

Bill No. CS for SB's 1864 & 2086

Amendment No.      Barcode 595944

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Bronson moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

16 and insert:

17 Section 1. Section 943.031, Florida Statutes, is

18 amended to read:

19 943.031 Florida Violent Crime and Drug Control

20 Council.--The Legislature finds that there is a need to

21 develop and implement a statewide strategy to address violent

22 criminal activity and drug control efforts by state and local

23 law enforcement agencies, including investigations of illicit

24 money laundering. In recognition of this need, the Florida

25 Violent Crime and Drug Control Council is created within the

26 department. The council shall serve in an advisory capacity to

27 the department.

28 (1) MEMBERSHIP.--The council shall consist of 14 ~~12~~

29 members, as follows:

- 30 (a) The Attorney General or a designate.
- 31 (b) A designate of the executive director of the

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1 Department of Law Enforcement.

2 (c) The secretary of the Department of Corrections or  
3 a designate.

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

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

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

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

10 (h) The Comptroller, or a designate.

11 (i)(g) Six members appointed by the Governor,  
12 consisting of two sheriffs, two chiefs of police, one medical  
13 examiner, and one state attorney or their designates.

14  
15 The Governor, when making appointments under this subsection,  
16 must take into consideration representation by geography,  
17 population, ethnicity, and other relevant factors to ensure  
18 that the membership of the council is representative of the  
19 state at large. Designates appearing on behalf of a council  
20 member who is unable to attend a meeting of the council are  
21 empowered to vote on issues before the council to the same  
22 extent the designating council member is so empowered.

23 (2) TERMS OF MEMBERSHIP; OFFICERS; COMPENSATION;  
24 STAFF.--

25 (a) Members appointed by the Governor shall be  
26 appointed for terms of 2 years. The other members are standing  
27 members of the council. In no event shall a member serve  
28 beyond the time he or she ceases to hold the office or  
29 employment which was the basis for appointment to the council.  
30 In the event of a vacancy, an appointment to fill the vacancy  
31 shall be only for the unexpired term.

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1 (b) The Legislature finds that the council serves a  
2 legitimate state, county, and municipal purpose and that  
3 service on the council is consistent with a member's principal  
4 service in a public office or employment. Membership on the  
5 council does not disqualify a member from holding any other  
6 public office or being employed by a public entity, except  
7 that no member of the Legislature shall serve on the council.

8 (c) The members of the council shall elect a chair and  
9 a vice chair every 2 years, to serve for a 2-year term. As  
10 deemed appropriate, other officers may be elected by the  
11 members.

12 (d) Members of the council or their designates shall  
13 serve without compensation but are entitled to reimbursement  
14 for per diem and travel expenses pursuant to s. 112.061.  
15 Reimbursements made pursuant to this paragraph ~~may shall~~ be  
16 paid from either the Violent Crime Investigative Emergency and  
17 Drug Control Strategy Implementation Account within the  
18 Department of Law Enforcement Operating Trust Fund or from  
19 other appropriations provided to the department by the  
20 Legislature in the General Appropriations Act.

21 (e) The department shall provide the council with  
22 staff necessary to assist the council in the performance of  
23 its duties.

24 (3) MEETINGS.--The council must meet at least  
25 semiannually. Additional meetings may be held when it is  
26 determined ~~deemed appropriate~~ by the chair that extraordinary  
27 circumstances require an additional meeting of the council ~~or~~  
28 ~~a majority of the council members~~. A majority of the members  
29 of the council constitutes a quorum.

30 (4) DUTIES OF COUNCIL.--The council shall provide  
31 advice and make recommendations, as necessary, to the

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1 executive director of the department.

