

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

29 a victim or witness without reimbursement; amending s.
30 937.021, F.S.; providing immunity to the Department of Law
31 Enforcement, other law enforcement agencies, and media
32 representatives from civil liability for complying in good
33 faith with a request to record or report information of an
34 Amber Alert or Missing Child Alert; providing that a
35 technical or clerical error or incorrect or incomplete
36 information does not overcome the presumption of good
37 faith in reporting information about an Amber Alert or
38 Missing Child Alert; providing that it is a discretionary
39 decision to report, record, or display Amber Alert or
40 Missing Child Alert information received from the local
41 law enforcement agency having jurisdiction; amending s.
42 938.07, F.S.; requiring that a portion of certain court
43 costs imposed for a conviction of driving or boating under
44 the influence be deposited into the Operating Trust Fund
45 of the Department of Law Enforcement instead of the
46 Criminal Justice Standards and Training Trust Fund;
47 amending s. 938.27, F.S.; requiring that investigative
48 costs recovered on behalf of the Department of Law
49 Enforcement be deposited into the department's Forfeiture
50 and Investigative Trust Fund; amending s. 943.052, F.S.;
51 requiring that disposition reports for dispositions
52 relating to minor offenders are mandatory after a
53 specified date; amending s. 68.07, F.S.; requiring a set
54 of fingerprints as part of a name change petition;
55 amending s. 943.05, F.S.; authorizing the Department of
56 Law Enforcement to retain fingerprints in certain

57 | circumstances and use retained fingerprints for certain
58 | purposes; providing for an annual fee; providing for
59 | waiver of the fee for good cause shown; providing for free
60 | services for certain purposes; amending s. 943.053, F.S.;
61 | requiring the department to make certain information
62 | available to judges; limiting use of information;
63 | authorizing a criminal justice agency to obtain a criminal
64 | history background check of a noncertified agency employee
65 | by submitting fingerprints to the department; requiring
66 | that the criminal history check be provided by the
67 | department in certain circumstances; amending s. 943.0585,
68 | F.S.; prohibiting a court from expunging a criminal
69 | history record containing certain sexual offenses or
70 | certain offenses that require registration as a sexual
71 | offender; requiring a valid certificate of eligibility for
72 | expunction in a petition to expunge a criminal history
73 | record; specifying the time during which a certificate of
74 | eligibility for expunction is valid; requiring that a
75 | trial may not have occurred in order for a person to
76 | obtain a statement from the state attorney authorizing the
77 | expunction of a criminal record; authorizing a person who
78 | has secured a prior sealing of a criminal history record
79 | to seek a certificate of eligibility for expunction if the
80 | criminal history record was previously sealed for a
81 | certain number of years and is otherwise eligible for
82 | expunction; providing that a person who is seeking
83 | authorization for employment within or access to a seaport
84 | may not deny or fail to acknowledge arrests covered by

85 | expunged records; providing that the department may
 86 | acknowledge expunged criminal history records under
 87 | certain circumstances; prohibiting seaport employees from
 88 | disclosing expunged criminal history record information
 89 | except to certain persons; providing penalties; amending
 90 | s. 943.059, F.S.; enumerating certain sexual offenses and
 91 | offenses that require registration as a sexual offender
 92 | which may not be sealed; requiring a valid certificate of
 93 | eligibility for sealing in a petition to seal a criminal
 94 | history record; specifying the period during which a
 95 | certificate of eligibility for sealing is valid; providing
 96 | that the information contained in a sealed criminal record
 97 | is available to a criminal justice agency for the purpose
 98 | of conducting a criminal history background check for
 99 | approval of a firearms purchase or transfer; prohibiting a
 100 | person from denying arrests covered by his or her sealed
 101 | criminal record when attempting to purchase a firearm;
 102 | providing that a person who is seeking authorization for
 103 | employment within or access to a seaport may not deny or
 104 | fail to acknowledge arrests covered by sealed records;
 105 | providing that the department may acknowledge sealed
 106 | criminal history records under certain circumstances;
 107 | prohibiting seaport employees from disclosing sealed
 108 | criminal history record information except to certain
 109 | persons; providing penalties; amending s. 943.13, F.S. ;
 110 | requiring the department to enter law enforcement,
 111 | correctional, and correctional probation officers'
 112 | fingerprints into a statewide automated fingerprint

113 identification system; requiring the department to search
114 each arrest fingerprint card received against fingerprints
115 retained in the statewide automated fingerprint
116 identification system; providing for refingerprinting by a
117 certain date; amending ss. 943.1715 and 943.1716, F.S.;
118 deleting the minimum number of hours required for basic
119 skills training and continued employment training relating
120 to diverse populations for law enforcement, correctional,
121 and correctional probation officers; repealing s.
122 943.2569, F.S., relating to an annual financial audit of
123 criminal justice selection centers; amending s. 943.257,
124 F.S.; authorizing the Criminal Justice Standards and
125 Training Commission and the advisory board of a criminal
126 justice selection center to inspect and copy any documents
127 from a center in order to carry out oversight
128 responsibilities, including documents pertaining to any
129 internal or independent audits; amending s. 943.401, F.S.;
130 requiring the department to investigate all public
131 assistance that is provided by the state; requiring public
132 assistance recipients to consent in writing to an
133 investigation into their employment and financial
134 histories by the Agency for Workforce Innovation;
135 requiring the department to report the results of the
136 investigations to the Agency for Workforce Innovation;
137 authorizing the department to purchase goodwill and
138 promotional materials; limiting the annual amount of such
139 expenditures; prohibiting the unauthorized use of the
140 department's emblems and names; providing a penalty;

141 providing effective dates.

