

By Senator Clary

4-1220-03

1 A bill to be entitled
2 An act relating to educator certification and
3 discipline; creating s. 1012.561, F.S.;
4 requiring each certified educator and applicant
5 for certification as an educator to notify the
6 Bureau of Educator Certification in writing of
7 his or her current mailing address; providing a
8 penalty for noncompliance; authorizing service
9 by regular mail for certain purposes; amending
10 s. 1012.79, F.S.; amending the number of
11 members required for certain panels of the
12 Education Practices Commission; amending s.
13 1012.795, F.S., relating to the Education
14 Practices Commission's authority to discipline;
15 revising grounds for discipline; providing
16 penalties; amending s. 1012.796, F.S.;
17 requiring certain agencies to provide
18 unredacted documents to the Department of
19 Education for purposes of investigating and
20 prosecuting certified educators and applicants
21 for certification; providing minimum standards
22 that a probationer must meet; revising
23 penalties that the Education Practices
24 Commission may impose; revising criteria for
25 the use of an order to show cause; amending s.
26 1012.798, F.S.; revising provisions relating to
27 the recovery network program for educators;
28 amending s. 943.0585, F.S.; allowing certain
29 employers of educators to have access to
30 expunged records; amending s. 943.059, F.S.;
31 allowing certain employers of educators to have

1 access to sealed records; providing an
2 effective date.

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

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6 Section 1. Section 1012.561, Florida Statutes, is
7 created to read:

8 1012.561 Address of record.--

9 (1) Each certified educator or applicant for
10 certification as an educator is solely responsible for
11 notifying the Bureau of Educator Certification in writing of
12 his or her current mailing address and for notifying the
13 bureau of a change of address. A certified educator or
14 applicant for certification who is employed by a district
15 school board must notify his or her employing school district
16 of a change of address within 10 days after the change has
17 occurred. The employing district school board must notify the
18 bureau of the change of address, in the manner prescribed by
19 the Department of Education, within 20 days after the school
20 board receives notification from the certified educator or
21 applicant for certification. A certified educator or applicant
22 for certification who is not employed by a district school
23 board must personally notify the bureau in writing of a change
24 of address within 30 days after the change has occurred. The
25 bureau shall allow electronic notification; however, the
26 certified educator or applicant for certification is
27 responsible for ensuring that the bureau has received the
28 electronic notification. Failure to notify the bureau of a
29 change of address constitutes a violation of this section, and
30 the certified educator or applicant for certification may be

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1 disciplined by the Education Practices Commission as provided
2 in s. 1012.795 for such a failure.

3 (2) Notwithstanding any other provision of law to the
4 contrary, effective January 1, 2004, service by regular mail
5 to a certified educator's or applicant's last known address of
6 record with the bureau constitutes adequate and sufficient
7 notice to the certified educator or applicant of any official
8 communication to the educator or applicant by the Department
9 of Education, the Education Practices Commission, or the
10 Recovery Network for Educators.

11 Section 2. Paragraph (a) of subsection (8) of section
12 1012.79, Florida Statutes, is amended to read:

13 1012.79 Education Practices Commission;
14 organization.--

15 (8)(a) The commission shall, from time to time,
16 designate members of the commission to serve on panels for the
17 purpose of reviewing and issuing final orders upon cases
18 presented to the commission. A case concerning a complaint
19 against a teacher shall be reviewed and a final order thereon
20 shall be entered by a panel composed of five ~~seven~~ commission
21 members, three ~~four~~ of whom shall be teachers. A case
22 concerning a complaint against an administrator shall be
23 reviewed and a final order thereon shall be entered by a panel
24 composed of five ~~seven~~ commission members, three ~~four~~ of whom
25 shall be administrators.

