

By Senator Bracy

11-00560-17

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1                   A bill to be entitled  
2       An act relating to expunging and sealing criminal  
3       history records; creating s. 943.0584, F.S.;  
4       establishing a nonjudicial expunction process within  
5       the Department of Law Enforcement for specified  
6       criminal history records; specifying the circumstances  
7       under which the department is required to approve such  
8       expunctions and under which an applicant's records are  
9       ineligible for expunction; providing that there is no  
10      limit on the number of times that persons may obtain  
11      nonjudicial expunction for certain records; providing  
12      for the processing of such expunctions; providing that  
13      an expunction under this section has the same effect  
14      as a record expunged under s. 943.0585, F.S.;  
15      providing that any reference to any other chapter,  
16      section, or subdivision of the Florida Statutes  
17      constitutes a general reference under the doctrine of  
18      incorporation by reference; amending s. 943.0585,  
19      F.S.; providing jurisdiction of the courts over  
20      expunction procedures; specifying the circumstances  
21      under which a court may order expunction; limiting the  
22      authority of the courts to expunge certain records;  
23      requiring persons seeking expunction to apply to the  
24      department for a certificate of eligibility;  
25      specifying documentation that must be submitted to the  
26      court with a petition to expunge; providing a criminal  
27      penalty for providing false information on a required  
28      sworn statement; providing guidelines for the  
29      processing of an order to expunge; providing the

11-00560-17

2017980\_\_

30 effect of orders to expunge; requiring criminal  
31 justice agencies to destroy copies of records that  
32 have been expunged; specifying exceptions to the  
33 confidential and exempt status of an expunged criminal  
34 history record; specifying that a person who has been  
35 granted expunction does not commit perjury and is not  
36 liable for giving a false statement under certain  
37 circumstances; providing that any reference to any  
38 other chapter, section, or subdivision of the Florida  
39 Statutes constitutes a general reference under the  
40 doctrine of incorporation by reference; specifying  
41 that no right to expunction is created; amending s.  
42 943.059, F.S.; establishing a nonjudicial process  
43 within the department for the sealing of specified  
44 records; requiring the department to approve the  
45 nonjudicial sealing of certain records when certain  
46 conditions are met; limiting the authority of the  
47 department to seal certain records; specifying  
48 documentation that must be submitted to the department  
49 with an application to seal; providing a criminal  
50 penalty for providing false information on a required  
51 sworn statement; specifying how the nonjudicial  
52 sealing must be processed; providing for the effect of  
53 a record that has been nonjudicially sealed; providing  
54 that any reference to any other chapter, section, or  
55 subdivision of the Florida Statutes constitutes a  
56 general reference under the doctrine of incorporation  
57 by reference; amending ss. 776.09, 790.23, 943.053,  
58 943.0582, 948.08, 948.16, 961.06, 985.04, 985.045, and

11-00560-17

2017980\_\_

59 985.345, F.S.; conforming provisions to changes made  
60 by the act; providing an appropriation; providing an  
61 effective date.

62  
63 Be It Enacted by the Legislature of the State of Florida:

64  
65 Section 1. Section 943.0584, Florida Statutes, is created  
66 to read:

67 943.0584 Nonjudicial expunction of criminal history  
68 records.-

69 (1) NONJUDICIAL EXPUNCTION.-Notwithstanding any law dealing  
70 generally with the preservation and destruction of public  
71 records, the department may adopt a rule pursuant to chapter 120  
72 for the nonjudicial expunction of any eligible criminal history  
73 record of a minor or an adult who complies with the requirements  
74 of this section.

75 (2) ELIGIBILITY.-

76 (a) The department shall approve the nonjudicial expunction  
77 of a criminal history record if:

78 1. An indictment, information, or other charging document  
79 was not filed or issued in the case.

80 2. An indictment, information, or other charging document  
81 was filed or issued in the case, but was subsequently dismissed  
82 or nolle prosequi by the state attorney or statewide prosecutor,  
83 or was dismissed or discharged by a court of competent  
84 jurisdiction. However, a person may not obtain an expunction  
85 under this paragraph for a dismissal pursuant to s. 916.145 or  
86 s. 985.19.

87 3. An information, indictment, or other charging document

11-00560-17

2017980\_\_

88 was not filed or was dismissed by the state attorney or the  
89 court because it was found that the person acted in lawful self-  
90 defense pursuant to the provisions related to justifiable use of  
91 force in chapter 776.

92 4. Except as provided in sub-subparagraph b., a not guilty  
93 verdict was rendered after a trial or adjudicatory hearing,  
94 excluding a verdict of not guilty by reason of insanity.

95 (b) A person may not obtain a nonjudicial expunction under  
96 this section unless all charges stemming from the arrest or  
97 alleged criminal activity to which the application for  
98 expunction pertains were not filed or issued, were dismissed or  
99 discharged, or resulted in an acquittal, as provided in this  
100 section.

101 (3) LIMITATIONS.—There is no limitation on the number of  
102 times that a person may obtain a nonjudicial expunction for a  
103 criminal history record described in paragraph (2) (a). An  
104 applicant seeking to have multiple records expunged need only  
105 submit one application to the department under this section. The  
106 department shall approve the nonjudicial expunction of all  
107 records pertaining to the applicant which are eligible for  
108 expunction under this section.

109 (4) APPLICATION FOR NONJUDICIAL EXPUNCTION.—An adult or, in  
110 the case of a minor child, the parent or legal guardian of the  
111 minor child seeking to expunge a criminal history record under  
112 this section shall apply as provided by department rule. An  
113 application for a nonjudicial expunction must include:

114 (a)1. A written, certified statement from the appropriate  
115 state attorney or statewide prosecutor which indicates that the  
116 criminal history record sought to be expunged is eligible under

11-00560-17

2017980\_\_

117 this section; or

118 2. For expunction of a record described in subparagraph  
119 (2)(a)3., a written, certified statement from the appropriate  
120 state attorney or statewide prosecutor which states that an  
121 information, indictment, or other charging document was not  
122 filed or was dismissed by the state attorney or by the court,  
123 because it was found that the person acted in lawful self-  
124 defense pursuant to the provisions related to justifiable use of  
125 force in chapter 776.

126 (b) A processing fee of \$75, payable to the department for  
127 deposit in the Department of Law Enforcement Operating Trust  
128 Fund, unless such fee is waived by the executive director.