142

143 Be It Enacted by the Legislature of the State of Florida:

144

145 Section 1. Effective February 1, 2007, paragraph (a) of
 146 subsection (2) of section 790.065, Florida Statutes, is amended
 147 to read:

148 790.065 Sale and delivery of firearms.--

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

152 (a) Review criminal history records and other records that
 153 have been provided to the department to determine if the
 154 potential buyer or transferee:

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

157 2. Has been convicted of a misdemeanor crime of domestic
 158 violence, and therefore is prohibited from purchasing a firearm;
 159 ~~or~~

160 3. Has had adjudication of guilt withheld or imposition of
 161 sentence suspended on any felony or misdemeanor crime of
 162 domestic violence unless 3 years have elapsed since probation or
 163 any other conditions set by the court have been fulfilled or
 164 expunction has occurred; or-

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

168 a. As used in this subparagraph, "adjudicated mentally

169 defective" means a determination by a court that a person, as a
170 result of marked subnormal intelligence, or mental illness,
171 incompetency, condition, or disease, is a danger to himself or
172 herself or to others or lacks the mental capacity to contract or
173 manage his or her own affairs. The phrase shall include a
174 judicial finding of incapacity under s. 744.331(6)(a), an
175 acquittal by reason of insanity of a person charged with a
176 criminal offense, and a judicial finding that a criminal
177 defendant is not competent to stand trial.

178 b. As used in this subparagraph, "committed to a mental
179 institution" means involuntary commitment, commitment for mental
180 defectiveness or mental illness, and commitment for substance
181 abuse. The phrase shall include involuntary inpatient placement
182 as defined in s. 394.467, involuntary assessment and
183 stabilization under s. 397.6818, and involuntary substance abuse
184 treatment under s. 397.6957, but shall not include a person in a
185 mental institution for observation or discharged from a mental
186 institution based upon the initial review by the physician or a
187 voluntary admission to a mental institution.

188 c. In order to check for these conditions, the department
189 shall compile and maintain an automated database of persons who
190 are prohibited from purchasing a firearm based on court records
191 of adjudications of mental defectiveness or commitments to
192 mental institutions. Clerks of court are required to submit
193 these records to the department within 1 month after the
194 rendition of the adjudication or commitment. Reports may be
195 submitted in an automated format. The reports must, at a
196 minimum, include the name, along with any known alias or former

197 name, the sex, and the date of birth of the subject. The
198 department shall delete any mental health record from the
199 database upon request of an individual when 5 years have elapsed
200 since the individual's restoration to capacity by court order
201 after being adjudicated an incapacitated person under s.
202 744.331, or similar laws of any other state; or, in the case of
203 an individual who was previously committed to a mental
204 institution under chapter 394, or similar laws of any other
205 state, when the individual produces a certificate from a
206 licensed psychiatrist that he or she has not suffered from
207 disability for at least 5 years prior to the date of request for
208 removal of the record. Where the department has received a
209 subsequent record of an adjudication of mental defectiveness or
210 commitment to a mental institution for such individual, the 5-
211 year timeframe shall be calculated from the most recent
212 adjudication of incapacitation or commitment.

213 d. The department is authorized to disclose the collected
214 data to agencies of the Federal Government and other states for
215 use exclusively in determining the lawfulness of a firearm sale
216 or transfer. The department is also authorized to disclose any
217 applicable collected data to the Department of Agriculture and
218 Consumer Services for determination of eligibility for issuance
219 of a concealed weapons or concealed firearms license upon
220 receipt of an applicant fingerprint submission forwarded
221 pursuant to s. 790.06(6)(a). When a potential buyer or
222 transferee appeals a nonapproval based on these records, the
223 clerks of court and mental institutions shall, upon request by
224 the department, provide information to help determine whether

225 the potential buyer or transferee is the same person as the
 226 subject of the record. Photographs and any other data that could
 227 confirm or negate identity must be made available to the
 228 department for such purposes, notwithstanding any other
 229 provision of state law to the contrary. Any such information
 230 that is made confidential or exempt from disclosure by law shall
 231 retain such confidential or exempt status when transferred to
 232 the department.

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

235 914.25 Protective services for certain victims and
 236 witnesses.--

237 (4)(a) When a victim or witness is certified as provided
 238 in subsection (3), a law enforcement agency, in consultation
 239 with the certifying state attorney or the statewide prosecutor,
 240 may provide appropriate protective services. If a victim or
 241 witness needs to be temporarily relocated, the statewide
 242 prosecutor or the state attorney must notify the Department of
 243 Law Enforcement. The Department of Law Enforcement, in
 244 consultation with the statewide prosecutor or the state
 245 attorney, and any other law enforcement agency involved in the
 246 criminal investigation or prosecution, shall coordinate the
 247 temporary relocation of the victim or witness.

248 (b) Protective services, including temporary relocation
 249 services, may initially be provided for up to 1 year or until
 250 the risk giving rise to the certification has diminished,
 251 whichever occurs sooner. ~~If deemed necessary,~~ The statewide
 252 prosecutor or the state attorney may, at the end of the

253 certification year, recertify a victim or witness at risk of
 254 harm for an additional period of up to 1 year or until the risk
 255 giving rise to the certification has diminished, whichever
 256 occurs first. A victim or witness at risk of harm may be
 257 certified and recertified annually as provided in this section
 258 to provide a maximum of 4 years of eligibility for protective
 259 services.

260 (5) The lead law enforcement agency that provides
 261 protective services, as authorized in this section, may seek
 262 reimbursement for its reasonable expenses from the Victim and
 263 Witness Protection Review Committee, pursuant to ~~the provisions~~
 264 ~~of s. 943.031.~~ This section does not prevent any law enforcement
 265 agency from providing protective services at the agency's
 266 expense beyond the 4-year maximum period established in this
 267 section. Any such additional expenditures for protective
 268 services are not eligible for the reimbursement provided in this
 269 section.

