

By the Council for Healthy Communities and Representatives  
Bowen, Spratt and Heyman

1                                   A bill to be entitled  
2           An act relating to law enforcement; amending s.  
3           943.031, F.S.; renaming the Florida Violent  
4           Crime Council as the Florida Violent Crime and  
5           Drug Control Council; revising membership;  
6           providing circumstances for additional  
7           meetings; prescribing the duties and  
8           responsibilities of the Florida Violent Crime  
9           and Drug Control Council; providing statutory  
10          limits on funding of investigative efforts by  
11          the council; authorizing the Victim and Witness  
12          Protection Review Committee to conduct meetings  
13          by teleconference under certain circumstances;  
14          amending s. 943.17, F.S.; conforming a  
15          reference; amending s. 943.042, F.S.; renaming  
16          the Violent Crime Emergency Account as the  
17          Violent Crime Investigative Emergency and Drug  
18          Control Strategy Implementation Account;  
19          revising provisions relating to use of  
20          emergency supplemental funds; clarifying limits  
21          on disbursement of funds for certain purposes;  
22          requiring the Department of Law Enforcement to  
23          adopt rules pertaining to certain  
24          investigations; requiring reports by recipient  
25          agencies; providing circumstances for  
26          limitation or termination of funding or return  
27          of funds by recipient agencies; amending s.  
28          943.0585, F.S., relating to court-ordered  
29          expunction of certain criminal history records;  
30          adding sexual offenses that require an offender  
31          to register with the state to the list of

1 excluded offenses; amending s. 943.059, F.S.,  
2 relating to court-ordered sealing of certain  
3 criminal history records; adding offenses  
4 relating to sexual offenses that require an  
5 offender to register with the state to the list  
6 of excluded offenses; amending s. 943.325,  
7 F.S.; permitting collection of approved  
8 biological specimens other than blood for  
9 purposes of DNA testing; permitting collection  
10 of specimens from certain persons who have  
11 never been incarcerated; limiting liability;  
12 authorizing use of force to collect specimens  
13 under certain circumstances; amending s.  
14 760.40, F.S., to conform to changes made by s.  
15 943.325, F.S.; creating s. 843.167, F.S.;  
16 prohibiting the interception of police  
17 communications for certain purposes;  
18 prohibiting disclosure of police  
19 communications; providing presumptions;  
20 providing penalties; amending s. 943.053, F.S.;  
21 providing clarification of the manner in which  
22 the Department of Law Enforcement determines  
23 the actual cost of producing criminal history  
24 information; creating s. 943.0582, F.S.;  
25 providing for prearrest, postarrest, or teen  
26 court diversion program expunction under  
27 certain circumstances; providing definitions;  
28 providing for retroactive effect; amending s.  
29 985.3065, F.S.; providing for postarrest  
30 diversion programs; providing for expunction of  
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1 certain records pursuant to s. 943.0582, F.S.;

2 providing an effective date.

3

4 Be It Enacted by the Legislature of the State of Florida:

5

6 Section 1. Section 943.031, Florida Statutes, is  
7 amended to read:

8 943.031 Florida Violent Crime and Drug Control

9 Council.--The Legislature finds that there is a need to  
10 develop and implement a statewide strategy to address violent  
11 criminal activity and drug control efforts by state and local  
12 law enforcement agencies, including investigations of illicit  
13 money laundering. In recognition of this need, the Florida  
14 Violent Crime and Drug Control Council is created within the  
15 department. The council shall serve in an advisory capacity to  
16 the department.

17 (1) MEMBERSHIP.--The council shall consist of 14 ~~12~~  
18 members, as follows:

19 (a) The Attorney General or a designate.

20 (b) A designate of the executive director of the  
21 Department of Law Enforcement.

22 (c) The secretary of the Department of Corrections or  
23 a designate.

24 (d) The Secretary of Juvenile Justice or a designate.

25 (e) The Commissioner of Education or a designate.

26 (f) The president of the Florida Network of  
27 Victim/Witness Services, Inc., or a designate.

28 (g) The director of the Office of Drug Control within  
29 the Executive Office of the Governor, or a designate.

30 (h) The Comptroller, or a designate.

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1           ~~(i)(g)~~ Six members appointed by the Governor,  
2 consisting of two sheriffs, two chiefs of police, one medical  
3 examiner, and one state attorney or their designates.

4  
5 The Governor, when making appointments under this subsection,  
6 must take into consideration representation by geography,  
7 population, ethnicity, and other relevant factors to ensure  
8 that the membership of the council is representative of the  
9 state at large. Designates appearing on behalf of a council  
10 member who is unable to attend a meeting of the council are  
11 empowered to vote on issues before the council to the same  
12 extent the designating council member is so empowered.

13           (2) TERMS OF MEMBERSHIP; OFFICERS; COMPENSATION;  
14 STAFF.--

15           (a) Members appointed by the Governor shall be  
16 appointed for terms of 2 years. The other members are standing  
17 members of the council. In no event shall a member serve  
18 beyond the time he or she ceases to hold the office or  
19 employment which was the basis for appointment to the council.  
20 In the event of a vacancy, an appointment to fill the vacancy  
21 shall be only for the unexpired term.

22           (b) The Legislature finds that the council serves a  
23 legitimate state, county, and municipal purpose and that  
24 service on the council is consistent with a member's principal  
25 service in a public office or employment. Membership on the  
26 council does not disqualify a member from holding any other  
27 public office or being employed by a public entity, except  
28 that no member of the Legislature shall serve on the council.

29           (c) The members of the council shall elect a chair and  
30 a vice chair every 2 years, to serve for a 2-year term. As  
31

1 deemed appropriate, other officers may be elected by the  
2 members.

3 (d) Members of the council or their designates shall  
4 serve without compensation but are entitled to reimbursement  
5 for per diem and travel expenses pursuant to s. 112.061.  
6 Reimbursements made pursuant to this paragraph may ~~shall~~ be  
7 paid from either the Violent Crime Investigative Emergency and  
8 Drug Control Strategy Implementation Account within the  
9 Department of Law Enforcement Operating Trust Fund or from  
10 other appropriations provided to the department by the  
11 Legislature in the General Appropriations Act.

12 (e) The department shall provide the council with  
13 staff necessary to assist the council in the performance of  
14 its duties.

15 (3) MEETINGS.--The council must meet at least  
16 semiannually. Additional meetings may be held when it is  
17 determined ~~deemed appropriate~~ by the chair that extraordinary  
18 circumstances require an additional meeting of the council ~~or~~  
19 ~~a majority of the council members~~. A majority of the members  
20 of the council constitutes a quorum.

21 (4) DUTIES OF COUNCIL.--The council shall provide  
22 advice and make recommendations, as necessary, to the  
23 executive director of the department.

24 (a) The council may advise the executive director on  
25 the feasibility of undertaking initiatives which include, but  
26 are not limited to, the following:

27 1. Establishing a program which provides grants to  
28 criminal justice agencies that develop and implement effective  
29 violent crime prevention and investigative programs and which  
30 provides grants to law enforcement agencies for the purpose of  
31 drug control and illicit money laundering investigative

1 efforts or task force efforts that are determined by the  
2 council to significantly contribute to achieving the state's  
3 goal of reducing drug-related crime as articulated by the  
4 Office of Drug Control, that represent a significant illicit  
5 money laundering investigative effort, or that otherwise  
6 significantly support statewide strategies developed by the  
7 Statewide Drug Policy Advisory Council established under s.  
8 397.333, subject to the limitations provided in this section.  
9 The grant program ~~may~~ shall include an innovations grant  
10 program to provide startup funding for new initiatives by  
11 local and state law enforcement agencies to combat violent  
12 crime or to implement drug control or illicit money laundering  
13 investigative efforts or task force efforts by law enforcement  
14 agencies, including, but not limited to, initiatives such as:  
15       a. Providing ~~Provision of~~ enhanced community-oriented  
16 policing.  
17       b. Providing ~~Provision of~~ additional undercover  
18 officers and other investigative officers to assist with  
19 violent crime investigations in emergency situations.  
20       c. Providing funding for multiagency or statewide drug  
21 control or illicit money laundering investigative efforts or  
22 task force efforts that cannot be reasonably funded completely  
23 by alternative sources and that significantly contribute to  
24 achieving the state's goal of reducing drug-related crime as  
25 articulated by the Office of Drug Control, that represent a  
26 significant illicit money laundering investigative effort, or  
27 that otherwise significantly support statewide strategies  
28 developed by the Statewide Drug Policy Advisory Council  
29 established under s. 397.333.  
30       ~~2. Creating a criminal justice research and behavioral~~  
31 ~~science center. The center shall provide key support to local~~

1 ~~law enforcement agencies undertaking unique or emergency~~  
2 ~~violent crime investigations, including the mobilization of~~  
3 ~~special task forces to directly target violent crime in~~  
4 ~~specific areas.~~

5 2.3. Expanding the use of automated fingerprint  
6 identification systems at the state and local level.