129 (c) A certified copy of the disposition of the charge to  
130 which the application to expunge pertains.

131 (d) A full set of fingerprints of the applicant taken by a  
132 law enforcement agency for purposes of identity verification.

133 (5) PROCESSING OF A NONJUDICIAL EXPUNCTION.—If the  
134 department approves an application for nonjudicial expunction,  
135 the department shall forward a certified copy of the  
136 notification of approval of nonjudicial expunction to the  
137 appropriate state attorney or the statewide prosecutor, the  
138 arresting agency, the appropriate clerk of the court, and the  
139 Federal Bureau of Investigation. The arresting agency shall  
140 forward the notification of approval for nonjudicial expunction  
141 to any other agency to which the arresting agency disseminated  
142 the criminal history record information to which the  
143 notification pertains. The clerk of court shall forward a copy  
144 of the notification of approval for nonjudicial expunction to  
145 any other agency that court records reflect received the

11-00560-17

2017980\_\_

146 criminal history record from the court.

147 (6) EFFECT OF NONJUDICIAL EXPUNCTION.—

148 (a) Any criminal history record of a minor or an adult  
149 which is ordered expunged pursuant to this section must be  
150 physically destroyed or obliterated by any criminal justice  
151 agency having custody of such record; except that any criminal  
152 history record in the custody of the department must be retained  
153 in all cases.

154 (b) The person who is the subject of a criminal history  
155 record that is expunged under this section or under other  
156 provisions of law, including s. 943.0585 and former ss. 893.14,  
157 901.33, and 943.058, may lawfully deny or fail to acknowledge  
158 the arrests covered by the expunged record, except when the  
159 subject of the record:

- 160 1. Is a candidate for employment with a criminal justice  
161 agency;
- 162 2. Is a defendant in a criminal prosecution;
- 163 3. Concurrently or subsequently seeks relief under s.  
164 943.0583, this section, or s. 943.059;
- 165 4. Is a candidate for admission to The Florida Bar;
- 166 5. Is seeking to be employed or licensed by or to contract  
167 with the Department of Children and Families, the Division of  
168 Vocational Rehabilitation within the Department of Education,  
169 the Agency for Health Care Administration, the Agency for  
170 Persons with Disabilities, the Department of Health, the  
171 Department of Elderly Affairs, or the Department of Juvenile  
172 Justice or to be employed or used by such contractor or licensee  
173 in a sensitive position having direct contact with children, the  
174 disabled, or the elderly;

11-00560-17

2017980\_\_

175 6. Is seeking to be employed or licensed by the Department  
176 of Education, a district school board, a university laboratory  
177 school, a charter school, a private or parochial school, or a  
178 local governmental entity that licenses child care facilities;

179 7. Is seeking to be licensed by the Division of Insurance  
180 Agent and Agency Services within the Department of Financial  
181 Services; or

182 8. Is seeking to be appointed as a guardian pursuant to s.  
183 744.3125.

184 (c) Subject to the exceptions in paragraph (b), a person  
185 who has been granted an expunction under s. 943.0585, this  
186 section, former s. 893.14, former s. 901.33, or former s.  
187 943.058 may not be held under any law of this state to commit  
188 perjury or to be otherwise liable for giving a false statement  
189 by reason of such person's failure to recite or acknowledge an  
190 expunged criminal history record.

191 (d) Notwithstanding any law to the contrary, a criminal  
192 justice agency may comply with laws, court orders, and official  
193 requests of other jurisdictions relating to expunction,  
194 correction, or confidential handling of criminal history records  
195 or information derived therefrom.

196 (7) STATUTORY REFERENCES.—Any reference to any other  
197 chapter, section, or subdivision of the Florida Statutes in this  
198 section constitutes a general reference under the doctrine of  
199 incorporation by reference.

200 Section 2. Section 943.0585, Florida Statutes, is amended  
201 to read:

202 (Substantial rewording of section. See  
203 s. 943.0585, F.S., for present text.)

11-00560-17

2017980\_\_

204 943.0585 Court-ordered expunction of criminal history  
205 records.-

206 (1) JURISDICTION.-The courts of this state have  
207 jurisdiction over their own procedures, including the  
208 maintenance, expunction, and correction of judicial records  
209 containing criminal history information to the extent such  
210 procedures are not inconsistent with the conditions,  
211 responsibilities, and duties established by this section. A  
212 court of competent jurisdiction may order a criminal justice  
213 agency to expunge the criminal history record of a minor or an  
214 adult who complies with the requirements of this section.

215 (2) ELIGIBILITY.-

216 (a)1. Except as provided in paragraph (b), a court may  
217 order the expunction of a criminal history record when the  
218 person was found guilty of, found to have committed, pled guilty  
219 to, or pled nolo contendere to an offense; and

220 2. None of the charges stemming from the arrest or alleged  
221 criminal activity to which the petition to expunge pertains  
222 resulted in an adjudication of guilt or delinquency.

223 (b) A court may not order the expunction of a criminal  
224 history record if:

225 1. The person has, at any time before the date on which the  
226 application for a certificate of eligibility is filed, been  
227 adjudicated guilty for a felony offense or adjudicated  
228 delinquent for an offense that would be a felony if committed by  
229 an adult; or

230 2. The record relates to a serious offense in which the  
231 person was found guilty of or adjudicated delinquent of, or pled  
232 guilty or pled nolo contendere to the offense, regardless of

11-00560-17

2017980\_\_

233 whether adjudication was withheld. For purposes of this  
234 subparagraph, the term "serious offense" means a violation of s.  
235 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,  
236 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,  
237 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,  
238 or s. 916.1075, a violation enumerated in s. 907.041, or any  
239 violation specified as a predicate offense for registration as a  
240 sexual predator pursuant to s. 775.21, without regard to whether  
241 that offense, alone, is sufficient to require such registration  
242 or registration as a sexual offender pursuant to s. 943.0435.

