemployment assistance fraud.
- 287 8. Section 465.0161, relating to distribution of medicinal
288 drugs without a permit as an Internet pharmacy.
- 289 9. Section 499.0051, relating to crimes involving
290 contraband and adulterated drugs.
- 291 10. Part IV of chapter 501, relating to telemarketing.
- 292 11. Chapter 517, relating to sale of securities and
293 investor protection.
- 294 12. Section 550.235 or s. 550.3551, relating to dogracing
295 and horseracing.
- 296 13. Chapter 550, relating to jai alai frontons.
- 297 14. Section 551.109, relating to slot machine gaming.
- 298 15. Chapter 552, relating to the manufacture, distribution,
299 and use of explosives.
- 300 16. Chapter 560, relating to money transmitters, if the
301 violation is punishable as a felony.



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- 302 17. Chapter 562, relating to beverage law enforcement.
- 303 18. Section 624.401, relating to transacting insurance
- 304 without a certificate of authority, s. 624.437(4)(c)1., relating
- 305 to operating an unauthorized multiple-employer welfare
- 306 arrangement, or s. 626.902(1)(b), relating to representing or
- 307 aiding an unauthorized insurer.
- 308 19. Section 655.50, relating to reports of currency
- 309 transactions, when such violation is punishable as a felony.
- 310 20. Chapter 687, relating to interest and usurious
- 311 practices.
- 312 21. Section 721.08, s. 721.09, or s. 721.13, relating to
- 313 real estate timeshare plans.
- 314 22. Section 775.13(5)(b), relating to registration of
- 315 persons found to have committed any offense for the purpose of
- 316 benefiting, promoting, or furthering the interests of a criminal
- 317 gang.
- 318 23. Section 777.03, relating to commission of crimes by
- 319 accessories after the fact.
- 320 24. Chapter 782, relating to homicide.
- 321 25. Chapter 784, relating to assault and battery.
- 322 26. Chapter 787, relating to kidnapping or human
- 323 trafficking.
- 324 27. Chapter 790, relating to weapons and firearms.
- 325 28. Chapter 794, relating to sexual battery, but only if
- 326 such crime was committed with the intent to benefit, promote, or
- 327 further the interests of a criminal gang, or for the purpose of
- 328 increasing a criminal gang member's own standing or position
- 329 within a criminal gang.
- 330 29. Former section 796.03, former s. 796.035, s. 796.04, s.



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331 796.05, or s. 796.07, relating to prostitution ~~and sex~~
332 ~~trafficking~~.

333 30. Chapter 806, relating to arson and criminal mischief.
334 31. Chapter 810, relating to burglary and trespass.
335 32. Chapter 812, relating to theft, robbery, and related
336 crimes.
337 33. Chapter 815, relating to computer-related crimes.
338 34. Chapter 817, relating to fraudulent practices, false
339 pretenses, fraud generally, and credit card crimes.
340 35. Chapter 825, relating to abuse, neglect, or
341 exploitation of an elderly person or disabled adult.
342 36. Section 827.071, relating to commercial sexual
343 exploitation of children.
344 37. Section 828.122, relating to fighting or baiting
345 animals.
346 38. Chapter 831, relating to forgery and counterfeiting.
347 39. Chapter 832, relating to issuance of worthless checks
348 and drafts.
349 40. Section 836.05, relating to extortion.
350 41. Chapter 837, relating to perjury.
351 42. Chapter 838, relating to bribery and misuse of public
352 office.
353 43. Chapter 843, relating to obstruction of justice.
354 44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
355 s. 847.07, relating to obscene literature and profanity.
356 45. Chapter 849, relating to gambling, lottery, gambling or
357 gaming devices, slot machines, or any of the provisions within
358 that chapter.
359 46. Chapter 874, relating to criminal gangs.



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360 47. Chapter 893, relating to drug abuse prevention and
361 control.

362 48. Chapter 896, relating to offenses related to financial
363 transactions.

364 49. Sections 914.22 and 914.23, relating to tampering with
365 or harassing a witness, victim, or informant, and retaliation
366 against a witness, victim, or informant.

367 50. Sections 918.12 and 918.13, relating to tampering with
368 jurors and evidence.

