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1 A bill to be entitled

2 An act relating to educator certification and discipline;
3 amending s. 1012.56, F.S.; requiring an affidavit for
4 educator certification; creating s. 1012.561, F.S.;
5 requiring certified educators and applicants for
6 certification to provide notification of change of
7 address; authorizing service by regular mail for certain
8 purposes; amending s. 1012.79, F.S.; revising the number
9 of members required for certain panels of the Education
10 Practices Commission; amending s. 1012.795, F.S., relating
11 to the Education Practices Commission's authority to
12 discipline; revising grounds for discipline; providing
13 penalties; amending s. 1012.796, F.S.; requiring certain
14 agencies to provide unredacted documents to the Department
15 of Education for purposes of investigating and prosecuting
16 certified educators; providing requirements for an
17 educator who is on probation; revising penalties that the
18 Education Practices Commission may impose; revising
19 criteria for the use of an order to show cause; amending
20 s. 1012.798, F.S.; revising provisions relating to the
21 recovery network program for educators; amending s.
22 943.0585, F.S.; allowing certain employers of educators to
23 have access to expunged records; amending s. 943.059,
24 F.S.; allowing certain employers of educators to have
25 access to sealed records; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Paragraph (b) of subsection (2) of section
30 1012.56, Florida Statutes, is amended to read:



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31 1012.56 Educator certification requirements.--

32 (2) ELIGIBILITY CRITERIA.--To be eligible to seek
 33 certification pursuant to this chapter, a person must:

34 (b) File an affidavit ~~a written statement, under oath,~~
 35 that the applicant subscribes to and will uphold the principles
 36 incorporated in the Constitution of the United States and the
 37 Constitution of the State of Florida and that the information
 38 provided in the application is true, accurate, and complete. The
 39 affidavit shall be in substantially the following form:

40
 41 Under penalty of perjury, I, (name of applicant), do hereby
 42 certify that I subscribe to and will uphold the principles
 43 incorporated in the Constitution of the United States and the
 44 Constitution of the State of Florida and that all information
 45 provided in this application is true, accurate, and complete.

46
 47 Signature or electronic authentication.

48
 49 The affidavit shall include substantially the following warning:

50
 51 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN OR RENEW A
 52 FLORIDA EDUCATOR'S CERTIFICATE IS A CRIMINAL OFFENSE UNDER
 53 FLORIDA LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT
 54 IS SUBJECT TO CRIMINAL PROSECUTION, AS WELL AS DISCIPLINARY
 55 ACTION BY THE EDUCATION PRACTICES COMMISSION.

56
 57 Section 2. Section 1012.561, Florida Statutes, is created
 58 to read:

59 1012.561 Address of record.--

60 (1) Each certified educator is responsible for notifying



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61 the Bureau of Educator Certification of a change of address. A
 62 certified educator or applicant for certification who is
 63 employed by a district school board must notify his or her
 64 employing school district of a change of address in writing
 65 within 10 days after the change has occurred. The employing
 66 district school board must notify the bureau of the change of
 67 address, in the manner prescribed by the Department of
 68 Education, within 20 days after the district school board
 69 receives such notification.

70 (2) Notwithstanding any other provision of law to the
 71 contrary, effective January 1, 2004, service by regular mail to
 72 a certified educator's or applicant's last known address of
 73 record with the bureau constitutes adequate and sufficient
 74 notice to the certified educator or applicant of any official
 75 communication to the educator or applicant by the Department of
 76 Education, the Education Practices Commission, or the Recovery
 77 Network for Educators.

78 Section 3. Paragraph (a) of subsection (8) of section
 79 1012.79, Florida Statutes, is amended to read:

80 1012.79 Education Practices Commission; organization.--

81 (8)(a) The commission shall, from time to time, designate
 82 members of the commission to serve on panels for the purpose of
 83 reviewing and issuing final orders upon cases presented to the
 84 commission. A case concerning a complaint against a teacher
 85 shall be reviewed and a final order thereon shall be entered by
 86 a panel composed of five ~~seven~~ commission members, three ~~four~~ of
 87 whom shall be teachers. A case concerning a complaint against an
 88 administrator shall be reviewed and a final order thereon shall
 89 be entered by a panel composed of five ~~seven~~ commission members,
 90 three ~~four~~ of whom shall be administrators.



