

By the Committee on Education; and Senator Clary

304-2046-03

1                                   A bill to be entitled  
2           An act relating to educator certification and  
3           discipline; amending s. 1012.56, F.S.;  
4           prescribing an affidavit for educator  
5           certification eligibility requirements;  
6           creating s. 1012.561, F.S.; requiring each  
7           certified educator and applicant for  
8           certification as an educator to notify the  
9           Bureau of Educator Certification in writing of  
10          his or her current mailing address; providing a  
11          penalty for noncompliance; authorizing service  
12          by regular mail for certain purposes; amending  
13          s. 1012.79, F.S.; amending the number of  
14          members required for certain panels of the  
15          Education Practices Commission; amending s.  
16          1012.795, F.S., relating to the Education  
17          Practices Commission's authority to discipline;  
18          revising grounds for discipline; providing  
19          penalties; amending s. 1012.796, F.S.;  
20          requiring certain agencies to provide  
21          unredacted documents to the Department of  
22          Education for purposes of investigating and  
23          prosecuting certified educators and applicants  
24          for certification; providing minimum standards  
25          that a probationer must meet; revising  
26          penalties that the Education Practices  
27          Commission may impose; revising criteria for  
28          the use of an order to show cause; amending s.  
29          1012.798, F.S.; revising provisions relating to  
30          the recovery network program for educators;  
31          amending s. 943.0585, F.S.; allowing certain

1 employers of educators to have access to  
2 expunged records; amending s. 943.059, F.S.;  
3 allowing certain employers of educators to have  
4 access to sealed records; providing an  
5 effective date.

6  
7 Be It Enacted by the Legislature of the State of Florida:

8  
9 Section 1. Paragraph (b) of subsection (2) of section  
10 1012.56, Florida Statutes, is amended to read:

11 1012.56 Educator certification requirements.--

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

14 (b) File an affidavit ~~a written statement, under oath,~~  
15 that the applicant subscribes to and will uphold the  
16 principles incorporated in the Constitution of the United  
17 States and the Constitution of the State of Florida and that  
18 the information provided in the application is true, accurate,  
19 and complete. The affidavit shall be in substantially the  
20 following form:-

21  
22 Under penalty of perjury, I, ...(name of  
23 applicant)..., do hereby certify that I  
24 subscribe to and will uphold the principles  
25 incorporated in the Constitution of the United  
26 States and the Constitution of the State of  
27 Florida and that all information provided in  
28 this application is true, accurate, and  
29 complete.

30  
31 Signature or electronic authentication

1  
2           The affidavit shall include substantially the following  
3 warning:

4  
5           WARNING: GIVING FALSE INFORMATION IN ORDER TO  
6 OBTAIN OR RENEW A FLORIDA EDUCATOR'S  
7 CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA  
8 LAW. ANYONE GIVING FALSE INFORMATION ON THIS  
9 AFFIDAVIT IS SUBJECT TO CRIMINAL PROSECUTION,  
10 AS WELL AS DISCIPLINARY ACTION BY THE EDUCATION  
11 PRACTICES COMMISSION.

12           Section 2. Section 1012.561, Florida Statutes, is  
13 created to read:

14           1012.561 Address of record.--

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

1 certified educator or applicant for certification is  
2 responsible for ensuring that the bureau has received the  
3 electronic notification. Failure to notify the bureau of a  
4 change of address constitutes a violation of this section, and  
5 the certified educator or applicant for certification may be  
6 disciplined by the Education Practices Commission as provided  
7 in s. 1012.795 for such a failure.