7 3.4. Identifying methods to prevent violent crime.

8 4. Identifying methods to enhance multiagency or  
9 statewide drug control or illicit money laundering  
10 investigative efforts or task force efforts that significantly  
11 contribute to achieving the state's goal of reducing  
12 drug-related crime as articulated by the Office of Drug  
13 Control, that represent a significant illicit money laundering  
14 investigative effort, or that otherwise significantly support  
15 statewide strategies developed by the Statewide Drug Policy  
16 Advisory Council established under s. 397.333.

17 5. Enhancing criminal justice training programs which  
18 address violent crime, drug control, or illicit money  
19 laundering investigative techniques or efforts.

20 6. Developing and promoting crime prevention services  
21 and educational programs that serve the public, including, but  
22 not limited to:

23 a. Enhanced victim and witness counseling services  
24 that also provide crisis intervention, information referral,  
25 transportation, and emergency financial assistance.

26 b. A well-publicized rewards program for the  
27 apprehension and conviction of criminals who perpetrate  
28 violent crimes.

29 7. Enhancing information sharing and assistance in the  
30 criminal justice community by expanding the use of community  
31 partnerships and community policing programs. Such expansion

1 may include the use of civilian employees or volunteers to  
2 relieve law enforcement officers of clerical work in order to  
3 enable the officers to concentrate on street visibility within  
4 the community.

5 (b) ~~Additionally,~~The council shall:

6 1. Receive periodic reports from ~~Advise the executive~~  
7 ~~director on the creation of~~ regional violent crime  
8 investigation and statewide drug control strategy  
9 implementation coordinating teams which relate to violent  
10 crime trends or the investigative needs or successes in the  
11 regions, factors and trends relevant to the implementation of  
12 the statewide drug strategy, and the results of drug control  
13 and illicit money laundering investigative efforts funded in  
14 part by the council.

15 2. Maintain and utilize ~~Develop~~ criteria for the  
16 disbursement of funds from the Violent Crime Investigative  
17 Emergency and Drug Control Strategy Implementation Account  
18 within the Department of Law Enforcement Operating Trust Fund  
19 or other appropriations provided to the Department of Law  
20 Enforcement by the Legislature in the General Appropriations  
21 Act. The criteria shall allow for the advancement of funds as  
22 approved by the council.

23 3. Review and approve all requests for disbursement of  
24 funds from the Violent Crime Investigative Emergency and Drug  
25 Control Strategy Implementation Account within the Department  
26 of Law Enforcement Operating Trust Fund and from other  
27 appropriations provided to the department by the Legislature  
28 in the General Appropriations Act. An expedited approval  
29 procedure shall be established for rapid disbursement of funds  
30 in violent crime emergency situations.

31

1           4. ~~Advise the executive director on the development of~~  
2 ~~a statewide violent crime information system.~~

3           (5) REPORTS.--The council shall report annually on its  
4 activities, on or before December 30 of each calendar year, to  
5 the executive director, the President of the Senate, the  
6 Speaker of the House of Representatives, and the chairs of the  
7 Senate and House committees having principal jurisdiction over  
8 criminal law chairs of the Committees on Criminal Justice in  
9 both chambers. Comments and responses of the executive  
10 director to the report are to be included ~~must respond to the~~  
11 ~~annual report and any other recommendations of the council in~~  
12 ~~writing. All written responses must be forwarded to the~~  
13 ~~council members, the President of the Senate, the Speaker of~~  
14 ~~the House of Representatives, and the chairs of the Committees~~  
15 ~~on Criminal Justice in both chambers.~~

16           (6) VICTIM AND WITNESS PROTECTION REVIEW COMMITTEE.--

17           (a) The Victim and Witness Protection Review Committee  
18 is created within the Florida Violent Crime and Drug Control  
19 Council, consisting of the statewide prosecutor or a state  
20 attorney, a sheriff, a chief of police, and the designee of  
21 the executive director of the Department of Law Enforcement.  
22 The committee shall be appointed from the membership of the  
23 council by the chair of the council after the chair has  
24 consulted with the executive director of the Department of Law  
25 Enforcement. Committee members shall meet in conjunction with  
26 the meetings of the council.

27           (b) The committee shall:

28           1. Maintain and utilize ~~Develop~~ criteria for  
29 disbursing funds to reimburse law enforcement agencies for  
30 costs associated with providing victim and witness protective  
31 or temporary relocation services.

1           2. Review and approve or deny, in whole or in part,  
2 all reimbursement requests submitted by law enforcement  
3 agencies.

4           (c) The lead law enforcement agency providing victim  
5 or witness protective or temporary relocation services  
6 pursuant to the provisions of s. 914.25 may submit a request  
7 for reimbursement to the Victim and Witness Protection Review  
8 Committee in a format approved by the committee. The lead law  
9 enforcement agency shall submit such reimbursement request on  
10 behalf of all law enforcement agencies that cooperated in  
11 providing protective or temporary relocation services related  
12 to a particular criminal investigation or prosecution. As part  
13 of the reimbursement request, the lead law enforcement agency  
14 must indicate how any reimbursement proceeds will be  
15 distributed among the agencies that provided protective or  
16 temporary relocation services.

17           (d) The committee, in its discretion, may use funds  
18 available to the committee to provide all or partial  
19 reimbursement to the lead law enforcement agency for such  
20 costs, or may decline to provide any reimbursement.

21           (e) The committee may conduct its meeting by  
22 teleconference or conference phone calls when the chair of the  
23 committee finds that the need for reimbursement is such that  
24 delaying until the next scheduled council meeting will  
25 adversely affect the requesting agency's ability to provide  
26 the protection services.

27           (7) CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL  
28 MEETINGS AND RECORDS.--

29           (a)1. The Legislature finds that during limited  
30 portions of the meetings of the Florida Violent Crime and Drug  
31 Control Council it is necessary that the council be presented

1 with and discuss details, information, and documents related  
2 to active criminal investigations or matters constituting  
3 active criminal intelligence, as those concepts are defined by  
4 s. 119.011. These presentations and discussions are necessary  
5 for the council to make its funding decisions as required by  
6 the Legislature. The Legislature finds that to reveal the  
7 contents of documents containing active criminal investigative  
8 or intelligence information or to allow active criminal  
9 investigative or active criminal intelligence matters to be  
10 discussed in a meeting open to the public negatively impacts  
11 the ability of law enforcement agencies to efficiently  
12 continue their investigative or intelligence gathering  
13 activities. The Legislature finds that information coming  
14 before the council that pertains to active criminal  
15 investigations or intelligence should remain confidential and  
16 exempt from public disclosure. The Legislature finds that the  
17 Florida Violent Crime and Drug Control Council may, by  
18 declaring only those portions of council meetings in which  
19 active criminal investigative or active criminal intelligence  
20 information is to be presented or discussed closed to the  
21 public, assure an appropriate balance between the policy of  
22 this state that meetings be public and the policy of this  
23 state to facilitate efficient law enforcement efforts.

24         2. The Legislature finds that it is a public necessity  
25 that portions of the meetings of the Florida Violent Crime and  
26 Drug Control Council be closed when the confidential details,  
27 information, and documents related to active criminal  
28 investigations or matters constituting active criminal  
29 intelligence are discussed. The Legislature further finds that  
30 it is no less a public necessity that portions of public  
31 records generated at closed council meetings, such as tape

1 recordings, minutes, and notes, memorializing the discussions  
2 regarding such confidential details, information, and  
3 documents related to active criminal investigations or matters  
4 constituting active criminal intelligence, also shall be held  
5 confidential.

