

By Senator Fasano

11-315A-05

See HB 645

1 A bill to be entitled
 2 An act relating to the Department of Law
 3 Enforcement; amending s. 790.065, F.S.;
 4 requiring the department to review other
 5 records in addition to criminal history records
 6 to evaluate a potential buyer or transferee of
 7 a firearm, including an adjudication of mental
 8 defectiveness or a commitment to a mental
 9 institution as criteria that prohibit a person
 10 from purchasing a firearm; providing
 11 definitions; requiring the department to
 12 maintain an automated database of persons who
 13 are prohibited from purchasing a firearm;
 14 requiring each clerk of court to submit certain
 15 court records to the department within a
 16 certain period; requiring the department to
 17 delete certain records from the automated
 18 database upon the request of an individual
 19 meeting specified conditions; authorizing the
 20 department to disclose collected data to other
 21 federal or state agencies with regard to the
 22 sale or transfer of a firearm; authorizing the
 23 department to disclose certain information to
 24 the Department of Agriculture and Consumer
 25 Services for determining the eligibility of an
 26 applicant for a concealed weapons or concealed
 27 firearms license; requiring the clerk of court
 28 or mental hospital to provide additional
 29 information upon request following an appeal of
 30 an unapproved sale or transfer of a firearm;
 31 amending s. 914.25, F.S.; providing for

1 recertification for protective services for an
2 additional period, with reimbursement for
3 expenses from the Victim and Witness Protection
4 Review Committee; providing for unlimited
5 protective services for a victim or witness
6 without reimbursement; amending s. 937.021,
7 F.S.; providing immunity to the department,
8 other law enforcement agencies, and media
9 representatives from civil liability for
10 complying in good faith with a request to
11 record or report information of an Amber Alert
12 or Missing Child Alert; providing that a
13 technical or clerical error or incorrect or
14 incomplete information does not overcome the
15 presumption of good faith in reporting
16 information about an Amber Alert or Missing
17 Child Alert; providing that it is a
18 discretionary decision of the law enforcement
19 agency or its employees to report, record, or
20 display Amber Alert or Missing Child Alert
21 information; amending s. 938.07, F.S.;
22 requiring that a portion of certain court costs
23 imposed for a conviction of driving or boating
24 under the influence be deposited into the
25 department's Operating Trust Fund instead of
26 the Criminal Justice Standards and Training
27 Trust Fund; amending s. 938.27, F.S.; requiring
28 that investigative costs recovered on behalf of
29 the department be deposited into the Forfeiture
30 and Investigative Trust Fund of the department;
31 amending s. 943.05, F.S.; authorizing the

1 department to retain fingerprints in certain
2 circumstances and use retained fingerprints for
3 certain purposes; amending s. 943.052, F.S.;
4 requiring that disposition reports for
5 dispositions relating to minor offenders are
6 mandatory after a specified date; amending s.
7 68.07, F.S.; requiring a set of fingerprints as
8 part of a name change petition; amending s.
9 943.053, F.S.; requiring the department to make
10 certain information available to judges;
11 limiting use of information; authorizing a
12 criminal justice agency to obtain a criminal
13 history background check of a noncertified
14 agency employee by submitting fingerprints to
15 the department; requiring the department to
16 adopt rules setting a fee for conducting the
17 criminal history background search and
18 establishing procedures; requiring that
19 criminal history check be provided by the
20 department in certain circumstances; amending
21 s. 943.0585, F.S.; prohibiting a court from
22 expunging a criminal history record containing
23 certain sexual offenses or certain offenses
24 that require registration as a sexual offender;
25 requiring a valid certificate of eligibility
26 for expunction in a petition to expunge a
27 criminal history record; specifying the time
28 during which a certificate of eligibility for
29 expunction is valid; requiring that a trial
30 must not have occurred in order for a person to
31 obtain a statement from the state attorney

1 authorizing the expunction of a criminal
2 record; authorizing a person who has secured a
3 prior sealing or expunction of a criminal
4 history record to seek a certificate of
5 eligibility for expunction if the criminal
6 history record was previously sealed for a
7 specified time and is otherwise eligible for
8 expunction; providing that a person who is
9 seeking authorization for employment or access
10 to a seaport may not deny or fail to
11 acknowledge an arrest covered by an expunged
12 record; providing that the department may
13 acknowledge an expunged criminal history record
14 under certain circumstances; amending s.
15 943.059, F.S.; enumerating certain sexual
16 offenses and offenses that require registration
17 as a sexual offender which may not be sealed;
18 requiring a valid certificate of eligibility
19 for sealing in a petition to seal a criminal
20 history record; specifying the period during
21 which a certificate of eligibility for sealing
22 is valid; providing that the information
23 contained in a sealed criminal record is
24 available to a criminal justice agency for the
25 purpose of conducting a criminal history
26 background check for approval of a firearms
27 purchase or transfer; prohibiting a person from
28 denying arrests covered by his or her sealed
29 criminal record when attempting to purchase a
30 firearm; providing that a person who is seeking
31 authorization for employment or access to a

1 seaport may not deny or fail to acknowledge an
2 arrest covered by sealed record; providing that
3 the department may acknowledge a sealed
4 criminal history record under certain
5 circumstances; amending s. 943.13, F.S.;
6 requiring the department to enter the
7 fingerprints of law enforcement or correctional
8 officers into a statewide automated fingerprint
9 identification system; requiring the department
10 to search each arrest fingerprint card received
11 against fingerprints retained in the statewide
12 automated fingerprint identification system;
13 providing for refingerprinting by a certain
14 date; amending ss. 943.1715 and 943.1716, F.S.;
15 deleting the minimum number of hours required
16 for basic skills training and continued
17 employment training relating to diverse
18 populations for law enforcement officers;
19 repealing s. 943.2569, F.S., relating to an
20 annual financial audit of criminal justice
21 selection centers; amending s. 943.257, F.S.;
22 authorizing the Criminal Justice Standards and
23 Training Commission and the advisory board of a
24 criminal justice selection center to inspect
25 and copy any documents from a center in order
26 to carry out oversight responsibilities,
27 including documents pertaining to any internal
28 or independent audits; amending s. 943.401,
29 F.S.; requiring the department to investigate
30 all public assistance that is provided by the
31 state; requiring public assistance recipients

1 to consent in writing to an investigation into
2 their employment and financial histories by the
3 Agency for Workforce Innovation; requiring the
4 department to report the results of the
5 investigations to the Agency for Workforce
6 Innovation; authorizing the department to
7 purchase goodwill and promotional materials;
8 limiting the annual amount of such
9 expenditures; prohibiting the unauthorized use
10 of the department's emblems and names;
11 providing a penalty; providing an effective
12 date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Effective February 1, 2006, paragraph (a)
17 of subsection (2) of section 790.065, Florida Statutes, is
18 amended to read:

19 790.065 Sale and delivery of firearms.--

20 (2) Upon receipt of a request for a criminal history
21 record check, the Department of Law Enforcement shall, during
22 the licensee's call or by return call, forthwith:

23 (a) Review criminal history records and other records
24 that have been provided to the department to determine if the
25 potential buyer or transferee:

26 1. Has been convicted of a felony and is prohibited
27 from receipt or possession of a firearm pursuant to s. 790.23;

28 2. Has been convicted of a misdemeanor crime of
29 domestic violence, and therefore is prohibited from purchasing
30 a firearm; ~~or~~

31

1 3. Has had adjudication of guilt withheld or
2 imposition of sentence suspended on any felony or misdemeanor
3 crime of domestic violence unless 3 years have elapsed since
4 probation or any other conditions set by the court have been
5 fulfilled or expunction has occurred; ~~or-~~

6 4. Has been adjudicated mentally defective or has been
7 committed to a mental institution by a court and as a result
8 is prohibited by federal law from purchasing a firearm.