369 Section 25. Section 938.085, Florida Statutes, is amended
370 to read:

371 938.085 Additional cost to fund rape crisis centers.—In
372 addition to any sanction imposed when a person pleads guilty or
373 nolo contendere to, or is found guilty of, regardless of
374 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
375 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
376 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
377 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
378 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.
379 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.
380 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
381 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
382 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
383 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and
384 (14)(c); or s. 985.701(1), the court shall impose a surcharge of
385 \$151. Payment of the surcharge shall be a condition of
386 probation, community control, or any other court-ordered
387 supervision. The sum of \$150 of the surcharge shall be deposited
388 into the Rape Crisis Program Trust Fund established within the



389 Department of Health by chapter 2003-140, Laws of Florida. The
390 clerk of the court shall retain \$1 of each surcharge that the
391 clerk of the court collects as a service charge of the clerk's
392 office.

393 Section 26. Subsection (1) of section 938.10, Florida
394 Statutes, is amended to read:

395 938.10 Additional court cost imposed in cases of certain
396 crimes.—

397 (1) If a person pleads guilty or nolo contendere to, or is
398 found guilty of, regardless of adjudication, any offense against
399 a minor in violation of s. 784.085, chapter 787, chapter 794,
400 former s. 796.03, former s. 796.035, s. 800.04, chapter 827, s.
401 847.012, s. 847.0133, s. 847.0135(5), s. 847.0138, s. 847.0145,
402 s. 893.147(3), or s. 985.701, or any offense in violation of s.
403 775.21, s. 823.07, s. 847.0125, s. 847.0134, or s. 943.0435, the
404 court shall impose a court cost of \$151 against the offender in
405 addition to any other cost or penalty required by law.

406 Section 27. Paragraph (a) of subsection (1) of section
407 943.0435, Florida Statutes, is amended to read:

408 943.0435 Sexual offenders required to register with the
409 department; penalty.—

410 (1) As used in this section, the term:

411 (a)1. "Sexual offender" means a person who meets the
412 criteria in sub-subparagraph a., sub-subparagraph b., sub-
413 subparagraph c., or sub-subparagraph d., as follows:

414 a.(I) Has been convicted of committing, or attempting,
415 soliciting, or conspiring to commit, any of the criminal
416 offenses proscribed in the following statutes in this state or
417 similar offenses in another jurisdiction: s. 787.01, s. 787.02,



418 or s. 787.025(2)(c), where the victim is a minor and the
419 defendant is not the victim's parent or guardian; s.
420 787.06(3)(b), (d), (f), or (g), ~~or (h)~~; former s. 787.06(3)(h);
421 s. 794.011, excluding s. 794.011(10); s. 794.05; former s.
422 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s.
423 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
424 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s.
425 985.701(1); or any similar offense committed in this state which
426 has been redesignated from a former statute number to one of
427 those listed in this sub-sub-subparagraph; and

428 (II) Has been released on or after October 1, 1997, from
429 the sanction imposed for any conviction of an offense described
430 in sub-sub-subparagraph (I). For purposes of sub-sub-
431 subparagraph (I), a sanction imposed in this state or in any
432 other jurisdiction includes, but is not limited to, a fine,
433 probation, community control, parole, conditional release,
434 control release, or incarceration in a state prison, federal
435 prison, private correctional facility, or local detention
436 facility;

437 b. Establishes or maintains a residence in this state and
438 who has not been designated as a sexual predator by a court of
439 this state but who has been designated as a sexual predator, as
440 a sexually violent predator, or by another sexual offender
441 designation in another state or jurisdiction and was, as a
442 result of such designation, subjected to registration or
443 community or public notification, or both, or would be if the
444 person were a resident of that state or jurisdiction, without
445 regard to whether the person otherwise meets the criteria for
446 registration as a sexual offender;



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447 c. Establishes or maintains a residence in this state who
448 is in the custody or control of, or under the supervision of,
449 any other state or jurisdiction as a result of a conviction for
450 committing, or attempting, soliciting, or conspiring to commit,
451 any of the criminal offenses proscribed in the following
452 statutes or similar offense in another jurisdiction: s. 787.01,
453 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
454 the defendant is not the victim's parent or guardian; s.
455 787.06(3)(b), (d), (f), or (g), ~~or (h)~~; former s. 787.06(3)(h);
456 s. 794.011, excluding s. 794.011(10); s. 794.05; former s.
457 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s.
458 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
459 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s.
460 985.701(1); or any similar offense committed in this state which
461 has been redesignated from a former statute number to one of
462 those listed in this sub-subparagraph; or

463 d. On or after July 1, 2007, has been adjudicated
464 delinquent for committing, or attempting, soliciting, or
465 conspiring to commit, any of the criminal offenses proscribed in
466 the following statutes in this state or similar offenses in
467 another jurisdiction when the juvenile was 14 years of age or
468 older at the time of the offense:

469 (I) Section 794.011, excluding s. 794.011(10);

470 (II) Section 800.04(4)(b) where the victim is under 12
471 years of age or where the court finds sexual activity by the use
472 of force or coercion;

473 (III) Section 800.04(5)(c)1. where the court finds
474 molestation involving unclothed genitals; or

475 (IV) Section 800.04(5)(d) where the court finds the use of



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476 force or coercion and unclothed genitals.