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91 Section 4. Section 1012.795, Florida Statutes, is amended
 92 to read:

93 1012.795 Education Practices Commission; authority to
 94 discipline.--

95 (1) The Education Practices Commission may suspend the
 96 educator certificate of any person as defined in s. 1012.01(2)
 97 or (3) for a period of time not to exceed 5 ~~3~~ years, thereby
 98 denying that person the privilege right to teach or otherwise be
 99 employed in a public school in any capacity that requires direct
 100 contact with students for that period of time, after which the
 101 holder may return to teaching as provided in subsection (4); may
 102 revoke the educator certificate of any person, thereby denying
 103 that person the privilege right to teach or otherwise be
 104 employed in a public school in any capacity that requires direct
 105 contact with students for a period of time not to exceed 10
 106 years, with reinstatement subject to the provisions of
 107 subsection (4); may revoke permanently the educator certificate
 108 of any person, thereby denying that person the privilege to
 109 teach or otherwise be employed in a public school in any
 110 capacity that requires direct contact with students; may suspend
 111 the educator certificate, upon order of the court, of any person
 112 found to have a delinquent child support obligation; or may
 113 impose any other penalty provided by law, if provided it can be
 114 shown that the person:

115 (a) Obtained or attempted to obtain an ~~the~~ educator
 116 certificate by fraudulent means.

117 (b) Has proved to be incompetent to teach or to perform
 118 duties as an employee of the public school system or to teach in
 119 or to operate a private school.

120 (c) Has been guilty of gross immorality or an act



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121 involving moral turpitude.

122 (d) Has had an educator certificate sanctioned by ~~revoked~~
123 ~~in~~ another state.

124 (e) Has been convicted of a crime in any jurisdiction
125 ~~misdemeanor, felony, or any other criminal charge~~, other than a
126 minor traffic violation.

127 (f) Upon investigation, has been found guilty of personal
128 conduct which seriously reduces that person's effectiveness as
129 an employee of the district school board.

130 (g) Has breached a contract, as provided in s. 1012.33(2).

131 (h) Has been the subject of a court order directing the
132 Education Practices Commission to suspend the certificate as a
133 result of a delinquent child support obligation.

134 (i) Has violated the Principles of Professional Conduct
135 for the Education Profession prescribed by State Board of
136 Education rules.

137 (j) Has otherwise violated the provisions of law, the
138 penalty for which is the revocation of the educator certificate.

139 (k) Has violated any order of the Education Practices
140 Commission.

141 (l) Has been the subject of a court order plea in any
142 jurisdiction which requires the certificateholder to surrender
143 or otherwise relinquish his or her educator's certificate. Any
144 surrender or relinquishment constitutes a permanent revocation
145 of the certificate. A person may not surrender or otherwise
146 relinquish his or her certificate prior to a finding of probable
147 cause by the commissioner as provided in s. 1012.796.

148 (2) The plea of guilty in any court, the decision of
149 guilty by any court, the forfeiture by the teaching
150 certificateholder of a bond in any court of law, or the written



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151 acknowledgment, duly witnessed, of offenses listed in subsection
152 (1) to the district school superintendent or a duly appointed
153 representative or to the district school board shall be prima
154 facie proof of grounds for revocation of the certificate as
155 listed in subsection (1) in the absence of proof by the
156 certificateholder that the plea of guilty, forfeiture of bond,
157 or admission of guilt was caused by threats, coercion, or
158 fraudulent means.

159 (3) The revocation by the Education Practices Commission
160 of an educator certificate of any person automatically revokes
161 any and all Florida educator certificates held by that person.

162 (4)(a) An educator certificate which has been suspended
163 under this section is automatically reinstated at the end of the
164 suspension period, provided the certificate did not expire
165 during the period of suspension. If the certificate expired
166 during the period of suspension, the holder of the former
167 certificate may secure a new certificate by making application
168 therefor and by meeting the certification requirements of the
169 state board current at the time of the application for the new
170 certificate. An educator certificate suspended pursuant to a
171 court order for a delinquent child support obligation may only
172 be reinstated upon notice from the court that the party has
173 complied with the terms of the court order.