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

5 1. Establishing a program which provides grants to  
6 criminal justice agencies that develop and implement effective  
7 violent crime prevention and investigative programs and which  
8 provides grants to law enforcement agencies for the purpose of  
9 drug control and illicit money laundering investigative  
10 efforts or task force efforts that are determined by the  
11 council to significantly contribute to achieving the state's  
12 goal of reducing drug-related crime as articulated by the  
13 Office of Drug Control, that represent a significant illicit  
14 money laundering investigative effort, or that otherwise  
15 significantly support statewide strategies developed by the  
16 Statewide Drug Policy Advisory Council established under s.  
17 397.333, subject to the limitations provided in this section.

18 The grant program may ~~shall~~ include an innovations grant  
19 program to provide startup funding for new initiatives by  
20 local and state law enforcement agencies to combat violent  
21 crime or to implement drug control or illicit money laundering  
22 investigative efforts or task force efforts by law enforcement  
23 agencies, including, but not limited to, initiatives such as:

24 a. Providing ~~Provision of~~ enhanced community-oriented  
25 policing.

26 b. Providing ~~Provision of~~ additional undercover  
27 officers and other investigative officers to assist with  
28 violent crime investigations in emergency situations.

29 c. Providing funding for multiagency or statewide drug  
30 control or illicit money laundering investigative efforts or  
31 task force efforts that cannot be reasonably funded completely

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1 by alternative sources and that significantly contribute to  
2 achieving the state's goal of reducing drug-related crime as  
3 articulated by the Office of Drug Control, that represent a  
4 significant illicit money laundering investigative effort, or  
5 that otherwise significantly support statewide strategies  
6 developed by the Statewide Drug Policy Advisory Council  
7 established under s. 397.333.

8 ~~2. Creating a criminal justice research and behavioral~~  
9 ~~science center. The center shall provide key support to local~~  
10 ~~law enforcement agencies undertaking unique or emergency~~  
11 ~~violent crime investigations, including the mobilization of~~  
12 ~~special task forces to directly target violent crime in~~  
13 ~~specific areas.~~

14 ~~2.3. Expanding the use of automated fingerprint~~  
15 ~~identification systems at the state and local level.~~

16 ~~3.4. Identifying methods to prevent violent crime.~~

17 4. Identifying methods to enhance multiagency or  
18 statewide drug control or illicit money laundering  
19 investigative efforts or task force efforts that significantly  
20 contribute to achieving the state's goal of reducing  
21 drug-related crime as articulated by the Office of Drug  
22 Control, that represent a significant illicit money laundering  
23 investigative effort, or that otherwise significantly support  
24 statewide strategies developed by the Statewide Drug Policy  
25 Advisory Council established under s. 397.333.

26 5. Enhancing criminal justice training programs which  
27 address violent crime, drug control, or illicit money  
28 laundering investigative techniques or efforts.

29 6. Developing and promoting crime prevention services  
30 and educational programs that serve the public, including, but  
31 not limited to:

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1 a. Enhanced victim and witness counseling services  
 2 that also provide crisis intervention, information referral,  
 3 transportation, and emergency financial assistance.

4 b. A well-publicized rewards program for the  
 5 apprehension and conviction of criminals who perpetrate  
 6 violent crimes.

7 7. Enhancing information sharing and assistance in the  
 8 criminal justice community by expanding the use of community  
 9 partnerships and community policing programs. Such expansion  
 10 may include the use of civilian employees or volunteers to  
 11 relieve law enforcement officers of clerical work in order to  
 12 enable the officers to concentrate on street visibility within  
 13 the community.

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

15 1. Receive periodic reports from ~~Advise the executive~~  
 16 ~~director on the creation of~~ regional violent crime  
 17 investigation and statewide drug control strategy  
 18 implementation coordinating teams which relate to violent  
 19 crime trends or the investigative needs or successes in the  
 20 regions, factors and trends relevant to the implementation of  
 21 the statewide drug strategy, and the results of drug control  
 22 and illicit money laundering investigative efforts funded in  
 23 part by the council.