477 2. For all qualifying offenses listed in sub-subparagraph
478 (1)(a)1.d., the court shall make a written finding of the age of
479 the offender at the time of the offense.

480

481 For each violation of a qualifying offense listed in this
482 subsection, the court shall make a written finding of the age of
483 the victim at the time of the offense. For a violation of s.
484 800.04(4), the court shall additionally make a written finding
485 indicating that the offense did or did not involve sexual
486 activity and indicating that the offense did or did not involve
487 force or coercion. For a violation of s. 800.04(5), the court
488 shall additionally make a written finding that the offense did
489 or did not involve unclothed genitals or genital area and that
490 the offense did or did not involve the use of force or coercion.

491 Section 28. Section 943.0585, Florida Statutes, is amended
492 to read:

493 943.0585 Court-ordered expunction of criminal history
494 records.—The courts of this state have jurisdiction over their
495 own procedures, including the maintenance, expunction, and
496 correction of judicial records containing criminal history
497 information to the extent such procedures are not inconsistent
498 with the conditions, responsibilities, and duties established by
499 this section. Any court of competent jurisdiction may order a
500 criminal justice agency to expunge the criminal history record
501 of a minor or an adult who complies with the requirements of
502 this section. The court may ~~shall~~ not order a criminal justice
503 agency to expunge a criminal history record until the person
504 seeking to expunge a criminal history record has applied for and



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505 received a certificate of eligibility for expunction pursuant to
506 subsection (2). A criminal history record that relates to a
507 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
508 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
509 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
510 s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,
511 or any violation specified as a predicate offense for
512 registration as a sexual predator pursuant to s. 775.21, without
513 regard to whether that offense alone is sufficient to require
514 such registration, or for registration as a sexual offender
515 pursuant to s. 943.0435, may not be expunged, without regard to
516 whether adjudication was withheld, if the defendant was found
517 guilty of or pled guilty or nolo contendere to the offense, or
518 if the defendant, as a minor, was found to have committed, or
519 pled guilty or nolo contendere to committing, the offense as a
520 delinquent act. The court may only order expunction of a
521 criminal history record pertaining to one arrest or one incident
522 of alleged criminal activity, except as provided in this
523 section. The court may, at its sole discretion, order the
524 expunction of a criminal history record pertaining to more than
525 one arrest if the additional arrests directly relate to the
526 original arrest. If the court intends to order the expunction of
527 records pertaining to such additional arrests, such intent must
528 be specified in the order. A criminal justice agency may not
529 expunge any record pertaining to such additional arrests if the
530 order to expunge does not articulate the intention of the court
531 to expunge a record pertaining to more than one arrest. This
532 section does not prevent the court from ordering the expunction
533 of only a portion of a criminal history record pertaining to one



534 arrest or one incident of alleged criminal activity.
535 Notwithstanding any law to the contrary, a criminal justice
536 agency may comply with laws, court orders, and official requests
537 of other jurisdictions relating to expunction, correction, or
538 confidential handling of criminal history records or information
539 derived therefrom. This section does not confer any right to the
540 expunction of any criminal history record, and any request for
541 expunction of a criminal history record may be denied at the
542 sole discretion of the court.

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

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

548 (b) The petitioner's sworn statement attesting that the
549 petitioner:

550 1. Has never, prior to the date on which the petition is
551 filed, been adjudicated guilty of a criminal offense or
552 comparable ordinance violation, or been adjudicated delinquent
553 for committing any felony or a misdemeanor specified in s.
554 943.051(3)(b).

555 2. Has not been adjudicated guilty of, or adjudicated
556 delinquent for committing, any of the acts stemming from the
557 arrest or alleged criminal activity to which the petition
558 pertains.

559 3. Has never secured a prior sealing or expunction of a
560 criminal history record under this section, s. 943.059, former
561 s. 893.14, former s. 901.33, or former s. 943.058, unless
562 expunction is sought of a criminal history record previously



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563 sealed for 10 years pursuant to paragraph (2) (h) and the record
564 is otherwise eligible for expunction.

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

568

569 A ~~Any~~ person who knowingly provides false information on such
570 sworn statement to the court commits a felony of the third
571 degree, punishable as provided in s. 775.082, s. 775.083, or s.
572 775.084.