174 (b) A person whose educator certificate has been revoked
175 under this section may apply for a new certificate at the
176 expiration of that period of ineligibility fixed by the
177 Education Practices Commission by making application therefor
178 and by meeting the certification requirements of the state board
179 current at the time of the application for the new certificate.

180 (5) Each district school superintendent and the governing



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181 authority of each university lab school, state-supported school,
 182 or private school shall report to the department the name of any
 183 person certified pursuant to this chapter or employed and
 184 qualified pursuant to s. 1012.39:

185 (a) Who has been convicted of, or who has pled nolo
 186 contendere to, a misdemeanor, felony, or any other criminal
 187 charge, other than a minor traffic infraction;

188 (b) Who that official has reason to believe has committed
 189 or is found to have committed any act which would be a ground
 190 for revocation or suspension under subsection (1); or

191 (c) Who has been dismissed or severed from employment
 192 because of conduct involving any immoral, unnatural, or
 193 lascivious act.

194 (6)(a) When an individual violates any provision of the
 195 ~~provisions of a settlement agreement enforced by~~ a final order
 196 of the Education Practices Commission, the Department of
 197 Education may request that an order to show cause may be issued
 198 ~~by~~ the clerk of the commission issue an order to show cause. The
 199 order shall require the individual to appear before the
 200 commission to show cause why further penalties should not be
 201 levied against the individual's certificate pursuant to the
 202 authority provided to the Education Practices Commission in
 203 subsection (1). The Education Practices Commission may fashion
 204 further penalties under the authority of subsection (1) as it
 205 deems ~~deemed~~ appropriate upon considering ~~when~~ the show cause
 206 order ~~is responded to by the individual~~.

207 (b) The Education Practices Commission shall issue a final
 208 order revoking an individual's Florida educator's certificate
 209 for a minimum of 1 year if the individual has been the subject
 210 of sanctions by the Education Practices Commission on two



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211 ~~previous occasions. under the following circumstances:~~

212 ~~1. If the individual:~~

213 ~~a. Has been found to have violated the provisions of this~~
 214 ~~section, such that the Education Practices Commission has the~~
 215 ~~authority to discipline the individual's Florida educator's~~
 216 ~~certificate on two separate occasions;~~

217 ~~b. Has twice entered into a settlement agreement enforced~~
 218 ~~by a final order of the Education Practices Commission; or~~

219 ~~c. Has been found to have violated the provisions of this~~
 220 ~~section, such that the Education Practices Commission has the~~
 221 ~~authority to discipline the individual's Florida educator's~~
 222 ~~certificate on one occasion and entered into a settlement~~
 223 ~~agreement enforced by a final order of the Education Practices~~
 224 ~~Commission on one occasion; and~~

225 ~~2. A third finding of probable cause and a finding that~~
 226 ~~the allegations are proven or admitted to is subsequently found~~
 227 ~~by the Commissioner of Education.~~

228
 229 ~~If, in the third instance, the individual enters into a~~
 230 ~~settlement agreement with the Department of Education, that~~
 231 ~~agreement shall also include a penalty revoking that~~
 232 ~~individual's Florida educator's certificate for a minimum of 1~~
 233 ~~year.~~

234 Section 5. Paragraph (d) is added to subsection (1) of
 235 section 1012.796, Florida Statutes, and subsections (6), (7),
 236 and (8) of said section are amended, to read:

237 1012.796 Complaints against teachers and administrators;
 238 procedure; penalties.--

239 (1)

240 (d) Notwithstanding any other provision of law to the



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241 contrary, all law enforcement agencies, state attorneys, social
242 service agencies, and district school boards, and the Division
243 of Administrative Hearings, shall fully cooperate with, and upon
244 request shall provide unredacted documents to, the Department of
245 Education to further investigations and prosecutions conducted
246 as authorized by this section. Any such document may not be
247 rediscovered except as authorized by law.