6 (b) The Florida Violent Crime and Drug Control Council  
7 shall be considered a "criminal justice agency" within the  
8 definition of s. 119.011(4).

9 (c)1. The Florida Violent Crime and Drug Control  
10 Council may close portions of meetings during which the  
11 council will hear or discuss active criminal investigative  
12 information or active criminal intelligence information, and  
13 such portions of meetings shall be exempt from the provisions  
14 of s. 286.011 and s. 24(b), Art. I of the State Constitution,  
15 provided that the following conditions are met:

16 a. The chair of the council shall advise the council  
17 at a public meeting that, in connection with the performance  
18 of a council duty, it is necessary that the council hear or  
19 discuss active criminal investigative information or active  
20 criminal intelligence information.

21 b. The chair's declaration of necessity for closure  
22 and the specific reasons for such necessity shall be stated in  
23 writing in a document that shall be a public record and shall  
24 be filed with the official records of the council.

25 c. The entire closed session shall be recorded. The  
26 recording shall include the times of commencement and  
27 termination of the closed session, all discussion and  
28 proceedings, and the names of all persons present. No portion  
29 of the session shall be off the record. Such recording shall  
30 be maintained by the council, and is exempt from the  
31 provisions of s. 119.07(1) and s. 24(a), Art. I of the State

1 Constitution until such time as the criminal investigative  
2 information or criminal intelligence information that  
3 justifies closure ceases to be active, at which time the  
4 portion of the record related to the no longer active  
5 information or intelligence shall be open for public  
6 inspection and copying.

7  
8 The exemption in this paragraph is subject to the Open  
9 Government Sunset Review Act of 1995 in accordance with s.  
10 119.15 and shall stand repealed on October 2, 2002, unless  
11 reviewed and saved from repeal through reenactment by the  
12 Legislature.

13           2. Only members of the council, Department of Law  
14 Enforcement staff supporting the council's function, and other  
15 persons whose presence has been authorized by chair of the  
16 council shall be allowed to attend the exempted portions of  
17 the council meetings. The council shall assure that any  
18 closure of its meetings as authorized by this section is  
19 limited so that the general policy of this state in favor of  
20 public meetings is maintained.

21           (d) Those portions of any public record, such as a  
22 tape recording, minutes, and notes, generated during that  
23 portion of a Florida Violent Crime and Drug Control Council  
24 meeting which is closed to the public pursuant to this  
25 section, which contain information relating to active criminal  
26 investigations or matters constituting active criminal  
27 intelligence, are confidential and exempt from the provisions  
28 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
29 until such criminal investigative information or criminal  
30 intelligence information ceases to be active. The exemptions  
31 in this paragraph are subject to the Open Government Sunset

1 Review Act of 1995 in accordance with s. 119.15 and shall  
2 stand repealed on October 2, 2002, unless reviewed and saved  
3 from repeal through reenactment by the Legislature.

4 Section 2. Subsection (5) of section 943.17, Florida  
5 Statutes, is amended to read:

6 943.17 Basic recruit, advanced, and career development  
7 training programs; participation; cost; evaluation.--The  
8 commission shall, by rule, design, implement, maintain,  
9 evaluate, and revise job-related curricula and performance  
10 standards for basic recruit, advanced, and career development  
11 training programs and courses. The rules shall include, but  
12 are not limited to, a methodology to assess relevance of the  
13 subject matter to the job, student performance, and instructor  
14 competency.

15 (5) The commission, in consultation with the Florida  
16 Violent Crime and Drug Control Council, shall establish  
17 standards for basic and advanced training programs for law  
18 enforcement officers in the subjects of investigating and  
19 preventing violent crime. After January 1, 1995, every basic  
20 skills course required in order for law enforcement officers  
21 to obtain initial certification must include training on  
22 violent crime prevention and investigations.

23 Section 3. Section 943.042, Florida Statutes, is  
24 amended to read:

25 943.042 Violent Crime Investigative Emergency and Drug  
26 Control Strategy Implementation Account within the Department  
27 of Law Enforcement Operating Trust Fund.--

28 (1) There is created a Violent Crime Investigative  
29 Emergency and Drug Control Strategy Implementation Account  
30 within the Department of Law Enforcement Operating Trust Fund.

31

1 The account shall be used to provide emergency supplemental  
2 funds to:

3 (a) State and local law enforcement agencies which are  
4 involved in complex and lengthy violent crime investigations,  
5 or matching funding to multiagency or statewide drug control  
6 or illicit money laundering investigative efforts or task  
7 force efforts that significantly contribute to achieving the  
8 state's goal of reducing drug-related crime as articulated by  
9 the Office of Drug Control, that represent a significant  
10 illicit money laundering investigative effort, or that  
11 otherwise significantly support statewide strategies developed  
12 by the Statewide Drug Policy Advisory Council established  
13 under s. 397.333;

14 (b) State and local law enforcement agencies which are  
15 involved in violent crime investigations which constitute a  
16 significant emergency within the state; or

17 (c) Counties which demonstrate a significant hardship  
18 or an inability to cover extraordinary expenses associated  
19 with a violent crime trial.

20 (2) In consultation with the Florida Violent Crime and  
21 Drug Control Council, the department must maintain ~~promulgate~~  
22 rules which, at minimum, address the following:

23 (a) Criteria for determining what constitutes a  
24 complex and lengthy violent crime investigation for the  
25 purpose of this section.

26 (b) Criteria for determining those violent crime  
27 investigations which constitute a significant emergency within  
28 the state for the purpose of this section.

29 (c) Criteria for determining the circumstances under  
30 which counties may receive emergency supplemental funds for  
31

1 extraordinary expenses associated with a violent crime trial  
2 under this section.

3 (d) Guidelines which establish a \$100,000 maximum  
4 limit ~~limits~~ on the amount that may be disbursed on a single  
5 investigation and a \$200,000 maximum limit on funds that may  
6 be provided to a single agency during the agency's fiscal  
7 year.

8 (e) Procedures for law enforcement agencies to use  
9 when applying for funds, including certification by the head  
10 of the agency that a request complies with the requirements  
11 established by the council.

12 (f) Annual evaluation and audit of the trust fund.

13 (3) With regard to the funding of drug control or  
14 illicit money laundering investigative efforts or task force  
15 efforts, the department shall adopt rules which, at a minimum,  
16 address the following:

17 (a) Criteria for determining what constitutes a  
18 multiagency or statewide drug control or illicit money  
19 laundering investigative effort or task force effort eligible  
20 to seek funding under this section.

21 (b) Criteria for determining whether a multiagency or  
22 statewide investigation or task force effort significantly  
23 contributes to achieving the state's goals and strategies.

24 (c) Limitations upon the amount that may be disbursed  
25 yearly to a single multiagency or statewide drug control or  
26 illicit money laundering investigation or task force effort.

27 (d) Procedures to utilize when applying for funds,  
28 including a required designation of the amount of matching  
29 funds being provided by the task force or participating  
30 agencies and a signed commitment by the head of each agency  
31

1 seeking funds that funds so designated will be utilized as  
2 represented if council funding is provided.

3 (e) Requirements to expend funds provided by the  
4 council in the manner authorized by the council, and a method  
5 of accounting for the receipt, use, and disbursement of any  
6 funds expended in drug control or illicit money laundering  
7 investigative efforts or task force efforts funded in part  
8 under the authority of this section.

9 (f) Requirements for reporting by recipient agencies  
10 on the performance and accomplishments secured by the  
11 investigative or task force efforts, including a requirement  
12 that the reports demonstrate how the state's drug control  
13 goals and strategies have been promoted by the efforts, and  
14 how other investigative goals have been met, including arrests  
15 made by such efforts, results of prosecutions based on such  
16 arrests, impact upon organized criminal enterprise structures  
17 by reason of such efforts, property or currency seizures made,  
18 illicit money laundering operations disrupted or otherwise  
19 impacted, forfeiture of assets by reason of such efforts, and  
20 anticipated or actual utilization of assets received by reason  
21 of a forfeiture based in whole or in part upon an  
22 investigation funded in whole or in part by council funds.

23 (4)(3)(a) Except as permitted in this section, a  
24 disbursement from for the Violent Crime Investigative  
25 Emergency and Drug Control Strategy Implementation Account  
26 shall not be used to supplant existing appropriations of state  
27 and local law enforcement agencies and counties or to  
28 otherwise fund expenditures that are ordinary or reasonably  
29 predictable for the operation of a state or local law  
30 enforcement agency.