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

272 937.021 Missing child reports.--

273 (3)(a) Upon receiving a request to record, report,
 274 transmit, display, or release Amber Alert or Missing Child Alert
 275 information from the law enforcement agency having jurisdiction
 276 over the missing or endangered child, the Department of Law
 277 Enforcement as the state Amber Alert coordinator; any state or
 278 local law enforcement agency and the personnel of these
 279 agencies; any radio or television network, broadcaster, or other
 280 media representative; or any agency, employee, individual, or

281 entity is immune from civil liability for damages for complying
 282 in good faith with the request and is presumed to have acted in
 283 good faith in recording, reporting, transmitting, displaying, or
 284 releasing Amber Alert or Missing Child Alert information
 285 pertaining to such child.

286 (b) The presumption of good faith is not overcome if a
 287 technical or clerical error is made by any such agency,
 288 employee, individual, or entity acting at the request of the
 289 local law enforcement agency having jurisdiction or if the Amber
 290 Alert or Missing Child Alert information is incomplete or
 291 incorrect because the information received from the local law
 292 enforcement agency was incomplete or incorrect.

293 (c) Neither this subsection nor any other provision of law
 294 creates a duty of the agency, employee, individual, or entity to
 295 record, report, transmit, display, or release the Amber Alert or
 296 Missing Child Alert information received from the local law
 297 enforcement agency having jurisdiction. The decision to record,
 298 report, transmit, display, or release information is
 299 discretionary with the agency, employee, individual, or entity
 300 receiving that information from the local law enforcement agency
 301 having jurisdiction.

302 Section 4. Section 938.07, Florida Statutes, is amended to
 303 read:

304 938.07 Driving or boating under the
 305 influence.--Notwithstanding any other provision of s. 316.193 or
 306 s. 327.35, a court cost of \$135 shall be added to any fine
 307 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
 308 remit the funds to the Department of Revenue, \$25 of which shall

309 | be deposited in the Emergency Medical Services Trust Fund, \$50
 310 | shall be deposited in the Operating ~~Criminal Justice Standards~~
 311 | ~~and Training~~ Trust Fund of the Department of Law Enforcement to
 312 | be used for operational expenses in conducting the statewide
 313 | criminal analysis laboratory system established in s. 943.32,
 314 | and \$60 shall be deposited in the Brain and Spinal Cord Injury
 315 | Rehabilitation Trust Fund created in s. 381.79.

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

318 | 938.27 Judgment for costs on conviction.--

319 | (7) Investigative costs that ~~which~~ are recovered shall be
 320 | returned to the appropriate investigative agency that ~~which~~
 321 | incurred the expense. Such costs ~~shall~~ include actual expenses
 322 | incurred in conducting the investigation and prosecution of the
 323 | criminal case; however, costs may also include the salaries of
 324 | permanent employees. Any investigative costs recovered on behalf
 325 | of a state agency must be remitted to the Department of Revenue
 326 | for deposit in the agency operating trust fund, and a report of
 327 | the payment must be sent to the agency, except that any
 328 | investigative costs recovered on behalf of the Department of Law
 329 | Enforcement shall be deposited in the department's Forfeiture
 330 | and Investigative Support Trust Fund under s. 943.362.

331 | Section 6. Subsection (2) of section 943.052, Florida
 332 | Statutes, is amended to read:

333 | 943.052 Disposition reporting.--The Criminal Justice
 334 | Information Program shall, by rule, establish procedures and a
 335 | format for each criminal justice agency to monitor its records
 336 | and submit reports, as provided by this section, to the program.

337 The disposition report shall be developed by the program and
 338 shall include the offender-based transaction system number.

339 (2) Each clerk of the court shall submit the uniform
 340 dispositions to the program or in a manner acceptable to the
 341 program. The report shall be submitted at least once a month
 342 and, when acceptable by the program, may be submitted in an
 343 automated format. The disposition report is mandatory for
 344 dispositions relating to adult offenders only. Beginning July 1,
 345 2008, a disposition report for each disposition relating to a
 346 minor offender is mandatory.

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

349 68.07 Change of name.--

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

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

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

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

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

364 (e) Petitioner's occupation and where petitioner is

365 employed and has been employed for 5 years next preceding filing
366 of the petition. If petitioner owns and operates a business, the
367 name and place of it shall be stated and petitioner's connection
368 therewith and how long petitioner has been identified with said
369 business. If petitioner is in a profession, the profession shall
370 be stated, where the petitioner has practiced the profession and
371 if a graduate of a school or schools, the name or names thereof,
372 time of graduation, and degrees received.

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

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

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

381 (i) Whether any money judgment has ever been entered
382 against petitioner and if so, the name of the judgment creditor,
383 the amount and date thereof, the court by which entered, and
384 whether the judgment has been satisfied.

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

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

392 (5) The clerk must, upon the filing of the final judgment,

393 | send a report of the judgment to the Department of Law
 394 | Enforcement on a form to be furnished by that department. The
 395 | Department of Law Enforcement must send a copy of the report to
 396 | the Department of Highway Safety and Motor Vehicles, which may
 397 | be delivered by electronic transmission. The report must contain
 398 | sufficient information to identify the petitioner, including a
 399 | set ~~copy~~ of the petitioner's fingerprints taken by a law
 400 | enforcement agency, the new name of the petitioner, and the file
 401 | number of the judgment. Any information retained by the
 402 | Department of Law Enforcement and the Department of Highway
 403 | Safety and Motor Vehicles may be revised or supplemented by said
 404 | departments to reflect changes made by the final judgment. With
 405 | respect to a person convicted of a felony in another state or of
 406 | a federal offense, the Department of Law Enforcement must send
 407 | the report to the respective state's office of law enforcement
 408 | records or to the office of the Federal Bureau of Investigation.
 409 | The Department of Law Enforcement may forward the report to any
 410 | other law enforcement agency it believes may retain information
 411 | related to the petitioner. Any costs associated with
 412 | fingerprinting must be paid by the petitioner.