573 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Before ~~Prior~~
574 ~~to~~ petitioning the court to expunge a criminal history record, a
575 person seeking to expunge a criminal history record shall apply
576 to the department for a certificate of eligibility for
577 expunction. The department shall, by rule adopted pursuant to
578 chapter 120, establish procedures pertaining to the application
579 for and issuance of certificates of eligibility for expunction.
580 A certificate of eligibility for expunction is valid for 12
581 months after the date stamped on the certificate when issued by
582 the department. After that time, the petitioner must reapply to
583 the department for a new certificate of eligibility. Eligibility
584 for a renewed certification of eligibility must be based on the
585 status of the applicant and the law in effect at the time of the
586 renewal application. The department shall issue a certificate of
587 eligibility for expunction to a person who is the subject of a
588 criminal history record if that person:

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



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

594 2. That an indictment, information, or other charging
595 document, if filed or issued in the case, was dismissed or nolle
596 prosequi by the state attorney or statewide prosecutor, or was
597 dismissed by a court of competent jurisdiction, and that none of
598 the charges related to the arrest or alleged criminal activity
599 to which the petition to expunge pertains resulted in a trial,
600 without regard to whether the outcome of the trial was other
601 than an adjudication of guilt.

602 3. That the criminal history record does not relate to a
603 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
604 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
605 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
606 s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,
607 or any violation specified as a predicate offense for
608 registration as a sexual predator pursuant to s. 775.21, without
609 regard to whether that offense alone is sufficient to require
610 such registration, or for registration as a sexual offender
611 pursuant to s. 943.0435, where the defendant was found guilty
612 of, or pled guilty or nolo contendere to any such offense, or
613 that the defendant, as a minor, was found to have committed, or
614 pled guilty or nolo contendere to committing, such an offense as
615 a delinquent act, without regard to whether adjudication was
616 withheld.

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

620 (c) Has submitted to the department a certified copy of the



621 disposition of the charge to which the petition to expunge
622 pertains.

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

628 (e) Has not been adjudicated guilty of, or adjudicated
629 delinquent for committing, any of the acts stemming from the
630 arrest or alleged criminal activity to which the petition to
631 expunge pertains.

632 (f) Has never secured a prior sealing or expunction of a
633 criminal history record under this section, s. 943.059, former
634 s. 893.14, former s. 901.33, or former s. 943.058, unless
635 expunction is sought of a criminal history record previously
636 sealed for 10 years pursuant to paragraph (h) and the record is
637 otherwise eligible for expunction.

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

641 (h) Has previously obtained a court order sealing the
642 record under this section, former s. 893.14, former s. 901.33,
643 or former s. 943.058 for a minimum of 10 years because
644 adjudication was withheld or because all charges related to the
645 arrest or alleged criminal activity to which the petition to
646 expunge pertains were not dismissed prior to trial, without
647 regard to whether the outcome of the trial was other than an
648 adjudication of guilt. The requirement for the record to have
649 previously been sealed for a minimum of 10 years does not apply



650 when a plea was not entered or all charges related to the arrest
651 or alleged criminal activity to which the petition to expunge
652 pertains were dismissed prior to trial.

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

654 (a) In judicial proceedings under this section, a copy of
655 the completed petition to expunge shall be served upon the
656 appropriate state attorney or the statewide prosecutor and upon
657 the arresting agency; however, it is not necessary to make any
658 agency other than the state a party. The appropriate state
659 attorney or the statewide prosecutor and the arresting agency
660 may respond to the court regarding the completed petition to
661 expunge.

662 (b) If relief is granted by the court, the clerk of the
663 court shall certify copies of the order to the appropriate state
664 attorney or the statewide prosecutor and the arresting agency.
665 The arresting agency is responsible for forwarding the order to
666 any other agency to which the arresting agency disseminated the
667 criminal history record information to which the order pertains.
668 The department shall forward the order to expunge to the Federal
669 Bureau of Investigation. The clerk of the court shall certify a
670 copy of the order to any other agency which the records of the
671 court reflect has received the criminal history record from the
672 court.

673 (c) For an order to expunge entered by a court prior to
674 July 1, 1992, the department shall notify the appropriate state
675 attorney or statewide prosecutor of an order to expunge which is
676 contrary to law because the person who is the subject of the
677 record has previously been convicted of a crime or comparable
678 ordinance violation or has had a prior criminal history record



679 sealed or expunged. Upon receipt of such notice, the appropriate
680 state attorney or statewide prosecutor shall take action, within
681 60 days, to correct the record and petition the court to void
682 the order to expunge. The department shall seal the record until
683 such time as the order is voided by the court.

