

Bill No. CS for SB 2560

Amendment No. \_\_\_\_ Barcode 674272

CHAMBER ACTION

Senate

House

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Senator Clary moved the following amendment:

**Senate Amendment (with title amendment)**

On page 1, lines 14 through 29, delete those lines

and insert:

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

1012.79 Education Practices Commission; organization.--

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

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1 Section 2. 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 (c) Has been guilty of gross immorality or an act

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1 involving moral turpitude.

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

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

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

10 (g) Has breached a contract, as provided in s.  
11 1012.33(2).

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

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

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

21 (k) Has violated any order of the Education Practices  
22 Commission.

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

31 (2) The plea of guilty in any court, the decision of

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1 guilty by any court, the forfeiture by the teaching  
2 certificateholder of a bond in any court of law, or the  
3 written acknowledgment, duly witnessed, of offenses listed in  
4 subsection (1) to the district school superintendent or a duly  
5 appointed representative or to the district school board shall  
6 be prima facie proof of grounds for revocation of the  
7 certificate as listed in subsection (1) in the absence of  
8 proof by the certificateholder that the plea of guilty,  
9 forfeiture of bond, or admission of guilt was caused by  
10 threats, coercion, or fraudulent means.

11 (3) The revocation by the Education Practices  
12 Commission of an educator certificate of any person  
13 automatically revokes any and all Florida educator  
14 certificates held by that person.

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

28 (b) A person whose educator certificate has been  
29 revoked under this section may apply for a new certificate at  
30 the expiration of that period of ineligibility fixed by the  
31 Education Practices Commission by making application therefor

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1 and by meeting the certification requirements of the state  
2 board current at the time of the application for the new  
3 certificate.

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

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

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

15 (c) Who has been dismissed or severed from employment  
16 because of conduct involving any immoral, unnatural, or  
17 lascivious act.

18 (6)(a) When an individual violates any provision of  
19 ~~the provisions of a settlement agreement enforced by a final~~  
20 ~~order of the Education Practices Commission, the Department of~~  
21 ~~Education may request that an order to show cause may be~~  
22 ~~issued by the clerk of the commission~~ issue an order to show  
23 cause. The order shall require the individual to appear before  
24 the commission to show cause why further penalties should not  
25 be levied against the individual's certificate pursuant to the  
26 authority provided to the Education Practices Commission in  
27 subsection (1). The Education Practices Commission may fashion  
28 further penalties under the authority of subsection (1) as it  
29 ~~deems deemed~~ appropriate upon considering when the show cause  
30 ~~order is responded to by the individual.~~

31 (b) The Education Practices Commission shall issue a

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1 final order revoking an individual's Florida educator's  
2 certificate for a minimum of 1 year if the individual has been  
3 the subject of sanctions by the Education Practices Commission  
4 on two previous occasions. under the following circumstances:

5 1. ~~If the individual:~~

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

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

13 c. ~~Has been found to have violated the provisions of~~  
14 ~~this section, such that the Education Practices Commission has~~  
15 ~~the authority to discipline the individual's Florida~~  
16 ~~educator's certificate on one occasion and entered into a~~  
17 ~~settlement agreement enforced by a final order of the~~  
18 ~~Education Practices Commission on one occasion; and~~

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

22  
23 ~~If, in the third instance, the individual enters into a~~  
24 ~~settlement agreement with the Department of Education, that~~  
25 ~~agreement shall also include a penalty revoking that~~  
26 ~~individual's Florida educator's certificate for a minimum of 1~~  
27 ~~year.~~

28 Section 3. Paragraph (d) is added to subsection (1) of  
29 section 1012.796, Florida Statutes, and subsections (6), (7),  
30 and (8) of that section are amended, to read:

31 1012.796 Complaints against teachers and

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1 administrators; procedure; penalties.--

2 (1)

3 (d) Notwithstanding any other provision of law to the  
4 contrary, all law enforcement agencies, state attorneys,  
5 social service agencies, and district school boards, and the  
6 Division of Administrative Hearings, shall fully cooperate  
7 with, and upon request shall provide unredacted documents to,  
8 the Department of Education to further investigations and  
9 prosecutions conducted as authorized by this section. Any such  
10 document may not be redisclosed except as authorized by law.