248 (6) Upon the finding of probable cause, the commissioner
249 shall file a formal complaint and prosecute the complaint
250 pursuant to the provisions of chapter 120, except as provided in
251 s. 1012.561. An administrative law judge shall be assigned by
252 the Division of Administrative Hearings of the Department of
253 Management Services to hear the complaint if there are disputed
254 issues of material fact. The administrative law judge shall make
255 recommendations in accordance with the provisions of subsection
256 (7) to the appropriate Education Practices Commission panel
257 which shall conduct a formal review of such recommendations and
258 other pertinent information and issue a final order. The
259 commission shall consult with its legal counsel prior to
260 issuance of a final order.

261 (7) A panel of the commission shall enter a final order
262 either dismissing the complaint or imposing one or more of the
263 following penalties:

264 (a) Denial of an application for a teaching certificate or
265 for an administrative or supervisory endorsement on a teaching
266 certificate. The denial may provide that the applicant may not
267 reapply for certification, and that the department may refuse to
268 consider that applicant's application, for a specified period of
269 time or permanently.

270 (b) Revocation or suspension of a certificate.



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271 (c) Imposition of an administrative fine not to exceed
272 \$2,000 for each count or separate offense.

273 (d) Placement of the teacher, administrator, or supervisor
274 on probation for a period of time and subject to such conditions
275 as the commission may specify, including requiring the certified
276 teacher, administrator, or supervisor to complete additional
277 appropriate college courses or work with another certified
278 educator, with the administrative costs of monitoring the
279 probation assessed to the educator placed on probation. At a
280 minimum, an educator who is on probation shall:

281 1. Immediately notify the Bureau of Educator Standards
282 upon his or her employment or termination of employment in the
283 state in any public or private position that requires a Florida
284 educator's certificate.

285 2. Have his or her immediate supervisor submit annual
286 performance reports to the Bureau of Educator Standards.

287 3. Pay to the commission within the first 6 months of each
288 probation year the administrative costs of monitoring probation
289 which have been assessed to him or her.

290 4. Not violate any law, and shall fully comply with all
291 district school board policies, school rules, and State Board of
292 Education rules.

293 5. Satisfactorily perform his or her assigned duties in a
294 competent, professional manner.

295 6. Bear all costs of complying with the terms of a final
296 order entered by the commission.

297 (e) Restriction of the authorized scope of practice of the
298 teacher, administrator, or supervisor.

299 (f) Reprimand of the teacher, administrator, or supervisor
300 in writing, with a copy to be placed in the certification file



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301 of such person.

302 (g) Imposition of an administrative sanction, upon a
 303 person whose teaching certificate has expired, for an act or
 304 acts committed while that person possessed a teaching
 305 certificate or an expired certificate subject to late renewal,
 306 which sanction bars that person from applying for a new
 307 certificate for a period of 10 years or less, or permanently.

308 (h) Referral of the teacher, administrator, or supervisor
 309 to the recovery network program provided in s. 1012.798 under
 310 such terms and conditions as the commission specifies.

311 (8) Violations of the provisions of a final order
 312 ~~probation~~ shall result in an order to show cause issued by the
 313 clerk of the Education Practices Commission when requested by
 314 the Department of Education. Upon failure of the educator
 315 ~~probationer~~, at the time and place stated in the order, to show
 316 cause satisfactorily to the Education Practices Commission why a
 317 penalty for violating the provisions of a final order ~~probation~~
 318 should not be imposed, the Education Practices Commission shall
 319 impose whatever penalty is appropriate as established in s.
 320 1012.795(6). Any probation period will be tolled when an order
 321 to show cause has been issued until the issue is resolved by the
 322 Education Practices Commission.

323 Section 6. Subsections (1) and (3), paragraph (c) of
 324 subsection (6), and subsection (10) of section 1012.798, Florida
 325 Statutes, are amended to read:

326 1012.798 Recovery network program for educators.--

327 (1) RECOVERY NETWORK ESTABLISHED.--There is created within
 328 the Department of Education, a recovery network program to
 329 assist educators who are impaired as a result of alcohol abuse,
 330 drug abuse, or a mental condition in obtaining treatment ~~to~~



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331 ~~permit their continued contribution to the education profession.~~

332 Any person who has applied for or holds certification issued by
 333 the department pursuant to s. 1012.56 is eligible for the
 334 program assistance. The individual may enter the program
 335 voluntarily or may be directed to participate through a deferred
 336 prosecution agreement with the Commissioner of Education or a
 337 final order of the Education Practices Commission pursuant to s.
 338 1012.796.