684 (d) On or after July 1, 1992, the department or any other
685 criminal justice agency is not required to act on an order to
686 expunge entered by a court when such order does not comply with
687 the requirements of this section. Upon receipt of such an order,
688 the department must notify the issuing court, the appropriate
689 state attorney or statewide prosecutor, the petitioner or the
690 petitioner's attorney, and the arresting agency of the reason
691 for noncompliance. The appropriate state attorney or statewide
692 prosecutor shall take action within 60 days to correct the
693 record and petition the court to void the order. No cause of
694 action, including contempt of court, shall arise against any
695 criminal justice agency for failure to comply with an order to
696 expunge when the petitioner for such order failed to obtain the
697 certificate of eligibility as required by this section or such
698 order does not otherwise comply with the requirements of this
699 section.

700 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
701 criminal history record of a minor or an adult which is ordered
702 expunged by a court of competent jurisdiction pursuant to this
703 section must be physically destroyed or obliterated by any
704 criminal justice agency having custody of such record; except
705 that any criminal history record in the custody of the
706 department must be retained in all cases. A criminal history
707 record ordered expunged that is retained by the department is



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

713 (a) The person who is the subject of a criminal history
714 record that is expunged under this section or under other
715 provisions of law, including former s. 893.14, former s. 901.33,
716 and former s. 943.058, may lawfully deny or fail to acknowledge
717 the arrests covered by the expunged record, except when the
718 subject of the record:

- 719 1. Is a candidate for employment with a criminal justice
720 agency;
- 721 2. Is a defendant in a criminal prosecution;
- 722 3. Concurrently or subsequently petitions for relief under
723 this section, s. 943.0583, or s. 943.059;
- 724 4. Is a candidate for admission to The Florida Bar;
- 725 5. Is seeking to be employed or licensed by or to contract
726 with the Department of Children and Families, the Division of
727 Vocational Rehabilitation within the Department of Education,
728 the Agency for Health Care Administration, the Agency for
729 Persons with Disabilities, the Department of Health, the
730 Department of Elderly Affairs, or the Department of Juvenile
731 Justice or to be employed or used by such contractor or licensee
732 in a sensitive position having direct contact with children, the
733 disabled, or the elderly; or
- 734 6. Is seeking to be employed or licensed by the Department
735 of Education, any district school board, any university
736 laboratory school, any charter school, any private or parochial



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737 school, or any local governmental entity that licenses child
738 care facilities.

739 (b) Subject to the exceptions in paragraph (a), a person
740 who has been granted an expunction under this section, former s.
741 893.14, former s. 901.33, or former s. 943.058 may not be held
742 under any provision of law of this state to commit perjury or to
743 be otherwise liable for giving a false statement by reason of
744 such person's failure to recite or acknowledge an expunged
745 criminal history record.

746 (c) Information relating to the existence of an expunged
747 criminal history record which is provided in accordance with
748 paragraph (a) is confidential and exempt from the provisions of
749 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
750 except that the department shall disclose the existence of a
751 criminal history record ordered expunged to the entities set
752 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their
753 respective licensing, access authorization, and employment
754 purposes, and to criminal justice agencies for their respective
755 criminal justice purposes. It is unlawful for any employee of an
756 entity set forth in subparagraph (a)1., subparagraph (a)4.,
757 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to
758 disclose information relating to the existence of an expunged
759 criminal history record of a person seeking employment, access
760 authorization, or licensure with such entity or contractor,
761 except to the person to whom the criminal history record relates
762 or to persons having direct responsibility for employment,
763 access authorization, or licensure decisions. Any person who
764 violates this paragraph commits a misdemeanor of the first
765 degree, punishable as provided in s. 775.082 or s. 775.083.



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766 (5) STATUTORY REFERENCES.—Any reference to any other
767 chapter, section, or subdivision of the Florida Statutes in this
768 section constitutes a general reference under the doctrine of
769 incorporation by reference.