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

16 Section 3. Paragraph (a) of subsection (8) of section  
17 1012.79, Florida Statutes, is amended to read:

18 1012.79 Education Practices Commission;  
19 organization.--

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

31

1           Section 4. Section 1012.795, Florida Statutes, is  
2 amended to read:

3           1012.795 Education Practices Commission; authority to  
4 discipline.--

5           (1) The Education Practices Commission may suspend the  
6 educator certificate of any person as defined in s. 1012.01(2)  
7 or (3) for a period of time not to exceed 5 ~~3~~ years, thereby  
8 denying that person the privilege right to teach or otherwise  
9 be employed in a public school in any capacity that requires  
10 direct contact with students for that period of time, after  
11 which the holder may return to teaching as provided in  
12 subsection (4); may revoke the educator certificate of any  
13 person, thereby denying that person the privilege right to  
14 teach or otherwise be employed in a public school in any  
15 capacity that requires direct contact with students for a  
16 period of time not to exceed 10 years, with reinstatement  
17 subject to the provisions of subsection (4); may revoke  
18 permanently the educator certificate of any person, thereby  
19 denying that person the privilege to teach or otherwise be  
20 employed in a public school in any capacity that requires  
21 direct contact with students; may suspend the educator  
22 certificate, upon order of the court, of any person found to  
23 have a delinquent child support obligation; or may impose any  
24 other penalty provided by law, if provided it can be shown  
25 that the person:

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

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

31

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

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

5 (e) Has been convicted of a crime in any jurisdiction  
6 ~~misdemeanor, felony, or any other criminal charge~~, other than  
7 a minor traffic violation. As used in this paragraph, the term  
8 "conviction" means a finding of guilt, a plea of guilty, a  
9 plea of nolo contendere, or entering a pretrial intervention  
10 program, whether or not there is a formal adjudication of  
11 guilt.

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

15 (g) Has breached a contract, as provided in s.  
16 1012.33(2).

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

20 (i) Has violated the Principles of Professional  
21 Conduct for the Education Profession prescribed by State Board  
22 of Education rules.

23 (j) Has otherwise violated the provisions of law, the  
24 penalty for which is the revocation of the educator  
25 certificate.

26 (k) Has violated any order of the Education Practices  
27 Commission.

28 (l) Has failed to maintain a current address with the  
29 Bureau of Educator Certification as required under s.  
30 1012.561.

31

1           (m) Has been the subject of a court order or plea  
2 agreement in any jurisdiction which requires the  
3 certificateholder to surrender or otherwise relinquish his or  
4 her educator's certificate. Any surrender or relinquishment  
5 constitutes a permanent revocation of the certificate. A  
6 person may not surrender or otherwise relinquish his or her  
7 certificate prior to a finding of probable cause by the  
8 commissioner as provided in s. 1012.796.

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

24           (3) The revocation by the Education Practices  
25 Commission of an educator certificate of any person  
26 automatically revokes any and all Florida educator  
27 certificates held by that person.

28           (4)(a) An educator certificate which has been  
29 suspended under this section is automatically reinstated at  
30 the end of the suspension period, provided the certificate did  
31 not expire during the period of suspension. If the

1 certificate expired during the period of suspension, the  
2 holder of the former certificate may secure a new certificate  
3 by making application therefor and by meeting the  
4 certification requirements of the state board current at the  
5 time of the application for the new certificate. An educator  
6 certificate suspended pursuant to a court order for a  
7 delinquent child support obligation may only be reinstated  
8 upon notice from the court that the party has complied with  
9 the terms of the court order.

10 (b) A person whose educator certificate has been  
11 revoked under this section may apply for a new certificate at  
12 the expiration of that period of ineligibility fixed by the  
13 Education Practices Commission by making application therefor  
14 and by meeting the certification requirements of the state  
15 board current at the time of the application for the new  
16 certificate.

17 (5) Each district school superintendent and the  
18 governing authority of each university lab school,  
19 state-supported school, or private school shall report to the  
20 department the name of any person certified pursuant to this  
21 chapter or employed and qualified pursuant to s. 1012.39:

22 (a) Who has been convicted of a crime in any  
23 jurisdiction, other than a minor traffic violation. As used in  
24 this paragraph, the term "conviction" means a finding of  
25 guilt, a plea of guilty, a plea of nolo contendere, or  
26 entering a pretrial intervention program, whether or not there  
27 is a formal adjudication of guilt, ~~or who has pled nolo~~  
28 ~~contendere to, a misdemeanor, felony, or any other criminal~~  
29 ~~charge, other than a minor traffic infraction;~~



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

4 (c) Who has been dismissed or severed from employment  
5 because of conduct involving any immoral, unnatural, or  
6 lascivious act.