9 a. As used in this subparagraph, "adjudicated mentally
10 defective" means a determination by a court that a person, as
11 a result of marked subnormal intelligence, or mental illness,
12 incompetency, condition, or disease, is a danger to himself or
13 herself or to others or lacks the mental capacity to contract
14 or manage his or her own affairs. The phrase shall include a
15 judicial finding of incapacity under s. 744.331(6)(a), an
16 acquittal by reason of insanity of a person charged with a
17 criminal offense, and a judicial finding that a criminal
18 defendant is not competent to stand trial.

19 b. As used in this subparagraph, "committed to a
20 mental institution" means involuntary commitment, commitment
21 for mental defectiveness or mental illness, and commitment for
22 substance abuse. The phrase shall include involuntary
23 inpatient placement as defined in s. 394.467, involuntary
24 assessment and stabilization under s. 397.6818, and
25 involuntary substance abuse treatment under s. 397.6957, but
26 shall not include a person in a mental institution for
27 observation or discharged from a mental institution based upon
28 the initial review by the physician or a voluntary admission
29 to a mental institution.

30 c. In order to check for these conditions, the
31 department shall compile and maintain an automated database of

1 persons who are prohibited from purchasing a firearm based on
2 court records of adjudications of mental defectiveness or
3 commitments to mental institutions. Clerks of court are
4 required to submit these records to the department within one
5 month of the rendition of the adjudication or commitment.
6 Reports may be submitted in an automated format. The reports
7 must, at a minimum, include the name, along with any known
8 alias or former name, the sex, and the date of birth of the
9 subject. The department shall delete any mental health record
10 from the database upon request of an individual, when 5 years
11 have elapsed since the individual's restoration to capacity by
12 court order after being adjudicated an incapacitated person
13 under s. 744.331, or similar laws of any other state; or, in
14 the case of an individual who was previously committed to a
15 mental institution under chapter 394, or similar laws of any
16 other state, when the individual produces a certificate from a
17 licensed psychiatrist that he or she has not suffered from
18 disability for at least 5 years prior to the date of request
19 for removal of the record. Where the department has received a
20 subsequent record of an adjudication of mental defectiveness
21 or commitment to a mental institution for such individual, the
22 5-year timeframe would be calculated from the most recent
23 adjudication of incapacitation or commitment.

24 d. The department is authorized to disclose the
25 collected data to agencies of the Federal Government and other
26 states for use exclusively in determining the lawfulness of a
27 firearm sale or transfer. The department is also authorized to
28 disclose any applicable collected data to the Department of
29 Agriculture and Consumer Services for determination of
30 eligibility for issuance of a concealed weapons or concealed
31 firearms license upon receipt of an applicant fingerprint

1 submission forwarded pursuant to s. 790.06(6)(a). When a
2 potential buyer or transferee appeals a nonapproval based on
3 these records, the clerks of court and mental institutions
4 shall, upon request by the department, provide information to
5 help determine whether the potential buyer or transferee is
6 the same person as the subject of the record. Photographs and
7 any other data that could confirm or negate identity must be
8 made available to the department for such purposes,
9 notwithstanding any other provision of state law to the
10 contrary. Any such information which is made confidential or
11 exempt from disclosure by law shall retain such confidential
12 or exempt status when transferred to the department.

13 Section 2. Subsections (4) and (5) of section 914.25,
14 Florida Statutes, are amended to read:

15 914.25 Protective services for certain victims and
16 witnesses.--

17 (4)(a) When a victim or witness is certified as
18 provided in subsection (3), a law enforcement agency, in
19 consultation with the certifying state attorney or the
20 statewide prosecutor, may provide appropriate protective
21 services. If a victim or witness needs to be temporarily
22 relocated, the statewide prosecutor or the state attorney must
23 notify the Department of Law Enforcement. The Department of
24 Law Enforcement, in consultation with the statewide prosecutor
25 or the state attorney, and any other law enforcement agency
26 involved in the criminal investigation or prosecution, shall
27 coordinate the temporary relocation of the victim or witness.

28 (b) Protective services, including temporary
29 relocation services, may initially be provided for up to 1
30 year or until the risk giving rise to the certification has
31 diminished, whichever occurs sooner. ~~If deemed necessary,~~ The

1 statewide prosecutor or the state attorney may, at the end of
2 the certification year, recertify a victim or witness at risk
3 of harm for an additional period of up to 1 year or until the
4 risk giving rise to the certification has diminished,
5 whichever occurs first. A victim or witness at risk of harm
6 may be certified and recertified annually as provided in this
7 section to provide a maximum of 4 years of eligibility for
8 protective services.

9 (5) The lead law enforcement agency that provides
10 protective services, as authorized in this section, may seek
11 reimbursement for its reasonable expenses from the Victim and
12 Witness Protection Review Committee, pursuant to ~~the~~
13 ~~provisions of s. 943.031. This section does not prevent any~~
14 law enforcement agency from providing protective services at
15 the agency's expense beyond the 4-year maximum period
16 established in this section. Any such additional expenditures
17 for protective services are not eligible for the reimbursement
18 provided in this section.

19 Section 3. Subsection (3) is added to section 937.021,
20 Florida Statutes, to read:

21 937.021 Missing child reports.--

22 (3)(a) Upon receiving a request to record, report,
23 transmit, display, or release Amber Alert or Missing Child
24 Alert information from the law enforcement agency having
25 jurisdiction over the missing or endangered child, the
26 Department of Law Enforcement as the state Amber Alert
27 coordinator; any state or local law enforcement agency and the
28 personnel of these agencies; any radio or television network,
29 broadcaster, or other media representative; or any agency,
30 employee, individual, or entity is immune from civil liability
31 for damages for complying in good faith with the request, and

1 is presumed to have acted in good faith in recording,
2 reporting, transmitting, displaying, or releasing Amber Alert
3 or Missing Child Alert information pertaining to such child.