24 2. Maintain and utilize ~~Develop~~ criteria for the  
 25 disbursement of funds from the Violent Crime Investigative  
 26 Emergency and Drug Control Strategy Implementation Account  
 27 within the Department of Law Enforcement Operating Trust Fund  
 28 or other appropriations provided to the Department of Law  
 29 Enforcement by the Legislature in the General Appropriations  
 30 Act. The criteria shall allow for the advancement of funds as  
 31 approved by the council.

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1           3. Review and approve all requests for disbursement of  
2 funds from the Violent Crime Investigative Emergency and Drug  
3 Control Strategy Implementation Account within the Department  
4 of Law Enforcement Operating Trust Fund and from other  
5 appropriations provided to the department by the Legislature  
6 in the General Appropriations Act. An expedited approval  
7 procedure shall be established for rapid disbursement of funds  
8 in violent crime emergency situations.

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

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

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

25           (a) The Victim and Witness Protection Review Committee  
26 is created within the Florida Violent Crime and Drug Control  
27 Council, consisting of the statewide prosecutor or a state  
28 attorney, a sheriff, a chief of police, and the designee of  
29 the executive director of the Department of Law Enforcement.  
30 The committee shall be appointed from the membership of the  
31 council by the chair of the council after the chair has

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1 consulted with the executive director of the Department of Law  
2 Enforcement. Committee members shall meet in conjunction with  
3 the meetings of the council.

4 (b) The committee shall:

5 1. Maintain and utilize ~~Develop~~ criteria for  
6 disbursing funds to reimburse law enforcement agencies for  
7 costs associated with providing victim and witness protective  
8 or temporary relocation services.

9 2. Review and approve or deny, in whole or in part,  
10 all reimbursement requests submitted by law enforcement  
11 agencies.

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

25 (d) The committee, in its discretion, may use funds  
26 available to the committee to provide all or partial  
27 reimbursement to the lead law enforcement agency for such  
28 costs, or may decline to provide any reimbursement.

29 (e) The committee may conduct its meeting by  
30 teleconference or conference phone calls when the chair of the  
31 committee finds that the need for reimbursement is such that



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1 delaying until the next scheduled council meeting will  
2 adversely affect the requesting agency's ability to provide  
3 the protection services.

4 (7) CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL  
5 MEETINGS AND RECORDS.--

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

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1           2. The Legislature finds that it is a public necessity  
2 that portions of the meetings of the Florida Violent Crime and  
3 Drug Control Council be closed when the confidential details,  
4 information, and documents related to active criminal  
5 investigations or matters constituting active criminal  
6 intelligence are discussed. The Legislature further finds that  
7 it is no less a public necessity that portions of public  
8 records generated at closed council meetings, such as tape  
9 recordings, minutes, and notes, memorializing the discussions  
10 regarding such confidential details, information, and  
11 documents related to active criminal investigations or matters  
12 constituting active criminal intelligence, also shall be held  
13 confidential.

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

17           (c)1. The Florida Violent Crime and Drug Control  
18 Council may close portions of meetings during which the  
19 council will hear or discuss active criminal investigative  
20 information or active criminal intelligence information, and  
21 such portions of meetings shall be exempt from the provisions  
22 of s. 286.011 and s. 24(b), Art. I of the State Constitution,  
23 provided that the following conditions are met:

24           a. The chair of the council shall advise the council  
25 at a public meeting that, in connection with the performance  
26 of a council duty, it is necessary that the council hear or  
27 discuss active criminal investigative information or active  
28 criminal intelligence information.

29           b. The chair's declaration of necessity for closure  
30 and the specific reasons for such necessity shall be stated in  
31 writing in a document that shall be a public record and shall

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1 be filed with the official records of the council.