7 (6)(a) When an individual violates any provision of  
8 ~~the provisions of a settlement agreement enforced by a final~~  
9 ~~order of the Education Practices Commission, the Department of~~  
10 ~~Education may request that an order to show cause may be~~  
11 ~~issued by the clerk of the commission~~ issue an order to show  
12 cause. The order shall require the individual to appear before  
13 the commission to show cause why further penalties should not  
14 be levied against the individual's certificate pursuant to the  
15 authority provided to the Education Practices Commission in  
16 subsection (1). The Education Practices Commission may fashion  
17 further penalties under the authority of subsection (1) as it  
18 deems deemed appropriate upon considering when the show cause  
19 order ~~is responded to by the individual~~.

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

25 1. ~~If the individual:~~

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

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

4           ~~c. Has been found to have violated the provisions of~~  
5 ~~this section, such that the Education Practices Commission has~~  
6 ~~the authority to discipline the individual's Florida~~  
7 ~~educator's certificate on one occasion and entered into a~~  
8 ~~settlement agreement enforced by a final order of the~~  
9 ~~Education Practices Commission on one occasion; and~~

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

13  
14 ~~If, in the third instance, the individual enters into a~~  
15 ~~settlement agreement with the Department of Education, that~~  
16 ~~agreement shall also include a penalty revoking that~~  
17 ~~individual's Florida educator's certificate for a minimum of 1~~  
18 ~~year.~~

19           Section 5. Paragraph (d) is added to subsection (1) of  
20 section 1012.796, Florida Statutes, and subsections (6), (7),  
21 and (8) of that section are amended, to read:

22           1012.796 Complaints against teachers and  
23 administrators; procedure; penalties.--

24           (1)

25           (d) Notwithstanding any other provision of law to the  
26 contrary, all law enforcement agencies, state attorneys,  
27 social service agencies, and district school boards, and the  
28 Division of Administrative Hearings, shall fully cooperate  
29 with, and upon request shall provide unredacted documents to,  
30 the Department of Education to further investigations and

1 prosecutions conducted as authorized by this section. Any such  
2 document may not be redisclosed except as authorized by law.

3 (6) Upon the finding of probable cause, the  
4 commissioner shall file a formal complaint and prosecute the  
5 complaint pursuant to the provisions of chapter 120, except as  
6 provided in s. 1012.561. An administrative law judge shall be  
7 assigned by the Division of Administrative Hearings of the  
8 Department of Management Services to hear the complaint if  
9 there are disputed issues of material fact. The administrative  
10 law judge shall make recommendations in accordance with the  
11 provisions of subsection (7) to the appropriate Education  
12 Practices Commission panel which shall conduct a formal review  
13 of such recommendations and other pertinent information and  
14 issue a final order. The commission shall consult with its  
15 legal counsel prior to issuance of a final order.

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

19 (a) Denial of an application for a teaching  
20 certificate or for an administrative or supervisory  
21 endorsement on a teaching certificate. The denial may provide  
22 that the applicant may not reapply for certification, and that  
23 the department may refuse to consider that applicant's  
24 application, for a specified period of time or permanently.

25 (b) Revocation or suspension of a certificate.

26 (c) Imposition of an administrative fine not to exceed  
27 \$2,000 for each count or separate offense.

28 (d) Placement of the teacher, administrator, or  
29 supervisor on probation for a period of time and subject to  
30 such conditions as the commission may specify, including  
31 requiring the certified teacher, administrator, or supervisor

1 to complete additional appropriate college courses or work  
2 with another certified educator, with the administrative costs  
3 of monitoring the probation assessed to the educator placed on  
4 probation. At a minimum, an educator who is on probation  
5 shall:

6 1. Immediately notify the Bureau of Educator Standards  
7 upon his or her employment or termination of employment in the  
8 state in any public or private position that requires a  
9 Florida educator's certificate.