26 Section 3. Section 1012.795, Florida Statutes, is
27 amended to read:

28 1012.795 Education Practices Commission; authority to
29 discipline.--

30 (1) The Education Practices Commission may suspend the
31 educator certificate of any person as defined in s. 1012.01(2)

1 or (3) for a period of time not to exceed 5 ~~3~~ years, thereby
2 denying that person the privilege right to teach or otherwise
3 be employed in a public school in any capacity that requires
4 direct contact with students for that period of time, after
5 which the holder may return to teaching as provided in
6 subsection (4); may revoke the educator certificate of any
7 person, thereby denying that person the privilege right to
8 teach or otherwise be employed in a public school in any
9 capacity that requires direct contact with students for a
10 period of time not to exceed 10 years, with reinstatement
11 subject to the provisions of subsection (4); may revoke
12 permanently the educator certificate of any person, thereby
13 denying that person the privilege to teach or otherwise be
14 employed in a public school in any capacity that requires
15 direct contact with students; may suspend the educator
16 certificate, upon order of the court, of any person found to
17 have a delinquent child support obligation; or may impose any
18 other penalty provided by law, if ~~provided~~ it can be shown
19 that the person:

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

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

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

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

29 (e) Has been convicted of a crime in any jurisdiction
30 ~~misdemeanor, felony, or any other criminal charge~~, other than
31 a minor traffic violation. As used in this paragraph, the term

1 "conviction" means a finding of guilt, a plea of guilty, a
2 plea of nolo contendere, or entering a pretrial intervention
3 program, whether or not there is a formal adjudication of
4 guilt.

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

8 (g) Has breached a contract, as provided in s.
9 1012.33(2).

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

13 (i) Has violated the Principles of Professional
14 Conduct for the Education Profession prescribed by State Board
15 of Education rules.

16 (j) Has otherwise violated the provisions of law, the
17 penalty for which is the revocation of the educator
18 certificate.

19 (k) Has violated any order of the Education Practices
20 Commission.

21 (l) Has failed to maintain a current address with the
22 Bureau of Educator Certification as required under s.
23 1012.561.

24 (m) Has been the subject of a court order or plea
25 agreement in any jurisdiction which requires the
26 certificateholder to surrender or otherwise relinquish his or
27 her educator's certificate. Any surrender or relinquishment
28 constitutes a permanent revocation of the certificate. A
29 person may not surrender or otherwise relinquish his or her
30 certificate prior to a finding of probable cause by the
31 commissioner as provided in s. 1012.796.

1 (2) A finding of guilt, a ~~The~~ plea of guilty, or a
2 plea of nolo contendere to any crime in any jurisdiction other
3 than a minor traffic violation, whether or not there is a
4 formal adjudication of guilt; entering a pretrial intervention
5 program concerning any crime in any jurisdiction;~~in any~~
6 ~~court, the decision of guilty by any court,~~ the forfeiture by
7 the teaching certificateholder of a bond in any court of law;
8 or the written acknowledgment, duly witnessed, of offenses
9 listed in subsection (1) to the district school superintendent
10 or a duly appointed representative or to the district school
11 board constitutes ~~shall be~~ prima facie proof of grounds for
12 revocation of the certificate as listed in subsection (1) in
13 the absence of proof by the certificateholder that the plea of
14 guilty, forfeiture of bond, or admission of guilt was caused
15 by threats, coercion, or fraudulent means.

16 (3) The revocation by the Education Practices
17 Commission of an educator certificate of any person
18 automatically revokes any and all Florida educator
19 certificates held by that person.

20 (4)(a) An educator certificate which has been
21 suspended under this section is automatically reinstated at
22 the end of the suspension period, provided the certificate did
23 not expire during the period of suspension. If the
24 certificate expired during the period of suspension, the
25 holder of the former certificate may secure a new certificate
26 by making application therefor and by meeting the
27 certification requirements of the state board current at the
28 time of the application for the new certificate. An educator
29 certificate suspended pursuant to a court order for a
30 delinquent child support obligation may only be reinstated

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1 upon notice from the court that the party has complied with
2 the terms of the court order.

