



A bill to be entitled

An act relating to educator certification and discipline; amending s. 1012.56, F.S.; requiring an affidavit for educator certification; creating s. 1012.561, F.S.; requiring certified educators and applicants for certification to provide notification of change of address; authorizing service by regular mail for certain purposes; amending s. 1012.79, F.S.; revising the number of members required for certain panels of the Education Practices Commission; amending s. 1012.795, F.S., relating to the Education Practices Commission's authority to discipline; revising grounds for discipline; providing penalties; amending s. 1012.796, F.S.; requiring certain agencies to provide unredacted documents to the Department of Education for purposes of investigating and prosecuting certified educators; providing requirements for an educator who is on probation; revising penalties that the Education Practices Commission may impose; revising criteria for the use of an order to show cause; amending s. 1012.798, F.S.; revising provisions relating to the recovery network program for educators; amending s. 943.0585, F.S.; allowing certain employers of educators to have access to expunged records; amending s. 943.059, F.S.; allowing certain employers of educators to have access to sealed records; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 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, except for an administrative complaint or a
76 notice of denial, to the educator or applicant by the Department
77 of Education, the Education Practices Commission, or the
78 Recovery Network for Educators.

79 Section 3. Paragraph (a) of subsection (8) of section
80 1012.79, Florida Statutes, is amended to read:

81 1012.79 Education Practices Commission; organization.--

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



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91 three ~~four~~ of whom shall be administrators.

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

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

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

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

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



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121 (c) Has been guilty of gross immorality or an act
122 involving moral turpitude.

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

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

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

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

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

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

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

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

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

149 (2) The plea of guilty in any court, the decision of
150 guilty by any court, the forfeiture by the teaching



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

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

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

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



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

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

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

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

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

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



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211 of sanctions by the Education Practices Commission on two
 212 previous occasions. under the following circumstances:

213 1. ~~If the individual:~~

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

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

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

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

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

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

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

240 (1)



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

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

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

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



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- 271 (b) Revocation or suspension of a certificate.
- 272 (c) Imposition of an administrative fine not to exceed
273 \$2,000 for each count or separate offense.
- 274 (d) Placement of the teacher, administrator, or supervisor
275 on probation for a period of time and subject to such conditions
276 as the commission may specify, including requiring the certified
277 teacher, administrator, or supervisor to complete additional
278 appropriate college courses or work with another certified
279 educator, with the administrative costs of monitoring the
280 probation assessed to the educator placed on probation. At a
281 minimum, an educator who is on probation shall:
- 282 1. Immediately notify the Bureau of Educator Standards
283 upon his or her employment or termination of employment in the
284 state in any public or private position that requires a Florida
285 educator's certificate.
- 286 2. Have his or her immediate supervisor submit annual
287 performance reports to the Bureau of Educator Standards.
- 288 3. Pay to the commission within the first 6 months of each
289 probation year the administrative costs of monitoring probation
290 which have been assessed to him or her.
- 291 4. Not violate any law, and shall fully comply with all
292 district school board policies, school rules, and State Board of
293 Education rules.
- 294 5. Satisfactorily perform his or her assigned duties in a
295 competent, professional manner.
- 296 6. Bear all costs of complying with the terms of a final
297 order entered by the commission.
- 298 (e) Restriction of the authorized scope of practice of the
299 teacher, administrator, or supervisor.
- 300 (f) Reprimand of the teacher, administrator, or supervisor



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301 in writing, with a copy to be placed in the certification file
302 of such person.

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

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

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

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

327 1012.798 Recovery network program for educators.--

328 (1) RECOVERY NETWORK ESTABLISHED.--There is created within
329 the Department of Education, a recovery network program to
330 assist educators who are impaired as a result of alcohol abuse,



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331 drug abuse, or a mental condition in obtaining treatment ~~to~~
 332 ~~permit their continued contribution to the education profession.~~

333 Any person who has applied for or holds certification issued by
 334 the department pursuant to s. 1012.56 is eligible for the
 335 program assistance. The individual may enter the program
 336 voluntarily or may be directed to participate through a deferred
 337 prosecution agreement with the Commissioner of Education or a
 338 final order of the Education Practices Commission pursuant to s.
 339 1012.796.