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

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

15 4. Not violate any law and shall fully comply with all  
16 district school board policies, school rules, and State Board  
17 of Education rules.

18 5. Satisfactorily perform his or her assigned duties  
19 in a competent, professional manner.

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

22 (e) Restriction of the authorized scope of practice of  
23 the teacher, administrator, or supervisor.

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

27 (g) Imposition of an administrative sanction, upon a  
28 person whose teaching certificate has expired, for an act or  
29 acts committed while that person possessed a teaching  
30 certificate or an expired certificate subject to late renewal,  
31

1 which sanction bars that person from applying for a new  
2 certificate for a period of 10 years or less, or permanently.

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

6 (8) Violations of the provisions of a final order  
7 ~~probation~~ shall result in an order to show cause issued by the  
8 clerk of the Education Practices Commission when requested by  
9 the Department of Education. Upon failure of the educator  
10 ~~probationer~~, at the time and place stated in the order, to  
11 show cause satisfactorily to the Education Practices  
12 Commission why a penalty for violating the provisions of a  
13 final order ~~probation~~ should not be imposed, the Education  
14 Practices Commission shall impose whatever penalty is  
15 appropriate as established in s. 1012.795(6). Any probation  
16 period will be tolled when an order to show cause has been  
17 issued until the issue is resolved by the Education Practices  
18 Commission.

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

22 1012.798 Recovery network program for educators.--

23 (1) RECOVERY NETWORK ESTABLISHED.--There is created  
24 within the Department of Education, a recovery network program  
25 to assist educators who are impaired as a result of alcohol  
26 abuse, drug abuse, or a mental condition in obtaining  
27 ~~treatment to permit their continued contribution to the~~  
28 ~~education profession~~. Any person who has applied for or holds  
29 certification issued by the department pursuant to s. 1012.56  
30 is eligible for the program assistance. The individual may  
31 enter the program voluntarily or may be directed to

1 participate through a deferred prosecution agreement with the  
2 Commissioner of Education or a final order of the Education  
3 Practices Commission pursuant to s. 1012.796.

4 (3) PURPOSE.--The recovery network program shall  
5 assist educators in obtaining treatment and services from  
6 approved treatment providers, but each impaired educator must  
7 pay for his or her treatment under terms and conditions agreed  
8 upon by the impaired educator and the treatment provider. A  
9 person who is admitted to the recovery network program must  
10 contract with the treatment provider and the program. The  
11 treatment contract must prescribe the type of treatment and  
12 the responsibilities of the impaired educator and of the  
13 provider and must provide that the impaired educator's  
14 progress will be monitored by the recovery network program.

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

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

- 24 1. Acknowledges his or her impairment.
- 25 2. Agrees to evaluation, as approved by the recovery  
26 network.
- 27 3. Agrees to enroll in an appropriate treatment  
28 program approved by the recovery network.
- 29 4. Executes releases for all medical and treatment  
30 records regarding his or her impairment and participation in a  
31 treatment program to the recovery network, pursuant to 42

1 U.S.C. s. 290dd-3 and the federal regulations adopted  
2 thereunder.

3 5. Enters into a deferred prosecution agreement with  
4 the commissioner, which provides that no prosecution shall be  
5 instituted concerning the matters enumerated in the agreement  
6 if the person is properly enrolled in the treatment program  
7 and successfully completes the program as certified by the  
8 recovery network. The commissioner is under no obligation to  
9 enter into a deferred prosecution agreement with the educator  
10 but may do so if he or she determines that it is in the best  
11 interest of the educational program of the state and the  
12 educator:-

13 a.6. Has not previously entered a substance abuse  
14 program.

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

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

20 (10) DECLARATION OF INELIGIBILITY.--

21 (a) A person may be declared ineligible for further  
22 assistance from the recovery network program if he or she does  
23 not progress satisfactorily in a treatment program or leaves a  
24 prescribed program or course of treatment without the approval  
25 of the treatment provider.