31

1           (b) The moneys placed in the account shall consist of  
2 appropriations from the Legislature or moneys received from  
3 any other public or private source. Any local law enforcement  
4 agency that acquires funds pursuant to the Florida Contraband  
5 Forfeiture Act or any other forfeiture action is authorized to  
6 donate a portion of such funds to the account.

7           (c) Upon a finding by a majority of the members of the  
8 council, any unexcused failure by recipient agencies or task  
9 forces to utilize funds in the manner authorized by this  
10 section and the Florida Violent Crime and Drug Control  
11 Council, or to timely provide required accounting records,  
12 reports, or other information requested by the council or by  
13 the department related to funding requested or provided,  
14 shall:

15           1. Constitute a basis for a demand by the council for  
16 the immediate return of all or any portion of funds previously  
17 provided to the recipient by the council; and

18           2. Result in termination or limitation of any pending  
19 funding by the council under this section,

20  
21 and may, upon specific direction of a majority of the council,  
22 result in disqualification of the involved agencies or task  
23 forces from consideration for additional or future funding for  
24 investigative efforts as described in this section for a  
25 period of not more than 2 years following the council's  
26 action. The council, through the department, is authorized to  
27 pursue any collection remedies necessary if a recipient agency  
28 fails to return funds as demanded.

29           Section 4. Section 943.0585, Florida Statutes, is  
30 amended to read:

31

1           943.0585 Court-ordered expunction of criminal history  
2 records.--The courts of this state have jurisdiction over  
3 their own procedures, including the maintenance, expunction,  
4 and correction of judicial records containing criminal history  
5 information to the extent such procedures are not inconsistent  
6 with the conditions, responsibilities, and duties established  
7 by this section. Any court of competent jurisdiction may order  
8 a criminal justice agency to expunge the criminal history  
9 record of a minor or an adult who complies with the  
10 requirements of this section. The court shall not order a  
11 criminal justice agency to expunge a criminal history record  
12 until the person seeking to expunge a criminal history record  
13 has applied for and received a certificate of eligibility for  
14 expunction pursuant to subsection (2). A criminal history  
15 record that relates to a violation of s. 787.025,chapter 794,  
16 s. 796.03,s. 800.04, s. 817.034, s. 825.1025,s. 827.071,  
17 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,s.  
18 893.135, or a violation enumerated in s. 907.041 may not be  
19 expunged, without regard to whether adjudication was withheld,  
20 if the defendant was found guilty of or pled guilty or nolo  
21 contendere to the offense, or if the defendant, as a minor,  
22 was found to have committed, or pled guilty or nolo contendere  
23 to committing, the offense as a delinquent act. The court may  
24 only order expunction of a criminal history record pertaining  
25 to one arrest or one incident of alleged criminal activity,  
26 except as provided in this section. The court may, at its sole  
27 discretion, order the expunction of a criminal history record  
28 pertaining to more than one arrest if the additional arrests  
29 directly relate to the original arrest. If the court intends  
30 to order the expunction of records pertaining to such  
31 additional arrests, such intent must be specified in the

1 order. A criminal justice agency may not expunge any record  
2 pertaining to such additional arrests if the order to expunge  
3 does not articulate the intention of the court to expunge a  
4 record pertaining to more than one arrest. This section does  
5 not prevent the court from ordering the expunction of only a  
6 portion of a criminal history record pertaining to one arrest  
7 or one incident of alleged criminal activity. Notwithstanding  
8 any law to the contrary, a criminal justice agency may comply  
9 with laws, court orders, and official requests of other  
10 jurisdictions relating to expunction, correction, or  
11 confidential handling of criminal history records or  
12 information derived therefrom. This section does not confer  
13 any right to the expunction of any criminal history record,  
14 and any request for expunction of a criminal history record  
15 may be denied at the sole discretion of the court.

16 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY

17 RECORD.--Each petition to a court to expunge a criminal  
18 history record is complete only when accompanied by:

19 (a) A certificate of eligibility for expunction issued  
20 by the department pursuant to subsection (2).

21 (b) The petitioner's sworn statement attesting that  
22 the petitioner:

23 1. Has never, prior to the date on which the petition  
24 is filed, been adjudicated guilty of a criminal offense or  
25 comparable ordinance violation or adjudicated delinquent for  
26 committing a felony or a misdemeanor specified in s.  
27 943.051(3)(b).

28 2. Has not been adjudicated guilty of, or adjudicated  
29 delinquent for committing, any of the acts stemming from the  
30 arrest or alleged criminal activity to which the petition  
31 pertains.

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

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

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

14           (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior  
15 to petitioning the court to expunge a criminal history record,  
16 a person seeking to expunge a criminal history record shall  
17 apply to the department for a certificate of eligibility for  
18 expunction. The department shall, by rule adopted pursuant to  
19 chapter 120, establish procedures pertaining to the  
20 application for and issuance of certificates of eligibility  
21 for expunction. The department shall issue a certificate of  
22 eligibility for expunction to a person who is the subject of a  
23 criminal history record if that person:

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

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

29           2. That an indictment, information, or other charging  
30 document, if filed or issued in the case, was dismissed or  
31

1 nolle prosequi by the state attorney or statewide prosecutor,  
2 or was dismissed by a court of competent jurisdiction.

3 3. That the criminal history record does not relate to  
4 a violation of s. 787.025,chapter 794, s. 796.03,s. 800.04,  
5 s. 817.034, s. 825.1025,s. 827.071, chapter 839, s. 847.0133,  
6 s. 847.0135, s. 847.0145,s. 893.135, or a violation  
7 enumerated in s. 907.041, where the defendant was found guilty  
8 of, or pled guilty or nolo contendere to any such offense, or  
9 that the defendant, as a minor, was found to have committed,  
10 or pled guilty or nolo contendere to committing, such an  
11 offense as a delinquent act, without regard to whether  
12 adjudication was withheld.

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

16 (c) Has submitted to the department a certified copy  
17 of the disposition of the charge to which the petition to  
18 expunge pertains.

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

24 (e) Has not been adjudicated guilty of, or adjudicated  
25 delinquent for committing, any of the acts stemming from the  
26 arrest or alleged criminal activity to which the petition to  
27 expunge pertains.

28 (f) Has never secured a prior sealing or expunction of  
29 a criminal history record under this section, former s.  
30 893.14, former s. 901.33, or former s. 943.058.

31

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

4 (h) Is not required to wait a minimum of 10 years  
5 prior to being eligible for an expunction of such records  
6 because all charges related to the arrest or criminal activity  
7 to which the petition to expunge pertains were dismissed prior  
8 to trial, adjudication, or the withholding of adjudication.  
9 Otherwise, such criminal history record must be sealed under  
10 this section, former s. 893.14, former s. 901.33, or former s.  
11 943.058 for at least 10 years before such record is eligible  
12 for expunction.

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

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

22 (b) If relief is granted by the court, the clerk of  
23 the court shall certify copies of the order to the appropriate  
24 state attorney or the statewide prosecutor and the arresting  
25 agency. The arresting agency is responsible for forwarding the  
26 order to any other agency to which the arresting agency  
27 disseminated the criminal history record information to which  
28 the order pertains. The department shall forward the order to  
29 expunge to the Federal Bureau of Investigation. The clerk of  
30 the court shall certify a copy of the order to any other  
31

1 agency which the records of the court reflect has received the  
2 criminal history record from the court.

3 (c) For an order to expunge entered by a court prior  
4 to July 1, 1992, the department shall notify the appropriate  
5 state attorney or statewide prosecutor of an order to expunge  
6 which is contrary to law because the person who is the subject  
7 of the record has previously been convicted of a crime or  
8 comparable ordinance violation or has had a prior criminal  
9 history record sealed or expunged. Upon receipt of such  
10 notice, the appropriate state attorney or statewide prosecutor  
11 shall take action, within 60 days, to correct the record and  
12 petition the court to void the order to expunge. The  
13 department shall seal the record until such time as the order  
14 is voided by the court.