4 (b) The presumption of good faith is not overcome if a
5 technical or clerical error is made by any such agency,
6 employee, individual, or entity acting at the request of the
7 local law enforcement agency having jurisdiction, or if the
8 Amber Alert or Missing Child Alert information is incomplete
9 or incorrect because the information received from the local
10 law enforcement agency was incomplete or incorrect.

11 (c) This subsection or any other provision of law does
12 not create a duty of the agency, employee, individual, or
13 entity to record, report, transmit, display, or release the
14 Amber Alert or Missing Child Alert information received from
15 the local law enforcement agency having jurisdiction. The
16 decision to record, report, transmit, display, or release
17 information is discretionary with the agency, employee,
18 individual, or entity receiving that information from the
19 local law enforcement agency having jurisdiction.

20 Section 4. Section 938.07, Florida Statutes, is
21 amended to read:

22 938.07 Driving or boating under the
23 influence.--Notwithstanding any other provision of s. 316.193
24 or s. 327.35, a court cost of \$135 shall be added to any fine
25 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
26 remit the funds to the Department of Revenue, \$25 of which
27 shall be deposited in the Emergency Medical Services Trust
28 Fund, \$50 shall be deposited in the Operating Criminal Justice
29 ~~Standards and Training~~ Trust Fund of the Department of Law
30 Enforcement to be used for operational expenses in conducting
31 the statewide criminal analysis laboratory system established

1 in s. 943.32, and \$60 shall be deposited in the Brain and
2 Spinal Cord Injury Rehabilitation Trust Fund created in s.
3 381.79.

4 Section 5. Subsection (7) of section 938.27, Florida
5 Statutes, is amended to read:

6 938.27 Judgment for costs on conviction.--

7 (7) Investigative costs ~~that which~~ are recovered shall
8 be returned to the appropriate investigative agency ~~that which~~
9 incurred the expense. Such costs ~~shall~~ include actual expenses
10 incurred in conducting the investigation and prosecution of
11 the criminal case; however, costs may also include the
12 salaries of permanent employees. Any investigative costs
13 recovered on behalf of a state agency must be remitted to the
14 Department of Revenue for deposit in the agency operating
15 trust fund, and a report of the payment must be sent to the
16 agency, except that any investigative costs recovered on
17 behalf of the Department of Law Enforcement shall be deposited
18 in the department's Forfeiture and Investigative Support Trust
19 Fund under s. 943.362.

20 Section 6. Paragraphs (g) and (h) are added to
21 subsection (2) of section 943.05, Florida Statutes, to read:

22 943.05 Criminal Justice Information Program; duties;
23 crime reports.--

24 (2) The program shall:

25 (g) As authorized by law, retain fingerprints
26 submitted by criminal and noncriminal justice agencies to the
27 department for a criminal history background screening in a
28 manner provided by rule, and enter the fingerprints in the
29 statewide automated fingerprint identification system
30 authorized by s.943.05(2)(b). Such fingerprints shall
31 thereafter be available for all purposes and uses authorized

1 for arrest fingerprint cards entered into the statewide
2 automated fingerprint identification system pursuant to s.
3 943.051.

4 (h) As authorized by law, search all arrest
5 fingerprint cards received under s. 943.051 against the
6 fingerprints retained in the statewide automated fingerprint
7 identification system under paragraph (g). Any arrest record
8 that is identified with the retained fingerprints of a person
9 subject to background screening as provided in paragraph (g)
10 shall be reported to the appropriate agency. Agencies may
11 participate in this search process by payment of an annual fee
12 to the department and by informing the department of any
13 change in the affiliation, employment, or contractual status
14 or place of affiliation, employment, or contracting of the
15 persons whose fingerprints are retained under paragraph (g).
16 The department shall adopt a rule setting the amount of the
17 annual fee to be imposed upon each participating agency for
18 performing these searches and establishing the procedures for
19 the retention of fingerprints and the dissemination of search
20 results. The fee may be borne as provided by law.

21 Section 7. Subsection (2) of section 943.052, Florida
22 Statutes, is amended to read:

23 943.052 Disposition reporting.--The Criminal Justice
24 Information Program shall, by rule, establish procedures and a
25 format for each criminal justice agency to monitor its records
26 and submit reports, as provided by this section, to the
27 program. The disposition report shall be developed by the
28 program and shall include the offender-based transaction
29 system number.

30 (2) Each clerk of the court shall submit the uniform
31 dispositions to the program or in a manner acceptable to the

1 program. The report shall be submitted at least once a month
2 and, when acceptable by the program, may be submitted in an
3 automated format. The disposition report is mandatory for
4 dispositions relating to adult offenders only. Beginning July
5 1, 2008, a disposition report for each disposition relating to
6 a minor offender is mandatory.

7 Section 8. Subsections (2) and (5) of section 68.07,
8 Florida Statutes, are amended to read:

9 68.07 Change of name.--

10 (2) The petition shall include a set ~~copy~~ of the
11 petitioner's fingerprints taken by a law enforcement agency
12 except where a former name is being restored and be verified
13 and show:

14 (a) That petitioner is a bona fide resident of and
15 domiciled in the county where the change of name is sought.

16 (b) If known, the date and place of birth of
17 petitioner, petitioner's father's name, mother's maiden name,
18 and where petitioner has resided since birth.

19 (c) If petitioner is married, the name of petitioner's
20 spouse and if petitioner has children, the names and ages of
21 each and where they reside.

22 (d) If petitioner's name has previously been changed
23 and when and where and by what court.

24 (e) Petitioner's occupation and where petitioner is
25 employed and has been employed for 5 years next preceding
26 filing of the petition. If petitioner owns and operates a
27 business, the name and place of it shall be stated and
28 petitioner's connection therewith and how long petitioner has
29 been identified with said business. If petitioner is in a
30 profession, the profession shall be stated, where the
31 petitioner has practiced the profession and if a graduate of a

1 school or schools, the name or names thereof, time of
2 graduation, and degrees received.

3 (f) Whether the petitioner has been generally known or
4 called by any other names and if so, by what names and where.

5 (g) Whether petitioner has ever been adjudicated a
6 bankrupt and if so, where and when.

7 (h) Whether petitioner has ever been arrested for or
8 charged with, pled guilty or nolo contendere to, or been found
9 to have committed a criminal offense, regardless of
10 adjudication, and if so, when and where.

11 (i) Whether any money judgment has ever been entered
12 against petitioner and if so, the name of the judgment
13 creditor, the amount and date thereof, the court by which
14 entered, and whether the judgment has been satisfied.

15 (j) That the petition is filed for no ulterior or
16 illegal purpose and granting it will not in any manner invade
17 the property rights of others, whether partnership, patent,
18 good will, privacy, trademark, or otherwise.