243 (3) LIMITATIONS.—A court may only order the expunction of  
244 one criminal history record described in paragraph (2) (a). A  
245 person seeking an expunction under this section is not barred  
246 from relief if the same criminal history record has previously  
247 been approved for a nonjudicial sealing pursuant to s. 943.059.  
248 The record expunged must pertain to one arrest or one incident  
249 of alleged criminal activity. However, the court may, at its  
250 sole discretion, order the expunction of a criminal history  
251 record pertaining to more than one arrest or one incident of  
252 alleged criminal activity if the additional arrests directly  
253 relate to the original arrest. If the court intends to order the  
254 expunction of records pertaining to such additional arrests,  
255 such intent must be specified in the order. A criminal justice  
256 agency may not expunge a record pertaining to such additional  
257 arrests if the order to expunge does not articulate the  
258 intention of the court to expunge a record pertaining to more  
259 than one arrest. This subsection does not prevent the court from  
260 ordering the expunction of only a portion of a criminal history  
261 record pertaining to one arrest.

11-00560-17

2017980\_\_

262       (4) CERTIFICATE OF ELIGIBILITY FOR COURT-ORDERED  
263 EXPUNCTION.—

264       (a) A person seeking to expunge a criminal history record  
265 under this section shall apply to the department for a  
266 certificate of eligibility for expunction before petitioning the  
267 court for expunction. The department shall issue a certificate  
268 of eligibility for expunction to a person who is the subject of  
269 a criminal history record if that person:

270       1. Has obtained and submitted to the department a written,  
271 certified statement from the appropriate state attorney or  
272 statewide prosecutor which indicates that the criminal history  
273 record sought to be expunged is eligible under subsection (2).

274       2. Remits a \$75 processing fee made payable to the  
275 department for deposit in the Department of Law Enforcement  
276 Operating Trust Fund, unless such fee is waived by the executive  
277 director.

278       3. Has submitted to the department a certified copy of the  
279 disposition of the charge to which the petition to expunge  
280 pertains.

281       4. Has never secured a prior sealing or expunction of a  
282 criminal history record under this section, s. 943.059, former  
283 s. 893.14, former s. 901.33, or former s. 943.058, unless  
284 expunction is sought of a criminal history record that had been  
285 previously sealed under former paragraph (2) (h) of this section,  
286 Florida Statutes, 2016, and the record is otherwise eligible for  
287 expunction.

288       5. Is no longer under court supervision applicable to the  
289 disposition of the arrest or alleged criminal activity to which  
290 the petition to expunge pertains.

11-00560-17

2017980\_\_

291 6. Has not been arrested for or charged with a criminal  
292 offense, in any jurisdiction of the state or within the United  
293 States, from the date the person completed all sentences of  
294 imprisonment or supervisory sanctions imposed by the court for  
295 the offense to which the petition to expunge pertains to the  
296 date of the application for the certificate of eligibility. This  
297 period of time must be no less than 1 year.

298 7. Has submitted a full set of fingerprints taken by a law  
299 enforcement agency for purposes of identity verification.

300 (b) A certificate of eligibility for expunction is valid  
301 for 12 months after the date that the certificate is issued by  
302 the department. After that time, the petitioner must reapply to  
303 the department for a new certificate of eligibility. Eligibility  
304 for a renewed certification of eligibility must be based on the  
305 status of the applicant and the law in effect at the time of the  
306 renewal application.

307 (c) The department shall establish by rule procedures  
308 pertaining to the application for and issuance of certificates  
309 of eligibility for expunction.

310 (5) PETITION FOR COURT-ORDERED EXPUNCTION.-

311 (a) The court may not order a criminal justice agency to  
312 expunge a criminal history record under this section until the  
313 person seeking to expunge the record has applied for and  
314 received a certificate of eligibility for expunction pursuant to  
315 subsection (4). Each petition to a court to expunge a criminal  
316 history record is complete only when accompanied by:

317 1. A valid certificate of eligibility for expunction issued  
318 by the department pursuant to subsection (4).

319 2. The petitioner's sworn statement attesting that:

11-00560-17

2017980\_\_

320 a. The criminal history record sought to be expunged is  
321 eligible under subsection (2).

322 b. The petitioner is eligible for the expunction under  
323 subsection (3).

324 c. He or she has not been arrested for or charged with a  
325 criminal offense, in any jurisdiction of the state or within the  
326 United States, from the date that the person completed all  
327 sentences of imprisonment or supervisory sanctions imposed by  
328 the court for the offense to which the petition to expunge  
329 pertains to the date of the application for the certificate of  
330 eligibility, which period of time must be at least 1 year.

331 (b) A person who knowingly provides false information on  
332 the sworn statement required by subparagraph (a)2. commits a  
333 felony of the third degree, punishable as provided in s.  
334 775.082, s. 775.083, or s. 775.084.

335 (6) PROCESSING OF COURT-ORDERED EXPUNCTION.—

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

344 (b) If relief is granted by the court, the clerk of court  
345 shall certify copies of the order to the appropriate state  
346 attorney or the statewide prosecutor and the arresting agency.  
347 The arresting agency is responsible for forwarding the order to  
348 any other agency to which the arresting agency disseminated the

11-00560-17

2017980\_\_

349 criminal history record information to which the order pertains.  
350 The department shall forward the order to expunge to the Federal  
351 Bureau of Investigation. The clerk of court shall certify a copy  
352 of the order to any other agency which the records of the court  
353 reflect has received the criminal history record from the court.

354 (c) The department or any other criminal justice agency is  
355 not required to act on an order to expunge entered by a court  
356 when such order does not comply with the requirements of this  
357 section. Upon receipt of such an order, the department must  
358 notify the issuing court, the appropriate state attorney or  
359 statewide prosecutor, the petitioner or the petitioner's  
360 attorney, and the arresting agency of the reason for  
361 noncompliance. The appropriate state attorney or statewide  
362 prosecutor shall take action within 60 days after receiving the  
363 order to correct the record and petition the court to void the  
364 order. A cause of action, including contempt of court, does not  
365 arise against a criminal justice agency for failure to comply  
366 with an order to expunge when the petitioner for such order  
367 failed to obtain the certificate of eligibility as required by  
368 this section or such order does not otherwise comply with the  
369 requirements of this section.

370 (7) EFFECT OF EXPUNCTION.—

371 (a) Any criminal history record of a minor or an adult  
372 which is ordered expunged by a court of competent jurisdiction  
373 pursuant to this section must be physically destroyed or  
374 obliterated by any criminal justice agency having custody of  
375 such record; except that any criminal history record in the  
376 custody of the department must be retained in all cases.