413 | Section 8. Paragraphs (g) and (h) are added to subsection
 414 | (2) of section 943.05, Florida Statutes, to read:

415 | 943.05 Criminal Justice Information Program; duties; crime
 416 | reports.--

417 | (2) The program shall:

418 | (g) As authorized by law, retain fingerprints submitted by
 419 | criminal and noncriminal justice agencies to the department for
 420 | a criminal history background screening in a manner provided by

421 rule and enter the fingerprints in the statewide automated
422 fingerprint identification system authorized by paragraph (b).
423 Such fingerprints shall thereafter be available for all purposes
424 and uses authorized for arrest fingerprint cards entered into
425 the statewide automated fingerprint identification system
426 pursuant to s. 943.051.

427 (h)1. As authorized by law, search all arrest fingerprint
428 cards received under s. 943.051 against the fingerprints
429 retained in the statewide automated fingerprint identification
430 system under paragraph (g). Any arrest record that is identified
431 with the retained fingerprints of a person subject to background
432 screening as provided in paragraph (g) shall be reported to the
433 appropriate agency.

434 2. Agencies may participate in this search process by
435 payment of an annual fee to the department and by informing the
436 department of any change in the affiliation, employment, or
437 contractual status or place of affiliation, employment, or
438 contracting of the persons whose fingerprints are retained under
439 paragraph (g). The department shall adopt a rule setting the
440 amount of the annual fee to be imposed upon each participating
441 agency for performing these searches and establishing the
442 procedures for the retention of fingerprints and the
443 dissemination of search results. The fee may be borne as
444 provided by law. Fees may be waived or reduced by the executive
445 director for good cause shown. Consistent with the recognition
446 of criminal justice agencies expressed in s. 943.053(3), these
447 services will be provided to criminal justice agencies for
448 criminal justice purposes free of charge.

449 Section 9. Subsections (5) through (9) of section 943.053,
450 Florida Statutes, are renumbered as subsections (6) through
451 (10), respectively, and new subsections (5), (11), and (12) are
452 added to that section, to read:

453 943.053 Dissemination of criminal justice information;
454 fees.--

455 (5) Notwithstanding the provisions of s. 943.0525, and any
456 user agreements adopted pursuant thereto, and notwithstanding
457 the confidentiality of sealed records as provided for in s.
458 943.059, the department shall make online access to Florida
459 criminal justice information available to each judge in the
460 state courts system for the purpose of assisting judges in their
461 case-related decisionmaking responsibilities. Such online access
462 shall be provided without charge to the state courts system.
463 Sealed records received by the courts under this section remain
464 confidential and exempt from the provisions of s. 119.07(1). The
465 information provided pursuant to this section shall not take the
466 place of any information required to be provided to the courts
467 by any other agency or entity. Information provided under this
468 section shall be used only for the official court business for
469 which it was requested and may not be further disseminated.

470 (11) A criminal justice agency that is authorized under
471 federal rules or law to conduct a criminal history background
472 check on an agency employee who is not certified by the Criminal
473 Justice Standards and Training Commission under s. 943.12 may
474 submit to the department the fingerprints of the noncertified
475 employee to obtain state and national criminal history
476 information. Effective January 15, 2007, the fingerprints

477 submitted shall be retained and entered in the statewide
478 automated fingerprint identification system authorized by s.
479 943.05 and shall be available for all purposes and uses
480 authorized for arrest fingerprint cards entered in the statewide
481 automated fingerprint identification system pursuant to s.
482 943.051. The department shall search all arrest fingerprint
483 cards received pursuant to s. 943.051 against the fingerprints
484 retained in the statewide automated fingerprint identification
485 system pursuant to this section. In addition to all purposes and
486 uses authorized for arrest fingerprint cards for which submitted
487 fingerprints may be used, any arrest record that is identified
488 with the retained employee fingerprints must be reported to the
489 submitting employing agency.

490 (12) Notwithstanding any other provision of law, when a
491 criminal history check or a duty to disclose the absence of a
492 criminal history check is mandated by state law, or when a
493 privilege or benefit is conferred by state law in return for
494 exercising an option of conducting a criminal history check, the
495 referenced criminal history check, whether it is an initial or
496 renewal check, shall include a Florida criminal history provided
497 by the department as set forth in this section. Such Florida
498 criminal history information may be provided by a private vendor
499 only if that information is directly obtained from the
500 department for each request. When a national criminal history
501 check is required or authorized by state law, the national
502 criminal history check shall be submitted by and through the
503 department in the manner established by the department for such
504 checks, unless otherwise required by federal law. The fee for

505 criminal history information as established by state law or, in
 506 the case of national checks, by the Federal Government, shall be
 507 borne by the person or entity submitting the request, or as
 508 provided by law. Criminal history information provided by any
 509 other governmental entity of this state or any private entity
 510 shall not be substituted for criminal history information
 511 provided by the department when the criminal history check or a
 512 duty to disclose the absence of a criminal history check is
 513 required by statute or is made a condition of a privilege or
 514 benefit by law.

515 Section 10. Section 943.0585, Florida Statutes, is amended
 516 to read:

517 943.0585 Court-ordered expunction of criminal history
 518 records.--The courts of this state have jurisdiction over their
 519 own procedures, including the maintenance, expunction, and
 520 correction of judicial records containing criminal history
 521 information to the extent such procedures are not inconsistent
 522 with the conditions, responsibilities, and duties established by
 523 this section. Any court of competent jurisdiction may order a
 524 criminal justice agency to expunge the criminal history record
 525 of a minor or an adult who complies with the requirements of
 526 this section. The court shall not order a criminal justice
 527 agency to expunge a criminal history record until the person
 528 seeking to expunge a criminal history record has applied for and
 529 received a certificate of eligibility for expunction pursuant to
 530 subsection (2). A criminal history record that relates to a
 531 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
 532 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.