2 c. The entire closed session shall be recorded. The  
3 recording shall include the times of commencement and  
4 termination of the closed session, all discussion and  
5 proceedings, and the names of all persons present. No portion  
6 of the session shall be off the record. Such recording shall  
7 be maintained by the council, and is exempt from the  
8 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
9 Constitution until such time as the criminal investigative  
10 information or criminal intelligence information that  
11 justifies closure ceases to be active, at which time the  
12 portion of the record related to the no longer active  
13 information or intelligence shall be open for public  
14 inspection and copying.

15

16 The exemption in this paragraph is subject to the Open  
17 Government Sunset Review Act of 1995 in accordance with s.  
18 119.15 and shall stand repealed on October 2, 2002, unless  
19 reviewed and saved from repeal through reenactment by the  
20 Legislature.

21 2. Only members of the council, Department of Law  
22 Enforcement staff supporting the council's function, and other  
23 persons whose presence has been authorized by chair of the  
24 council shall be allowed to attend the exempted portions of  
25 the council meetings. The council shall assure that any  
26 closure of its meetings as authorized by this section is  
27 limited so that the general policy of this state in favor of  
28 public meetings is maintained.

29 (d) Those portions of any public record, such as a  
30 tape recording, minutes, and notes, generated during that  
31 portion of a Florida Violent Crime and Drug Control Council

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1 meeting which is closed to the public pursuant to this  
2 section, which contain information relating to active criminal  
3 investigations or matters constituting active criminal  
4 intelligence, are confidential and exempt from the provisions  
5 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
6 until such criminal investigative information or criminal  
7 intelligence information ceases to be active. The exemptions  
8 in this paragraph are subject to the Open Government Sunset  
9 Review Act of 1995 in accordance with s. 119.15 and shall  
10 stand repealed on October 2, 2002, unless reviewed and saved  
11 from repeal through reenactment by the Legislature.

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

14 943.17 Basic recruit, advanced, and career development  
15 training programs; participation; cost; evaluation.--The  
16 commission shall, by rule, design, implement, maintain,  
17 evaluate, and revise job-related curricula and performance  
18 standards for basic recruit, advanced, and career development  
19 training programs and courses. The rules shall include, but  
20 are not limited to, a methodology to assess relevance of the  
21 subject matter to the job, student performance, and instructor  
22 competency.

23 (5) The commission, in consultation with the Florida  
24 Violent Crime and Drug Control Council, shall establish  
25 standards for basic and advanced training programs for law  
26 enforcement officers in the subjects of investigating and  
27 preventing violent crime. After January 1, 1995, every basic  
28 skills course required in order for law enforcement officers  
29 to obtain initial certification must include training on  
30 violent crime prevention and investigations.

31 Section 3. Section 943.042, Florida Statutes, is



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1 purpose of this section.

2 (b) Criteria for determining those violent crime  
3 investigations which constitute a significant emergency within  
4 the state for the purpose of this section.

5 (c) Criteria for determining the circumstances under  
6 which counties may receive emergency supplemental funds for  
7 extraordinary expenses associated with a violent crime trial  
8 under this section.

9 (d) Guidelines which establish a \$100,000 maximum  
10 limit ~~limits~~ on the amount that may be disbursed on a single  
11 investigation and a \$200,000 maximum limit on funds that may  
12 be provided to a single agency during the agency's fiscal  
13 year.

14 (e) Procedures for law enforcement agencies to use  
15 when applying for funds, including certification by the head  
16 of the agency that a request complies with the requirements  
17 established by the council.

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

19 (3) With regard to the funding of drug control or  
20 illicit money laundering investigative efforts or task force  
21 efforts, the department shall adopt rules which, at a minimum,  
22 address the following:

23 (a) Criteria for determining what constitutes a  
24 multiagency or statewide drug control or illicit money  
25 laundering investigative effort or task force effort eligible  
26 to seek funding under this section.

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

30 (c) Limitations upon the amount that may be disbursed  
31 yearly to a single multiagency or statewide drug control or

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1 illicit money laundering investigation or task force effort.