339 (3) PURPOSE.--The recovery network program shall assist
 340 educators in obtaining treatment and services from approved
 341 treatment providers, but each impaired educator must pay for his
 342 or her treatment under terms and conditions agreed upon by the
 343 impaired educator and the treatment provider. A person who is
 344 admitted to the recovery network program must contract with the
 345 treatment provider and the program. The treatment contract must
 346 prescribe the type of treatment and the responsibilities of the
 347 impaired educator and of the provider and must provide that the
 348 impaired educator's progress will be monitored by the recovery
 349 network program.

350 (6) PARTICIPATION.--The recovery network program shall
 351 operate independently of employee assistance programs operated
 352 by local school districts, and the powers and duties of school
 353 districts to make employment decisions, including disciplinary
 354 decisions, is not affected except as provided in this section:

355 (c) A person ~~who has not previously been under~~
 356 ~~investigation by the department~~ may be enrolled in a treatment
 357 program by the recovery network program after an investigation
 358 pursuant to s. 1012.796 has commenced, if the person:

- 359 1. Acknowledges his or her impairment.
- 360 2. Agrees to evaluation, as approved by the recovery



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361 network.

362 3. Agrees to enroll in an appropriate treatment program
363 approved by the recovery network.

364 4. Executes releases for all medical and treatment records
365 regarding his or her impairment and participation in a treatment
366 program to the recovery network, pursuant to 42 U.S.C. s. 290dd-
367 3 and the federal regulations adopted thereunder.

368 5. Enters into a deferred prosecution agreement with the
369 commissioner, which provides that no prosecution shall be
370 instituted concerning the matters enumerated in the agreement if
371 the person is properly enrolled in the treatment program and
372 successfully completes the program as certified by the recovery
373 network. The commissioner is under no obligation to enter into a
374 deferred prosecution agreement with the educator but may do so
375 if he or she determines that it is in the best interest of the
376 educational program of the state and the educator:-

377 ~~a.6.~~ Has not previously entered a substance abuse program.

378 ~~b.7.~~ Is not being investigated for any action involving
379 commission of a felony or violent act against another person.

380 ~~c.8.~~ Has not had multiple arrests for minor drug use,
381 possession, or abuse of alcohol.

382 (10) DECLARATION OF INELIGIBILITY.--

383 (a) A person may be declared ineligible for further
384 assistance from the recovery network program if he or she does
385 not progress satisfactorily in a treatment program or leaves a
386 prescribed program or course of treatment without the approval
387 of the treatment provider.

388 (b) The determination of ineligibility must be made by ~~the~~
389 ~~commissioner in cases referred to him or her by~~ the program
390 administrator or his or her designee after review of the



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391 circumstances of the case. ~~Before referring a case to the~~
392 ~~commissioner, the administrator must discuss the circumstances~~
393 ~~with the treatment provider. The commissioner may direct the~~
394 ~~Office of Professional Practices Services to investigate the~~
395 ~~case and provide a report.~~

396 (c) If a treatment through ~~contract~~ with the program is a
397 condition of a deferred prosecution agreement, and the program
398 administrator ~~commissioner~~ determines that the person is
399 ineligible for further assistance, the commissioner may agree to
400 modify the terms and conditions of the deferred prosecution
401 agreement or may issue an administrative complaint, pursuant to
402 s. 1012.796, alleging the charges regarding which prosecution
403 was deferred. The person may dispute the determination as an
404 affirmative defense to the administrative complaint by including
405 with his or her request for hearing on the administrative
406 complaint a written statement setting forth the facts and
407 circumstances that show that the determination of ineligibility
408 was erroneous. If administrative proceedings regarding the
409 administrative complaint, pursuant to ss. 120.569 and 120.57,
410 result in a finding that the determination of ineligibility was
411 erroneous, the person is eligible to participate in the program.
412 If the determination of ineligibility was the only reason for
413 setting aside the deferred prosecution agreement and issuing the
414 administrative complaint and the administrative proceedings
415 result in a finding that the determination was erroneous, the
416 complaint shall be dismissed and the deferred prosecution
417 agreement reinstated without prejudice to the commissioner's
418 right to reissue the administrative complaint for other breaches
419 of the agreement.