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

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

27 (a) Denial of an application for a teaching  
28 certificate or for an administrative or supervisory  
29 endorsement on a teaching certificate. The denial may provide  
30 that the applicant may not reapply for certification, and that  
31 the department may refuse to consider that applicant's

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1 application, for a specified period of time or permanently.  
2 (b) Revocation or suspension of a certificate.  
3 (c) Imposition of an administrative fine not to exceed  
4 \$2,000 for each count or separate offense.  
5 (d) Placement of the teacher, administrator, or  
6 supervisor on probation for a period of time and subject to  
7 such conditions as the commission may specify, including  
8 requiring the certified teacher, administrator, or supervisor  
9 to complete additional appropriate college courses or work  
10 with another certified educator, with the administrative costs  
11 of monitoring the probation assessed to the educator placed on  
12 probation. At a minimum, an educator who is on probation  
13 shall:  
14 1. Immediately notify the Bureau of Educator Standards  
15 upon his or her employment or termination of employment in the  
16 state in any public or private position that requires a  
17 Florida educator's certificate.  
18 2. Have his or her immediate supervisor submit annual  
19 performance reports to the Bureau of Educator Standards.  
20 3. Pay to the commission within the first 6 months of  
21 each probation year the administrative costs of monitoring  
22 probation which have been assessed to him or her.  
23 4. Not violate any law and shall fully comply with all  
24 district school board policies, school rules, and State Board  
25 of Education rules.  
26 5. Satisfactorily perform his or her assigned duties  
27 in a competent, professional manner.  
28 6. Bear all costs of complying with the terms of a  
29 final order entered by the commission.  
30 (e) Restriction of the authorized scope of practice of  
31 the teacher, administrator, or supervisor.



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

4 (g) Imposition of an administrative sanction, upon a  
 5 person whose teaching certificate has expired, for an act or  
 6 acts committed while that person possessed a teaching  
 7 certificate or an expired certificate subject to late renewal,  
 8 which sanction bars that person from applying for a new  
 9 certificate for a period of 10 years or less, or permanently.

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

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

26 Section 4. Subsections (1), (3), and (10) and  
 27 paragraph (c) of subsection (6) of section 1012.798, Florida  
 28 Statutes, are amended to read:

29 1012.798 Recovery network program for educators.--

30 (1) RECOVERY NETWORK ESTABLISHED.--There is created  
 31 within the Department of Education, a recovery network program

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1 to assist educators who are impaired as a result of alcohol  
 2 abuse, drug abuse, or a mental condition in obtaining  
 3 treatment ~~to permit their continued contribution to the~~  
 4 ~~education profession.~~ Any person who has applied for or holds  
 5 certification issued by the department pursuant to s. 1012.56  
 6 is eligible for the program assistance. The individual may  
 7 enter the program voluntarily or may be directed to  
 8 participate through a deferred prosecution agreement with the  
 9 Commissioner of Education or a final order of the Education  
 10 Practices Commission pursuant to s. 1012.796.

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

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

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

31 1. Acknowledges his or her impairment.

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

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

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

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

20           ~~a.6.~~ Has not previously entered a substance abuse  
21 program.

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

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

27           (10) DECLARATION OF INELIGIBILITY.--

28           (a) A person may be declared ineligible for further  
29 assistance from the recovery network program if he or she does  
30 not progress satisfactorily in a treatment program or leaves a  
31 prescribed program or course of treatment without the approval

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1 of the treatment provider.

2 (b) The determination of ineligibility must be made by  
3 ~~the commissioner in cases referred to him or her by the~~  
4 ~~program administrator or his or her designee after review of~~  
5 ~~the circumstances of the case. Before referring a case to the~~  
6 ~~commissioner, the administrator must discuss the circumstances~~  
7 ~~with the treatment provider. The commissioner may direct the~~  
8 ~~Office of Professional Practices Services to investigate the~~  
9 ~~case and provide a report.~~

10 (c) If ~~a~~ treatment through ~~contract~~ with the program  
11 is a condition of a deferred prosecution agreement, and the  
12 program administrator ~~commissioner~~ determines that the person  
13 is ineligible for further assistance, the commissioner may  
14 agree to modify the terms and conditions of the deferred  
15 prosecution agreement or may issue an administrative  
16 complaint, pursuant to s. 1012.796, alleging the charges  
17 regarding which prosecution was deferred. The person may  
18 dispute the determination as an affirmative defense to the  
19 administrative complaint by including with his or her request  
20 for hearing on the administrative complaint a written  
21 statement setting forth the facts and circumstances that show  
22 that the determination of ineligibility was erroneous. If  
23 administrative proceedings regarding the administrative  
24 complaint, pursuant to ss. 120.569 and 120.57, result in a  
25 finding that the determination of ineligibility was erroneous,  
26 the person is eligible to participate in the program. If the  
27 determination of ineligibility was the only reason for setting  
28 aside the deferred prosecution agreement and issuing the  
29 administrative complaint and the administrative proceedings  
30 result in a finding that the determination was erroneous, the  
31 complaint shall be dismissed and the deferred prosecution

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1 agreement reinstated without prejudice to the commissioner's  
2 right to reissue the administrative complaint for other  
3 breaches of the agreement.