770 Section 29. Section 943.059, Florida Statutes, is amended
771 to read:

772 943.059 Court-ordered sealing of criminal history records.—
773 The courts of this state shall continue to have jurisdiction
774 over their own procedures, including the maintenance, sealing,
775 and correction of judicial records containing criminal history
776 information to the extent such procedures are not inconsistent
777 with the conditions, responsibilities, and duties established by
778 this section. Any court of competent jurisdiction may order a
779 criminal justice agency to seal the criminal history record of a
780 minor or an adult who complies with the requirements of this
781 section. The court may ~~shall~~ not order a criminal justice agency
782 to seal a criminal history record until the person seeking to
783 seal a criminal history record has applied for and received a
784 certificate of eligibility for sealing pursuant to subsection
785 (2). A criminal history record that relates to a violation of s.
786 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
787 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
788 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
789 s. 916.1075, a violation enumerated in s. 907.041, or any
790 violation specified as a predicate offense for registration as a
791 sexual predator pursuant to s. 775.21, without regard to whether
792 that offense alone is sufficient to require such registration,
793 or for registration as a sexual offender pursuant to s.
794 943.0435, may not be sealed, without regard to whether



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795 adjudication was withheld, if the defendant was found guilty of
796 or pled guilty or nolo contendere to the offense, or if the
797 defendant, as a minor, was found to have committed or pled
798 guilty or nolo contendere to committing the offense as a
799 delinquent act. The court may only order sealing of a criminal
800 history record pertaining to one arrest or one incident of
801 alleged criminal activity, except as provided in this section.
802 The court may, at its sole discretion, order the sealing of a
803 criminal history record pertaining to more than one arrest if
804 the additional arrests directly relate to the original arrest.
805 If the court intends to order the sealing of records pertaining
806 to such additional arrests, such intent must be specified in the
807 order. A criminal justice agency may not seal any record
808 pertaining to such additional arrests if the order to seal does
809 not articulate the intention of the court to seal records
810 pertaining to more than one arrest. This section does not
811 prevent the court from ordering the sealing of only a portion of
812 a criminal history record pertaining to one arrest or one
813 incident of alleged criminal activity. Notwithstanding any law
814 to the contrary, a criminal justice agency may comply with laws,
815 court orders, and official requests of other jurisdictions
816 relating to sealing, correction, or confidential handling of
817 criminal history records or information derived therefrom. This
818 section does not confer any right to the sealing of any criminal
819 history record, and any request for sealing a criminal history
820 record may be denied at the sole discretion of the court.

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



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

826 (b) The petitioner's sworn statement attesting that the
827 petitioner:

828 1. Has never, prior to the date on which the petition is
829 filed, been adjudicated guilty of a criminal offense or
830 comparable ordinance violation, or been adjudicated delinquent
831 for committing any felony or a misdemeanor specified in s.
832 943.051(3) (b).

833 2. Has not been adjudicated guilty of or adjudicated
834 delinquent for committing any of the acts stemming from the
835 arrest or alleged criminal activity to which the petition to
836 seal pertains.

837 3. Has never secured a prior sealing or expunction of a
838 criminal history record under this section, s. 943.0585, former
839 s. 893.14, former s. 901.33, or former s. 943.058.

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

843
844 A ~~Any~~ person who knowingly provides false information on such
845 sworn statement to the court commits a felony of the third
846 degree, punishable as provided in s. 775.082, s. 775.083, or s.
847 775.084.

848 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to
849 petitioning the court to seal a criminal history record, a
850 person seeking to seal a criminal history record shall apply to
851 the department for a certificate of eligibility for sealing. The
852 department shall, by rule adopted pursuant to chapter 120,



853 establish procedures pertaining to the application for and
854 issuance of certificates of eligibility for sealing. A
855 certificate of eligibility for sealing is valid for 12 months
856 after the date stamped on the certificate when issued by the
857 department. After that time, the petitioner must reapply to the
858 department for a new certificate of eligibility. Eligibility for
859 a renewed certification of eligibility must be based on the
860 status of the applicant and the law in effect at the time of the
861 renewal application. The department shall issue a certificate of
862 eligibility for sealing to a person who is the subject of a
863 criminal history record provided that such person:

864 (a) Has submitted to the department a certified copy of the
865 disposition of the charge to which the petition to seal
866 pertains.

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

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

875 (d) Has not been adjudicated guilty of or adjudicated
876 delinquent for committing any of the acts stemming from the
877 arrest or alleged criminal activity to which the petition to
878 seal pertains.

879 (e) Has never secured a prior sealing or expunction of a
880 criminal history record under this section, s. 943.0585, former
881 s. 893.14, former s. 901.33, or former s. 943.058.



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

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

886 (a) In judicial proceedings under this section, a copy of
887 the completed petition to seal shall be served upon the
888 appropriate state attorney or the statewide prosecutor and upon
889 the arresting agency; however, it is not necessary to make any
890 agency other than the state a party. The appropriate state
891 attorney or the statewide prosecutor and the arresting agency
892 may respond to the court regarding the completed petition to
893 seal.