19 (k) That the petitioner's civil rights have never been
20 suspended, or if the petitioner's civil rights have been
21 suspended, that full restoration of civil rights has occurred.

22 (5) The clerk must, upon the filing of the final
23 judgment, send a report of the judgment to the Department of
24 Law Enforcement on a form to be furnished by that department.
25 The Department of Law Enforcement must send a set copy of the
26 report to the Department of Highway Safety and Motor Vehicles,
27 which may be delivered by electronic transmission. The report
28 must contain sufficient information to identify the
29 petitioner, including a set copy of the petitioner's
30 fingerprints taken by a law enforcement agency, the new name
31 of the petitioner, and the file number of the judgment. Any

1 information retained by the Department of Law Enforcement and
2 the Department of Highway Safety and Motor Vehicles may be
3 revised or supplemented by said departments to reflect changes
4 made by the final judgment. With respect to a person convicted
5 of a felony in another state or of a federal offense, the
6 Department of Law Enforcement must send the report to the
7 respective state's office of law enforcement records or to the
8 office of the Federal Bureau of Investigation. The Department
9 of Law Enforcement may forward the report to any other law
10 enforcement agency it believes may retain information related
11 to the petitioner. Any costs associated with fingerprinting
12 must be paid by the petitioner.

13 Section 9. Present subsections (5), (6), (7), (8), and
14 (9), of section 943.053, Florida Statutes, are redesignated as
15 subsections (6), (7), (8), (9), and (10) respectively, and new
16 subsections (5), (11), and (12) are added to that section to
17 read:

18 943.053 Dissemination of criminal justice information;
19 fees.--

20 (5) Notwithstanding the provisions of s. 943.0525, or
21 any user agreement adopted pursuant thereto, and
22 notwithstanding the confidentiality of sealed records as
23 provided for in s. 943.059, the department shall make online
24 access to Florida criminal justice information available to
25 each judge in the state courts system for the purpose of
26 assisting judges in their case-related decisionmaking
27 responsibilities. Such online access shall be provided without
28 charge to the state court system. Sealed records received by
29 the courts under this section remain confidential and exempt
30 from the provisions of s. 119.07(1). The information provided
31 pursuant to this section shall not take the place of any

1 information required to be provided to the courts by any other
2 agency or entity. Information provided under this section
3 shall be used only for the official court business for which
4 it was requested and may not be further disseminated.

5 (11) A criminal justice agency that is authorized
6 under federal rules or law to conduct a criminal history
7 background check on an agency employee who is not certified by
8 the Criminal Justice Standards and Training Commission under
9 s. 943.12 may submit to the department the fingerprints of the
10 noncertified employee to obtain state and national criminal
11 history information. Effective December 15, 2005, the
12 fingerprints submitted shall be retained and entered in the
13 statewide automated fingerprint identification system
14 authorized by s. 943.05 and shall be available for all
15 purposes and uses authorized for arrest fingerprint cards
16 entered in the statewide automated fingerprint identification
17 system pursuant to s. 943.051. The department shall search all
18 arrest fingerprint cards received pursuant to s. 943.051
19 against the fingerprints retained in the statewide automated
20 fingerprint identification system pursuant to this section. In
21 addition to all purposes and uses authorized for arrest
22 fingerprint cards for which submitted fingerprints may be
23 used, any arrest record that is identified with the retained
24 employee fingerprints must be reported to the submitting
25 employing agency. The department shall adopt rules setting the
26 amount of the fee to be imposed upon each submitting agency
27 for performing searches and for establishing procedures for
28 retaining the fingerprints and disseminating search results to
29 a submitting agency.

30 (12) Notwithstanding any other provision of law, when a
31 criminal history check or a duty to disclose the absence of a

1 criminal history check is mandated by state law, or when a
2 privilege or benefit is conferred by state law in return for
3 exercising an option of conducting a criminal history check,
4 the referenced criminal history check, whether it is an
5 initial or renewal check, shall include a Florida criminal
6 history provided by the department as set forth in this
7 section. Such Florida criminal history information may be
8 provided by a private vendor only if that information is
9 directly obtained from the department for each request. When a
10 national criminal history check is required or authorized by
11 state law, the national criminal history check shall be
12 submitted by and through the department in the manner
13 established by the department for such checks, unless
14 otherwise required by federal law. The fee for criminal
15 history information as established by state law or, in the
16 case of national checks, by the Federal Government, shall be
17 borne by the person or entity submitting the request, or as
18 provided by law. Criminal history information provided by any
19 other governmental entity of this state or any private entity
20 shall not be substituted for criminal history information
21 provided by the department where the criminal history check or
22 a duty to disclose the absence of a criminal history check is
23 required by statute or is made a condition of a privilege or
24 benefit by law.

25 Section 10. Section 943.0585, Florida Statutes, is
26 amended to read:

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

1 | with the conditions, responsibilities, and duties established
2 | by this section. Any court of competent jurisdiction may order
3 | a criminal justice agency to expunge the criminal history
4 | record of a minor or an adult who complies with the
5 | requirements of this section. The court shall not order a
6 | criminal justice agency to expunge a criminal history record
7 | until the person seeking to expunge a criminal history record
8 | has applied for and received a certificate of eligibility for
9 | expunction pursuant to subsection (2). A criminal history
10 | record that relates to a violation of s. 393.135, s. 394.4593,
11 | s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 810.14, s.
12 | 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s.
13 | 847.0135, s. 847.0145, s. 893.135, s. 916.1075, ~~or~~ a violation
14 | enumerated in s. 907.041, or any violation specified as a
15 | predicate offense for registration as a sexual predator
16 | pursuant to s. 775.21, without regard to whether that offense
17 | alone is sufficient to require such registration, or as a
18 | sexual offender pursuant to s. 943.0435, may not be expunged,
19 | without regard to whether adjudication was withheld, if the
20 | defendant was found guilty of or pled guilty or nolo
21 | contendere to the offense, or if the defendant, as a minor,
22 | was found to have committed, or pled guilty or nolo contendere
23 | to committing, the offense as a delinquent act. The court may
24 | only order expunction of a criminal history record pertaining
25 | to one arrest or one incident of alleged criminal activity,
26 | except as provided in this section. The court may, at its sole
27 | discretion, order the expunction of a criminal history record
28 | pertaining to more than one arrest if the additional arrests
29 | directly relate to the original arrest. If the court intends
30 | to order the expunction of records pertaining to such
31 | additional arrests, such intent must be specified in the

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

16 | (1) PETITION TO EXPUNGE A CRIMINAL HISTORY
17 | RECORD.--Each petition to a court to expunge a criminal
18 | history record is complete only when accompanied by:

19 | (a) A valid certificate of eligibility for expunction
20 | issued by the department pursuant to subsection (2).