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

31

1           (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
2 criminal history record of a minor or an adult which is  
3 ordered expunged by a court of competent jurisdiction pursuant  
4 to this section must be physically destroyed or obliterated by  
5 any criminal justice agency having custody of such record;  
6 except that any criminal history record in the custody of the  
7 department must be retained in all cases. A criminal history  
8 record ordered expunged that is retained by the department is  
9 confidential and exempt from the provisions of s. 119.07(1)  
10 and s. 24(a), Art. I of the State Constitution and not  
11 available to any person or entity except upon order of a court  
12 of competent jurisdiction. A criminal justice agency may  
13 retain a notation indicating compliance with an order to  
14 expunge.

15           (a) The person who is the subject of a criminal  
16 history record that is expunged under this section or under  
17 other provisions of law, including former s. 893.14, former s.  
18 901.33, and former s. 943.058, may lawfully deny or fail to  
19 acknowledge the arrests covered by the expunged record, except  
20 when the subject of the record:

- 21           1. Is a candidate for employment with a criminal  
22 justice agency;
- 23           2. Is a defendant in a criminal prosecution;
- 24           3. Concurrently or subsequently petitions for relief  
25 under this section or s. 943.059;
- 26           4. Is a candidate for admission to The Florida Bar;
- 27           5. Is seeking to be employed or licensed by or to  
28 contract with the Department of Children and Family Services  
29 or the Department of Juvenile Justice or to be employed or  
30 used by such contractor or licensee in a sensitive position  
31 having direct contact with children, the developmentally

1 disabled, the aged, or the elderly as provided in s.  
2 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
3 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
4 985.407, or chapter 400; or

5 6. Is seeking to be employed or licensed by the Office  
6 of Teacher Education, Certification, Staff Development, and  
7 Professional Practices of the Department of Education, any  
8 district school board, or any local governmental entity that  
9 licenses child care facilities.

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

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

1 the criminal history record relates or to persons having  
2 direct responsibility for employment or licensure decisions.  
3 Any person who violates this paragraph commits a misdemeanor  
4 of the first degree, punishable as provided in s. 775.082 or  
5 s. 775.083.

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

10 Section 5. Section 943.059, Florida Statutes, is  
11 amended to read:

12 943.059 Court-ordered sealing of criminal history  
13 records.--The courts of this state shall continue to have  
14 jurisdiction over their own procedures, including the  
15 maintenance, sealing, and correction of judicial records  
16 containing criminal history information to the extent such  
17 procedures are not inconsistent with the conditions,  
18 responsibilities, and duties established by this section. Any  
19 court of competent jurisdiction may order a criminal justice  
20 agency to seal the criminal history record of a minor or an  
21 adult who complies with the requirements of this section. The  
22 court shall not order a criminal justice agency to seal a  
23 criminal history record until the person seeking to seal a  
24 criminal history record has applied for and received a  
25 certificate of eligibility for sealing pursuant to subsection  
26 (2). A criminal history record that relates to a violation of  
27 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.  
28 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,  
29 s. 847.0145, s. 893.135, or a violation enumerated in s.  
30 907.041 may not be sealed, without regard to whether  
31 adjudication was withheld, if the defendant was found guilty

1 of or pled guilty or nolo contendere to the offense, or if the  
2 defendant, as a minor, was found to have committed or pled  
3 guilty or nolo contendere to committing the offense as a  
4 delinquent act. The court may only order sealing of a criminal  
5 history record pertaining to one arrest or one incident of  
6 alleged criminal activity, except as provided in this section.  
7 The court may, at its sole discretion, order the sealing of a  
8 criminal history record pertaining to more than one arrest if  
9 the additional arrests directly relate to the original arrest.  
10 If the court intends to order the sealing of records  
11 pertaining to such additional arrests, such intent must be  
12 specified in the order. A criminal justice agency may not seal  
13 any record pertaining to such additional arrests if the order  
14 to seal does not articulate the intention of the court to seal  
15 records pertaining to more than one arrest. This section does  
16 not prevent the court from ordering the sealing of only a  
17 portion of a criminal history record pertaining to one arrest  
18 or one incident of alleged criminal activity. Notwithstanding  
19 any law to the contrary, a criminal justice agency may comply  
20 with laws, court orders, and official requests of other  
21 jurisdictions relating to sealing, correction, or confidential  
22 handling of criminal history records or information derived  
23 therefrom. This section does not confer any right to the  
24 sealing of any criminal history record, and any request for  
25 sealing a criminal history record may be denied at the sole  
26 discretion of the court.

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

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

1 (b) The petitioner's sworn statement attesting that  
2 the petitioner:

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

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

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

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

20  
21 Any person who knowingly provides false information on such  
22 sworn statement to the court commits a felony of the third  
23 degree, punishable as provided in s. 775.082, s. 775.083, or  
24 s. 775.084.

25 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to  
26 petitioning the court to seal a criminal history record, a  
27 person seeking to seal a criminal history record shall apply  
28 to the department for a certificate of eligibility for  
29 sealing. The department shall, by rule adopted pursuant to  
30 chapter 120, establish procedures pertaining to the  
31 application for and issuance of certificates of eligibility

1 for sealing. The department shall issue a certificate of  
2 eligibility for sealing to a person who is the subject of a  
3 criminal history record provided that such person:

4 (a) Has submitted to the department a certified copy  
5 of the disposition of the charge to which the petition to seal  
6 pertains.

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

10 (c) Has never, prior to the date on which the  
11 application for a certificate of eligibility is filed, been  
12 adjudicated guilty of a criminal offense or comparable  
13 ordinance violation or adjudicated delinquent for committing a  
14 felony or a misdemeanor specified in s. 943.051(3)(b).

15 (d) Has not been adjudicated guilty of or adjudicated  
16 delinquent for committing any of the acts stemming from the  
17 arrest or alleged criminal activity to which the petition to  
18 seal pertains.

19 (e) Has never secured a prior sealing or expunction of  
20 a criminal history record under this section, former s.  
21 893.14, former s. 901.33, or former s. 943.058.

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

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

26 (a) In judicial proceedings under this section, a copy  
27 of the completed petition to seal shall be served upon the  
28 appropriate state attorney or the statewide prosecutor and  
29 upon the arresting agency; however, it is not necessary to  
30 make any agency other than the state a party. The appropriate  
31 state attorney or the statewide prosecutor and the arresting

1 agency may respond to the court regarding the completed  
2 petition to seal.

3 (b) If relief is granted by the court, the clerk of  
4 the court shall certify copies of the order to the appropriate  
5 state attorney or the statewide prosecutor and to the  
6 arresting agency. The arresting agency is responsible for  
7 forwarding the order to any other agency to which the  
8 arresting agency disseminated the criminal history record  
9 information to which the order pertains. The department shall  
10 forward the order to seal to the Federal Bureau of  
11 Investigation. The clerk of the court shall certify a copy of  
12 the order to any other agency which the records of the court  
13 reflect has received the criminal history record from the  
14 court.

15 (c) For an order to seal entered by a court prior to  
16 July 1, 1992, the department shall notify the appropriate  
17 state attorney or statewide prosecutor of any order to seal  
18 which is contrary to law because the person who is the subject  
19 of the record has previously been convicted of a crime or  
20 comparable ordinance violation or has had a prior criminal  
21 history record sealed or expunged. Upon receipt of such  
22 notice, the appropriate state attorney or statewide prosecutor  
23 shall take action, within 60 days, to correct the record and  
24 petition the court to void the order to seal. The department  
25 shall seal the record until such time as the order is voided  
26 by the court.

27 (d) On or after July 1, 1992, the department or any  
28 other criminal justice agency is not required to act on an  
29 order to seal entered by a court when such order does not  
30 comply with the requirements of this section. Upon receipt of  
31 such an order, the department must notify the issuing court,

1 the appropriate state attorney or statewide prosecutor, the  
2 petitioner or the petitioner's attorney, and the arresting  
3 agency of the reason for noncompliance. The appropriate state  
4 attorney or statewide prosecutor shall take action within 60  
5 days to correct the record and petition the court to void the  
6 order. No cause of action, including contempt of court, shall  
7 arise against any criminal justice agency for failure to  
8 comply with an order to seal when the petitioner for such  
9 order failed to obtain the certificate of eligibility as  
10 required by this section or when such order does not comply  
11 with the requirements of this section.

12 (e) An order sealing a criminal history record  
13 pursuant to this section does not require that such record be  
14 surrendered to the court, and such record shall continue to be  
15 maintained by the department and other criminal justice  
16 agencies.