2 (d) Procedures to utilize when applying for funds,  
3 including a required designation of the amount of matching  
4 funds being provided by the task force or participating  
5 agencies and a signed commitment by the head of each agency  
6 seeking funds that funds so designated will be utilized as  
7 represented if council funding is provided.

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

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

28 (4)(3)(a) Except as permitted in this section, a  
29 disbursement ~~from~~ ~~for~~ the Violent Crime Investigative  
30 Emergency and Drug Control Strategy Implementation Account  
31 shall not be used to supplant existing appropriations of state

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1 and local law enforcement agencies and counties or to  
2 otherwise fund expenditures that are ordinary or reasonably  
3 predictable for the operation of a state or local law  
4 enforcement agency.

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

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

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

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

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



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1 fails to return funds as demanded.

2 Section 4. Section 943.0585, Florida Statutes, is  
3 amended to read:

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

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

19 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY

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

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

24 (b) The petitioner's sworn statement attesting that  
25 the petitioner:

26 1. Has never, prior to the date on which the petition  
27 is filed, been adjudicated guilty of a criminal offense or  
28 comparable ordinance violation or adjudicated delinquent for  
29 committing a felony or a misdemeanor specified in s.  
30 943.051(3)(b).

31 2. Has not been adjudicated guilty of, or adjudicated

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1 delinquent for committing, any of the acts stemming from the  
2 arrest or alleged criminal activity to which the petition  
3 pertains.

4           3. Has never secured a prior sealing or expunction of  
5 a criminal history record under this section, former s.  
6 893.14, former s. 901.33, or former s. 943.058, or from any  
7 jurisdiction outside the state.

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

12

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

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

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

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

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1           2. That an indictment, information, or other charging  
2 document, if filed or issued in the case, was dismissed or  
3 nolle prosequi by the state attorney or statewide prosecutor,  
4 or was dismissed by a court of competent jurisdiction.

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

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

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

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

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

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

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1 893.14, former s. 901.33, or former s. 943.058.

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

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

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

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

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

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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 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any

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

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

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

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1 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
2 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
3 985.407, or chapter 400; or

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

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

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



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

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

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

11 943.059 Court-ordered sealing of criminal history  
12 records.--The courts of this state shall continue to have  
13 jurisdiction over their own procedures, including the  
14 maintenance, sealing, and correction of judicial records  
15 containing criminal history information to the extent such  
16 procedures are not inconsistent with the conditions,  
17 responsibilities, and duties established by this section. Any  
18 court of competent jurisdiction may order a criminal justice  
19 agency to seal the criminal history record of a minor or an  
20 adult who complies with the requirements of this section. The  
21 court shall not order a criminal justice agency to seal a  
22 criminal history record until the person seeking to seal a  
23 criminal history record has applied for and received a  
24 certificate of eligibility for sealing pursuant to subsection  
25 (2). A criminal history record that relates to a violation of  
26 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.  
27 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,  
28 s. 847.0145, s. 893.135, or a violation enumerated in s.  
29 907.041 may not be sealed, without regard to whether  
30 adjudication was withheld, if the defendant was found guilty  
31 of or pled guilty or nolo contendere to the offense, or if the

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

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

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

31 (b) The petitioner's sworn statement attesting that

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1 the petitioner:

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

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

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

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

19

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

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

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1 eligibility for sealing to a person who is the subject of a  
2 criminal history record provided that such person:

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

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

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

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

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

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

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

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

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1 petition to seal.

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

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

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

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

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

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

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

31 1. Is a candidate for employment with a criminal

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1 justice agency;

2 2. Is a defendant in a criminal prosecution;

3 3. Concurrently or subsequently petitions for relief  
4 under this section or s. 943.0585;

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

6 5. Is seeking to be employed or licensed by or to  
7 contract with the Department of Children and Family Services  
8 or the Department of Juvenile Justice or to be employed or  
9 used by such contractor or licensee in a sensitive position  
10 having direct contact with children, the developmentally  
11 disabled, the aged, or the elderly as provided in s.