3 (b) A person whose educator certificate has been
4 revoked under this section may apply for a new certificate at
5 the expiration of that period of ineligibility fixed by the
6 Education Practices Commission by making application therefor
7 and by meeting the certification requirements of the state
8 board current at the time of the application for the new
9 certificate.

10 (5) Each district school superintendent and the
11 governing authority of each university lab school,
12 state-supported school, or private school shall report to the
13 department the name of any person certified pursuant to this
14 chapter or employed and qualified pursuant to s. 1012.39:

15 (a) Who has been convicted of a crime in any
16 jurisdiction, other than a minor traffic violation. As used in
17 this paragraph, the term "conviction" means a finding of
18 guilt, a plea of guilty, a plea of nolo contendere, or
19 entering a pretrial intervention program, whether or not there
20 is a formal adjudication of guilt, or who has pled nolo
21 contendere to, a misdemeanor, felony, or any other criminal
22 charge, other than a minor traffic infraction;

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

26 (c) Who has been dismissed or severed from employment
27 because of conduct involving any immoral, unnatural, or
28 lascivious act.

29 (6)(a) When an individual violates any provision of
30 ~~the provisions of a settlement agreement enforced by a final~~
31 order of the Education Practices Commission, the Department of

1 Education may request that ~~an order to show cause may be~~
2 ~~issued by~~ the clerk of the commission issue an order to show
3 cause. The order shall require the individual to appear before
4 the commission to show cause why further penalties should not
5 be levied against the individual's certificate pursuant to the
6 authority provided to the Education Practices Commission in
7 subsection (1). The Education Practices Commission may fashion
8 further penalties under the authority of subsection (1) as it
9 deems ~~deemed~~ appropriate upon considering ~~when~~ the show cause
10 order ~~is responded to by the individual~~.

11 (b) The Education Practices Commission shall issue a
12 final order revoking an individual's Florida educator's
13 certificate for a minimum of 1 year if the individual has been
14 the subject of sanctions by the Education Practices Commission
15 on two previous occasions.~~under the following circumstances:~~

16 ~~i. If the individual:~~

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

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

24 ~~c. Has been found to have violated the provisions of~~
25 ~~this section, such that the Education Practices Commission has~~
26 ~~the authority to discipline the individual's Florida~~
27 ~~educator's certificate on one occasion and entered into a~~
28 ~~settlement agreement enforced by a final order of the~~
29 ~~Education Practices Commission on one occasion; and~~

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

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5 ~~If, in the third instance, the individual enters into a~~
6 ~~settlement agreement with the Department of Education, that~~
7 ~~agreement shall also include a penalty revoking that~~
8 ~~individual's Florida educator's certificate for a minimum of 1~~
9 ~~year.~~

10 Section 4. Paragraph (d) is added to subsection (1) of
11 section 1012.796, Florida Statutes, and subsections (6), (7),
12 and (8) of that section are amended, to read:

13 1012.796 Complaints against teachers and
14 administrators; procedure; penalties.--

15 (1)

16 (d) Notwithstanding any other provision of law to the
17 contrary, all law enforcement agencies, state attorneys,
18 social service agencies, and district school boards, and the
19 Division of Administrative Hearings, shall fully cooperate
20 with, and upon request shall provide unredacted documents to,
21 the Department of Education to further investigations and
22 prosecutions conducted as authorized by this section. Any such
23 document may not be redisclosed except as authorized by law.

24 (6) Upon the finding of probable cause, the
25 commissioner shall file a formal complaint and prosecute the
26 complaint pursuant to the provisions of chapter 120, except as
27 provided in s. 1012.561. An administrative law judge shall be
28 assigned by the Division of Administrative Hearings of the
29 Department of Management Services to hear the complaint if
30 there are disputed issues of material fact. The administrative
31 law judge shall make recommendations in accordance with the

1 provisions of subsection (7) to the appropriate Education
2 Practices Commission panel which shall conduct a formal review
3 of such recommendations and other pertinent information and
4 issue a final order. The commission shall consult with its
5 legal counsel prior to issuance of a final order.