4 (d) If a treatment through ~~contract with~~ the program  
5 is a condition of a final order of the Education Practices  
6 Commission, the program administrator's ~~commissioner's~~  
7 determination of ineligibility constitutes a finding of  
8 ~~probable cause~~ that the person failed to comply with the final  
9 order. Pursuant to ss. 1012.795 and 1012.796, upon the request  
10 of the Department of Education, the clerk of the Education  
11 Practices Commission shall issue to the educator an order to  
12 show cause, or the commissioner may ~~shall~~ issue an  
13 administrative complaint, ~~and the case shall proceed under ss.~~  
14 ~~1012.795 and 1012.796,~~ in the same manner as in cases based on  
15 a failure to comply with an order of the Education Practices  
16 Commission.

17 (e) If the person voluntarily entered into a treatment  
18 contract with the program, the program administrator  
19 ~~commissioner~~ shall issue a written notice stating the reasons  
20 for the determination of ineligibility. Within 20 days after  
21 the date of such notice, the person may contest the  
22 determination of ineligibility pursuant to ss. 120.569 and  
23 120.57.

24 Section 5. Subsection (4) of section 943.0585, Florida  
25 Statutes, is amended to read:

26 943.0585 Court-ordered expunction of criminal history  
27 records.--The courts of this state have jurisdiction over  
28 their own procedures, including the maintenance, expunction,  
29 and correction of judicial records containing criminal history  
30 information to the extent such procedures are not inconsistent  
31 with the conditions, responsibilities, and duties established

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1 by this section. Any court of competent jurisdiction may order  
2 a criminal justice agency to expunge the criminal history  
3 record of a minor or an adult who complies with the  
4 requirements of this section. The court shall not order a  
5 criminal justice agency to expunge a criminal history record  
6 until the person seeking to expunge a criminal history record  
7 has applied for and received a certificate of eligibility for  
8 expunction pursuant to subsection (2). A criminal history  
9 record that relates to a violation of s. 787.025, chapter 794,  
10 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,  
11 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
12 893.135, or a violation enumerated in s. 907.041 may not be  
13 expunged, without regard to whether adjudication was withheld,  
14 if the defendant was found guilty of or pled guilty or nolo  
15 contendere to the offense, or if the defendant, as a minor,  
16 was found to have committed, or pled guilty or nolo contendere  
17 to committing, the offense as a delinquent act. The court may  
18 only order expunction of a criminal history record pertaining  
19 to one arrest or one incident of alleged criminal activity,  
20 except as provided in this section. The court may, at its sole  
21 discretion, order the expunction of a criminal history record  
22 pertaining to more than one arrest if the additional arrests  
23 directly relate to the original arrest. If the court intends  
24 to order the expunction of records pertaining to such  
25 additional arrests, such intent must be specified in the  
26 order. A criminal justice agency may not expunge any record  
27 pertaining to such additional arrests if the order to expunge  
28 does not articulate the intention of the court to expunge a  
29 record pertaining to more than one arrest. This section does  
30 not prevent the court from ordering the expunction of only a  
31 portion of a criminal history record pertaining to one arrest

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1 or one incident of alleged criminal activity. Notwithstanding  
2 any law to the contrary, a criminal justice agency may comply  
3 with laws, court orders, and official requests of other  
4 jurisdictions relating to expunction, correction, or  
5 confidential handling of criminal history records or  
6 information derived therefrom. This section does not confer  
7 any right to the expunction of any criminal history record,  
8 and any request for expunction of a criminal history record  
9 may be denied at the sole discretion of the court.

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

24 (a) The person who is the subject of a criminal  
25 history record that is expunged under this section or under  
26 other provisions of law, including former s. 893.14, former s.  
27 901.33, and former s. 943.058, may lawfully deny or fail to  
28 acknowledge the arrests covered by the expunged record, except  
29 when the subject of the record:

30 1. Is a candidate for employment with a criminal  
31 justice agency;