17 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A  
18 criminal history record of a minor or an adult which is  
19 ordered sealed by a court of competent jurisdiction pursuant  
20 to this section is confidential and exempt from the provisions  
21 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
22 and is available only to the person who is the subject of the  
23 record, to the subject's attorney, to criminal justice  
24 agencies for their respective criminal justice purposes, or to  
25 those entities set forth in subparagraphs (a)1., 4., 5., and  
26 6. for their respective licensing and employment purposes.

27 (a) The subject of a criminal history record sealed  
28 under this section or under other provisions of law, including  
29 former s. 893.14, former s. 901.33, and former s. 943.058, may  
30 lawfully deny or fail to acknowledge the arrests covered by  
31 the sealed record, except when the subject of the record:

- 1           1. Is a candidate for employment with a criminal  
2 justice agency;
- 3           2. Is a defendant in a criminal prosecution;
- 4           3. Concurrently or subsequently petitions for relief  
5 under this section or s. 943.0585;
- 6           4. Is a candidate for admission to The Florida Bar;
- 7           5. Is seeking to be employed or licensed by or to  
8 contract with the Department of Children and Family Services  
9 or the Department of Juvenile Justice or to be employed or  
10 used by such contractor or licensee in a sensitive position  
11 having direct contact with children, the developmentally  
12 disabled, the aged, or the elderly as provided in s.  
13 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
14 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
15 415.103, s. 985.407, or chapter 400; or
- 16           6. Is seeking to be employed or licensed by the Office  
17 of Teacher Education, Certification, Staff Development, and  
18 Professional Practices of the Department of Education, any  
19 district school board, or any local governmental entity which  
20 licenses child care facilities.
- 21           (b) Subject to the exceptions in paragraph (a), a  
22 person who has been granted a sealing under this section,  
23 former s. 893.14, former s. 901.33, or former s. 943.058 may  
24 not be held under any provision of law of this state to commit  
25 perjury or to be otherwise liable for giving a false statement  
26 by reason of such person's failure to recite or acknowledge a  
27 sealed criminal history record.
- 28           (c) Information relating to the existence of a sealed  
29 criminal record provided in accordance with the provisions of  
30 paragraph (a) is confidential and exempt from the provisions  
31 of s. 119.07(1) and s. 24(a), Art. I of the State

1 Constitution, except that the department shall disclose the  
2 sealed criminal history record to the entities set forth in  
3 subparagraphs (a)1., 4., 5., and 6. for their respective  
4 licensing and employment purposes. It is unlawful for any  
5 employee of an entity set forth in subparagraph (a)1.,  
6 subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6.  
7 to disclose information relating to the existence of a sealed  
8 criminal history record of a person seeking employment or  
9 licensure with such entity or contractor, except to the person  
10 to whom the criminal history record relates or to persons  
11 having direct responsibility for employment or licensure  
12 decisions. Any person who violates the provisions of this  
13 paragraph commits a misdemeanor of the first degree,  
14 punishable as provided in s. 775.082 or s. 775.083.

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

19 Section 6. Section 943.325, Florida Statutes, is  
20 amended to read:

21 943.325 Blood or other biological specimen testing for  
22 DNA analysis.--

23 (1)(a) Any person who is convicted or was previously  
24 convicted in this state for any offense or attempted offense  
25 defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s.  
26 810.02, s. 812.133, or s. 812.135 and who is either:

- 27 1. Still incarcerated, or
- 28 2. No longer incarcerated, or has never been  
29 incarcerated, yet ~~but~~ is within the confines of the legal  
30 state boundaries and is on probation, community control,  
31

1 parole, conditional release, control release, or any other  
2 court-ordered supervision,

3  
4 shall be required to submit two specimens of blood or other  
5 biological specimens approved by the Department of Law  
6 Enforcement to a Department of Law Enforcement designated  
7 testing facility as directed by the department.

8 (b) For the purpose of this section, the term "any  
9 person" shall include both juveniles and adults committed to  
10 or under the supervision of the Department of Corrections or  
11 the Department of Juvenile Justice or committed to a county  
12 jail.

13 (2) The withdrawal of blood for purposes of this  
14 section shall be performed in a medically approved manner  
15 using a collection kit provided by, or accepted by, the  
16 Department of Law Enforcement and only by or under the  
17 supervision of a physician, registered nurse, licensed  
18 practical nurse, ~~or~~ duly licensed medical personnel, or other  
19 trained and competent personnel. The collection of other  
20 approved biological specimens shall be performed by any person  
21 using a collection kit provided by, or accepted by, the  
22 Department of Law Enforcement in a manner approved by the  
23 department, as directed in the kit, or as otherwise found to  
24 be acceptable by the department.

25 (3) Upon a conviction of any person for any offense  
26 under paragraph (1)(a) which results in the commitment of the  
27 offender to a county jail, correctional facility, or juvenile  
28 facility, the entity responsible for the facility shall assure  
29 that the blood specimens or other biological specimens  
30 required by this section and approved by the Department of Law  
31 Enforcement are promptly secured and transmitted to the

1 Department of Law Enforcement. If the person is not  
2 incarcerated following such conviction, the person may not be  
3 released from the custody of the court or released pursuant to  
4 a bond or surety until the blood specimens or other approved  
5 biological specimens required by this section have been taken.  
6 The chief judge of each circuit shall, in conjunction with the  
7 sheriff or other entity that maintains the county jail, assure  
8 implementation of a method to promptly collect required blood  
9 specimens or other approved biological specimens and forward  
10 the specimens to the Department of Law Enforcement. The  
11 Department of Law Enforcement, in conjunction with the  
12 sheriff, the courts, the Department of Corrections, and the  
13 Department of Juvenile Justice, shall develop a statewide  
14 protocol for securing the blood specimens or other approved  
15 biological specimens of any person required to provide  
16 specimens under this section. Personnel at the jail,  
17 correctional facility, or juvenile facility shall implement  
18 the protocol as part of the regular processing of offenders.

19 (4) If any blood specimens or other approved  
20 biological specimens submitted to the Department of Law  
21 Enforcement under this section are found to be unacceptable  
22 for analysis and use or cannot be used by the department in  
23 the manner required by this section, the Department of Law  
24 Enforcement may require that another set of blood specimens or  
25 other approved biological specimens be taken as set forth in  
26 subsection (11).

27 (5) The Department of Law Enforcement shall provide  
28 the specimen vials, mailing tubes, labels, or other  
29 appropriate containers and instructions for the collection of  
30 blood specimens or other approved biological specimens. The  
31 specimens shall thereafter be forwarded to the designated

1 testing facility for analysis to determine genetic markers and  
2 characteristics for the purpose of individual identification  
3 of the person submitting the sample.

4 (6) In addition to the specimens required to be  
5 submitted under this section, the Department of Law  
6 Enforcement may receive and utilize other blood specimens or  
7 other approved biological specimens. ~~Any~~ The analysis, when  
8 completed, shall be entered into the automated database  
9 maintained by the Department of Law Enforcement for such  
10 purpose, as provided in this section, and shall not be  
11 included in the state central criminal justice information  
12 repository.

13 (7) The results of a DNA analysis and the comparison  
14 of analytic results shall be released only to criminal justice  
15 agencies as defined in s. 943.045(10), at the request of the  
16 agency. Otherwise, such information is confidential and exempt  
17 from the provisions of s. 119.07(1) and s. 24(a), Art. I of  
18 the State Constitution.

19 (8) The Department of Law Enforcement and the  
20 statewide criminal laboratory analysis system shall establish,  
21 implement, and maintain a statewide automated personal  
22 identification system capable of, but not limited to,  
23 classifying, matching, and storing analyses of DNA  
24 (deoxyribonucleic acid) and other biological molecules. The  
25 system shall be available to all criminal justice agencies.

26 (9) The Department of Law Enforcement shall:

27 (a) Receive, process, and store blood specimen samples  
28 or other approved biological specimen samples and the data  
29 derived therefrom furnished pursuant to subsection (1), ~~or~~  
30 pursuant to a requirement of supervision imposed by the court  
31 or the Parole Commission with respect to a person convicted of

1 any offense specified in subsection (1), or as specified in  
2 subsection (6).