420 (d) If a treatment through ~~contract~~ with the program is a



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421 condition of a final order of the Education Practices
 422 Commission, the program administrator's ~~commissioner's~~
 423 determination of ineligibility constitutes a finding of ~~probable~~
 424 ~~cause~~ that the person failed to comply with the final order.
 425 Pursuant to ss. 1012.795 and 1012.796, upon the request of the
 426 Department of Education, the clerk of the Education Practices
 427 Commission shall issue to the educator an order to show cause,
 428 or the commissioner may shall issue an administrative complaint,
 429 ~~and the case shall proceed under ss. 1012.795 and 1012.796,~~ in
 430 the same manner as in cases based on a failure to comply with an
 431 order of the Education Practices Commission.

432 (e) If the person voluntarily entered into a treatment
 433 contract with the program, the program administrator
 434 ~~commissioner~~ shall issue a written notice stating the reasons
 435 for the determination of ineligibility. Within 20 days after the
 436 date of such notice, the person may contest the determination of
 437 ineligibility pursuant to ss. 120.569 and 120.57.

438 Section 7. Subsection (4) of section 943.0585, Florida
 439 Statutes, is amended to read:

440 943.0585 Court-ordered expunction of criminal history
 441 records.--The courts of this state have jurisdiction over their
 442 own procedures, including the maintenance, expunction, and
 443 correction of judicial records containing criminal history
 444 information to the extent such procedures are not inconsistent
 445 with the conditions, responsibilities, and duties established by
 446 this section. Any court of competent jurisdiction may order a
 447 criminal justice agency to expunge the criminal history record
 448 of a minor or an adult who complies with the requirements of
 449 this section. The court shall not order a criminal justice
 450 agency to expunge a criminal history record until the person



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451 seeking to expunge a criminal history record has applied for and
452 received a certificate of eligibility for expunction pursuant to
453 subsection (2). A criminal history record that relates to a
454 violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s.
455 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s.
456 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in
457 s. 907.041 may not be expunged, without regard to whether
458 adjudication was withheld, if the defendant was found guilty of
459 or pled guilty or nolo contendere to the offense, or if the
460 defendant, as a minor, was found to have committed, or pled
461 guilty or nolo contendere to committing, the offense as a
462 delinquent act. The court may only order expunction of a
463 criminal history record pertaining to one arrest or one incident
464 of alleged criminal activity, except as provided in this
465 section. The court may, at its sole discretion, order the
466 expunction of a criminal history record pertaining to more than
467 one arrest if the additional arrests directly relate to the
468 original arrest. If the court intends to order the expunction of
469 records pertaining to such additional arrests, such intent must
470 be specified in the order. A criminal justice agency may not
471 expunge any record pertaining to such additional arrests if the
472 order to expunge does not articulate the intention of the court
473 to expunge a record pertaining to more than one arrest. This
474 section does not prevent the court from ordering the expunction
475 of only a portion of a criminal history record pertaining to one
476 arrest or one incident of alleged criminal activity.
477 Notwithstanding any law to the contrary, a criminal justice
478 agency may comply with laws, court orders, and official requests
479 of other jurisdictions relating to expunction, correction, or
480 confidential handling of criminal history records or information



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481 derived therefrom. This section does not confer any right to the
482 expunction of any criminal history record, and any request for
483 expunction of a criminal history record may be denied at the
484 sole discretion of the court.