533 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
 534 893.135, s. 916.1075, ~~or~~ a violation enumerated in s. 907.041,
 535 or any violation specified as a predicate offense for
 536 registration as a sexual predator pursuant to s. 775.21, without
 537 regard to whether that offense alone is sufficient to require
 538 such registration, or for registration as a sexual offender
 539 pursuant to s. 943.0435, may not be expunged, without regard to
 540 whether adjudication was withheld, if the defendant was found
 541 guilty of or pled guilty or nolo contendere to the offense, or
 542 if the defendant, as a minor, was found to have committed, or
 543 pled guilty or nolo contendere to committing, the offense as a
 544 delinquent act. The court may only order expunction of a
 545 criminal history record pertaining to one arrest or one incident
 546 of alleged criminal activity, except as provided in this
 547 section. The court may, at its sole discretion, order the
 548 expunction of a criminal history record pertaining to more than
 549 one arrest if the additional arrests directly relate to the
 550 original arrest. If the court intends to order the expunction of
 551 records pertaining to such additional arrests, such intent must
 552 be specified in the order. A criminal justice agency may not
 553 expunge any record pertaining to such additional arrests if the
 554 order to expunge does not articulate the intention of the court
 555 to expunge a record pertaining to more than one arrest. This
 556 section does not prevent the court from ordering the expunction
 557 of only a portion of a criminal history record pertaining to one
 558 arrest or one incident of alleged criminal activity.
 559 Notwithstanding any law to the contrary, a criminal justice
 560 agency may comply with laws, court orders, and official requests

561 of other jurisdictions relating to expunction, correction, or
 562 confidential handling of criminal history records or information
 563 derived therefrom. This section does not confer any right to the
 564 expunction of any criminal history record, and any request for
 565 expunction of a criminal history record may be denied at the
 566 sole discretion of the court.

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

570 (a) A valid certificate of eligibility for expunction
 571 issued by the department pursuant to subsection (2).

572 (b) The petitioner's sworn statement attesting that the
 573 petitioner:

574 1. Has never, prior to the date on which the petition is
 575 filed, been adjudicated guilty of a criminal offense or
 576 comparable ordinance violation, or been adjudicated delinquent
 577 for committing any a felony or a misdemeanor specified in s.
 578 943.051(3)(b).

579 2. Has not been adjudicated guilty of, or adjudicated
 580 delinquent for committing, any of the acts stemming from the
 581 arrest or alleged criminal activity to which the petition
 582 pertains.

583 3. Has never secured a prior sealing or expunction of a
 584 criminal history record under this section, former s. 893.14,
 585 former s. 901.33, or former s. 943.058, or from any jurisdiction
 586 outside the state, unless expunction is sought of a criminal
 587 history record previously sealed for 10 years pursuant to
 588 paragraph (2)(h) and the record is otherwise eligible for

589 expunction.

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

593
 594 Any person who knowingly provides false information on such
 595 sworn statement to the court commits a felony of the third
 596 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 597 775.084.

598 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior to
 599 petitioning the court to expunge a criminal history record, a
 600 person seeking to expunge a criminal history record shall apply
 601 to the department for a certificate of eligibility for
 602 expunction. The department shall, by rule adopted pursuant to
 603 chapter 120, establish procedures pertaining to the application
 604 for and issuance of certificates of eligibility for expunction.
 605 A certificate of eligibility for expunction is valid for 12
 606 months after the date stamped on the certificate when issued by
 607 the department. After that time, the petitioner must reapply to
 608 the department for a new certificate of eligibility. Eligibility
 609 for a renewed certification of eligibility must be based on the
 610 status of the applicant and the law in effect at the time of the
 611 most recent application. The department shall issue a
 612 certificate of eligibility for expunction to a person who is the
 613 subject of a criminal history record if that person:

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

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

619 2. That an indictment, information, or other charging
620 document, if filed or issued in the case, was dismissed or nolle
621 prosequi by the state attorney or statewide prosecutor, or was
622 dismissed by a court of competent jurisdiction, and that none of
623 the charges related to the arrest or alleged criminal activity
624 to which the petition to expunge pertains resulted in a trial,
625 without regard to whether the outcome of the trial was other
626 than an adjudication of guilt.

627 3. That the criminal history record does not relate to a
628 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
629 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
630 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
631 893.135, s. 916.1075, ~~or~~ a violation enumerated in s. 907.041,
632 or any violation specified as a predicate offense for
633 registration as a sexual predator pursuant to s. 775.21, without
634 regard to whether that offense alone is sufficient to require
635 such registration, or for registration as a sexual offender
636 pursuant to s. 943.0435, where the defendant was found guilty
637 of, or pled guilty or nolo contendere to any such offense, or
638 that the defendant, as a minor, was found to have committed, or
639 pled guilty or nolo contendere to committing, such an offense as
640 a delinquent act, without regard to whether adjudication was
641 withheld.

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

645 (c) Has submitted to the department a certified copy of
 646 the disposition of the charge to which the petition to expunge
 647 pertains.

648 (d) Has never, prior to the date on which the application
 649 for a certificate of eligibility is filed, been adjudicated
 650 guilty of a criminal offense or comparable ordinance violation,
 651 or been adjudicated delinquent for committing any a felony or a
 652 misdemeanor specified in s. 943.051(3)(b).

653 (e) Has not been adjudicated guilty of, or adjudicated
 654 delinquent for committing, any of the acts stemming from the
 655 arrest or alleged criminal activity to which the petition to
 656 expunge pertains.