894 (b) If relief is granted by the court, the clerk of the
895 court shall certify copies of the order to the appropriate state
896 attorney or the statewide prosecutor and to the arresting
897 agency. The arresting agency is responsible for forwarding the
898 order to any other agency to which the arresting agency
899 disseminated the criminal history record information to which
900 the order pertains. The department shall forward the order to
901 seal to the Federal Bureau of Investigation. The clerk of the
902 court shall certify a copy of the order to any other agency
903 which the records of the court reflect has received the criminal
904 history record from the court.

905 (c) For an order to seal entered by a court prior to July
906 1, 1992, the department shall notify the appropriate state
907 attorney or statewide prosecutor of any order to seal which is
908 contrary to law because the person who is the subject of the
909 record has previously been convicted of a crime or comparable
910 ordinance violation or has had a prior criminal history record



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911 sealed or expunged. Upon receipt of such notice, the appropriate
912 state attorney or statewide prosecutor shall take action, within
913 60 days, to correct the record and petition the court to void
914 the order to seal. The department shall seal the record until
915 such time as the order is voided by the court.

916 (d) On or after July 1, 1992, the department or any other
917 criminal justice agency is not required to act on an order to
918 seal entered by a court when such order does not comply with the
919 requirements of this section. Upon receipt of such an order, the
920 department must notify the issuing court, the appropriate state
921 attorney or statewide prosecutor, the petitioner or the
922 petitioner's attorney, and the arresting agency of the reason
923 for noncompliance. The appropriate state attorney or statewide
924 prosecutor shall take action within 60 days to correct the
925 record and petition the court to void the order. No cause of
926 action, including contempt of court, shall arise against any
927 criminal justice agency for failure to comply with an order to
928 seal when the petitioner for such order failed to obtain the
929 certificate of eligibility as required by this section or when
930 such order does not comply with the requirements of this
931 section.

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

936 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
937 history record of a minor or an adult which is ordered sealed by
938 a court of competent jurisdiction pursuant to this section is
939 confidential and exempt from the provisions of s. 119.07(1) and



940 s. 24(a), Art. I of the State Constitution and is available only
941 to the person who is the subject of the record, to the subject's
942 attorney, to criminal justice agencies for their respective
943 criminal justice purposes, which include conducting a criminal
944 history background check for approval of firearms purchases or
945 transfers as authorized by state or federal law, to judges in
946 the state courts system for the purpose of assisting them in
947 their case-related decisionmaking responsibilities, as set forth
948 in s. 943.053(5), or to those entities set forth in
949 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
950 licensing, access authorization, and employment purposes.

951 (a) The subject of a criminal history record sealed under
952 this section or under other provisions of law, including former
953 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
954 deny or fail to acknowledge the arrests covered by the sealed
955 record, except when the subject of the record:

- 956 1. Is a candidate for employment with a criminal justice
957 agency;
- 958 2. Is a defendant in a criminal prosecution;
- 959 3. Concurrently or subsequently petitions for relief under
960 this section, s. 943.0583, or s. 943.0585;
- 961 4. Is a candidate for admission to The Florida Bar;
- 962 5. Is seeking to be employed or licensed by or to contract
963 with the Department of Children and Families, the Division of
964 Vocational Rehabilitation within the Department of Education,
965 the Agency for Health Care Administration, the Agency for
966 Persons with Disabilities, the Department of Health, the
967 Department of Elderly Affairs, or the Department of Juvenile
968 Justice or to be employed or used by such contractor or licensee



969 in a sensitive position having direct contact with children, the
970 disabled, or the elderly;

971 6. Is seeking to be employed or licensed by the Department
972 of Education, any district school board, any university
973 laboratory school, any charter school, any private or parochial
974 school, or any local governmental entity that licenses child
975 care facilities; or

976 7. Is attempting to purchase a firearm from a licensed
977 importer, licensed manufacturer, or licensed dealer and is
978 subject to a criminal history check under state or federal law.

979 (b) Subject to the exceptions in paragraph (a), a person
980 who has been granted a sealing under this section, former s.
981 893.14, former s. 901.33, or former s. 943.058 may not be held
982 under any provision of law of this state to commit perjury or to
983 be otherwise liable for giving a false statement by reason of
984 such person's failure to recite or acknowledge a sealed criminal
985 history record.