377 (b) The person who is the subject of a criminal history

11-00560-17

2017980\_\_

378 record that is expunged under this section or under other  
379 provisions of law, including s. 943.0584 and former ss. 893.14,  
380 901.33, and 943.058, may lawfully deny or fail to acknowledge  
381 the arrests covered by the expunged record, except when the  
382 subject of the record:

383 1. Is a candidate for employment with a criminal justice  
384 agency;

385 2. Is a defendant in a criminal prosecution;

386 3. Concurrently or subsequently seeks relief under s.  
387 943.0583, this section, or s. 943.059;

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

389 5. Is seeking to be employed or licensed by or to contract  
390 with the Department of Children and Families, the Division of  
391 Vocational Rehabilitation within the Department of Education,  
392 the Agency for Health Care Administration, the Agency for  
393 Persons with Disabilities, the Department of Health, the  
394 Department of Elderly Affairs, or the Department of Juvenile  
395 Justice or to be employed or used by such contractor or licensee  
396 in a sensitive position having direct contact with children, the  
397 disabled, or the elderly;

398 6. Is seeking to be employed or licensed by the Department  
399 of Education, a district school board, a university laboratory  
400 school, a charter school, a private or parochial school, or a  
401 local governmental entity that licenses child care facilities;

402 7. Is seeking to be licensed by the Division of Insurance  
403 Agent and Agency Services within the Department of Financial  
404 Services; or

405 8. Is seeking to be appointed as a guardian pursuant to s.  
406 744.3125.

11-00560-17

2017980\_\_

407 (c) Subject to the exceptions in paragraph (b), a person  
408 who has been granted an expunction under s. 943.0584, this  
409 section, former s. 893.14, former s. 901.33, or former s.  
410 943.058 may not be held under any law of this state to commit  
411 perjury or to be otherwise liable for giving a false statement  
412 by reason of such person's failure to recite or acknowledge an  
413 expunged criminal history record.

414 (d) Notwithstanding any law to the contrary, a criminal  
415 justice agency may comply with laws, court orders, and official  
416 requests of other jurisdictions relating to expunction,  
417 correction, or confidential handling of criminal history records  
418 or information derived therefrom.

419 (8) STATUTORY REFERENCES.—Any reference to any other  
420 chapter, section, or subdivision of the Florida Statutes in this  
421 section constitutes a general reference under the doctrine of  
422 incorporation by reference.

423 (9) NO RIGHT TO EXPUNCTION.—This section does not confer a  
424 right to the expunction of a criminal history record, and a  
425 request for expunction of a criminal history record may be  
426 denied at the sole discretion of the court.

427 Section 3. Section 943.059, Florida Statutes, is amended to  
428 read:

429 (Substantial rewording of section. See  
430 s. 943.059, F.S., for present text.)

431 943.059 Nonjudicial sealing of criminal history records.—

432 (1) NONJUDICIAL SEALING.—Notwithstanding any law dealing  
433 generally with the preservation and destruction of public  
434 records, the department may adopt by rule a procedure for the  
435 nonjudicial sealing of any criminal history record of a minor or

11-00560-17

2017980\_\_

436 an adult described in this section.

437 (2) ELIGIBILITY.—

438 (a) Except as provided in paragraph (b), the department  
439 must approve the nonjudicial sealing of a criminal history  
440 record when:

441 1.a. The person was found guilty of, found to have  
442 committed, pled guilty to, or pled nolo contendere to an  
443 offense.

444 b. None of the charges stemming from the arrest or alleged  
445 criminal activity to which the application for nonjudicial  
446 sealing pertains resulted in an adjudication of guilt or  
447 delinquency; or

448 2. The person was adjudicated guilty or adjudicated  
449 delinquent for a nonviolent misdemeanor. For purposes of this  
450 subparagraph, the term "nonviolent misdemeanor" means a  
451 misdemeanor violation of:

452 a. Section 562.11(2), s. 562.111, s. 806.101, s. 806.13, s.  
453 810.08, s. 810.09, s. 810.10, s. 810.11, s. 810.115, s. 810.13,  
454 s. 812.014(3) (a), s. 823.01, s. 823.02, s. 856.011, s. 856.015,  
455 s. 870.02, s. 893.13(3), s. 893.13(6) (b), or s. 893.147(1), in  
456 which the petitioner was adjudicated guilty or adjudicated  
457 delinquent; or

458 b. An offense found in chapters 316-324 for which the  
459 petitioner was adjudicated guilty or adjudicated delinquent,  
460 unless the violation directly caused serious bodily injury or  
461 death to a person.

462 (b) A criminal history record may not be approved for a  
463 nonjudicial sealing pursuant to this section if:

464 1. The person seeking the sealing has, at any time before

11-00560-17

2017980\_\_

465 the date on which the application for nonjudicial sealing is  
466 filed, been adjudicated guilty for a felony offense or  
467 adjudicated delinquent for an offense that would be a felony if  
468 committed by an adult; or

469 2. The record relates to a serious offense in which the  
470 person was found guilty of or adjudicated delinquent of, or pled  
471 guilty or pled nolo contendere to, the offense, regardless of  
472 whether adjudication was withheld. For purposes of this  
473 subparagraph, the term "serious offense" means a violation of s.  
474 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,  
475 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,  
476 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,  
477 or s. 916.1075, a violation enumerated in s. 907.041, or any  
478 violation specified as a predicate offense for registration as a  
479 sexual predator pursuant to s. 775.21, without regard to whether  
480 that offense alone is sufficient to require such registration or  
481 for registration as a sexual offender pursuant to s. 943.0435.

482 (3) LIMITATIONS.—The department may only approve the  
483 sealing of one criminal history record described in paragraph  
484 (2) (a). Each record sealed must pertain to one arrest or one  
485 incident of alleged criminal activity. However, if the  
486 department receives supporting documentation as described in  
487 paragraph (4) (b) stating that additional arrests are directly  
488 related to the arrest sought to be expunged, the department must  
489 approve the sealing of a criminal history record pertaining to  
490 the additional arrests. If the department approves the sealing  
491 of records pertaining to such additional arrests, such intent  
492 must be specified in the approval form. A criminal justice  
493 agency may not seal any record pertaining to such additional

11-00560-17

2017980\_\_

494 arrests if the department has not approved sealing records  
495 pertaining to more than one arrest.

496 (4) APPLICATION FOR NONJUDICIAL SEALING.—An adult or, in  
497 the case of a minor child, the parent or legal guardian of the  
498 minor child seeking to seal a criminal history record under this  
499 section shall apply as provided by department rule. An  
500 application for nonjudicial sealing shall include a:

501 (a) Written, certified statement from the appropriate state  
502 attorney or statewide prosecutor which indicates that the  
503 criminal history record sought to be sealed is eligible under  
504 subsection (2).

