

By the Committees on Appropriations; Education; and Senator
Clary

309-2348-03

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 certain
7 certified educators and applicants for
8 certification as an educator to notify the
9 employing school district of any change of
10 address; requiring the school district to
11 notify the Bureau of Educator Certification of
12 the change of address; authorizing service by
13 regular mail for certain purposes; amending s.
14 1012.79, F.S.; amending the number of members
15 required for certain panels of the Education
16 Practices Commission; amending s. 1012.795,
17 F.S., relating to the Education Practices
18 Commission's authority to discipline; revising
19 grounds for discipline; providing penalties;
20 amending s. 1012.796, F.S.; requiring certain
21 agencies to provide unredacted documents to the
22 Department of Education for purposes of
23 investigating and prosecuting certified
24 educators and applicants for certification;
25 providing minimum standards that a probationer
26 must meet; revising penalties that the
27 Education Practices Commission may impose;
28 revising criteria for the use of an order to
29 show cause; amending s. 1012.798, F.S.;
30 revising provisions relating to the recovery
31 network program for educators; amending s.

1 943.0585, F.S.; allowing certain employers of
2 educators to have access to expunged records;
3 amending s. 943.059, F.S.; allowing certain
4 employers of educators to have access to sealed
5 records; providing an 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:

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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) A certified educator or applicant for
16 certification who is employed by a district school board must
17 notify his or her employing school district of a change of
18 address within 10 days after the change has occurred. The
19 employing district school board must notify the bureau of the
20 change of address, in the manner prescribed by the Department
21 of Education, within 20 days after the school board receives
22 such notification.

23 (2) Notwithstanding any other provision of law to the
24 contrary, effective January 1, 2004, service by regular mail
25 to a certified educator's or applicant's last known address of
26 record with the bureau constitutes adequate and sufficient
27 notice to the certified educator or applicant of any official
28 communication to the educator or applicant by the Department
29 of Education, the Education Practices Commission, or the
30 Recovery Network for Educators.

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1 Section 3. Paragraph (a) of subsection (8) of section
2 1012.79, Florida Statutes, is amended to read:

3 1012.79 Education Practices Commission;
4 organization.--

5 (8)(a) The commission shall, from time to time,
6 designate members of the commission to serve on panels for the
7 purpose of reviewing and issuing final orders upon cases
8 presented to the commission. A case concerning a complaint
9 against a teacher shall be reviewed and a final order thereon
10 shall be entered by a panel composed of five ~~seven~~ commission
11 members, three ~~four~~ of whom shall be teachers. A case
12 concerning a complaint against an administrator shall be
13 reviewed and a final order thereon shall be entered by a panel
14 composed of five ~~seven~~ commission members, three ~~four~~ of whom
15 shall be administrators.

16 Section 4. Section 1012.795, Florida Statutes, is
17 amended to read:

18 1012.795 Education Practices Commission; authority to
19 discipline.--

20 (1) The Education Practices Commission may suspend the
21 educator certificate of any person as defined in s. 1012.01(2)
22 or (3) for a period of time not to exceed 5 ~~3~~ years, thereby
23 denying that person the privilege right ~~right~~ to teach or otherwise
24 be employed in a public school in any capacity that requires
25 direct contact with students for that period of time, after
26 which the holder may return to teaching as provided in
27 subsection (4); may revoke the educator certificate of any
28 person, thereby denying that person the privilege right ~~right~~
29 to teach or otherwise be employed in a public school in any
30 capacity that requires direct contact with students for a
31 period of time not to exceed 10 years, with reinstatement

1 subject to the provisions of subsection (4); may revoke
2 permanently the educator certificate of any person, thereby
3 denying that person the privilege to teach or otherwise be
4 employed in a public school in any capacity that requires
5 direct contact with students; may suspend the educator
6 certificate, upon order of the court, of any person found to
7 have a delinquent child support obligation; or may impose any
8 other penalty provided by law, if ~~provided~~ it can be shown
9 that the person:

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

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

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

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

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

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

25 (g) Has breached a contract, as provided in s.
26 1012.33(2).

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

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1 (i) Has violated the Principles of Professional
2 Conduct for the Education Profession prescribed by State Board
3 of Education rules.

4 (j) Has otherwise violated the provisions of law, the
5 penalty for which is the revocation of the educator
6 certificate.

7 (k) Has violated any order of the Education Practices
8 Commission.