26 (b) The determination of ineligibility must be made by  
27 ~~the commissioner in cases referred to him or her by the~~  
28 program administrator or his or her designee after review of  
29 the circumstances of the case. ~~Before referring a case to the~~  
30 ~~commissioner, the administrator must discuss the circumstances~~  
31 ~~with the treatment provider. The commissioner may direct the~~

1 ~~Office of Professional Practices Services to investigate the~~  
2 ~~case and provide a report.~~

3 (c) If a treatment through ~~contract~~ with the program  
4 is a condition of a deferred prosecution agreement, and the  
5 program administrator ~~commissioner~~ determines that the person  
6 is ineligible for further assistance, the commissioner may  
7 agree to modify the terms and conditions of the deferred  
8 prosecution agreement or may issue an administrative  
9 complaint, pursuant to s. 1012.796, alleging the charges  
10 regarding which prosecution was deferred. The person may  
11 dispute the determination as an affirmative defense to the  
12 administrative complaint by including with his or her request  
13 for hearing on the administrative complaint a written  
14 statement setting forth the facts and circumstances that show  
15 that the determination of ineligibility was erroneous. If  
16 administrative proceedings regarding the administrative  
17 complaint, pursuant to ss. 120.569 and 120.57, result in a  
18 finding that the determination of ineligibility was erroneous,  
19 the person is eligible to participate in the program. If the  
20 determination of ineligibility was the only reason for setting  
21 aside the deferred prosecution agreement and issuing the  
22 administrative complaint and the administrative proceedings  
23 result in a finding that the determination was erroneous, the  
24 complaint shall be dismissed and the deferred prosecution  
25 agreement reinstated without prejudice to the commissioner's  
26 right to reissue the administrative complaint for other  
27 breaches of the agreement.

28 (d) If a treatment through ~~contract~~ with the program  
29 is a condition of a final order of the Education Practices  
30 Commission, the program administrator's ~~commissioner's~~  
31 determination of ineligibility constitutes a finding of



1 ~~probable cause~~ that the person failed to comply with the final  
2 order. Pursuant to ss. 1012.795 and 1012.796, upon the request  
3 of the Department of Education, the clerk of the Education  
4 Practices Commission shall issue to the educator an order to  
5 show cause, or the commissioner may ~~shall~~ issue an  
6 administrative complaint, ~~and the case shall proceed under ss.~~  
7 ~~1012.795 and 1012.796,~~ in the same manner as in cases based on  
8 a failure to comply with an order of the Education Practices  
9 Commission.

10 (e) If the person voluntarily entered into a treatment  
11 contract with the program, the program administrator  
12 ~~commissioner~~ shall issue a written notice stating the reasons  
13 for the determination of ineligibility. Within 20 days after  
14 the date of such notice, the person may contest the  
15 determination of ineligibility pursuant to ss. 120.569 and  
16 120.57.

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

19 943.0585 Court-ordered expunction of criminal history  
20 records.--The courts of this state have jurisdiction over  
21 their own procedures, including the maintenance, expunction,  
22 and correction of judicial records containing criminal history  
23 information to the extent such procedures are not inconsistent  
24 with the conditions, responsibilities, and duties established  
25 by this section. Any court of competent jurisdiction may order  
26 a criminal justice agency to expunge the criminal history  
27 record of a minor or an adult who complies with the  
28 requirements of this section. The court shall not order a  
29 criminal justice agency to expunge a criminal history record  
30 until the person seeking to expunge a criminal history record  
31 has applied for and received a certificate of eligibility for