505 (b) Written, certified statement from the appropriate state  
506 attorney or statewide prosecutor that indicates any additional  
507 arrests the applicant seeks to seal are directly related to the  
508 original arrest, if applicable. If the state attorney or  
509 statewide prosecutor does not confirm that the additional  
510 arrests are directly related, the person applying for the  
511 sealing has the right to appeal this decision to the circuit  
512 court.

513 (c) Processing fee of \$75 payable to the department, for  
514 deposit in the Department of Law Enforcement Operating Trust  
515 Fund, unless the fee is waived by the executive director.

516 (d) Certified copy of the disposition of the charge to  
517 which the application to seal pertains.

518 (e) Full set of fingerprints of the applicant taken by a  
519 law enforcement agency for purposes of identity verification.

520 (f) Sworn, written statement from the person seeking the  
521 sealing that he or she:

522 1. Is no longer under court supervision applicable to the

11-00560-17

2017980\_\_

523 disposition of the arrest or alleged criminal activity to which  
524 the application to seal pertains.

525 2. Has never secured a prior sealing or expunction of a  
526 criminal history record under this section, s. 943.0585, former  
527 s. 893.14, former s. 901.33, or former s. 943.058.

528 3. Has not been arrested for or charged with a criminal  
529 offense, in any jurisdiction of the state or within the United  
530 States, from the date the person completed all sentences of  
531 imprisonment or supervisory sanctions imposed by the court for  
532 the offense to which the application for nonjudicial sealing  
533 pertains to the date of the application for the nonjudicial  
534 sealing, which period of time must be at least 1 year.

535  
536 A person who knowingly provides false information on the sworn  
537 statement required by paragraph (f) commits a felony of the  
538 third degree, punishable as provided in s. 775.082, s. 775.083,  
539 or s. 775.084.

540 (5) PROCESSING OF NONJUDICIAL SEALING.—

541 (a) If the department approves an application for a  
542 nonjudicial sealing, the department shall forward a certified  
543 copy of the notification of approval of nonjudicial sealing to  
544 the appropriate state attorney or the statewide prosecutor, the  
545 arresting agency, and the clerk of court. The arresting agency  
546 is responsible for forwarding the notification of approval for  
547 nonjudicial sealing to any other agency to which the arresting  
548 agency disseminated the criminal history record information to  
549 which the notification pertains. The department shall forward  
550 the notification of approval for nonjudicial sealing to the  
551 Federal Bureau of Investigation. The clerk of court shall

11-00560-17

2017980\_\_

552 forward a copy of the notification of approval for nonjudicial  
553 sealing to any other agency that the records of the court  
554 reflect has received the criminal history record from the court.

555 (b) The nonjudicial sealing of a criminal history record  
556 pursuant to this section does not require that such record be  
557 surrendered to the court, and such record shall continue to be  
558 maintained by the department and other criminal justice  
559 agencies.

560 (6) EFFECT OF SEALING.—

561 (a) The person who is the subject of a criminal history  
562 record that is sealed under this section or under other  
563 provisions of law, including former ss. 893.14, 901.33, and  
564 943.058, may lawfully deny or fail to acknowledge the arrests  
565 covered by the sealed record, except when the subject of the  
566 record:

567 1. Is a candidate for employment with a criminal justice  
568 agency;

569 2. Is a defendant in a criminal prosecution;

570 3. Concurrently or subsequently seeks relief under s.  
571 943.0583, s. 943.0584, s. 943.0585, or this section;

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

573 5. Is seeking to be employed or licensed by or to contract  
574 with the Department of Children and Families, the Division of  
575 Vocational Rehabilitation within the Department of Education,  
576 the Agency for Health Care Administration, the Agency for  
577 Persons with Disabilities, the Department of Health, the  
578 Department of Elderly Affairs, or the Department of Juvenile  
579 Justice or to be employed or used by such contractor or licensee  
580 in a sensitive position having direct contact with children, the

11-00560-17

2017980\_\_

581 disabled, or the elderly;

582 6. Is seeking to be employed or licensed by the Department  
583 of Education, a district school board, a university laboratory  
584 school, a charter school, a private or parochial school, or a  
585 local governmental entity that licenses child care facilities;

586 7. Is attempting to purchase a firearm from a licensed  
587 importer, licensed manufacturer, or licensed dealer and is  
588 subject to a criminal history check under state or federal law;

589 8. Is seeking to be licensed by the Division of Insurance  
590 Agent and Agency Services within the Department of Financial  
591 Services;

592 9. Is seeking to be appointed as a guardian pursuant to s.  
593 744.3125; or

594 10. Is seeking to be licensed by the Bureau of License  
595 Issuance of the Division of Licensing within the Department of  
596 Agriculture and Consumer Services to carry a concealed weapon or  
597 concealed firearm. This subparagraph applies only in the  
598 determination of an applicant's eligibility under s. 790.06.

599 (b) Subject to the exceptions in paragraph (a), a person  
600 who has been granted a sealing under this section, former s.  
601 893.14, former s. 901.33, or former s. 943.058 may not be held  
602 under any provision of law of this state to commit perjury or to  
603 be otherwise liable for giving a false statement by reason of  
604 such person's failure to recite or acknowledge a sealed criminal  
605 history record.

606 (c) Notwithstanding any law to the contrary, a criminal  
607 justice agency may comply with laws, court orders, and official  
608 requests of other jurisdictions relating to sealing, correction,  
609 or confidential handling of criminal history records or

11-00560-17

2017980\_\_

610 information derived therefrom.

611 (7) STATUTORY REFERENCES.—Any reference to any other  
612 chapter, section, or subdivision of the Florida Statutes in this  
613 section constitutes a general reference under the doctrine of  
614 incorporation by reference.

615 Section 4. Subsection (3) of section 776.09, Florida  
616 Statutes, is amended to read:

617 776.09 Retention of records pertaining to persons found to  
618 be acting in lawful self-defense; expunction of criminal history  
619 records.—

620 (3) Under either condition described in subsection (1) or  
621 subsection (2), the person accused may apply for the nonjudicial  
622 expunction of a certificate of eligibility to expunge the  
623 associated criminal history record, pursuant to s.  
624 943.0584(2)(a)3. s. 943.0585(5), notwithstanding the eligibility  
625 requirements prescribed in s. 943.0585(1)(b) or (2).