9 (l) Has been the subject of a court order or plea
10 agreement in any jurisdiction which requires the
11 certificateholder to surrender or otherwise relinquish his or
12 her educator's certificate. Any surrender or relinquishment
13 constitutes a permanent revocation of the certificate. A
14 person may not surrender or otherwise relinquish his or her
15 certificate prior to a finding of probable cause by the
16 commissioner as provided in s. 1012.796.

17 (2) The plea of guilty in any court, the decision of
18 guilty by any court, the forfeiture by the teaching
19 certificateholder of a bond in any court of law, or the
20 written acknowledgment, duly witnessed, of offenses listed in
21 subsection (1) to the district school superintendent or a duly
22 appointed representative or to the district school board shall
23 be prima facie proof of grounds for revocation of the
24 certificate as listed in subsection (1) in the absence of
25 proof by the certificateholder that the plea of guilty,
26 forfeiture of bond, or admission of guilt was caused by
27 threats, coercion, or fraudulent means.

28 (3) The revocation by the Education Practices
29 Commission of an educator certificate of any person
30 automatically revokes any and all Florida educator
31 certificates held by that person.

1 (4)(a) An educator certificate which has been
2 suspended under this section is automatically reinstated at
3 the end of the suspension period, provided the certificate did
4 not expire during the period of suspension. If the
5 certificate expired during the period of suspension, the
6 holder of the former certificate may secure a new certificate
7 by making application therefor and by meeting the
8 certification requirements of the state board current at the
9 time of the application for the new certificate. An educator
10 certificate suspended pursuant to a court order for a
11 delinquent child support obligation may only be reinstated
12 upon notice from the court that the party has complied with
13 the terms of the court order.

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

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

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

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

1 (c) Who has been dismissed or severed from employment
2 because of conduct involving any immoral, unnatural, or
3 lascivious act.

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

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

22 1. ~~If the individual:~~

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

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

30 c. ~~Has been found to have violated the provisions of~~
31 ~~this section, such that the Education Practices Commission has~~

1 ~~the authority to discipline the individual's Florida~~
2 ~~educator's certificate on one occasion and entered into a~~
3 ~~settlement agreement enforced by a final order of the~~
4 ~~Education Practices Commission on one occasion; and~~

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

8
9 ~~if, in the third instance, the individual enters into a~~
10 ~~settlement agreement with the Department of Education, that~~
11 ~~agreement shall also include a penalty revoking that~~
12 ~~individual's Florida educator's certificate for a minimum of 1~~
13 ~~year.~~

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

17 1012.796 Complaints against teachers and
18 administrators; procedure; penalties.--

19 (1)

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

28 (6) Upon the finding of probable cause, the
29 commissioner shall file a formal complaint and prosecute the
30 complaint pursuant to the provisions of chapter 120, except as
31 provided in s. 1012.561. An administrative law judge shall be

1 assigned by the Division of Administrative Hearings of the
2 Department of Management Services to hear the complaint if
3 there are disputed issues of material fact. The administrative
4 law judge shall make recommendations in accordance with the
5 provisions of subsection (7) to the appropriate Education
6 Practices Commission panel which shall conduct a formal review
7 of such recommendations and other pertinent information and
8 issue a final order. The commission shall consult with its
9 legal counsel prior to issuance of a final order.

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

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

19 (b) Revocation or suspension of a certificate.

20 (c) Imposition of an administrative fine not to exceed
21 \$2,000 for each count or separate offense.

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

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

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

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

10 4. Not violate any law and shall fully comply with all
11 district school board policies, school rules, and State Board
12 of Education rules.

13 5. Satisfactorily perform his or her assigned duties
14 in a competent, professional manner.

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

17 (e) Restriction of the authorized scope of practice of
18 the teacher, administrator, or supervisor.

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

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

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

31

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

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

17 1012.798 Recovery network program for educators.--

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

30 (3) PURPOSE.--The recovery network program shall
31 assist educators in obtaining treatment and services from

1 approved treatment providers, but each impaired educator must
2 pay for his or her treatment under terms and conditions agreed
3 upon by the impaired educator and the treatment provider. A
4 person who is admitted to the recovery network program must
5 contract with the treatment provider and the program. The
6 treatment contract must prescribe the type of treatment and
7 the responsibilities of the impaired educator and of the
8 provider and must provide that the impaired educator's
9 progress will be monitored by the recovery network program.