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

9 (a) Denial of an application for a teaching
10 certificate or for an administrative or supervisory
11 endorsement on a teaching certificate. The denial may provide
12 that the applicant may not reapply for certification, and that
13 the department may refuse to consider that applicant's
14 application, for a specified period of time or permanently.

15 (b) Revocation or suspension of a certificate.

16 (c) Imposition of an administrative fine not to exceed
17 \$2,000 for each count or separate offense.

18 (d) Placement of the teacher, administrator, or
19 supervisor on probation for a period of time and subject to
20 such conditions as the commission may specify, including
21 requiring the certified teacher, administrator, or supervisor
22 to complete additional appropriate college courses or work
23 with another certified educator, with the administrative costs
24 of monitoring the probation assessed to the educator placed on
25 probation. At a minimum, an educator who is on probation
26 shall:

27 1. Immediately notify the Bureau of Educator Standards
28 upon his or her employment or termination of employment in the
29 state in any public or private position that requires a
30 Florida educator's certificate.

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

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

6 4. Not violate any law and shall fully comply with all
7 district school board policies, school rules, and State Board
8 of Education rules.

9 5. Satisfactorily perform his or her assigned duties
10 in a competent, professional manner.

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

13 (e) Restriction of the authorized scope of practice of
14 the teacher, administrator, or supervisor.

15 (f) Reprimand of the teacher, administrator, or
16 supervisor in writing, with a copy to be placed in the
17 certification file of such person.

18 (g) Imposition of an administrative sanction, upon a
19 person whose teaching certificate has expired, for an act or
20 acts committed while that person possessed a teaching
21 certificate or an expired certificate subject to late renewal,
22 which sanction bars that person from applying for a new
23 certificate for a period of 10 years or less, or permanently.

24 (h) Refer the teacher, administrator, or supervisor to
25 the recovery network program provided in s. 1012.798 under
26 such terms and conditions as the commission specifies.

27 (8) Violations of the provisions of a final order
28 ~~probation~~ shall result in an order to show cause issued by the
29 clerk of the Education Practices Commission when requested by
30 the Department of Education. Upon failure of the educator
31 ~~probationer~~, at the time and place stated in the order, to

1 show cause satisfactorily to the Education Practices
2 Commission why a penalty for violating the provisions of a
3 final order ~~probation~~ should not be imposed, the Education
4 Practices Commission shall impose whatever penalty is
5 appropriate as established in s. 1012.795(6). Any probation
6 period will be tolled when an order to show cause has been
7 issued until the issue is resolved by the Education Practices
8 Commission.

9 Section 5. Subsections (1), (3), and (10) and
10 paragraph (c) of subsection (6) of section 1012.798, Florida
11 Statutes, are amended to read:

12 1012.798 Recovery network program for educators.--

13 (1) RECOVERY NETWORK ESTABLISHED.--There is created
14 within the Department of Education, a recovery network program
15 to assist educators who are impaired as a result of alcohol
16 abuse, drug abuse, or a mental condition in obtaining
17 treatment ~~to permit their continued contribution to the~~
18 ~~education profession.~~ Any person who has applied for or holds
19 certification issued by the department pursuant to s. 1012.56
20 is eligible for the program assistance. The individual may
21 enter the program voluntarily or may be directed to
22 participate through a deferred prosecution agreement with the
23 Commissioner of Education or a final order of the Education
24 Practices Commission pursuant to s. 1012.796.

25 (3) PURPOSE.--The recovery network program shall
26 assist educators in obtaining treatment and services from
27 approved treatment providers, but each impaired educator must
28 pay for his or her treatment under terms and conditions agreed
29 upon by the impaired educator and the treatment provider. A
30 person who is admitted to the recovery network program must
31 contract with the treatment provider and the program. The

1 treatment contract must prescribe the type of treatment and
2 the responsibilities of the impaired educator and of the
3 provider and must provide that the impaired educator's
4 progress will be monitored by the recovery network program.