21 | (b) The petitioner's sworn statement attesting that
22 | the petitioner:

23 | 1. Has never, prior to the date on which the petition
24 | is filed, been adjudicated guilty of a criminal offense or
25 | comparable ordinance violation, or been adjudicated delinquent
26 | for committing any ~~a~~ felony or ~~a~~ misdemeanor specified in s.
27 | 943.051(3)(b).

28 | 2. Has not been adjudicated guilty of, or adjudicated
29 | delinquent for committing, any of the acts stemming from the
30 | arrest or alleged criminal activity to which the petition
31 | pertains.

1 3. Has never secured a prior sealing or expunction of
2 a criminal history record under this section, former s.
3 893.14, former s. 901.33, or former s. 943.058, or from any
4 jurisdiction outside the state.

5 4. Is eligible for such an expunction to the best of
6 his or her knowledge or belief and does not have any other
7 petition to expunge or any petition to seal pending before any
8 court.

9
10 Any person who knowingly provides false information on such
11 sworn statement to the court commits a felony of the third
12 degree, punishable as provided in s. 775.082, s. 775.083, or
13 s. 775.084.

14 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
15 to petitioning the court to expunge a criminal history record,
16 a person seeking to expunge a criminal history record shall
17 apply to the department for a certificate of eligibility for
18 expunction. The department shall, by rule adopted pursuant to
19 chapter 120, establish procedures pertaining to the
20 application for and issuance of certificates of eligibility
21 for expunction. A certificate of eligibility for expunction is
22 valid for 12 months after the date stamped on the certificate
23 when issued by the Department of Law Enforcement. After that
24 time, the petitioner must reapply to the department for a new
25 certificate of eligibility. Eligibility for a renewed
26 certification of eligibility must be based on the status of
27 the applicant and the law in effect at the time of the most
28 recent application. The department shall issue a certificate
29 of eligibility for expunction to a person who is the subject
30 of a criminal history record if that person:
31

1 (a) Has obtained, and submitted to the department, a
2 written, certified statement from the appropriate state
3 attorney or statewide prosecutor which indicates:

4 1. That an indictment, information, or other charging
5 document was not filed or issued in the case.

6 2. That an indictment, information, or other charging
7 document, if filed or issued in the case, was dismissed or
8 nolle prosequi by the state attorney or statewide prosecutor,
9 or was dismissed by a court of competent jurisdiction, and
10 that none of the charges related to the arrest or alleged
11 criminal activity to which the petition to expunge pertains
12 resulted in a trial, without regard to whether the outcome of
13 the trial was other than an adjudication of guilt.

14 3. That the criminal history record does not relate to
15 a violation of s. 393.135, s. 394.4593, s. 787.025, chapter
16 794, s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
17 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.
18 847.0145, s. 893.135, s. 916.1075, ~~or~~ a violation enumerated
19 in s. 907.041, or any violation specified as a predicate
20 offense for registration as a sexual predator pursuant to s.
21 775.21, without regard to whether that offense alone is
22 sufficient to require such registration, or as a sexual
23 offender pursuant to s. 943.0435, where the defendant was
24 found guilty of, or pled guilty or nolo contendere to any such
25 offense, or that the defendant, as a minor, was found to have
26 committed, or pled guilty or nolo contendere to committing,
27 such an offense as a delinquent act, without regard to whether
28 adjudication was withheld.

29 (b) Remits a \$75 processing fee to the department for
30 placement in the Department of Law Enforcement Operating Trust
31 Fund, unless such fee is waived by the executive director.

1 (c) Has submitted to the department a certified copy
2 of the disposition of the charge to which the petition to
3 expunge pertains.

4 (d) Has never, prior to the date on which the
5 application for a certificate of eligibility is filed, been
6 adjudicated guilty of a criminal offense or comparable
7 ordinance violation, or been adjudicated delinquent for
8 committing any ~~a~~ felony or a misdemeanor specified in s.
9 943.051(3)(b).

10 (e) Has not been adjudicated guilty of, or adjudicated
11 delinquent for committing, any of the acts stemming from the
12 arrest or alleged criminal activity to which the petition to
13 expunge pertains.

14 (f) Has never secured a prior sealing or expunction of
15 a criminal history record under this section, former s.
16 893.14, former s. 901.33, or former s. 943.058, unless
17 expunction is sought of a criminal history record previously
18 sealed for 10 years pursuant to paragraph (h) and the record
19 is otherwise eligible for expunction.

20 (g) Is no longer under court supervision applicable to
21 the disposition of the arrest or alleged criminal activity to
22 which the petition to expunge pertains.

23 (h) Has previously obtained a court order sealing the
24 record under this section, former s. 893.14, former s. 901.33,
25 or former s. 943.058 for a minimum of 10 years because
26 adjudication was withheld or because all charges related to
27 the arrest or alleged criminal activity to which the petition
28 to expunge pertains were not dismissed prior to trial, without
29 regard to whether the outcome of the trial was other than an
30 adjudication of guilt. The requirement for the record to have
31 previously been sealed for a minimum of 10 years does not

1 apply when a plea was not entered or all charges related to
2 the arrest or alleged criminal activity to which the petition
3 to expunge pertains were dismissed prior to trial. Is not
4 ~~required to wait a minimum of 10 years prior to being eligible~~
5 ~~for an expunction of such records because all charges related~~
6 ~~to the arrest or criminal activity to which the petition to~~
7 ~~expunge pertains were dismissed prior to trial, adjudication,~~
8 ~~or the withholding of adjudication. Otherwise, such criminal~~
9 ~~history record must be sealed under this section, former s.~~
10 ~~893.14, former s. 901.33, or former s. 943.058 for at least 10~~
11 ~~years before such record is eligible for expunction.~~

12 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--

13 (a) In judicial proceedings under this section, a copy
14 of the completed petition to expunge shall be served upon the
15 appropriate state attorney or the statewide prosecutor and
16 upon the arresting agency; however, it is not necessary to
17 make any agency other than the state a party. The appropriate
18 state attorney or the statewide prosecutor and the arresting
19 agency may respond to the court regarding the completed
20 petition to expunge.

21 (b) If relief is granted by the court, the clerk of
22 the court shall certify copies of the order to the appropriate
23 state attorney or the statewide prosecutor and the arresting
24 agency. The arresting agency is responsible for forwarding the
25 order to any other agency to which the arresting agency
26 disseminated the criminal history record information to which
27 the order pertains. The department shall forward the order to
28 expunge to the Federal Bureau of Investigation. The clerk of
29 the court shall certify a copy of the order to any other
30 agency which the records of the court reflect has received the
31 criminal history record from the court.