12 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
13 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
14 415.103, s. 985.407, or chapter 400; or

15 6. Is seeking to be employed or licensed by the Office  
16 of Teacher Education, Certification, Staff Development, and  
17 Professional Practices of the Department of Education, any  
18 district school board, or any local governmental entity which  
19 licenses child care facilities.

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

27 (c) Information relating to the existence of a sealed  
28 criminal record provided in accordance with the provisions of  
29 paragraph (a) is confidential and exempt from the provisions  
30 of s. 119.07(1) and s. 24(a), Art. I of the State  
31 Constitution, except that the department shall disclose the

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

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

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

20 943.325 Blood or other biological specimen testing for  
21 DNA analysis.--

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

26 1. Still incarcerated, or

27 2. No longer incarcerated, or has never been

28 incarcerated, yet but is within the confines of the legal  
29 state boundaries and is on probation, community control,  
30 parole, conditional release, control release, or any other  
31 court-ordered supervision,



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1  
2 shall be required to submit two specimens of blood or other  
3 biological specimens approved by the Department of Law  
4 Enforcement to a Department of Law Enforcement designated  
5 testing facility as directed by the department.

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

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

23 (3) Upon a conviction of any person for any offense  
24 under paragraph (1)(a) which results in the commitment of the  
25 offender to a county jail, correctional facility, or juvenile  
26 facility, the entity responsible for the facility shall assure  
27 that the blood specimens or other biological specimens  
28 required by this section and approved by the Department of Law  
29 Enforcement are promptly secured and transmitted to the  
30 Department of Law Enforcement. If the person is not  
31 incarcerated following such conviction, the person may not be

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1 released from the custody of the court or released pursuant to  
2 a bond or surety until the blood specimens or other approved  
3 biological specimens required by this section have been taken.  
4 The chief judge of each circuit shall, in conjunction with the  
5 sheriff or other entity that maintains the county jail, assure  
6 implementation of a method to promptly collect required blood  
7 specimens or other approved biological specimens and forward  
8 the specimens to the Department of Law Enforcement. The  
9 Department of Law Enforcement, in conjunction with the  
10 sheriff, the courts, the Department of Corrections, and the  
11 Department of Juvenile Justice, shall develop a statewide  
12 protocol for securing the blood specimens or other approved  
13 biological specimens of any person required to provide  
14 specimens under this section. Personnel at the jail,  
15 correctional facility, or juvenile facility shall implement  
16 the protocol as part of the regular processing of offenders.

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

25 (5) The Department of Law Enforcement shall provide  
26 the specimen vials, mailing tubes, labels, or other  
27 appropriate containers and instructions for the collection of  
28 blood specimens or other approved biological specimens. The  
29 specimens shall thereafter be forwarded to the designated  
30 testing facility for analysis to determine genetic markers and  
31 characteristics for the purpose of individual identification

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1 of the person submitting the sample.

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

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

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

24 (9) The Department of Law Enforcement shall:

25 (a) Receive, process, and store blood specimen samples  
26 or other approved biological specimen samples and the data  
27 derived therefrom furnished pursuant to subsection (1), or  
28 pursuant to a requirement of supervision imposed by the court  
29 or the Parole Commission with respect to a person convicted of  
30 any offense specified in subsection (1), or as specified in  
31 subsection (6).

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

3 (c) Strive to maintain or disseminate only accurate  
4 and complete records.

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

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

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

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

30 (c) Any person previously convicted of an offense  
31 specified in this section, or a crime which, if committed in

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

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

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

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

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

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

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

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

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

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

31 760.40 Genetic testing; informed consent;



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1 confidentiality.--

2 (2)(a) Except for purposes of criminal prosecution,  
3 except for purposes of determining paternity as provided in s.  
4 742.12(1), and except for purposes of acquiring specimens from  
5 persons convicted of certain offenses or as otherwise provided  
6 in s. 943.325, DNA analysis may be performed only with the  
7 informed consent of the person to be tested, and the results  
8 of such DNA analysis, whether held by a public or private  
9 entity, are the exclusive property of the person tested, are  
10 confidential, and may not be disclosed without the consent of  
11 the person tested. Such information held by a public entity is  
12 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
13 I of the State Constitution.