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

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

- 14 1. Acknowledges his or her impairment.
- 15 2. Agrees to evaluation, as approved by the recovery
16 network.
- 17 3. Agrees to enroll in an appropriate treatment
18 program approved by the recovery network.
- 19 4. Executes releases for all medical and treatment
20 records regarding his or her impairment and participation in a
21 treatment program to the recovery network, pursuant to 42
22 U.S.C. s. 290dd-3 and the federal regulations adopted
23 thereunder.
- 24 5. Enters into a deferred prosecution agreement with
25 the commissioner, which provides that no prosecution shall be
26 instituted concerning the matters enumerated in the agreement
27 if the person is properly enrolled in the treatment program
28 and successfully completes the program as certified by the
29 recovery network. The commissioner is under no obligation to
30 enter into a deferred prosecution agreement with the educator
31 but may do so if he or she determines that it is in the best

1 interest of the educational program of the state and the
2 educator:-

3 a.6. Has not previously entered a substance abuse
4 program.

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

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

10 (10) DECLARATION OF INELIGIBILITY.--

11 (a) A person may be declared ineligible for further
12 assistance from the recovery network program if he or she does
13 not progress satisfactorily in a treatment program or leaves a
14 prescribed program or course of treatment without the approval
15 of the treatment provider.

16 (b) The determination of ineligibility must be made by
17 ~~the commissioner in cases referred to him or her by the~~
18 ~~program administrator or his or her designee after review of~~
19 ~~the circumstances of the case. Before referring a case to the~~
20 ~~commissioner, the administrator must discuss the circumstances~~
21 ~~with the treatment provider. The commissioner may direct the~~
22 ~~Office of Professional Practices Services to investigate the~~
23 ~~case and provide a report.~~

24 (c) If ~~a~~ treatment through contract with the program
25 is a condition of a deferred prosecution agreement, and the
26 program administrator ~~commissioner~~ determines that the person
27 is ineligible for further assistance, the commissioner may
28 agree to modify the terms and conditions of the deferred
29 prosecution agreement or may issue an administrative
30 complaint, pursuant to s. 1012.796, alleging the charges
31 regarding which prosecution was deferred. The person may

1 dispute the determination as an affirmative defense to the
2 administrative complaint by including with his or her request
3 for hearing on the administrative complaint a written
4 statement setting forth the facts and circumstances that show
5 that the determination of ineligibility was erroneous. If
6 administrative proceedings regarding the administrative
7 complaint, pursuant to ss. 120.569 and 120.57, result in a
8 finding that the determination of ineligibility was erroneous,
9 the person is eligible to participate in the program. If the
10 determination of ineligibility was the only reason for setting
11 aside the deferred prosecution agreement and issuing the
12 administrative complaint and the administrative proceedings
13 result in a finding that the determination was erroneous, the
14 complaint shall be dismissed and the deferred prosecution
15 agreement reinstated without prejudice to the commissioner's
16 right to reissue the administrative complaint for other
17 breaches of the agreement.

18 (d) If a treatment through ~~contract with~~ the program
19 is a condition of a final order of the Education Practices
20 Commission, the program administrator's ~~commissioner's~~
21 determination of ineligibility constitutes a finding ~~of~~
22 ~~probable cause~~ that the person failed to comply with the final
23 order. Pursuant to ss. 1012.795 and 1012.796, upon the request
24 of the Department of Education, the clerk of the Education
25 Practices Commission shall issue to the educator an order to
26 show cause, or the commissioner may ~~shall~~ issue an
27 administrative complaint, ~~and the case shall proceed under ss.~~
28 ~~1012.795 and 1012.796,~~ in the same manner as in cases based on
29 a failure to comply with an order of the Education Practices
30 Commission.

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1 (e) If the person voluntarily entered into a treatment
2 contract with the program, the program administrator
3 ~~commissioner~~ shall issue a written notice stating the reasons
4 for the determination of ineligibility. Within 20 days after
5 the date of such notice, the person may contest the
6 determination of ineligibility pursuant to ss. 120.569 and
7 120.57.