485 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
486 criminal history record of a minor or an adult which is ordered
487 expunged by a court of competent jurisdiction pursuant to this
488 section must be physically destroyed or obliterated by any
489 criminal justice agency having custody of such record; except
490 that any criminal history record in the custody of the
491 department must be retained in all cases. A criminal history
492 record ordered expunged that is retained by the department is
493 confidential and exempt from the provisions of s. 119.07(1) and
494 s. 24(a), Art. I of the State Constitution and not available to
495 any person or entity except upon order of a court of competent
496 jurisdiction. A criminal justice agency may retain a notation
497 indicating compliance with an order to expunge.

498 (a) The person who is the subject of a criminal history
499 record that is expunged under this section or under other
500 provisions of law, including former s. 893.14, former s. 901.33,
501 and former s. 943.058, may lawfully deny or fail to acknowledge
502 the arrests covered by the expunged record, except when the
503 subject of the record:

- 504 1. Is a candidate for employment with a criminal justice
505 agency;
- 506 2. Is a defendant in a criminal prosecution;
- 507 3. Concurrently or subsequently petitions for relief under
508 this section or s. 943.059;
- 509 4. Is a candidate for admission to The Florida Bar;
- 510 5. Is seeking to be employed or licensed by or to contract



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511 with the Department of Children and Family Services or the
512 Department of Juvenile Justice or to be employed or used by such
513 contractor or licensee in a sensitive position having direct
514 contact with children, the developmentally disabled, the aged,
515 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.
516 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
517 409.175(2)(i), s. 415.102(4), s. 985.407, or chapter 400; or

518 6. Is seeking to be employed or licensed by ~~the Office of~~
519 ~~Teacher Education, Certification, Staff Development, and~~
520 ~~Professional Practices of~~ the Department of Education, any
521 district school board, any university laboratory school, any
522 charter school, any private or parochial school, or any local
523 governmental entity that licenses child care facilities.

524 (b) Subject to the exceptions in paragraph (a), a person
525 who has been granted an expunction under this section, former s.
526 893.14, former s. 901.33, or former s. 943.058 may not be held
527 under any provision of law of this state to commit perjury or to
528 be otherwise liable for giving a false statement by reason of
529 such person's failure to recite or acknowledge an expunged
530 criminal history record.

531 (c) Information relating to the existence of an expunged
532 criminal history record which is provided in accordance with
533 paragraph (a) is confidential and exempt from the provisions of
534 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
535 except that the department shall disclose the existence of a
536 criminal history record ordered expunged to the entities set
537 forth in subparagraphs (a)1., 4., 5., and 6. for their
538 respective licensing and employment purposes, and to criminal
539 justice agencies for their respective criminal justice purposes.
540 It is unlawful for any employee of an entity set forth in



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541 subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or
542 subparagraph (a)6. to disclose information relating to the
543 existence of an expunged criminal history record of a person
544 seeking employment or licensure with such entity or contractor,
545 except to the person to whom the criminal history record relates
546 or to persons having direct responsibility for employment or
547 licensure decisions. Any person who violates this paragraph
548 commits a misdemeanor of the first degree, punishable as
549 provided in s. 775.082 or s. 775.083.

550 Section 8. Subsection (4) of section 943.059, Florida
551 Statutes, is amended to read:

552 943.059 Court-ordered sealing of criminal history
553 records.--The courts of this state shall continue to have
554 jurisdiction over their own procedures, including the
555 maintenance, sealing, and correction of judicial records
556 containing criminal history information to the extent such
557 procedures are not inconsistent with the conditions,
558 responsibilities, and duties established by this section. Any
559 court of competent jurisdiction may order a criminal justice
560 agency to seal the criminal history record of a minor or an
561 adult who complies with the requirements of this section. The
562 court shall not order a criminal justice agency to seal a
563 criminal history record until the person seeking to seal a
564 criminal history record has applied for and received a
565 certificate of eligibility for sealing pursuant to subsection
566 (2). A criminal history record that relates to a violation of s.
567 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.
568 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.
569 847.0145, s. 893.135, or a violation enumerated in s. 907.041
570 may not be sealed, without regard to whether adjudication was