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- 1           2. Is a defendant in a criminal prosecution;
- 2           3. Concurrently or subsequently petitions for relief
- 3 under this section or s. 943.059;
- 4           4. Is a candidate for admission to The Florida Bar;
- 5           5. Is seeking to be employed or licensed by or to
- 6 contract with the Department of Children and Family Services
- 7 or the Department of Juvenile Justice or to be employed or
- 8 used by such contractor or licensee in a sensitive position
- 9 having direct contact with children, the developmentally
- 10 disabled, the aged, or the elderly as provided in s.
- 11 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
- 12 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
- 13 985.407, or chapter 400; or
- 14           6. Is seeking to be employed or licensed by ~~the Office~~
- 15 ~~of Teacher Education, Certification, Staff Development, and~~
- 16 ~~Professional Practices of the Department of Education, any~~
- 17 ~~district school board, any university laboratory school, any~~
- 18 ~~charter school, any private or parochial school, or any local~~
- 19 governmental entity that licenses child care facilities.
- 20           (b) Subject to the exceptions in paragraph (a), a
- 21 person who has been granted an expunction under this section,
- 22 former s. 893.14, former s. 901.33, or former s. 943.058 may
- 23 not be held under any provision of law of this state to commit
- 24 perjury or to be otherwise liable for giving a false statement
- 25 by reason of such person's failure to recite or acknowledge an
- 26 expunged criminal history record.
- 27           (c) Information relating to the existence of an
- 28 expunged criminal history record which is provided in
- 29 accordance with paragraph (a) is confidential and exempt from
- 30 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
- 31 State Constitution, except that the department shall disclose



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1 the existence of a criminal history record ordered expunged to  
2 the entities set forth in subparagraphs (a)1., 4., 5., and 6.  
3 for their respective licensing and employment purposes, and to  
4 criminal justice agencies for their respective criminal  
5 justice purposes. It is unlawful for any employee of an entity  
6 set forth in subparagraph (a)1., subparagraph (a)4.,  
7 subparagraph (a)5., or subparagraph (a)6. to disclose  
8 information relating to the existence of an expunged criminal  
9 history record of a person seeking employment or licensure  
10 with such entity or contractor, except to the person to whom  
11 the criminal history record relates or to persons having  
12 direct responsibility for employment or licensure decisions.  
13 Any person who violates this paragraph commits a misdemeanor  
14 of the first degree, punishable as provided in s. 775.082 or  
15 s. 775.083.

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

18 943.059 Court-ordered sealing of criminal history  
19 records.--The courts of this state shall continue to have  
20 jurisdiction over their own procedures, including the  
21 maintenance, sealing, and correction of judicial records  
22 containing criminal history information to the extent such  
23 procedures are not inconsistent with the conditions,  
24 responsibilities, and duties established by this section. Any  
25 court of competent jurisdiction may order a criminal justice  
26 agency to seal the criminal history record of a minor or an  
27 adult who complies with the requirements of this section. The  
28 court shall not order a criminal justice agency to seal a  
29 criminal history record until the person seeking to seal a  
30 criminal history record has applied for and received a  
31 certificate of eligibility for sealing pursuant to subsection

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

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1 discretion of the court.

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

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

- 17 1. Is a candidate for employment with a criminal  
 18 justice agency;
- 19 2. Is a defendant in a criminal prosecution;
- 20 3. Concurrently or subsequently petitions for relief  
 21 under this section or s. 943.0585;
- 22 4. Is a candidate for admission to The Florida Bar;
- 23 5. Is seeking to be employed or licensed by or to  
 24 contract with the Department of Children and Family Services  
 25 or the Department of Juvenile Justice or to be employed or  
 26 used by such contractor or licensee in a sensitive position  
 27 having direct contact with children, the developmentally  
 28 disabled, the aged, or the elderly as provided in s.  
 29 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
 30 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
 31 415.103, s. 985.407, or chapter 400; or

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

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

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

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(Redesignate subsequent sections.)

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

And the title is amended as follows:

On page 1, line 3, after the semicolon through line 9,  
after the semicolon, delete those lines

and insert: amending s. 1012.79, F.S.; amending the number of  
members required for certain panels of the Education Practices  
Commission; amending s. 1012.795, F.S., relating to the  
Education Practices Commission's authority to discipline;  
revising grounds for discipline; providing penalties; amending  
s. 1012.796, F.S.; requiring certain agencies to provide  
unredacted documents to the Department of Education for  
purposes of investigating and prosecuting certified educators  
and applicants for certification; providing minimum standards  
that a probationer must meet; revising penalties that the  
Education Practices Commission may impose; revising criteria  
for the use of an order to show cause; amending s. 1012.798,  
F.S.; revising provisions relating to the recovery network  
program for educators; amending s. 943.0585, F.S.; allowing  
certain employers of educators to have access to expunged  
records; amending s. 943.059, F.S.; allowing certain employers  
of educators to have access to sealed records;