8 Section 6. Subsection (4) of section 943.0585, Florida
9 Statutes, is amended to read:

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

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

25 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
26 criminal history record of a minor or an adult which is
27 ordered expunged by a court of competent jurisdiction pursuant
28 to this section must be physically destroyed or obliterated by
29 any criminal justice agency having custody of such record;
30 except that any criminal history record in the custody of the
31 department must be retained in all cases. A criminal history

1 record ordered expunged that is retained by the department is
2 confidential and exempt from the provisions of s. 119.07(1)
3 and s. 24(a), Art. I of the State Constitution and not
4 available to any person or entity except upon order of a court
5 of competent jurisdiction. A criminal justice agency may
6 retain a notation indicating compliance with an order to
7 expunge.

8 (a) The person who is the subject of a criminal
9 history record that is expunged under this section or under
10 other provisions of law, including former s. 893.14, former s.
11 901.33, and former s. 943.058, may lawfully deny or fail to
12 acknowledge the arrests covered by the expunged record, except
13 when the subject of the record:

- 14 1. Is a candidate for employment with a criminal
15 justice agency;
- 16 2. Is a defendant in a criminal prosecution;
- 17 3. Concurrently or subsequently petitions for relief
18 under this section or s. 943.059;
- 19 4. Is a candidate for admission to The Florida Bar;
- 20 5. Is seeking to be employed or licensed by or to
21 contract with the Department of Children and Family Services
22 or the Department of Juvenile Justice or to be employed or
23 used by such contractor or licensee in a sensitive position
24 having direct contact with children, the developmentally
25 disabled, the aged, or the elderly as provided in s.
26 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
27 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
28 985.407, or chapter 400; or
- 29 6. Is seeking to be employed or licensed by ~~the Office~~
30 ~~of Teacher Education, Certification, Staff Development, and~~
31 ~~Professional Practices of the Department of Education, any~~

1 district school board, any university laboratory school, any
2 charter school, any private or parochial school, or any local
3 governmental entity that licenses child care facilities.

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

11 (c) Information relating to the existence of an
12 expunged criminal history record which is provided in
13 accordance with paragraph (a) is confidential and exempt from
14 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
15 State Constitution, except that the department shall disclose
16 the existence of a criminal history record ordered expunged to
17 the entities set forth in subparagraphs (a)1., 4., 5., and 6.
18 for their respective licensing and employment purposes, and to
19 criminal justice agencies for their respective criminal
20 justice purposes. It is unlawful for any employee of an entity
21 set forth in subparagraph (a)1., subparagraph (a)4.,
22 subparagraph (a)5., or subparagraph (a)6. to disclose
23 information relating to the existence of an expunged criminal
24 history record of a person seeking employment or licensure
25 with such entity or contractor, except to the person to whom
26 the criminal history record relates or to persons having
27 direct responsibility for employment or licensure decisions.
28 Any person who violates this paragraph commits a misdemeanor
29 of the first degree, punishable as provided in s. 775.082 or
30 s. 775.083.

31

1 Section 7. Subsection (4) of section 943.059, Florida
2 Statutes, is amended to read:

3 943.059 Court-ordered sealing of criminal history
4 records.--The courts of this state shall continue to have
5 jurisdiction over their own procedures, including the
6 maintenance, sealing, and correction of judicial records
7 containing criminal history information to the extent such
8 procedures are not inconsistent with the conditions,
9 responsibilities, and duties established by this section. Any
10 court of competent jurisdiction may order a criminal justice
11 agency to seal the criminal history record of a minor or an
12 adult who complies with the requirements of this section. The
13 court shall not order a criminal justice agency to seal a
14 criminal history record until the person seeking to seal a
15 criminal history record has applied for and received a
16 certificate of eligibility for sealing pursuant to subsection
17 (2). A criminal history record that relates to a violation of
18 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.
19 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
20 s. 847.0145, s. 893.135, or a violation enumerated in s.
21 907.041 may not be sealed, without regard to whether
22 adjudication was withheld, if the defendant was found guilty
23 of or pled guilty or nolo contendere to the offense, or if the
24 defendant, as a minor, was found to have committed or pled
25 guilty or nolo contendere to committing the offense as a
26 delinquent act. The court may only order sealing of a criminal
27 history record pertaining to one arrest or one incident of
28 alleged criminal activity, except as provided in this section.
29 The court may, at its sole discretion, order the sealing of a
30 criminal history record pertaining to more than one arrest if
31 the additional arrests directly relate to the original arrest.