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

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

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

360 1. Acknowledges his or her impairment.



361 2. Agrees to evaluation, as approved by the recovery
362 network.

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

365 4. Executes releases for all medical and treatment records
366 regarding his or her impairment and participation in a treatment
367 program to the recovery network, pursuant to 42 U.S.C. s. 290dd-
368 3 and the federal regulations adopted thereunder.

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

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

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

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

383 (10) DECLARATION OF INELIGIBILITY.--

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

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



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

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



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

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

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

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



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



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

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

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

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



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511 5. Is seeking to be employed or licensed by or to contract
512 with the Department of Children and Family Services or the
513 Department of Juvenile Justice or to be employed or used by such
514 contractor or licensee in a sensitive position having direct
515 contact with children, the developmentally disabled, the aged,
516 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.
517 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
518 409.175(2)(i), s. 415.102(4), s. 985.407, or chapter 400; or

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

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

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



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

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

553 943.059 Court-ordered sealing of criminal history
554 records.--The courts of this state shall continue to have
555 jurisdiction over their own procedures, including the
556 maintenance, sealing, and correction of judicial records
557 containing criminal history information to the extent such
558 procedures are not inconsistent with the conditions,
559 responsibilities, and duties established by this section. Any
560 court of competent jurisdiction may order a criminal justice
561 agency to seal the criminal history record of a minor or an
562 adult who complies with the requirements of this section. The
563 court shall not order a criminal justice agency to seal a
564 criminal history record until the person seeking to seal a
565 criminal history record has applied for and received a
566 certificate of eligibility for sealing pursuant to subsection
567 (2). A criminal history record that relates to a violation of s.
568 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.
569 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.
570 847.0145, s. 893.135, or a violation enumerated in s. 907.041



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571 may not be sealed, without regard to whether adjudication was
572 withheld, if the defendant was found guilty of or pled guilty or
573 nolo contendere to the offense, or if the defendant, as a minor,
574 was found to have committed or pled guilty or nolo contendere to
575 committing the offense as a delinquent act. The court may only
576 order sealing of a criminal history record pertaining to one
577 arrest or one incident of alleged criminal activity, except as
578 provided in this section. The court may, at its sole discretion,
579 order the sealing of a criminal history record pertaining to
580 more than one arrest if the additional arrests directly relate
581 to the original arrest. If the court intends to order the
582 sealing of records pertaining to such additional arrests, such
583 intent must be specified in the order. A criminal justice agency
584 may not seal any record pertaining to such additional arrests if
585 the order to seal does not articulate the intention of the court
586 to seal records pertaining to more than one arrest. This section
587 does not prevent the court from ordering the sealing of only a
588 portion of a criminal history record pertaining to one arrest or
589 one incident of alleged criminal activity. Notwithstanding any
590 law to the contrary, a criminal justice agency may comply with
591 laws, court orders, and official requests of other jurisdictions
592 relating to sealing, correction, or confidential handling of
593 criminal history records or information derived therefrom. This
594 section does not confer any right to the sealing of any criminal
595 history record, and any request for sealing a criminal history
596 record may be denied at the sole discretion of the court.

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



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601 s. 24(a), Art. I of the State Constitution and is available only
 602 to the person who is the subject of the record, to the subject's
 603 attorney, to criminal justice agencies for their respective
 604 criminal justice purposes, or to those entities set forth in
 605 subparagraphs (a)1., 4., 5., and 6. for their respective
 606 licensing and employment purposes.

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

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



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631 charter school, any private or parochial school, or any local
632 governmental entity that ~~which~~ licenses child care facilities.

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

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

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