626 Section 5. Subsection (1) of section 790.23, Florida  
627 Statutes, is amended to read:

628 790.23 Felons and delinquents; possession of firearms,  
629 ammunition, or electric weapons or devices unlawful.—

630 (1) It is unlawful for any person to own or to have in his  
631 or her care, custody, possession, or control any firearm,  
632 ammunition, or electric weapon or device, or to carry a  
633 concealed weapon, including a tear gas gun or chemical weapon or  
634 device, if that person has been:

635 (a) Convicted of a felony in the courts of this state;

636 (b) 1. Found, in the courts of this state, to have committed  
637 a delinquent act that would be a felony if committed by an  
638 adult, meets the criteria specified for a minor in s.

11-00560-17

2017980\_\_

639 943.0515(1)(a), and ~~such person~~ is under 24 years of age; or  
640 2. Found, in the courts of this state, to have committed a  
641 delinquent act that would be a felony if committed by an adult,  
642 meets the criteria specified for a minor in s. 943.0515(1)(b),  
643 and is under 21 years of age;

644 (c) Convicted of or found to have committed a crime against  
645 the United States which is designated as a felony;

646 (d)1. Found to have committed a delinquent act in another  
647 state, territory, or country that would be a felony if committed  
648 by an adult and which was punishable by imprisonment for a term  
649 exceeding 1 year, meets the criteria specified for a minor in s.  
650 943.0515(1)(a), and ~~such person~~ is under 24 years of age; or

651 2. Found to have committed a delinquent act in another  
652 state, territory, or country which would be a felony if  
653 committed by an adult and which was punishable by imprisonment  
654 for a term exceeding 1 year, meets the criteria specified for a  
655 minor in s. 943.0515(1)(b), and is under 21 years of age; or

656 (e) Found guilty of an offense that is a felony in another  
657 state, territory, or country and which was punishable by  
658 imprisonment for a term exceeding 1 year.

659 Section 6. Paragraph (c) of subsection (3) of section  
660 943.053, Florida Statutes, is amended to read:

661 943.053 Dissemination of criminal justice information;  
662 fees.—

663 (3)

664 (c)1. Criminal history information relating to juveniles,  
665 including criminal history information consisting in whole or in  
666 part of information that is confidential and exempt under  
667 paragraph (b), shall be available to:

11-00560-17

2017980\_\_

- 668 a. A criminal justice agency for criminal justice purposes  
669 on a priority basis and free of charge;
- 670 b. The person to whom the record relates, or his or her  
671 attorney;
- 672 c. The parent, guardian, or legal custodian of the person  
673 to whom the record relates, provided such person has not reached  
674 the age of majority, been emancipated by a court, or been  
675 legally married; or
- 676 d. An agency or entity specified in s. 943.0584(6), s.  
677 943.0585(7), ~~s. 943.0585(4)~~ or s. 943.059(6) ~~s. 943.059(4)~~, for  
678 the purposes specified therein, and to any person within such  
679 agency or entity who has direct responsibility for employment,  
680 access authorization, or licensure decisions.
- 681 2. After providing the program with all known personal  
682 identifying information, the criminal history information  
683 relating to a juvenile which is not confidential and exempt  
684 under this subsection may be released to the private sector and  
685 noncriminal justice agencies not specified in s. 943.0584(6), s.  
686 943.0585(7), ~~s. 943.0585(4)~~ or s. 943.059(6) ~~s. 943.059(4)~~ in  
687 the same manner as provided in paragraph (a). Criminal history  
688 information relating to a juvenile which is not confidential and  
689 exempt under this subsection is the entire criminal history  
690 information relating to a juvenile who satisfies any of the  
691 criteria listed in sub-subparagraphs (b)1.a.-d., except for any  
692 portion of such juvenile's criminal history record which has  
693 been expunged or sealed under any law applicable to such record.
- 694 3. All criminal history information relating to juveniles,  
695 other than that provided to criminal justice agencies for  
696 criminal justice purposes, shall be provided upon tender of fees

11-00560-17

2017980\_\_

697 as established in this subsection and in the manner prescribed  
698 by rule of the Department of Law Enforcement.

699 Section 7. Section 943.0582, Florida Statutes, is amended  
700 to read:

701 943.0582 Prearrest, postarrest, or teen court diversion  
702 program expunction.—

703 (1) Notwithstanding any law dealing generally with the  
704 preservation and destruction of public records, the department  
705 may provide, by rule adopted pursuant to chapter 120, for the  
706 expunction of any nonjudicial record of the arrest of a minor  
707 who has successfully completed a prearrest or postarrest  
708 diversion program for minors as authorized by s. 985.125.

709 (2) (a) As used in this section, the term "expunction" has  
710 the same meaning ascribed in and effect as ss. 943.0584 and s.  
711 943.0585, except that:

712 1. The provisions of ss. 943.0584(6)(b) and 943.0585(7)(b)  
713 s. 943.0585(4)(a) do not apply, except that the criminal history  
714 record of a person whose record is expunged pursuant to this  
715 section shall be made available only to criminal justice  
716 agencies for the purpose of determining eligibility for  
717 prearrest, postarrest, or teen court diversion programs; when  
718 the record is sought as part of a criminal investigation; or  
719 when the subject of the record is a candidate for employment  
720 with a criminal justice agency. For all other purposes, a person  
721 whose record is expunged under this section may lawfully deny or  
722 fail to acknowledge the arrest and the charge covered by the  
723 expunged record.

724 2. Records maintained by local criminal justice agencies in  
725 the county in which the arrest occurred that are eligible for

11-00560-17

2017980\_\_

726 expunction pursuant to this section shall be sealed as the term  
727 is used in s. 943.059.

728 (b) As used in this section, the term "nonviolent  
729 misdemeanor" includes simple assault or battery when prearrest  
730 or postarrest diversion expunction is approved in writing by the  
731 state attorney for the county in which the arrest occurred.

732 (3) The department shall expunge the nonjudicial arrest  
733 record of a minor who has successfully completed a prearrest or  
734 postarrest diversion program if that minor:

735 (a) Submits an application for prearrest or postarrest  
736 diversion expunction, on a form prescribed by the department,  
737 signed by the minor's parent or legal guardian, or by the minor  
738 if he or she has reached the age of majority at the time of  
739 applying.