1 (c) For an order to expunge entered by a court prior
2 to July 1, 1992, the department shall notify the appropriate
3 state attorney or statewide prosecutor of an order to expunge
4 which is contrary to law because the person who is the subject
5 of the record has previously been convicted of a crime or
6 comparable ordinance violation or has had a prior criminal
7 history record sealed or expunged. Upon receipt of such
8 notice, the appropriate state attorney or statewide prosecutor
9 shall take action, within 60 days, to correct the record and
10 petition the court to void the order to expunge. The
11 department shall seal the record until such time as the order
12 is voided by the court.

13 (d) On or after July 1, 1992, the department or any
14 other criminal justice agency is not required to act on an
15 order to expunge entered by a court when such order does not
16 comply with the requirements of this section. Upon receipt of
17 such an order, the department must notify the issuing court,
18 the appropriate state attorney or statewide prosecutor, the
19 petitioner or the petitioner's attorney, and the arresting
20 agency of the reason for noncompliance. The appropriate state
21 attorney or statewide prosecutor shall take action within 60
22 days to correct the record and petition the court to void the
23 order. No cause of action, including contempt of court, shall
24 arise against any criminal justice agency for failure to
25 comply with an order to expunge when the petitioner for such
26 order failed to obtain the certificate of eligibility as
27 required by this section or such order does not otherwise
28 comply with the requirements of this section.

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, 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.
2 916.106(10) and (13), s. 985.407, or chapter 400; ~~or~~

3 6. Is seeking to be employed or licensed by the
4 Department of Education, any district school board, any
5 university laboratory school, any charter school, any private
6 or parochial school, or any local governmental entity that
7 licenses child care facilities; ~~or-~~

8 7. Is seeking authorization from a Florida seaport
9 identified in s. 311.09, for employment within or access to
10 one or more of such seaports, pursuant to s. 311.12 or s.
11 311.125.

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

19 (c) Information relating to the existence of an
20 expunged criminal history record which is provided in
21 accordance with paragraph (a) is confidential and exempt from
22 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
23 State Constitution, except that the department shall disclose
24 the existence of a criminal history record ordered expunged to
25 the entities set forth in subparagraphs (a)1., 4., 5., ~~and~~ 6.,
26 and 7. for their respective licensing, access authorization,
27 and employment purposes, and to criminal justice agencies for
28 their respective criminal justice purposes. It is unlawful for
29 any employee of an entity set forth in subparagraph (a)1.,
30 subparagraph (a)4., subparagraph (a)5., ~~or~~ subparagraph (a)6.,
31 or subparagraph (a)7. to disclose information relating to the

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

9 | (5) STATUTORY REFERENCES.--Any reference to any other
10 | chapter, section, or subdivision of the Florida Statutes in
11 | this section constitutes a general reference under the
12 | doctrine of incorporation by reference.

13 | Section 11. Section 943.059, Florida Statutes, is
14 | amended to read:

15 | 943.059 Court-ordered sealing of criminal history
16 | records.--The courts of this state shall continue to have
17 | jurisdiction over their own procedures, including the
18 | maintenance, sealing, and correction of judicial records
19 | containing criminal history information to the extent such
20 | procedures are not inconsistent with the conditions,
21 | responsibilities, and duties established by this section. Any
22 | court of competent jurisdiction may order a criminal justice
23 | agency to seal the criminal history record of a minor or an
24 | adult who complies with the requirements of this section. The
25 | court shall not order a criminal justice agency to seal a
26 | criminal history record until the person seeking to seal a
27 | criminal history record has applied for and received a
28 | certificate of eligibility for sealing pursuant to subsection
29 | (2). A criminal history record that relates to a violation of
30 | s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03,
31 | s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,

1 | chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
2 | 893.135, s. 916.1075, ~~or~~ a violation enumerated in s. 907.041,
3 | or any violation specified as a predicate offense for
4 | registration as a sexual predator pursuant to s. 775.21,
5 | without regard to whether that offense alone is sufficient to
6 | require such registration, or as a sexual offender pursuant to
7 | s. 943.0435, may not be sealed, without regard to whether
8 | adjudication was withheld, if the defendant was found guilty
9 | of or pled guilty or nolo contendere to the offense, or if the
10 | defendant, as a minor, was found to have committed or pled
11 | guilty or nolo contendere to committing the offense as a
12 | delinquent act. The court may only order sealing of a criminal
13 | history record pertaining to one arrest or one incident of
14 | alleged criminal activity, except as provided in this section.
15 | The court may, at its sole discretion, order the sealing of a
16 | criminal history record pertaining to more than one arrest if
17 | the additional arrests directly relate to the original arrest.
18 | If the court intends to order the sealing of records
19 | pertaining to such additional arrests, such intent must be
20 | specified in the order. A criminal justice agency may not seal
21 | any record pertaining to such additional arrests if the order
22 | to seal does not articulate the intention of the court to seal
23 | records pertaining to more than one arrest. This section does
24 | not prevent the court from ordering the sealing of only a
25 | portion of a criminal history record pertaining to one arrest
26 | or one incident of alleged criminal activity. Notwithstanding
27 | any law to the contrary, a criminal justice agency may comply
28 | with laws, court orders, and official requests of other
29 | jurisdictions relating to sealing, correction, or confidential
30 | handling of criminal history records or information derived
31 | therefrom. This section does not confer any right to the

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

4 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each
5 petition to a court to seal a criminal history record is
6 complete only when accompanied by:

7 (a) A valid certificate of eligibility for sealing
8 issued by the department pursuant to subsection (2).

9 (b) The petitioner's sworn statement attesting that
10 the petitioner:

11 1. Has never, prior to the date on which the petition
12 is filed, been adjudicated guilty of a criminal offense or
13 comparable ordinance violation, or been adjudicated delinquent
14 for committing any ~~a~~ felony or a misdemeanor specified in s.
15 943.051(3)(b).

16 2. Has not been adjudicated guilty of or adjudicated
17 delinquent for committing any of the acts stemming from the
18 arrest or alleged criminal activity to which the petition to
19 seal pertains.

20 3. Has never secured a prior sealing or expunction of
21 a criminal history record under this section, former s.
22 893.14, former s. 901.33, former s. 943.058, or from any
23 jurisdiction outside the state.

24 4. Is eligible for such a sealing to the best of his
25 or her knowledge or belief and does not have any other
26 petition to seal or any petition to expunge pending before any
27 court.

28
29 Any person who knowingly provides false information on such
30 sworn statement to the court commits a felony of the third
31

1 degree, punishable as provided in s. 775.082, s. 775.083, or
2 s. 775.084.

3 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
4 petitioning the court to seal a criminal history record, a
5 person seeking to seal a criminal history record shall apply
6 to the department for a certificate of eligibility for
7 sealing. The department shall, by rule adopted pursuant to
8 chapter 120, establish procedures pertaining to the
9 application for and issuance of certificates of eligibility
10 for sealing. A certificate of eligibility for sealing is valid
11 for 12 months after the date stamped on the certificate when
12 issued by the Department of Law Enforcement. After that time,
13 the petitioner must reapply to the department for a new
14 certificate of eligibility. Eligibility for a renewed
15 certification of eligibility must be based on the status of
16 the applicant and the law in effect at the time of the most
17 recent application. The department shall issue a certificate
18 of eligibility for sealing to a person who is the subject of a
19 criminal history record provided that such person:

20 (a) Has submitted to the department a certified copy
21 of the disposition of the charge to which the petition to seal
22 pertains.