657 (f) Has never secured a prior sealing or expunction of a
 658 criminal history record under this section, former s. 893.14,
 659 former s. 901.33, or former s. 943.058, unless expunction is
 660 sought of a criminal history record previously sealed for 10
 661 years pursuant to paragraph (h) and the record is otherwise
 662 eligible for expunction.

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

666 (h) Has previously obtained a court order sealing the
 667 record under this section, former s. 893.14, former s. 901.33,
 668 or former s. 943.058 for a minimum of 10 years because
 669 adjudication was withheld or because all charges related to the
 670 arrest or alleged criminal activity to which the petition to
 671 expunge pertains were not dismissed prior to trial, without
 672 regard to whether the outcome of the trial was other than an

673 adjudication of guilt. The requirement for the record to have
 674 previously been sealed for a minimum of 10 years does not apply
 675 when a plea was not entered or all charges related to the arrest
 676 or alleged criminal activity to which the petition to expunge
 677 pertains were dismissed prior to trial. Is not required to wait
 678 ~~a minimum of 10 years prior to being eligible for an expunction~~
 679 ~~of such records because all charges related to the arrest or~~
 680 ~~riminal activity to which the petition to expunge pertains were~~
 681 ~~dismissed prior to trial, adjudication, or the withholding of~~
 682 ~~adjudication. Otherwise, such criminal history record must be~~
 683 ~~sealed under this section, former s. 893.14, former s. 901.33,~~
 684 ~~or former s. 943.058 for at least 10 years before such record is~~
 685 ~~eligible for expunction.~~

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

687 (a) In judicial proceedings under this section, a copy of
 688 the completed petition to expunge shall be served upon the
 689 appropriate state attorney or the statewide prosecutor and upon
 690 the arresting agency; however, it is not necessary to make any
 691 agency other than the state a party. The appropriate state
 692 attorney or the statewide prosecutor and the arresting agency
 693 may respond to the court regarding the completed petition to
 694 expunge.

695 (b) If relief is granted by the court, the clerk of the
 696 court shall certify copies of the order to the appropriate state
 697 attorney or the statewide prosecutor and the arresting agency.
 698 The arresting agency is responsible for forwarding the order to
 699 any other agency to which the arresting agency disseminated the
 700 criminal history record information to which the order pertains.

701 The department shall forward the order to expunge to the Federal
702 Bureau of Investigation. The clerk of the court shall certify a
703 copy of the order to any other agency which the records of the
704 court reflect has received the criminal history record from the
705 court.

706 (c) For an order to expunge entered by a court prior to
707 July 1, 1992, the department shall notify the appropriate state
708 attorney or statewide prosecutor of an order to expunge which is
709 contrary to law because the person who is the subject of the
710 record has previously been convicted of a crime or comparable
711 ordinance violation or has had a prior criminal history record
712 sealed or expunged. Upon receipt of such notice, the appropriate
713 state attorney or statewide prosecutor shall take action, within
714 60 days, to correct the record and petition the court to void
715 the order to expunge. The department shall seal the record until
716 such time as the order is voided by the court.

717 (d) On or after July 1, 1992, the department or any other
718 criminal justice agency is not required to act on an order to
719 expunge entered by a court when such order does not comply with
720 the requirements of this section. Upon receipt of such an order,
721 the department must notify the issuing court, the appropriate
722 state attorney or statewide prosecutor, the petitioner or the
723 petitioner's attorney, and the arresting agency of the reason
724 for noncompliance. The appropriate state attorney or statewide
725 prosecutor shall take action within 60 days to correct the
726 record and petition the court to void the order. No cause of
727 action, including contempt of court, shall arise against any
728 criminal justice agency for failure to comply with an order to

729 expunge when the petitioner for such order failed to obtain the
 730 certificate of eligibility as required by this section or such
 731 order does not otherwise comply with the requirements of this
 732 section.

733 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
 734 criminal history record of a minor or an adult which is ordered
 735 expunged by a court of competent jurisdiction pursuant to this
 736 section must be physically destroyed or obliterated by any
 737 criminal justice agency having custody of such record; except
 738 that any criminal history record in the custody of the
 739 department must be retained in all cases. A criminal history
 740 record ordered expunged that is retained by the department is
 741 confidential and exempt from the provisions of s. 119.07(1) and
 742 s. 24(a), Art. I of the State Constitution and not available to
 743 any person or entity except upon order of a court of competent
 744 jurisdiction. A criminal justice agency may retain a notation
 745 indicating compliance with an order to expunge.

746 (a) The person who is the subject of a criminal history
 747 record that is expunged under this section or under other
 748 provisions of law, including former s. 893.14, former s. 901.33,
 749 and former s. 943.058, may lawfully deny or fail to acknowledge
 750 the arrests covered by the expunged record, except when the
 751 subject of the record:

- 752 1. Is a candidate for employment with a criminal justice
- 753 agency;
- 754 2. Is a defendant in a criminal prosecution;
- 755 3. Concurrently or subsequently petitions for relief under
- 756 this section or s. 943.059;

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

758 5. Is seeking to be employed or licensed by or to contract
 759 with the Department of Children and Family Services or the
 760 Department of Juvenile Justice or to be employed or used by such
 761 contractor or licensee in a sensitive position having direct
 762 contact with children, the developmentally disabled, the aged,
 763 or the elderly as provided in s. 110.1127(3), s. 393.063, s.
 764 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
 765 409.175(2)(i), s. 415.102(4), s. 916.106(10) and (13), s.
 766 985.407, or chapter 400; ~~or~~

767 6. Is seeking to be employed or licensed by the Department
 768 of Education, any district school board, any university
 769 laboratory school, any charter school, any private or parochial
 770 school, or any local governmental entity that licenses child
 771 care facilities; or

772 7. Is seeking authorization from a Florida seaport
 773 identified in s. 311.09 for employment within or access to one
 774 or more of such seaports pursuant to s. 311.12 or s. 311.125.