3 (b) Collect, process, maintain, and disseminate  
4 information and records pursuant to this section.

5 (c) Strive to maintain or disseminate only accurate  
6 and complete records.

7 (d) Adopt rules prescribing the proper procedure for  
8 state and local law enforcement and correctional agencies to  
9 collect and submit blood specimen samples and other approved  
10 biological specimen samples pursuant to this section.

11 (10)(a) The court shall include in the judgment of  
12 conviction for an offense specified in this section, or a  
13 finding that a person described in subsection (1) violated a  
14 condition of probation, community control, or any other  
15 court-ordered supervision, an order stating that blood  
16 specimens or other approved biological specimens are required  
17 to be drawn or collected by the appropriate agency in a manner  
18 consistent with this section and, unless the convicted person  
19 lacks the ability to pay, the person shall reimburse the  
20 appropriate agency for the cost of drawing and transmitting  
21 the blood specimens or collecting and transmitting other  
22 approved biological specimens to the Florida Department of Law  
23 Enforcement. The reimbursement payment may be deducted from  
24 any existing balance in the inmate's bank account. If the  
25 account balance is insufficient to cover the cost of drawing  
26 and transmitting the blood specimens or collecting and  
27 transmitting other approved biological specimens to the  
28 Florida Department of Law Enforcement, 50 percent of each  
29 deposit to the account must be withheld until the total amount  
30 owed has been paid. If the judgment places the convicted  
31 person on probation, community control, or any other

1 court-ordered supervision, the court shall order the convicted  
2 person to submit to the drawing of the blood specimens or the  
3 collecting of other approved biological specimens as a  
4 condition of the probation, community control, or other  
5 court-ordered supervision. For the purposes of a person who is  
6 on probation, community control, or any other court-ordered  
7 supervision, the collection requirement must be based upon a  
8 court order, or as otherwise provided by the person in the  
9 absence of a court order. If the judgment sentences the  
10 convicted person to time served, the court shall order the  
11 convicted person to submit to the drawing of the blood  
12 specimens or the collecting of other approved biological  
13 specimens as a condition of such sentence.

14 (b) The appropriate agency shall cause the specimens  
15 to be drawn or collected as soon as practical after conviction  
16 but, in the case of any person ordered to serve a term of  
17 incarceration as part of the sentence, the specimen shall be  
18 drawn or collected as soon as practical after the receipt of  
19 the convicted person by the custodial facility. For the  
20 purpose of this section, the appropriate agency shall be the  
21 Department of Corrections whenever the convicted person is  
22 committed to the legal and physical custody of the department.  
23 Conviction information contained in the offender information  
24 system of the Department of Corrections shall be sufficient to  
25 determine applicability under this section. The appropriate  
26 agency shall be the sheriff or officer in charge of the county  
27 correctional facility whenever the convicted person is placed  
28 on probation, community control, or any other court-ordered  
29 supervision or form of supervised release or is committed to  
30 the legal and physical custody of a county correctional  
31 facility.

1 (c) Any person previously convicted of an offense  
2 specified in this section, or a crime which, if committed in  
3 this state, would be an offense specified in this section, and  
4 who is also subject to the registration requirement imposed by  
5 s. 775.13, shall be subject to the collection requirement of  
6 this section when the appropriate agency described in this  
7 section verifies the identification information of the person.  
8 The collection requirement of this section does not apply to a  
9 person as described in s. 775.13(5).

10 (d) For the purposes of this section, conviction shall  
11 include a finding of guilty, or entry of a plea of nolo  
12 contendere or guilty, regardless of adjudication or, in the  
13 case of a juvenile, the finding of delinquency.

14 (e) If necessary, the state or local law enforcement  
15 or correctional agency having authority over the person  
16 subject to the sampling under this section shall assist in the  
17 procedure. The law enforcement or correctional officer so  
18 assisting may use reasonable force if necessary to require  
19 such person to submit to the withdrawal of blood specimens or  
20 the collection of other approved biological specimens. Any  
21 such ~~The~~ withdrawal or collection shall be performed in a  
22 reasonable manner. A hospital, clinical laboratory, medical  
23 clinic, or similar medical institution; a physician, certified  
24 paramedic, registered nurse, licensed practical nurse, or  
25 other personnel authorized by a hospital to draw blood; a  
26 licensed clinical laboratory director, supervisor,  
27 technologist, or technician; or any other person who assists a  
28 law enforcement officer is not civilly or criminally liable as  
29 a result of withdrawing blood specimens according to accepted  
30 medical standards when requested to do so by a law enforcement  
31 officer or any personnel of a jail, correctional facility, or

1 juvenile detention facility, regardless of whether the  
2 convicted person resisted the drawing of blood specimens. A  
3 person other than the subject required to provide the  
4 biological specimens who collects or assists in the collection  
5 of approved specimens other than blood is not civilly or  
6 criminally liable if a collection kit provided by, or accepted  
7 by, the Department of Law Enforcement is utilized and the  
8 collection is done in a manner approved by the department, as  
9 directed in the kit, or is performed in an otherwise  
10 reasonable manner.

11 (f) If a judgment fails to order the convicted person  
12 to submit to the drawing of the blood specimens or the  
13 collecting of other approved biological specimens as mandated  
14 by this section, the state attorney may seek an amended order  
15 from the sentencing court mandating the submission of blood  
16 specimens or other approved biological specimens in compliance  
17 with this section. As an alternative, the department, a state  
18 attorney, the Department of Corrections, or any law  
19 enforcement agency may seek a court order to secure the blood  
20 specimens or other approved biological specimens as authorized  
21 in subsection (11).

22 (11) If the Department of Law Enforcement determines  
23 that a convicted person who is required to submit blood  
24 specimens or other approved biological specimens under this  
25 section has not provided the specimens, the department, a  
26 state attorney, or any law enforcement agency may apply to the  
27 circuit court for an order that authorizes taking the  
28 convicted person into custody for the purpose of securing the  
29 required specimens. The court shall issue the order upon a  
30 showing of probable cause. Following issuance of the order,  
31 the convicted person shall be transported to a location

1 acceptable to the agency that has custody of the person, the  
2 blood specimens or other approved biological specimens shall  
3 be withdrawn or collected in a reasonable manner, and the  
4 person shall be released if there is no other reason to  
5 justify retaining the person in custody. An agency acting  
6 under authority of an order under this section may, in lieu of  
7 transporting the convicted person to a collection site, secure  
8 the blood specimens or other approved biological specimens at  
9 the location of the convicted person in a reasonable manner.  
10 If the convicted person resists providing the specimens,  
11 reasonable force may be utilized to secure the specimens and  
12 any person utilizing such force to secure the specimens or  
13 reasonably assisting in the securing of the specimens is not  
14 civilly or criminally liable for actions taken.The agency  
15 that takes the convicted person into custody may, but is not  
16 required to, transport the person back to the location where  
17 the person was taken into custody.

18 (12) Unless the convicted person has been declared  
19 indigent by the court, the convicted person shall pay the  
20 actual costs of collecting the blood specimens or other  
21 approved biological specimens required under this section.

22 (13) If a court, a law enforcement agency, or the  
23 Department of Law Enforcement fails to strictly comply with  
24 this section or to abide by a statewide protocol for  
25 collecting blood specimens or other approved biological  
26 specimens, such failure is not grounds for challenging the  
27 validity of the collection or the use of a specimen, and  
28 evidence based upon or derived from the collected blood  
29 specimens or other approved biological specimens may not be  
30 excluded by a court.

31

1           Section 7. Subsection (2) of section 760.40, Florida  
2 Statutes, is amended to read:

3           760.40 Genetic testing; informed consent;  
4 confidentiality.--

5           (2)(a) Except for purposes of criminal prosecution,  
6 except for purposes of determining paternity as provided in s.  
7 742.12(1), and except for purposes of acquiring specimens from  
8 persons convicted of certain offenses or as otherwise provided  
9 in s. 943.325, DNA analysis may be performed only with the  
10 informed consent of the person to be tested, and the results  
11 of such DNA analysis, whether held by a public or private  
12 entity, are the exclusive property of the person tested, are  
13 confidential, and may not be disclosed without the consent of  
14 the person tested. Such information held by a public entity is  
15 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
16 I of the State Constitution.

