

Bill No. CS for SB 2560

Amendment No. \_\_\_\_ Barcode 095040

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Clary moved the following amendment:		
12			
13	<b>Senate Amendment (with title amendment)</b>		
14	On page 1, between lines 29 and 30,		
15			
16	insert:		
17	Section 4. Paragraph (b) of subsection (2) of section		
18	1012.56, Florida Statutes, is amended to read:		
19	1012.56 Educator certification requirements.--		
20	(2) ELIGIBILITY CRITERIA.--To be eligible to seek		
21	certification pursuant to this chapter, a person must:		
22	(b) File <u>an affidavit</u> <del>a written statement, under oath,</del>		
23	that the applicant subscribes to and will uphold the		
24	principles incorporated in the Constitution of the United		
25	States and the Constitution of the State of Florida <u>and that</u>		
26	<u>the information provided in the application is true, accurate,</u>		
27	<u>and complete. The affidavit shall be in substantially the</u>		
28	<u>following form:-</u>		
29			
30	<u>Under penalty of perjury, I, ...(name of</u>		
31	<u>applicant)...., do hereby certify that I</u>		

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1       subscribe to and will uphold the principles  
2       incorporated in the Constitution of the United  
3       States and the Constitution of the State of  
4       Florida and that all information provided in  
5       this application is true, accurate, and  
6       complete.

7  
8       Signature or electronic authentication

9  
10       The affidavit shall include substantially the following  
11 warning:

12  
13       WARNING: GIVING FALSE INFORMATION IN ORDER TO  
14       OBTAIN OR RENEW A FLORIDA EDUCATOR'S  
15       CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA  
16       LAW. ANYONE GIVING FALSE INFORMATION ON THIS  
17       AFFIDAVIT IS SUBJECT TO CRIMINAL PROSECUTION,  
18       AS WELL AS DISCIPLINARY ACTION BY THE EDUCATION  
19       PRACTICES COMMISSION.

20       Section 5. Section 1012.561, Florida Statutes, is  
21 created to read:

22       1012.561 Address of record.--

23       (1) A certified educator or applicant for  
24 certification who is employed by a district school board must  
25 notify his or her employing school district of a change of  
26 address within 10 days after the change has occurred. The  
27 employing district school board must notify the bureau of the  
28 change of address, in the manner prescribed by the Department  
29 of Education, within 20 days after the school board receives  
30 such notification.

31       (2) Notwithstanding any other provision of law to the

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

8 Section 6. Paragraph (a) of subsection (8) of section  
 9 1012.79, Florida Statutes, is amended to read:

10 1012.79 Education Practices Commission;  
 11 organization.--

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

23 Section 7. Section 1012.795, Florida Statutes, is  
 24 amended to read:

25 1012.795 Education Practices Commission; authority to  
 26 discipline.--

27 (1) The Education Practices Commission may suspend the  
 28 educator certificate of any person as defined in s. 1012.01(2)  
 29 or (3) for a period of time not to exceed 5 ~~3~~ years, thereby  
 30 denying that person the privilege right to teach or otherwise  
 31 be employed in a public school in any capacity that requires

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

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

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

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

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

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

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

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

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

6 (i) Has violated the Principles of Professional  
7 Conduct for the Education Profession prescribed by State Board  
8 of Education rules.

9 (j) Has otherwise violated the provisions of law, the  
10 penalty for which is the revocation of the educator  
11 certificate.

12 (k) Has violated any order of the Education Practices  
13 Commission.

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

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

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1 threats, coercion, or fraudulent means.

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

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

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

26           (5) Each district school superintendent and the  
27 governing authority of each university lab school,  
28 state-supported school, or private school shall report to the  
29 department the name of any person certified pursuant to this  
30 chapter or employed and qualified pursuant to s. 1012.39:

31           (a) Who has been convicted of, or who has pled nolo

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1 | contendere to, a misdemeanor, felony, or any other criminal  
2 | charge, other than a minor traffic infraction;

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

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

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

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

27 |             1. ~~If the individual:~~

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

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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 8. 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  
31 prosecutions conducted as authorized by this section. Any such



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1 document may not be redisclosed except as authorized by law.