775 (b) Subject to the exceptions in paragraph (a), a person
 776 who has been granted an expunction under this section, former s.
 777 893.14, former s. 901.33, or former s. 943.058 may not be held
 778 under any provision of law of this state to commit perjury or to
 779 be otherwise liable for giving a false statement by reason of
 780 such person's failure to recite or acknowledge an expunged
 781 criminal history record.

782 (c) Information relating to the existence of an expunged
 783 criminal history record which is provided in accordance with
 784 paragraph (a) is confidential and exempt from the provisions of

785 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 786 except that the department shall disclose the existence of a
 787 criminal history record ordered expunged to the entities set
 788 forth in subparagraphs (a)1., 4., 5., ~~and 6., and 7.~~ for their
 789 respective licensing, access authorization, and employment
 790 purposes, and to criminal justice agencies for their respective
 791 criminal justice purposes. It is unlawful for any employee of an
 792 entity set forth in subparagraph (a)1., subparagraph (a)4.,
 793 subparagraph (a)5., ~~or~~ subparagraph (a)6., or subparagraph(a)7.
 794 to disclose information relating to the existence of an expunged
 795 criminal history record of a person seeking employment, access
 796 authorization, or licensure with such entity or contractor,
 797 except to the person to whom the criminal history record relates
 798 or to persons having direct responsibility for employment,
 799 access authorization, or licensure decisions. Any person who
 800 violates this paragraph commits a misdemeanor of the first
 801 degree, punishable as provided in s. 775.082 or s. 775.083.

802 (5) STATUTORY REFERENCES.--Any reference to any other
 803 chapter, section, or subdivision of the Florida Statutes in this
 804 section constitutes a general reference under the doctrine of
 805 incorporation by reference.

806 Section 11. Section 943.059, Florida Statutes, is amended
 807 to read:

808 943.059 Court-ordered sealing of criminal history
 809 records.--The courts of this state shall continue to have
 810 jurisdiction over their own procedures, including the
 811 maintenance, sealing, and correction of judicial records
 812 containing criminal history information to the extent such

813 | procedures are not inconsistent with the conditions,
 814 | responsibilities, and duties established by this section. Any
 815 | court of competent jurisdiction may order a criminal justice
 816 | agency to seal the criminal history record of a minor or an
 817 | adult who complies with the requirements of this section. The
 818 | court shall not order a criminal justice agency to seal a
 819 | criminal history record until the person seeking to seal a
 820 | criminal history record has applied for and received a
 821 | certificate of eligibility for sealing pursuant to subsection
 822 | (2). A criminal history record that relates to a violation of s.
 823 | 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
 824 | 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
 825 | 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
 826 | 916.1075, ~~or~~ a violation enumerated in s. 907.041, or any
 827 | violation specified as a predicate offense for registration as a
 828 | sexual predator pursuant to s. 775.21, without regard to whether
 829 | that offense alone is sufficient to require such registration,
 830 | or for registration as a sexual offender pursuant to s.
 831 | 943.0435, may not be sealed, without regard to whether
 832 | adjudication was withheld, if the defendant was found guilty of
 833 | or pled guilty or nolo contendere to the offense, or if the
 834 | defendant, as a minor, was found to have committed or pled
 835 | guilty or nolo contendere to committing the offense as a
 836 | delinquent act. The court may only order sealing of a criminal
 837 | history record pertaining to one arrest or one incident of
 838 | alleged criminal activity, except as provided in this section.
 839 | The court may, at its sole discretion, order the sealing of a
 840 | criminal history record pertaining to more than one arrest if

841 the additional arrests directly relate to the original arrest.
 842 If the court intends to order the sealing of records pertaining
 843 to such additional arrests, such intent must be specified in the
 844 order. A criminal justice agency may not seal any record
 845 pertaining to such additional arrests if the order to seal does
 846 not articulate the intention of the court to seal records
 847 pertaining to more than one arrest. This section does not
 848 prevent the court from ordering the sealing of only a portion of
 849 a criminal history record pertaining to one arrest or one
 850 incident of alleged criminal activity. Notwithstanding any law
 851 to the contrary, a criminal justice agency may comply with laws,
 852 court orders, and official requests of other jurisdictions
 853 relating to sealing, correction, or confidential handling of
 854 criminal history records or information derived therefrom. This
 855 section does not confer any right to the sealing of any criminal
 856 history record, and any request for sealing a criminal history
 857 record may be denied at the sole discretion of the court.

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

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

863 (b) The petitioner's sworn statement attesting that the
 864 petitioner:

865 1. Has never, prior to the date on which the petition is
 866 filed, been adjudicated guilty of a criminal offense or
 867 comparable ordinance violation, or been adjudicated delinquent
 868 for committing any a felony or a misdemeanor specified in s.

869 943.051(3)(b).

870 2. Has not been adjudicated guilty of or adjudicated
 871 delinquent for committing any of the acts stemming from the
 872 arrest or alleged criminal activity to which the petition to
 873 seal pertains.

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

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

881
 882 Any person who knowingly provides false information on such
 883 sworn statement to the court commits a felony of the third
 884 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 885 775.084.

886 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
 887 petitioning the court to seal a criminal history record, a
 888 person seeking to seal a criminal history record shall apply to
 889 the department for a certificate of eligibility for sealing. The
 890 department shall, by rule adopted pursuant to chapter 120,
 891 establish procedures pertaining to the application for and
 892 issuance of certificates of eligibility for sealing. A
 893 certificate of eligibility for sealing is valid for 12 months
 894 after the date stamped on the certificate when issued by the
 895 department. After that time, the petitioner must reapply to the
 896 department for a new certificate of eligibility. Eligibility for

897 a renewed certification of eligibility must be based on the
 898 status of the applicant and the law in effect at the time of the
 899 most recent application. The department shall issue a

900 certificate of eligibility for sealing to a person who is the
 901 subject of a criminal history record provided that such person:

902 (a) Has submitted to the department a certified copy of
 903 the disposition of the charge to which the petition to seal
 904 pertains.