17           (b) A person who violates paragraph (a) is guilty of a  
18 misdemeanor of the first degree, punishable as provided in s.  
19 775.082 or s. 775.083.

20           Section 8. Section 843.167, Florida Statutes, is  
21 created to read:

22           843.167 Unlawful use of police communications;  
23 enhanced penalties.--

24           (1) A person may not:

25           (a) Intercept any police radio communication by use of  
26 a scanner or any other means for the purpose of using that  
27 communication to assist in committing a crime or to escape  
28 from or avoid detection, arrest, trial, conviction, or  
29 punishment in connection with the commission of such crime.

30           (b) Divulge the existence, contents, substance,  
31 purport, effect, or meaning of a police radio communication to

1 any person he or she knows to be a suspect in the commission  
2 of a crime with the intent that the suspect may escape from or  
3 avoid detention, arrest, trial, conviction, or punishment.

4 (2) Any person who is charged with a crime and who,  
5 during the time such crime was committed, possessed or used a  
6 police scanner or similar device capable of receiving police  
7 radio transmissions is presumed to have violated paragraph  
8 (1)(a).

9 (3) The penalty for a crime that is committed by a  
10 person who violates paragraph (1)(a) shall be enhanced as  
11 follows:

12 (a) A misdemeanor of the second degree shall be  
13 punished as if it were a misdemeanor of the first degree.

14 (b) A misdemeanor of the first degree shall be  
15 punished as if it were a felony of the third degree.

16 (c) A felony of the third degree shall be punished as  
17 if it were a felony of the second degree.

18 (d) A felony of the second degree shall be punished as  
19 if it were a felony of the first degree.

20 (e) A felony of the first degree shall be punished as  
21 if it were a life felony.

22 (4) Any person who violates paragraph (1)(b) commits a  
23 misdemeanor of the first degree, punishable as provided in s.  
24 775.082 or s. 775.083.

25 Section 9. Subsection (3) of section 943.053, Florida  
26 Statutes, is amended to read:

27 943.053 Dissemination of criminal justice information;  
28 fees.--

29 (3) Criminal history information, including  
30 information relating to minors, compiled by the Criminal  
31 Justice Information Program from intrastate sources shall be

1 available on a priority basis to criminal justice agencies for  
2 criminal justice purposes free of charge and, otherwise, to  
3 governmental agencies not qualified as criminal justice  
4 agencies on an approximate-cost basis. After providing the  
5 program with all known identifying information, persons in the  
6 private sector may be provided criminal history information  
7 upon tender of fees as established and in the manner  
8 prescribed by rule of the Department of Law Enforcement. Such  
9 fees shall approximate the actual cost of producing the record  
10 information. As used in this subsection, the department's  
11 determination of actual cost shall take into account the total  
12 cost of creating, storing, maintaining, updating, retrieving,  
13 improving, and providing criminal history information in a  
14 centralized, automated database, including personnel,  
15 technology, and infrastructure expenses. Actual cost shall be  
16 computed on a fee-per-record basis, and any access to criminal  
17 history information by the private sector as provided in this  
18 subsection shall be assessed the per-record fee without regard  
19 to the quantity or category of criminal history record  
20 information requested. Fees may be waived by the executive  
21 director of the Department of Law Enforcement for good cause  
22 shown.

23 Section 10. Section 943.0582, Florida Statutes, is  
24 created to read:

25 943.0582 Prearrest, postarrest, or teen court  
26 diversion program expunction.--

27 (1) Notwithstanding any law dealing generally with the  
28 preservation and destruction of public records, the department  
29 may provide, by rule adopted pursuant to chapter 120, for the  
30 expunction of any nonjudicial record of the arrest of a minor  
31

1 who has successfully completed a prearrest or postarrest  
2 diversion program for minors as authorized by s. 985.3065.

3 (2) As used in this section, the term "expunction"  
4 shall have the same meaning and effect as in s. 943.0585,  
5 except that:

6 (a) The provisions of s. 943.0585(4)(a) shall not  
7 apply, except that the criminal history record of a person  
8 whose record is expunged pursuant to this section shall be  
9 made available only to criminal justice agencies for the  
10 purpose of determining eligibility for prearrest, postarrest  
11 or teen court diversion programs, when the record is sought as  
12 part of a criminal investigation, or when the subject of the  
13 record is a candidate for employment with a criminal justice  
14 agency. For all other purposes, a person whose record is  
15 expunged pursuant to this section may lawfully deny or fail to  
16 acknowledge the arrest or charge covered by the expunged  
17 record.

18 (b) Records maintained by local criminal justice  
19 agencies in the county in which the arrest occurred that are  
20 eligible for expunction pursuant to this section shall be  
21 sealed as the term is used in s. 943.059.

22 (3) As used in this section, the term "nonviolent  
23 misdemeanor" includes simple assault or battery when prearrest  
24 or postarrest diversion expunction is approved in writing by  
25 the state attorney for the county in which the arrest  
26 occurred.

27 (4) The department shall expunge the nonjudicial  
28 arrest record of a minor who has successfully completed a  
29 prearrest or postarrest diversion program if that minor:

30 (a) Submits an application for prearrest or postarrest  
31 diversion expunction, on a form promulgated by the department,

1 signed by the minor's parent or legal guardian or by the minor  
2 if he or she has reached the age of majority at the time of  
3 applying.

4 (b) Submits the application for prearrest or  
5 postarrest diversion expunction no later than 6 months after  
6 completion of the diversion program.

7 (c) Submits to the department, with the application,  
8 an official written statement from the state attorney for the  
9 county in which the arrest occurred certifying that he or she  
10 has successfully completed that county's prearrest or  
11 postarrest diversion program and that participation in the  
12 program is strictly limited to minors arrested for a  
13 nonviolent misdemeanor who have not otherwise been charged  
14 with or found to have committed any criminal offense or  
15 comparable ordinance violation.

16 (d) Participated in a prearrest or postarrest  
17 diversion program that expressly authorizes or permits such  
18 expunction to occur.

19 (e) Participated in a prearrest or postarrest  
20 diversion program based on an arrest for a nonviolent  
21 misdemeanor that would not qualify as an act of "domestic  
22 violence" as that term is defined in s. 741.28.

23 (f) Has never, prior to filing the application for  
24 expunction, been charged with or been found to have committed  
25 any criminal offense or comparable ordinance violation.

26 (5) The department is authorized to charge a \$75  
27 processing fee for each request received for prearrest or  
28 postarrest diversion program expunction, for placement in the  
29 Department of Law Enforcement Operating Trust Fund, unless  
30 such fee is waived by the executive director.

31

1       (6) This section shall operate retroactively to permit  
2 the expunction of any nonjudicial record of the arrest of a  
3 minor who has successfully completed a prearrest or postarrest  
4 diversion program on or after July 1, 2000, provided that, in  
5 the case of a minor whose completion of the program occurred  
6 before the effective date of this act, the application for  
7 prearrest or postarrest diversion expunction is submitted no  
8 later than 6 months after the effective date of this act.

9       (7) Expunction or sealing granted pursuant to this  
10 section shall not preclude the minor who receives such relief  
11 from petitioning for the expunction or sealing of a later  
12 criminal history record as provided for in ss. 943.0585 and  
13 943.059, provided he or she is otherwise eligible under those  
14 sections.

15       Section 11. Section 985.3065, Florida Statutes, is  
16 amended to read:

17       985.3065 Prearrest or postarrest diversion programs.--

18       (1) A law enforcement agency or school district, in  
19 cooperation with the state attorney, may establish a prearrest  
20 or postarrest diversion program.

21       (2) As part of the prearrest or postarrest diversion  
22 program, a child who is alleged to have committed a delinquent  
23 act may be required to surrender his or her driver's license,  
24 or refrain from applying for a driver's license, for not more  
25 than 90 days. If the child fails to comply with the  
26 requirements of the program, the state attorney may notify the  
27 Department of Highway Safety and Motor Vehicles in writing to  
28 suspend the child's driver's license for a period that may not  
29 exceed 90 days.

30       (3) The prearrest or postarrest diversion program may,  
31 upon agreement of the agencies that establish the program,

1 provide for the expunction of the nonjudicial arrest record of  
2 a minor who successfully completes such a program pursuant to  
3 s. 943.0582.

4           Section 12. This act shall take effect July 1, 2001.  
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