14 (b) A person who violates paragraph (a) is guilty of a  
15 misdemeanor of the first degree, punishable as provided in s.  
16 775.082 or s. 775.083.

17 Section 8. Section 843.167, Florida Statutes, is  
18 created to read:

19 843.167 Unlawful use of police communications;  
20 enhanced penalties.--

21 (1) A person may not:

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

27 (b) Divulge the existence, contents, substance,  
28 purport, effect, or meaning of a police radio communication to  
29 any person he or she knows to be a suspect in the commission  
30 of a crime with the intent that the suspect may escape from or  
31 avoid detention, arrest, trial, conviction, or punishment.

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

6           (3) The penalty for a crime that is committed by a  
7 person who violates paragraph (1)(a) shall be enhanced as  
8 follows:

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

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

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

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

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

19           (4) Any person who violates paragraph (1)(b) commits a  
20 misdemeanor of the first degree, punishable as provided in s.  
21 775.082 or s. 775.083.

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

24           943.053 Dissemination of criminal justice information;  
25 fees.--

26           (3) Criminal history information, including  
27 information relating to minors, compiled by the Criminal  
28 Justice Information Program from intrastate sources shall be  
29 available on a priority basis to criminal justice agencies for  
30 criminal justice purposes free of charge and, otherwise, to  
31 governmental agencies not qualified as criminal justice

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1 agencies on an approximate-cost basis. After providing the  
2 program with all known identifying information, persons in the  
3 private sector may be provided criminal history information  
4 upon tender of fees as established and in the manner  
5 prescribed by rule of the Department of Law Enforcement. Such  
6 fees shall approximate the actual cost of producing the record  
7 information. As used in this subsection, the department's  
8 determination of actual cost shall take into account the total  
9 cost of creating, storing, maintaining, updating, retrieving,  
10 improving, and providing criminal history information in a  
11 centralized, automated database, including personnel,  
12 technology, and infrastructure expenses. Actual cost shall be  
13 computed on a fee-per-record basis, and any access to criminal  
14 history information by the private sector as provided in this  
15 subsection shall be assessed the per-record fee without regard  
16 to the quantity or category of criminal history record  
17 information requested. Fees may be waived by the executive  
18 director of the Department of Law Enforcement for good cause  
19 shown.

20 Section 10. Section 943.0582, Florida Statutes, is  
21 created to read:

22 943.0582 Prearrest, postarrest, or teen court  
23 diversion program expunction.--

24 (1) Notwithstanding any law dealing generally with the  
25 preservation and destruction of public records, the department  
26 may provide, by rule adopted pursuant to chapter 120, for the  
27 expunction of any nonjudicial record of the arrest of a minor  
28 who has successfully completed a prearrest or postarrest  
29 diversion program for minors as authorized by s. 985.3065.

30 (2) As used in this section, the term "expunction"  
31 shall have the same meaning and effect as in s. 943.0585,

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1 except that:

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

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

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

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

26 (a) Submits an application for prearrest or postarrest  
27 diversion expunction, on a form promulgated by the department,  
28 signed by the minor's parent or legal guardian or by the minor  
29 if he or she has reached the age of majority at the time of  
30 applying.

31 (b) Submits the application for prearrest or

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1 postarrest diversion expunction no later than 6 months after  
2 completion of the diversion program.

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

12 (d) Participated in a prearrest or postarrest  
13 diversion program that expressly authorizes or permits such  
14 expunction to occur.