23 (b) Remits a \$75 processing fee to the department for
24 placement in the Department of Law Enforcement Operating Trust
25 Fund, unless such fee is waived by the executive director.

26 (c) Has never, prior to the date on which the
27 application for a certificate of eligibility is filed, been
28 adjudicated guilty of a criminal offense or comparable
29 ordinance violation, or been adjudicated delinquent for
30 committing any ~~a~~ felony or a misdemeanor specified in s.
31 943.051(3)(b).

1 (d) Has not been adjudicated guilty of or adjudicated
2 delinquent for committing any of the acts stemming from the
3 arrest or alleged criminal activity to which the petition to
4 seal pertains.

5 (e) Has never secured a prior sealing or expunction of
6 a criminal history record under this section, former s.
7 893.14, former s. 901.33, or former s. 943.058.

8 (f) Is no longer under court supervision applicable to
9 the disposition of the arrest or alleged criminal activity to
10 which the petition to seal pertains.

11 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

12 (a) In judicial proceedings under this section, a copy
13 of the completed petition to seal shall be served upon the
14 appropriate state attorney or the statewide prosecutor and
15 upon the arresting agency; however, it is not necessary to
16 make any agency other than the state a party. The appropriate
17 state attorney or the statewide prosecutor and the arresting
18 agency may respond to the court regarding the completed
19 petition to seal.

20 (b) If relief is granted by the court, the clerk of
21 the court shall certify copies of the order to the appropriate
22 state attorney or the statewide prosecutor and to the
23 arresting agency. The arresting agency is responsible for
24 forwarding the order to any other agency to which the
25 arresting agency disseminated the criminal history record
26 information to which the order pertains. The department shall
27 forward the order to seal to the Federal Bureau of
28 Investigation. The clerk of the court shall certify a copy of
29 the order to any other agency which the records of the court
30 reflect has received the criminal history record from the
31 court.

1 (c) For an order to seal entered by a court prior to
2 July 1, 1992, the department shall notify the appropriate
3 state attorney or statewide prosecutor of any order to seal
4 which is contrary to law because the person who is the subject
5 of the record has previously been convicted of a crime or
6 comparable ordinance violation or has had a prior criminal
7 history record sealed or expunged. Upon receipt of such
8 notice, the appropriate state attorney or statewide prosecutor
9 shall take action, within 60 days, to correct the record and
10 petition the court to void the order to seal. The department
11 shall seal the record until such time as the order is voided
12 by the court.

13 (d) On or after July 1, 1992, the department or any
14 other criminal justice agency is not required to act on an
15 order to seal entered by a court when such order does not
16 comply with the requirements of this section. Upon receipt of
17 such an order, the department must notify the issuing court,
18 the appropriate state attorney or statewide prosecutor, the
19 petitioner or the petitioner's attorney, and the arresting
20 agency of the reason for noncompliance. The appropriate state
21 attorney or statewide prosecutor shall take action within 60
22 days to correct the record and petition the court to void the
23 order. No cause of action, including contempt of court, shall
24 arise against any criminal justice agency for failure to
25 comply with an order to seal when the petitioner for such
26 order failed to obtain the certificate of eligibility as
27 required by this section or when such order does not comply
28 with the requirements of this section.

29 (e) An order sealing a criminal history record
30 pursuant to this section does not require that such record be
31 surrendered to the court, and such record shall continue to be

1 maintained by the department and other criminal justice
2 agencies.

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

16 (a) The subject of a criminal history record sealed
17 under this section or under other provisions of law, including
18 former s. 893.14, former s. 901.33, and former s. 943.058, may
19 lawfully deny or fail to acknowledge the arrests covered by
20 the sealed record, except 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. 943.0585;
- 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

1 | disabled, the aged, or the elderly as provided in s.
2 | 110.1127(3), s. 393.063, 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 | 415.103, s. 916.106(10) and (13), s. 985.407, or chapter 400;
5 | ~~or~~

6 | 6. Is seeking to be employed or licensed by the
7 | Department of Education, any district school board, any
8 | university laboratory school, any charter school, any private
9 | or parochial school, or any local governmental entity that
10 | licenses child care facilities;~~;~~

11 | 7. Is attempting to purchase a firearm from a licensed
12 | importer, licensed manufacturer, or licensed dealer and is
13 | subject to a criminal history background check under state or
14 | federal law; or

15 | 8. Is seeking authorization from a Florida seaport
16 | identified in s. 311.09, for employment within or access to
17 | one or more of such seaports, pursuant to s. 311.12 or s.
18 | 311.125.

19 | (b) Subject to the exceptions in paragraph (a), a
20 | person who has been granted a sealing under this section,
21 | former s. 893.14, former s. 901.33, or former s. 943.058 may
22 | not be held under any provision of law of this state to commit
23 | perjury or to be otherwise liable for giving a false statement
24 | by reason of such person's failure to recite or acknowledge a
25 | sealed criminal history record.

26 | (c) Information relating to the existence of a sealed
27 | criminal record provided in accordance with the provisions of
28 | paragraph (a) is confidential and exempt from the provisions
29 | of s. 119.07(1) and s. 24(a), Art. I of the State
30 | Constitution, except that the department shall disclose the
31 | sealed criminal history record to the entities set forth in

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

15 | (5) STATUTORY REFERENCES.--Any reference to any other
16 | chapter, section, or subdivision of the Florida Statutes in
17 | this section constitutes a general reference under the
18 | doctrine of incorporation by reference.