986 (c) Information relating to the existence of a sealed
987 criminal record provided in accordance with the provisions of
988 paragraph (a) is confidential and exempt from the provisions of
989 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
990 except that the department shall disclose the sealed criminal
991 history record to the entities set forth in subparagraphs (a)1.,
992 4., 5., 6., and 8. for their respective licensing, access
993 authorization, and employment purposes. It is unlawful for any
994 employee of an entity set forth in subparagraph (a)1.,
995 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or
996 subparagraph (a)8. to disclose information relating to the
997 existence of a sealed criminal history record of a person



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998 seeking employment, access authorization, or licensure with such
999 entity or contractor, except to the person to whom the criminal
1000 history record relates or to persons having direct
1001 responsibility for employment, access authorization, or
1002 licensure decisions. Any person who violates the provisions of
1003 this paragraph commits a misdemeanor of the first degree,
1004 punishable as provided in s. 775.082 or s. 775.083.

1005 (5) STATUTORY REFERENCES.—Any reference to any other
1006 chapter, section, or subdivision of the Florida Statutes in this
1007 section constitutes a general reference under the doctrine of
1008 incorporation by reference.

1009 Section 30. Paragraph (b) of subsection (1) of section
1010 944.606, Florida Statutes, is amended to read:

1011 944.606 Sexual offenders; notification upon release.—

1012 (1) As used in this section:

1013 (b) "Sexual offender" means a person who has been convicted
1014 of committing, or attempting, soliciting, or conspiring to
1015 commit, any of the criminal offenses proscribed in the following
1016 statutes in this state or similar offenses in another
1017 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where
1018 the victim is a minor and the defendant is not the victim's
1019 parent or guardian; s. 787.06(3)(b), (d), (f), or (g), ~~or (h)~~;
1020 former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s.
1021 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.
1022 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
1023 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
1024 or s. 985.701(1); or any similar offense committed in this state
1025 which has been redesignated from a former statute number to one
1026 of those listed in this subsection, when the department has



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1027 received verified information regarding such conviction; an
1028 offender's computerized criminal history record is not, in and
1029 of itself, verified information.

1030 Section 31. Paragraph (a) of subsection (1) of section
1031 944.607, Florida Statutes, is amended to read:

1032 944.607 Notification to Department of Law Enforcement of
1033 information on sexual offenders.—

1034 (1) As used in this section, the term:

1035 (a) "Sexual offender" means a person who is in the custody
1036 or control of, or under the supervision of, the department or is
1037 in the custody of a private correctional facility:

1038 1. On or after October 1, 1997, as a result of a conviction
1039 for committing, or attempting, soliciting, or conspiring to
1040 commit, any of the criminal offenses proscribed in the following
1041 statutes in this state or similar offenses in another
1042 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where
1043 the victim is a minor and the defendant is not the victim's
1044 parent or guardian; s. 787.06(3)(b), (d), (f), or (g), ~~or~~ (h);
1045 former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s.
1046 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.
1047 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
1048 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
1049 or s. 985.701(1); or any similar offense committed in this state
1050 which has been redesignated from a former statute number to one
1051 of those listed in this paragraph; or

1052 2. Who establishes or maintains a residence in this state
1053 and who has not been designated as a sexual predator by a court
1054 of this state but who has been designated as a sexual predator,
1055 as a sexually violent predator, or by another sexual offender



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1056 designation in another state or jurisdiction and was, as a
1057 result of such designation, subjected to registration or
1058 community or public notification, or both, or would be if the
1059 person were a resident of that state or jurisdiction, without
1060 regard as to whether the person otherwise meets the criteria for
1061 registration as a sexual offender.

1062 Section 32. Subsection (2) of section 948.013, Florida
1063 Statutes, is amended to read:

1064 948.013 Administrative probation.—

1065 (2) Effective for an offense committed on or after July 1,
1066 1998, a person is ineligible for placement on administrative
1067 probation if the person is sentenced to or is serving a term of
1068 probation or community control, regardless of the conviction or
1069 adjudication, for committing, or attempting, conspiring, or
1070 soliciting to commit, any of the felony offenses described in s.
1071 787.01 or s. 787.02, where the victim is a minor and the
1072 defendant is not the victim's parent; s. 787.025; s.
1073 787.06(3)(g), chapter 794; former s. 796.03; s. 800.04; s.
1074 825.1025(2)(b); s. 827.071; s. 847.0133; s. 847.0135; or s.
1075 847.0145.

1076 Section 33. Subsection (1) of section 948.32, Florida
1077 Statutes, is amended to read:

1078 948.32 Requirements of law enforcement agency upon arrest
1079 of persons for certain sex offenses.—

1080 (1) When any state or local law enforcement agency
1081 investigates or arrests a person for committing, or attempting,
1082 soliciting, or conspiring to commit, a violation of s.
1083 787.025(2)(c), s. 787.06(3)(g), chapter 794, former s. 796.03,
1084 s. 800.04, s. 827.071, s.