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

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

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

27 (6) This section shall operate retroactively to permit  
28 the expunction of any nonjudicial record of the arrest of a  
29 minor who has successfully completed a prearrest or postarrest  
30 diversion program on or after July 1, 2000, provided that, in  
31 the case of a minor whose completion of the program occurred

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1 before the effective date of this act, the application for  
2 prearrest or postarrest diversion expunction is submitted no  
3 later than 6 months after the effective date of this act.

4 (7) Expunction or sealing granted pursuant to this  
5 section shall not preclude the minor who receives such relief  
6 from petitioning for the expunction or sealing of a later  
7 criminal history record as provided for in ss. 943.0585 and  
8 943.059, provided he or she is otherwise eligible under those  
9 sections.

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

12 985.3065 Prearrest or postarrest diversion programs.--

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

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

25 (3) The prearrest or postarrest diversion program may,  
26 upon agreement of the agencies that establish the program,  
27 provide for the expunction of the nonjudicial arrest record of  
28 a minor who successfully completes such a program pursuant to  
29 s. 943.0582.

30 Section 12. This act shall take effect July 1, 2001.  
31

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 Delete everything before the enacting clause

4

5 and insert:

6

A bill to be entitled

7

An act relating to law enforcement; amending s.

8

943.031, F.S.; renaming the Florida Violent

9

Crime Council as the Florida Violent Crime and

10

Drug Control Council; revising membership;

11

providing circumstances for additional

12

meetings; prescribing the duties and

13

responsibilities of the Florida Violent Crime

14

and Drug Control Council; providing statutory

15

limits on funding of investigative efforts by

16

the council; authorizing the Victim and Witness

17

Protection Review Committee to conduct meetings

18

by teleconference under certain circumstances;

19

amending s. 943.17, F.S.; conforming a

20

reference; amending s. 943.042, F.S.; renaming

21

the Violent Crime Emergency Account as the

22

Violent Crime Investigative Emergency and Drug

23

Control Strategy Implementation Account;

24

revising provisions relating to use of

25

emergency supplemental funds; clarifying limits

26

on disbursement of funds for certain purposes;

27

requiring the Department of Law Enforcement to

28

adopt rules pertaining to certain

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investigations; requiring reports by recipient

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agencies; providing circumstances for

31

limitation or termination of funding or return

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1 of funds by recipient agencies; amending s.  
2 943.0585, F.S., relating to court-ordered  
3 expunction of certain criminal history records;  
4 adding sexual offenses that require an offender  
5 to register with the state to the list of  
6 excluded offenses; amending s. 943.059, F.S.,  
7 relating to court-ordered sealing of certain  
8 criminal history records; adding offenses  
9 relating to sexual offenses that require an  
10 offender to register with the state to the list  
11 of excluded offenses; amending s. 943.325,  
12 F.S.; permitting collection of approved  
13 biological specimens other than blood for  
14 purposes of DNA testing; permitting collection  
15 of specimens from certain persons who have  
16 never been incarcerated; limiting liability;  
17 authorizing use of force to collect specimens  
18 under certain circumstances; amending s.  
19 760.40, F.S., to conform to changes made by s.  
20 943.325, F.S.; creating s. 843.167, F.S.;  
21 prohibiting the interception of police  
22 communications for certain purposes;  
23 prohibiting disclosure of police  
24 communications; providing presumptions;  
25 providing penalties; amending s. 943.053, F.S.;  
26 providing clarification of the manner in which  
27 the Department of Law Enforcement determines  
28 the actual cost of producing criminal history  
29 information; creating s. 943.0582, F.S.;  
30 providing for prearrest, postarrest, or teen  
31 court diversion program expunction under



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1           certain circumstances; providing definitions;  
2           providing for retroactive effect; amending s.  
3           985.3065, F.S.; providing for postarrest  
4           diversion programs; providing for expunction of  
5           certain records pursuant to s. 943.0582, F.S.;  
6           providing an effective date.  
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