19 | Section 12. Subsection (5) of section 943.13, Florida
20 | Statutes, is amended to read:

21 | 943.13 Officers' minimum qualifications for employment
22 | or appointment.--On or after October 1, 1984, any person
23 | employed or appointed as a full-time, part-time, or auxiliary
24 | law enforcement officer or correctional officer; on or after
25 | October 1, 1986, any person employed as a full-time,
26 | part-time, or auxiliary correctional probation officer; and on
27 | or after October 1, 1986, any person employed as a full-time,
28 | part-time, or auxiliary correctional officer by a private
29 | entity under contract to the Department of Corrections, to a
30 | county commission, or to the Department of Management Services
31 | shall:

1 (5) Have documentation of his or her processed
2 fingerprints on file with the employing agency or, if a
3 private correctional officer, have documentation of his or her
4 processed fingerprints on file with the Department of
5 Corrections or the Criminal Justice Standards and Training
6 Commission. If administrative delays are caused by the
7 department or the Federal Bureau of Investigation and the
8 person has complied with subsections (1)-(4) and (6)-(9), he
9 or she may be employed or appointed for a period not to exceed
10 1 calendar year from the date he or she was employed or
11 appointed or until return of the processed fingerprints
12 documenting noncompliance with subsections (1)-(4) or
13 subsection (7), whichever occurs first. Beginning December 15,
14 2005, the department shall retain and enter into the statewide
15 automated fingerprint identification system authorized by s.
16 943.05 all fingerprints submitted to the department as
17 required by this section and all fingerprints related to any
18 law enforcement, correctional, or correctional probation
19 officers which are submitted to the department for any other
20 reason. Thereafter, the fingerprints shall be available for
21 all purposes and uses authorized for arrest fingerprint cards
22 entered in the statewide automated fingerprint identification
23 system pursuant to s. 943.051 in order to ensure compliance
24 with any applicable federal law. The department shall search
25 all arrest fingerprint cards received pursuant to s. 943.051
26 against the fingerprints retained in the statewide automated
27 fingerprint identification system pursuant to this section and
28 report to the employing agency any arrest records that are
29 identified with the retained employee's fingerprints. By
30 January 1, 2007, a person who must meet minimum qualifications
31 as provided in this section and whose fingerprints are not

1 retained by the department pursuant to this section must be
2 refingerprinted. These fingerprints must be forwarded to the
3 department for processing and retention.

4 Section 13. Section 943.1715, Florida Statutes, is
5 amended to read:

6 943.1715 Basic skills training relating to diverse
7 populations.--The commission shall establish and maintain
8 standards for instruction of officers in the subject of
9 interpersonal skills relating to diverse populations, with an
10 emphasis on the awareness of cultural differences. Every basic
11 skills course required in order for officers to obtain initial
12 certification must include ~~a minimum of 8 hours~~ training in
13 interpersonal skills with diverse populations.

14 Section 14. Section 943.1716, Florida Statutes, is
15 amended to read:

16 943.1716 Continued employment training relating to
17 diverse populations.--The commission shall by rule require
18 that each officer receive, as part of the 40 hours of required
19 instruction for continued employment or appointment as an
20 officer, ~~8 hours of~~ instruction in the subject of
21 interpersonal skills relating to diverse populations, with an
22 emphasis on the awareness of cultural differences.

23 Section 15. Section 943.2569, Florida Statutes, is
24 repealed.

25 Section 16. Section 943.257, Florida Statutes, is
26 amended to read:

27 943.257 Independent audit documentation subject to
28 inspection.--The Criminal Justice Standards and Training
29 Commission or a center's advisory board may inspect and copy
30 any documents from the center as required to carry out the
31 commission's or the respective board's oversight

1 responsibilities, including information and documents related
2 to applicant evaluations and center expenditures. In addition,
3 the commission or board may inspect and copy the documentation
4 of any internal or independent audits conducted by or on
5 behalf of the centers to ensure that candidate and inservice
6 officer assessments have been made and that expenditures are
7 in conformance with the requirements of this act and with
8 other applicable procedures.

9 Section 17. Subsections (1) and (3) of section
10 943.401, Florida Statutes, are amended to read:

11 943.401 Public assistance fraud.--

12 (1)(a) The Department of Law Enforcement shall
13 investigate all public assistance provided to residents of the
14 state or provided to others by the state ~~made under the~~
15 ~~provisions of chapter 409 or chapter 414.~~ In the course of
16 such investigation the Department of Law Enforcement shall
17 examine all records, including electronic benefits transfer
18 records and make inquiry of all persons who may have knowledge
19 as to any irregularity incidental to the disbursement of
20 public moneys, food stamps, or other items or benefits
21 authorizations to recipients.

22 (b) All public assistance recipients, as a condition
23 precedent to qualification for public assistance ~~under the~~
24 ~~provisions of chapter 409 or chapter 414~~ , shall first give in
25 writing, to the Agency for Health Care Administration, the
26 Department of Health, the Agency for Workforce Innovation, and
27 the Department of Children and Family Services, as
28 appropriate, and to the Department of Law Enforcement, consent
29 to make inquiry of past or present employers and records,
30 financial or otherwise.

31

1 (3) The results of such investigation shall be
2 reported by the Department of Law Enforcement to the
3 appropriate legislative committees, the Agency for Health Care
4 Administration, the Department of Health, the Agency for
5 Workforce Innovation, and the Department of Children and
6 Family Services, and to such others as the Department of Law
7 Enforcement may determine.

8 Section 18. Authority to purchase goodwill and
9 promotional materials.--

10 (1) The Legislature recognizes that the department
11 functions as one of the state's primary law enforcement
12 representatives in national and international meetings,
13 conferences, and cooperative efforts. The department often
14 hosts delegates from other federal, state, local, and
15 international agencies and is in a position to function as a
16 representative of the state fostering goodwill and effective
17 interagency working relationships. It is the intent of the
18 Legislature that the department be allowed, consistent with
19 the dignity and integrity of the state, to purchase and
20 distribute material and items of collection to those with whom
21 the department has contact in meetings, conferences, and
22 cooperative efforts.

23 (2) In addition to expenditures separately authorized
24 by law, the department may expend not more than \$5,000
25 annually to purchase and distribute promotional materials or
26 items that serve to advance with dignity and integrity the
27 goodwill of this state and the department and to provide basic
28 refreshments at official functions, seminars, or meetings of
29 the department in which dignitaries or representatives from
30 the Federal Government, other states or nationalities, or
31 other agencies are in attendance.

1 Section 19. Unauthorized use of Department of Law
2 Enforcement emblems or names prohibited.--

3 (1) Whoever, except with the written permission of the
4 executive director of the department or as otherwise expressly
5 authorized by the department, knowingly uses the words
6 "Florida Department of Law Enforcement," the initials
7 "F.D.L.E." or "FDLE," or the words "Florida Capitol Police,"
8 or any colorable imitation of such words or initials, or who
9 uses a logo or emblem used by the department in connection
10 with any advertisement, circular, book, pamphlet, or other
11 publication, play, motion picture, broadcast, telecast, or
12 other production, in any Internet web page or upon any product
13 in a manner reasonably calculated to convey the impression
14 that such advertisement, circular, book, pamphlet, or other
15 publication, play, motion picture, broadcast, telecast, or
16 other production, Internet web page, or product is approved,
17 endorsed, or authorized by the Department of Law Enforcement
18 commits a misdemeanor of the first degree, punishable as
19 provided in s. 775.082 or s. 775.083.

20 (2) A violation of this section may be enjoined upon
21 suit by the department or the Department of Legal Affairs upon
22 complaint filed in any court of competent jurisdiction.

23 Section 20. Except as expressly provided in this act,
24 this act shall take effect July 1, 2005.

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