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571 withheld, if the defendant was found guilty of or pled guilty or
572 nolo contendere to the offense, or if the defendant, as a minor,
573 was found to have committed or pled guilty or nolo contendere to
574 committing the offense as a delinquent act. The court may only
575 order sealing of a criminal history record pertaining to one
576 arrest or one incident of alleged criminal activity, except as
577 provided in this section. The court may, at its sole discretion,
578 order the sealing of a criminal history record pertaining to
579 more than one arrest if the additional arrests directly relate
580 to the original arrest. If the court intends to order the
581 sealing of records pertaining to such additional arrests, such
582 intent must be specified in the order. A criminal justice agency
583 may not seal any record pertaining to such additional arrests if
584 the order to seal does not articulate the intention of the court
585 to seal records pertaining to more than one arrest. This section
586 does not prevent the court from ordering the sealing of only a
587 portion of a criminal history record pertaining to one arrest or
588 one incident of alleged criminal activity. Notwithstanding any
589 law to the contrary, a criminal justice agency may comply with
590 laws, court orders, and official requests of other jurisdictions
591 relating to sealing, correction, or confidential handling of
592 criminal history records or information derived therefrom. This
593 section does not confer any right to the sealing of any criminal
594 history record, and any request for sealing a criminal history
595 record may be denied at the sole discretion of the court.

596 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal
597 history record of a minor or an adult which is ordered sealed by
598 a court of competent jurisdiction pursuant to this section is
599 confidential and exempt from the provisions of s. 119.07(1) and
600 s. 24(a), Art. I of the State Constitution and is available only



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601 to the person who is the subject of the record, to the subject's
 602 attorney, to criminal justice agencies for their respective
 603 criminal justice purposes, or to those entities set forth in
 604 subparagraphs (a)1., 4., 5., and 6. for their respective
 605 licensing and employment purposes.

606 (a) The subject of a criminal history record sealed under
 607 this section or under other provisions of law, including former
 608 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
 609 deny or fail to acknowledge the arrests covered by the sealed
 610 record, except when the subject of the record:

- 611 1. Is a candidate for employment with a criminal justice
 612 agency;
- 613 2. Is a defendant in a criminal prosecution;
- 614 3. Concurrently or subsequently petitions for relief under
 615 this section or s. 943.0585;
- 616 4. Is a candidate for admission to The Florida Bar;
- 617 5. Is seeking to be employed or licensed by or to contract
 618 with the Department of Children and Family Services or the
 619 Department of Juvenile Justice or to be employed or used by such
 620 contractor or licensee in a sensitive position having direct
 621 contact with children, the developmentally disabled, the aged,
 622 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.
 623 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
 624 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter
 625 400; or
- 626 6. Is seeking to be employed or licensed by ~~the Office of~~
 627 ~~Teacher Education, Certification, Staff Development, and~~
 628 ~~Professional Practices of~~ the Department of Education, any
 629 district school board, any university laboratory school, any
 630 charter school, any private or parochial school, or any local



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631 governmental entity that ~~which~~ licenses child care facilities.

632 (b) Subject to the exceptions in paragraph (a), a person
633 who has been granted a sealing under this section, former s.
634 893.14, former s. 901.33, or former s. 943.058 may not be held
635 under any provision of law of this state to commit perjury or to
636 be otherwise liable for giving a false statement by reason of
637 such person's failure to recite or acknowledge a sealed criminal
638 history record.

639 (c) Information relating to the existence of a sealed
640 criminal record provided in accordance with the provisions of
641 paragraph (a) is confidential and exempt from the provisions of
642 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
643 except that the department shall disclose the sealed criminal
644 history record to the entities set forth in subparagraphs (a)1.,
645 4., 5., and 6. for their respective licensing and employment
646 purposes. It is unlawful for any employee of an entity set forth
647 in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5.,
648 or subparagraph (a)6. to disclose information relating to the
649 existence of a sealed criminal history record of a person
650 seeking employment or licensure with such entity or contractor,
651 except to the person to whom the criminal history record relates
652 or to persons having direct responsibility for employment or
653 licensure decisions. Any person who violates the provisions of
654 this paragraph commits a misdemeanor of the first degree,
655 punishable as provided in s. 775.082 or s. 775.083.

656 Section 9. This act shall take effect upon becoming a law.