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

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

28 (a) The subject of a criminal history record sealed
29 under this section or under other provisions of law, including
30 former s. 893.14, former s. 901.33, and former s. 943.058, may
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1 lawfully deny or fail to acknowledge the arrests covered by
2 the sealed record, except when the subject of the record:
3 1. Is a candidate for employment with a criminal
4 justice agency;
5 2. Is a defendant in a criminal prosecution;
6 3. Concurrently or subsequently petitions for relief
7 under this section or s. 943.0585;
8 4. Is a candidate for admission to The Florida Bar;
9 5. Is seeking to be employed or licensed by or to
10 contract with the Department of Children and Family Services
11 or the Department of Juvenile Justice or to be employed or
12 used by such contractor or licensee in a sensitive position
13 having direct contact with children, the developmentally
14 disabled, the aged, or the elderly as provided in s.
15 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
16 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
17 415.103, s. 985.407, or chapter 400; or
18 6. Is seeking to be employed or licensed by ~~the Office~~
19 ~~of Teacher Education, Certification, Staff Development, and~~
20 ~~Professional Practices of the Department of Education, any~~
21 ~~district school board, any university laboratory school, any~~
22 ~~charter school, any private or parochial school, or any local~~
23 governmental entity that ~~which~~ licenses child care facilities.
24 (b) Subject to the exceptions in paragraph (a), a
25 person who has been granted a sealing under this section,
26 former s. 893.14, former s. 901.33, or former s. 943.058 may
27 not be held under any provision of law of this state to commit
28 perjury or to be otherwise liable for giving a false statement
29 by reason of such person's failure to recite or acknowledge a
30 sealed criminal history record.
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1 (c) Information relating to the existence of a sealed
2 criminal record provided in accordance with the provisions of
3 paragraph (a) is confidential and exempt from the provisions
4 of s. 119.07(1) and s. 24(a), Art. I of the State
5 Constitution, except that the department shall disclose the
6 sealed criminal history record to the entities set forth in
7 subparagraphs (a)1., 4., 5., and 6. for their respective
8 licensing and employment purposes. It is unlawful for any
9 employee of an entity set forth in subparagraph (a)1.,
10 subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6.
11 to disclose information relating to the existence of a sealed
12 criminal history record of a person seeking employment or
13 licensure with such entity or contractor, except to the person
14 to whom the criminal history record relates or to persons
15 having direct responsibility for employment or licensure
16 decisions. Any person who violates the provisions of this
17 paragraph commits a misdemeanor of the first degree,
18 punishable as provided in s. 775.082 or s. 775.083.

19 Section 8. This act shall take effect upon becoming a
20 law.

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SENATE SUMMARY

Amends provisions relating to the certification and discipline of educators. Requires each certified educator and applicant for certification to notify the Bureau of Educator Certification in writing of his or her current mailing address. Provides a penalty for noncompliance. Authorizes service by regular mail for certain purposes. Amends the number of members of the Education Practices Commission required for certain panels. Revises grounds for discipline by the Education Practices Commission. Provides penalties. Requires certain agencies to provide unredacted documents to the Department of Education for purposes of investigating and prosecuting certified educators and applicants for certification. Provides minimum standards that a probationer must meet. Revises penalties that the Education Practices Commission may impose. Revises criteria for the use of an order to show cause. Revises provisions relating to the recovery network program for educators. Allows certain employers of educators to have access to expunged records and sealed records.