740 (b) Submits to the department, with the application, an  
741 official written statement from the state attorney for the  
742 county in which the arrest occurred certifying that he or she  
743 has successfully completed that county's prearrest or postarrest  
744 diversion program, that his or her participation in the program  
745 was based on an arrest for a nonviolent misdemeanor, and that he  
746 or she has not otherwise been charged by the state attorney  
747 with, or found to have committed, any criminal offense or  
748 comparable ordinance violation.

749 (c) Participated in a prearrest or postarrest diversion  
750 program that expressly authorizes or permits such expunction.

751 (d) Participated in a prearrest or postarrest diversion  
752 program based on an arrest for a nonviolent misdemeanor that  
753 would not qualify as an act of domestic violence as that term is  
754 defined in s. 741.28.

11-00560-17

2017980\_\_

755 (e) Has never been, before filing the application for  
756 expunction, charged by the state attorney with, or found to have  
757 committed, any criminal offense or comparable ordinance  
758 violation.

759 (4) The department may ~~is authorized to~~ charge a \$75  
760 processing fee for each request received for prearrest or  
761 postarrest diversion program expunction, for placement in the  
762 Department of Law Enforcement Operating Trust Fund, unless such  
763 fee is waived by the executive director.

764 (5) Expunction or sealing granted under this section does  
765 not prevent the minor who receives such relief from seeking  
766 ~~petitioning for~~ the expunction or sealing of a later criminal  
767 history record as provided for in ss. 943.0583, 943.0584,  
768 943.0585, and 943.059, if the minor is otherwise eligible under  
769 those sections.

770 Section 8. Paragraph (b) of subsection (6) and paragraph  
771 (b) of subsection (7) of section 948.08, Florida Statutes, are  
772 amended to read:

773 948.08 Pretrial intervention program.—

774 (6)

775 (b) While enrolled in a pretrial intervention program  
776 authorized by this subsection, the participant is subject to a  
777 coordinated strategy developed by a drug court team under s.  
778 397.334(4). The coordinated strategy may include a protocol of  
779 sanctions that may be imposed upon the participant for  
780 noncompliance with program rules. The protocol of sanctions may  
781 include, but is not limited to, placement in a substance abuse  
782 treatment program offered by a licensed service provider as  
783 defined in s. 397.311 or in a jail-based treatment program or

11-00560-17

2017980\_\_

784 serving a period of incarceration within the time limits  
785 established for contempt of court. The coordinated strategy must  
786 be provided in writing to the participant before the participant  
787 agrees to enter into a pretrial treatment-based drug court  
788 program or other pretrial intervention program. Any person whose  
789 charges are dismissed after successful completion of the  
790 treatment-based drug court program, if otherwise eligible, may  
791 have his or her arrest record and plea of nolo contendere to the  
792 dismissed charges expunged under s. 943.0584 ~~943.0585~~.

793 (7)

794 (b) While enrolled in a pretrial intervention program  
795 authorized by this subsection, the participant shall be subject  
796 to a coordinated strategy developed by a veterans' treatment  
797 intervention team. The coordinated strategy should be modeled  
798 after the therapeutic jurisprudence principles and key  
799 components in s. 397.334(4), with treatment specific to the  
800 needs of servicemembers and veterans. The coordinated strategy  
801 may include a protocol of sanctions that may be imposed upon the  
802 participant for noncompliance with program rules. The protocol  
803 of sanctions may include, but need not be limited to, placement  
804 in a treatment program offered by a licensed service provider or  
805 in a jail-based treatment program or serving a period of  
806 incarceration within the time limits established for contempt of  
807 court. The coordinated strategy must be provided in writing to  
808 the participant before the participant agrees to enter into a  
809 pretrial veterans' treatment intervention program or other  
810 pretrial intervention program. Any person whose charges are  
811 dismissed after successful completion of the pretrial veterans'  
812 treatment intervention program, if otherwise eligible, may have

11-00560-17

2017980\_\_

813 his or her arrest record of the dismissed charges expunged under  
814 s. 943.0584 ~~943.0585~~.

815 Section 9. Paragraph (b) of subsection (1) and paragraph  
816 (b) of subsection (2) of section 948.16, Florida Statutes, are  
817 amended to read:

818 948.16 Misdemeanor pretrial substance abuse education and  
819 treatment intervention program; misdemeanor pretrial veterans'  
820 treatment intervention program; misdemeanor pretrial mental  
821 health court program.—

822 (1)

823 (b) While enrolled in a pretrial intervention program  
824 authorized by this section, the participant is subject to a  
825 coordinated strategy developed by a drug court team under s.  
826 397.334(4). The coordinated strategy may include a protocol of  
827 sanctions that may be imposed upon the participant for  
828 noncompliance with program rules. The protocol of sanctions may  
829 include, but is not limited to, placement in a substance abuse  
830 treatment program offered by a licensed service provider as  
831 defined in s. 397.311 or in a jail-based treatment program or  
832 serving a period of incarceration within the time limits  
833 established for contempt of court. The coordinated strategy must  
834 be provided in writing to the participant before the participant  
835 agrees to enter into a pretrial treatment-based drug court  
836 program or other pretrial intervention program. Any person whose  
837 charges are dismissed after successful completion of the  
838 treatment-based drug court program, if otherwise eligible, may  
839 have his or her arrest record and plea of nolo contendere to the  
840 dismissed charges expunged under s. 943.0584 ~~943.0585~~.

841 (2)

11-00560-17

2017980\_\_

842 (b) While enrolled in a pretrial intervention program  
843 authorized by this section, the participant shall be subject to  
844 a coordinated strategy developed by a veterans' treatment  
845 intervention team. The coordinated strategy should be modeled  
846 after the therapeutic jurisprudence principles and key  
847 components in s. 397.334(4), with treatment specific to the  
848 needs of veterans and servicemembers. The coordinated strategy  
849 may include a protocol of sanctions that may be imposed upon the  
850 participant for noncompliance with program rules. The protocol  
851 of sanctions may include, but need not be limited to, placement  
852 in a treatment program offered by a licensed service provider or  
853 in a jail-based treatment program or serving a period of  
854 incarceration within the time limits established for contempt of  
855 court. The coordinated strategy must be provided in writing to  
856 the participant before the participant agrees to enter into a  
857 misdemeanor pretrial veterans' treatment intervention program or  
858 other pretrial intervention program. Any person whose charges  
859 are dismissed after successful completion of the misdemeanor  
860 pretrial veterans' treatment intervention program, if otherwise  
861 eligible, may have his or her arrest record of the dismissed  
862 charges expunged under s. 943.0584 ~~943.0585~~.