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

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

- 19 1. Acknowledges his or her impairment.
- 20 2. Agrees to evaluation, as approved by the recovery
21 network.
- 22 3. Agrees to enroll in an appropriate treatment
23 program approved by the recovery network.
- 24 4. Executes releases for all medical and treatment
25 records regarding his or her impairment and participation in a
26 treatment program to the recovery network, pursuant to 42
27 U.S.C. s. 290dd-3 and the federal regulations adopted
28 thereunder.
- 29 5. Enters into a deferred prosecution agreement with
30 the commissioner, which provides that no prosecution shall be
31 instituted concerning the matters enumerated in the agreement

1 if the person is properly enrolled in the treatment program
2 and successfully completes the program as certified by the
3 recovery network. The commissioner is under no obligation to
4 enter into a deferred prosecution agreement with the educator
5 but may do so if he or she determines that it is in the best
6 interest of the educational program of the state and the
7 educator:-

8 a.6. Has not previously entered a substance abuse
9 program.

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

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

15 (10) DECLARATION OF INELIGIBILITY.--

16 (a) A person may be declared ineligible for further
17 assistance from the recovery network program if he or she does
18 not progress satisfactorily in a treatment program or leaves a
19 prescribed program or course of treatment without the approval
20 of the treatment provider.

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

29 (c) If a treatment through contract with the program
30 is a condition of a deferred prosecution agreement, and the
31 program administrator ~~commissioner~~ determines that the person

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

23 (d) If ~~a~~ treatment through contract ~~with~~ the program
24 is a condition of a final order of the Education Practices
25 Commission, the program administrator's ~~commissioner's~~
26 determination of ineligibility constitutes a finding ~~of~~
27 ~~probable cause~~ that the person failed to comply with the final
28 order. Pursuant to ss. 1012.795 and 1012.796, upon the request
29 of the Department of Education, the clerk of the Education
30 Practices Commission shall issue to the educator an order to
31 show cause, or the commissioner may ~~shall~~ issue an

1 administrative complaint, ~~and the case shall proceed under ss.~~
2 ~~1012.795 and 1012.796~~, in the same manner as in cases based on
3 a failure to comply with an order of the Education Practices
4 Commission.

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

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

14 943.0585 Court-ordered expunction of criminal history
15 records.--The courts of this state have jurisdiction over
16 their own procedures, including the maintenance, expunction,
17 and correction of judicial records containing criminal history
18 information to the extent such procedures are not inconsistent
19 with the conditions, responsibilities, and duties established
20 by this section. Any court of competent jurisdiction may order
21 a criminal justice agency to expunge the criminal history
22 record of a minor or an adult who complies with the
23 requirements of this section. The court shall not order a
24 criminal justice agency to expunge a criminal history record
25 until the person seeking to expunge a criminal history record
26 has applied for and received a certificate of eligibility for
27 expunction pursuant to subsection (2). A criminal history
28 record that relates to a violation of s. 787.025, chapter 794,
29 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
30 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
31 893.135, or a violation enumerated in s. 907.041 may not be

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

29 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
30 criminal history record of a minor or an adult which is
31 ordered expunged by a court of competent jurisdiction pursuant

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

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

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

1 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
2 985.407, or chapter 400; or

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

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

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

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

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

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

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

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

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

6 1. Is a candidate for employment with a criminal
7 justice agency;

8 2. Is a defendant in a criminal prosecution;

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

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

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

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

27 (b) Subject to the exceptions in paragraph (a), a
28 person who has been granted a sealing under this section,
29 former s. 893.14, former s. 901.33, or former s. 943.058 may
30 not be held under any provision of law of this state to commit
31 perjury or to be otherwise liable for giving a false statement

1 by reason of such person's failure to recite or acknowledge a
2 sealed criminal history record.

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

21 Section 9. This act shall take effect upon becoming a
22 law.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS for SB 2006

Removes proposed provisions that would make failure to maintain a current address in the Department of Education a violation for which the Professional Practices Commission would be authorized to discipline certified educators and applicants for teaching certificates. The Commission's powers include but are not limited to assessing fines; suspending certificates for up to 5 years; revoking certificates for up to 10 years; and revoking certificates permanently.

Removes proposed new definition of the term "conviction" and leaves current provisions related to "having been convicted of a crime."