1 expunction pursuant to subsection (2). A criminal history  
2 record that relates to a violation of s. 787.025, chapter 794,  
3 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,  
4 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
5 893.135, or a violation enumerated in s. 907.041 may not be  
6 expunged, without regard to whether adjudication was withheld,  
7 if the defendant was found guilty of or pled guilty or nolo  
8 contendere to the offense, or if the defendant, as a minor,  
9 was found to have committed, or pled guilty or nolo contendere  
10 to committing, the offense as a delinquent act. The court may  
11 only order expunction of a criminal history record pertaining  
12 to one arrest or one incident of alleged criminal activity,  
13 except as provided in this section. The court may, at its sole  
14 discretion, order the expunction of a criminal history record  
15 pertaining to more than one arrest if the additional arrests  
16 directly relate to the original arrest. If the court intends  
17 to order the expunction of records pertaining to such  
18 additional arrests, such intent must be specified in the  
19 order. A criminal justice agency may not expunge any record  
20 pertaining to such additional arrests if the order to expunge  
21 does not articulate the intention of the court to expunge a  
22 record pertaining to more than one arrest. This section does  
23 not prevent the court from ordering the expunction of only a  
24 portion of a criminal history record pertaining to one arrest  
25 or one incident of alleged criminal activity. Notwithstanding  
26 any law to the contrary, a criminal justice agency may comply  
27 with laws, court orders, and official requests of other  
28 jurisdictions relating to expunction, correction, or  
29 confidential handling of criminal history records or  
30 information derived therefrom. This section does not confer  
31 any right to the expunction of any criminal history record,

1 and any request for expunction of a criminal history record  
2 may be denied at the sole discretion of the court.

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

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

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

1 used by such contractor or licensee in a sensitive position  
2 having direct contact with children, the developmentally  
3 disabled, the aged, or the elderly as provided in s.  
4 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
5 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
6 985.407, or chapter 400; or

7 6. Is seeking to be employed or licensed by ~~the Office~~  
8 ~~of Teacher Education, Certification, Staff Development, and~~  
9 ~~Professional Practices of the Department of Education, any~~  
10 district school board, any university laboratory school, any  
11 charter school, any private or parochial school, or any local  
12 governmental entity that licenses child care facilities.

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

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

1 information relating to the existence of an expunged criminal  
2 history record of a person seeking employment or licensure  
3 with such entity or contractor, except to the person to whom  
4 the criminal history record relates or to persons having  
5 direct responsibility for employment or licensure decisions.  
6 Any person who violates this paragraph commits a misdemeanor  
7 of the first degree, punishable as provided in s. 775.082 or  
8 s. 775.083.

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

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

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

26 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A  
27 criminal history record of a minor or an adult which is  
28 ordered sealed by a court of competent jurisdiction pursuant  
29 to this section is confidential and exempt from the provisions  
30 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
31 and is available only to the person who is the subject of the

1 record, to the subject's attorney, to criminal justice  
2 agencies for their respective criminal justice purposes, or to  
3 those entities set forth in subparagraphs (a)1., 4., 5., and  
4 6. for their respective licensing and employment purposes.

5 (a) The subject of a criminal history record sealed  
6 under this section or under other provisions of law, including  
7 former s. 893.14, former s. 901.33, and former s. 943.058, may  
8 lawfully deny or fail to acknowledge the arrests covered by  
9 the sealed record, except when the subject of the record:

10 1. Is a candidate for employment with a criminal  
11 justice agency;

12 2. Is a defendant in a criminal prosecution;

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

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

16 5. Is seeking to be employed or licensed by or to  
17 contract with the Department of Children and Family Services  
18 or the Department of Juvenile Justice or to be employed or  
19 used by such contractor or licensee in a sensitive position  
20 having direct contact with children, the developmentally  
21 disabled, the aged, or the elderly as provided in s.  
22 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
23 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
24 415.103, s. 985.407, or chapter 400; or

25 6. Is seeking to be employed or licensed by ~~the Office~~  
26 ~~of Teacher Education, Certification, Staff Development, and~~  
27 ~~Professional Practices~~ of the Department of Education, any  
28 district school board, any university laboratory school, any  
29 charter school, any private or parochial school, or any local  
30 governmental entity that ~~which~~ licenses child care facilities.

31

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

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

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



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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 2006

Requires a person who seeks educator certification to file an affidavit stating that all information in the application for certification is true, accurate and complete.