863 Section 10. Subsection (1) of section 961.06, Florida  
864 Statutes, is amended to read:

865 961.06 Compensation for wrongful incarceration.—

866 (1) Except as otherwise provided in this act and subject to  
867 the limitations and procedures prescribed in this section, a  
868 person who is found to be entitled to compensation under the  
869 provisions of this act is entitled to:

870 (a) Monetary compensation for wrongful incarceration, which

11-00560-17

2017980\_\_

871 shall be calculated at a rate of \$50,000 for each year of  
872 wrongful incarceration, prorated as necessary to account for a  
873 portion of a year. For persons found to be wrongfully  
874 incarcerated after December 31, 2008, the Chief Financial  
875 Officer may adjust the annual rate of compensation for inflation  
876 using the change in the December-to-December "Consumer Price  
877 Index for All Urban Consumers" of the Bureau of Labor Statistics  
878 of the Department of Labor;

879 (b) A waiver of tuition and fees for up to 120 hours of  
880 instruction at any career center established under s. 1001.44,  
881 any Florida College System institution as defined in s.  
882 1000.21(3), or any state university as defined in s. 1000.21(6),  
883 if the wrongfully incarcerated person meets and maintains the  
884 regular admission requirements of such career center, Florida  
885 College System institution, or state university; remains  
886 registered at such educational institution; and makes  
887 satisfactory academic progress as defined by the educational  
888 institution in which the claimant is enrolled;

889 (c) The amount of any fine, penalty, or court costs imposed  
890 and paid by the wrongfully incarcerated person;

891 (d) The amount of any reasonable attorney's fees and  
892 expenses incurred and paid by the wrongfully incarcerated person  
893 in connection with all criminal proceedings and appeals  
894 regarding the wrongful conviction, to be calculated by the  
895 department based upon the supporting documentation submitted as  
896 specified in s. 961.05; and

897 (e) Notwithstanding any provision to the contrary in s.  
898 943.0583, 943.0584, or s. 943.0585, immediate administrative  
899 expunction of the person's criminal record resulting from his or

11-00560-17

2017980\_\_

900 her wrongful arrest, wrongful conviction, and wrongful  
901 incarceration. The Department of Legal Affairs and the  
902 Department of Law Enforcement shall, upon a determination that a  
903 claimant is entitled to compensation, immediately take all  
904 action necessary to administratively expunge the claimant's  
905 criminal record arising from his or her wrongful arrest,  
906 wrongful conviction, and wrongful incarceration. All fees for  
907 this process must ~~shall~~ be waived.

908

909 The total compensation awarded under paragraphs (a), (c), and  
910 (d) may not exceed \$2 million. No further award for attorney's  
911 fees, lobbying fees, costs, or other similar expenses shall be  
912 made by the state.

913 Section 11. Paragraph (b) of subsection (7) of section  
914 985.04, Florida Statutes, is amended to read:

915 985.04 Oaths; records; confidential information.—

916 (7)

917 (b) The destruction of records pertaining to children  
918 committed to or supervised by the department pursuant to a court  
919 order, which records are retained until a child reaches the age  
920 of 21 ~~24~~ years or until a serious or habitual delinquent child  
921 reaches the age of 26 years, is ~~shall be~~ subject to chapter 943.

922 Section 12. Subsection (1) of section 985.045, Florida  
923 Statutes, is amended to read:

924 985.045 Court records.—

925 (1) The clerk of the court shall make and keep records of  
926 all cases brought before it under this chapter. The court shall  
927 preserve the records pertaining to a child charged with  
928 committing a delinquent act or violation of law until the child

11-00560-17

2017980\_\_

929 reaches 21 ~~24~~ years of age or reaches 26 years of age if he or  
930 she is a serious or habitual delinquent child, until 5 years  
931 after the last entry was made, or until 3 years after the death  
932 of the child, whichever is earlier, and may then destroy them,  
933 except that records made of traffic offenses in which there is  
934 no allegation of delinquency may be destroyed as soon as this  
935 can be reasonably accomplished. The court shall make official  
936 records of all petitions and orders filed in a case arising  
937 under this chapter and of any other pleadings, certificates,  
938 proofs of publication, summonses, warrants, and writs that are  
939 filed pursuant to the case.

940 Section 13. Paragraph (b) of subsection (1) of section  
941 985.345, Florida Statutes, is amended to read:

942 985.345 Delinquency pretrial intervention programs.—

943 (1)

944 (b) While enrolled in a delinquency pretrial intervention  
945 program authorized by this subsection, a child is subject to a  
946 coordinated strategy developed by a drug court team under s.  
947 397.334(4). The coordinated strategy may include a protocol of  
948 sanctions that may be imposed upon the child for noncompliance  
949 with program rules. The protocol of sanctions may include, but  
950 is not limited to, placement in a substance abuse treatment  
951 program offered by a licensed service provider as defined in s.  
952 397.311 or serving a period of secure detention under this  
953 chapter. The coordinated strategy must be provided in writing to  
954 the child before the child agrees to enter the pretrial  
955 treatment-based drug court program or other pretrial  
956 intervention program. A child whose charges are dismissed after  
957 successful completion of the treatment-based drug court program,

11-00560-17

2017980\_\_

958 if otherwise eligible, may have his or her arrest record and  
959 plea of nolo contendere to the dismissed charges expunged under  
960 s. 943.0584 ~~943.0585~~.

961       Section 14. For the 2018-2019 fiscal year, the sum of  
962 \$500,000 in recurring funds is appropriated from the Operating  
963 Trust Fund of the Department of Law Enforcement from revenues  
964 received pursuant to ss. 943.0584 and 943.0585, Florida  
965 Statutes, to the Department of Law Enforcement to provide for  
966 the sealing and expunction of criminal history records pursuant  
967 to this act. The Department of Law Enforcement may submit budget  
968 amendments in accordance with chapter 216, Florida Statutes,  
969 requesting an increase in budget authority based on workload  
970 increases resulting from this act.

971       Section 15. This act shall take effect October 1, 2017.