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

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

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

24           (b) Revocation or suspension of a certificate.

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

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

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1 with another certified educator, with the administrative costs  
2 of monitoring the probation assessed to the educator placed on  
3 probation. At a minimum, an educator who is on probation  
4 shall:

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

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

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

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

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

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

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

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

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

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

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

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

20            1012.798 Recovery network program for educators.--

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

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1 Practices Commission pursuant to s. 1012.796.

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

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

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

- 22 1. Acknowledges his or her impairment.
- 23 2. Agrees to evaluation, as approved by the recovery  
 24 network.
- 25 3. Agrees to enroll in an appropriate treatment  
 26 program approved by the recovery network.
- 27 4. Executes releases for all medical and treatment  
 28 records regarding his or her impairment and participation in a  
 29 treatment program to the recovery network, pursuant to 42  
 30 U.S.C. s. 290dd-3 and the federal regulations adopted  
 31 thereunder.

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

11           a.6. Has not previously entered a substance abuse  
12 program.

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

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

18           (10) DECLARATION OF INELIGIBILITY.--

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

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

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

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

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

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

15 Section 10. Subsection (4) of section 943.0585, Florida  
16 Statutes, is amended to read:

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

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



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

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

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

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1 disabled, the aged, or the elderly as provided in s.  
2 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
3 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
4 985.407, or chapter 400; or

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

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

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

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

7 Section 11. Subsection (4) of section 943.059, Florida  
8 Statutes, is amended to read:

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

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

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

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1 those entities set forth in subparagraphs (a)1., 4., 5., and  
 2 6. for their respective licensing and employment purposes.

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

8 1. Is a candidate for employment with a criminal  
 9 justice agency;

10 2. Is a defendant in a criminal prosecution;

11 3. Concurrently or subsequently petitions for relief  
 12 under this section or s. 943.0585;

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

14 5. Is seeking to be employed or licensed by or to  
 15 contract with the Department of Children and Family Services  
 16 or the Department of Juvenile Justice or to be employed or  
 17 used by such contractor or licensee in a sensitive position  
 18 having direct contact with children, the developmentally  
 19 disabled, the aged, or the elderly as provided in s.

20 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
 21 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
 22 415.103, s. 985.407, or chapter 400; or

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

29 (b) Subject to the exceptions in paragraph (a), a  
 30 person who has been granted a sealing under this section,  
 31 former s. 893.14, former s. 901.33, or former s. 943.058 may

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1 not be held under any provision of law of this state to commit  
2 perjury or to be otherwise liable for giving a false statement  
3 by reason of such person's failure to recite or acknowledge a  
4 sealed criminal history record.

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

23  
24 (Redesignate subsequent sections.)

25  
26

27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 On page 1, line 9, after the semicolon

30

31 insert:

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1           amending s. 1012.56, F.S.; prescribing an  
2           affidavit for educator certification  
3           eligibility requirements; creating s. 1012.561,  
4           F.S.; requiring certain certified educators and  
5           applicants for certification as an educator to  
6           notify the employing school district of any  
7           change of address; requiring the school  
8           district to notify the Bureau of Educator  
9           Certification of the change of address;  
10          authorizing service by regular mail for certain  
11          purposes; amending s. 1012.79, F.S.; amending  
12          the number of members required for certain  
13          panels of the Education Practices Commission;  
14          amending s. 1012.795, F.S., relating to the  
15          Education Practices Commission's authority to  
16          discipline; revising grounds for discipline;  
17          providing penalties; amending s. 1012.796,  
18          F.S.; requiring certain agencies to provide  
19          unredacted documents to the Department of  
20          Education for purposes of investigating and  
21          prosecuting certified educators and applicants  
22          for certification; providing minimum standards  
23          that a probationer must meet; revising  
24          penalties that the Education Practices  
25          Commission may impose; revising criteria for  
26          the use of an order to show cause; amending s.  
27          1012.798, F.S.; revising provisions relating to  
28          the recovery network program for educators;  
29          amending s. 943.0585, F.S.; allowing certain  
30          employers of educators to have access to  
31          expunged records; amending s. 943.059, F.S.;

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1           allowing certain employers of educators to have  
2           access to sealed records;  
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