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

908 (c) Has never, prior to the date on which the application
 909 for a certificate of eligibility is filed, been adjudicated
 910 guilty of a criminal offense or comparable ordinance violation,
 911 or been adjudicated delinquent for committing any a felony or a
 912 misdemeanor specified in s. 943.051(3)(b).

913 (d) Has not been adjudicated guilty of or adjudicated
 914 delinquent for committing any of the acts stemming from the
 915 arrest or alleged criminal activity to which the petition to
 916 seal pertains.

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

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

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

924 (a) In judicial proceedings under this section, a copy of

925 the completed petition to seal shall be served upon the
926 appropriate state attorney or the statewide prosecutor and upon
927 the arresting agency; however, it is not necessary to make any
928 agency other than the state a party. The appropriate state
929 attorney or the statewide prosecutor and the arresting agency
930 may respond to the court regarding the completed petition to
931 seal.

932 (b) If relief is granted by the court, the clerk of the
933 court shall certify copies of the order to the appropriate state
934 attorney or the statewide prosecutor and to the arresting
935 agency. The arresting agency is responsible for forwarding the
936 order to any other agency to which the arresting agency
937 disseminated the criminal history record information to which
938 the order pertains. The department shall forward the order to
939 seal to the Federal Bureau of Investigation. The clerk of the
940 court shall certify a copy of the order to any other agency
941 which the records of the court reflect has received the criminal
942 history record from the court.

943 (c) For an order to seal entered by a court prior to July
944 1, 1992, the department shall notify the appropriate state
945 attorney or statewide prosecutor of any order to seal which is
946 contrary to law because the person who is the subject of the
947 record has previously been convicted of a crime or comparable
948 ordinance violation or has had a prior criminal history record
949 sealed or expunged. Upon receipt of such notice, the appropriate
950 state attorney or statewide prosecutor shall take action, within
951 60 days, to correct the record and petition the court to void
952 the order to seal. The department shall seal the record until

953 such time as the order is voided by the court.

954 (d) On or after July 1, 1992, the department or any other
 955 criminal justice agency is not required to act on an order to
 956 seal entered by a court when such order does not comply with the
 957 requirements of this section. Upon receipt of such an order, the
 958 department must notify the issuing court, the appropriate state
 959 attorney or statewide prosecutor, the petitioner or the
 960 petitioner's attorney, and the arresting agency of the reason
 961 for noncompliance. The appropriate state attorney or statewide
 962 prosecutor shall take action within 60 days to correct the
 963 record and petition the court to void the order. No cause of
 964 action, including contempt of court, shall arise against any
 965 criminal justice agency for failure to comply with an order to
 966 seal when the petitioner for such order failed to obtain the
 967 certificate of eligibility as required by this section or when
 968 such order does not comply with the requirements of this
 969 section.

970 (e) An order sealing a criminal history record pursuant to
 971 this section does not require that such record be surrendered to
 972 the court, and such record shall continue to be maintained by
 973 the department and other criminal justice agencies.

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

981 criminal justice purposes, which include conducting a criminal
 982 history background check for approval of firearms purchases or
 983 transfers as authorized by state or federal law, or to those
 984 entities set forth in subparagraphs (a)1., 4., 5., ~~and 6.,~~ and
 985 8. for their respective licensing, access authorization, and
 986 employment purposes.

987 (a) The subject of a criminal history record sealed under
 988 this section or under other provisions of law, including former
 989 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
 990 deny or fail to acknowledge the arrests covered by the sealed
 991 record, except when the subject of the record:

- 992 1. Is a candidate for employment with a criminal justice
 993 agency;
- 994 2. Is a defendant in a criminal prosecution;
- 995 3. Concurrently or subsequently petitions for relief under
 996 this section or s. 943.0585;
- 997 4. Is a candidate for admission to The Florida Bar;
- 998 5. Is seeking to be employed or licensed by or to contract
 999 with the Department of Children and Family Services or the
 1000 Department of Juvenile Justice or to be employed or used by such
 1001 contractor or licensee in a sensitive position having direct
 1002 contact with children, the developmentally disabled, the aged,
 1003 or the elderly as provided in s. 110.1127(3), s. 393.063, s.
 1004 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
 1005 409.175(2)(i), s. 415.102(4), s. 415.103, s. 916.106(10) and
 1006 (13), s. 985.407, or chapter 400; ~~or~~
- 1007 6. Is seeking to be employed or licensed by the Department
 1008 of Education, any district school board, any university

1009 laboratory school, any charter school, any private or parochial
 1010 school, or any local governmental entity that licenses child
 1011 care facilities;~~;~~

1012 7. Is attempting to purchase a firearm from a licensed
 1013 importer, licensed manufacturer, or licensed dealer and is
 1014 subject to a criminal history background check under state or
 1015 federal law; or

1016 8. Is seeking authorization from a Florida seaport
 1017 identified in s. 311.09 for employment within or access to one
 1018 or more of such seaports pursuant to s. 311.12 or s. 311.125.

1019 (b) Subject to the exceptions in paragraph (a), a person
 1020 who has been granted a sealing under this section, former s.
 1021 893.14, former s. 901.33, or former s. 943.058 may not be held
 1022 under any provision of law of this state to commit perjury or to
 1023 be otherwise liable for giving a false statement by reason of
 1024 such person's failure to recite or acknowledge a sealed criminal
 1025 history record.

1026 (c) Information relating to the existence of a sealed
 1027 criminal record provided in accordance with the provisions of
 1028 paragraph (a) is confidential and exempt from the provisions of
 1029 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1030 except that the department shall disclose the sealed criminal
 1031 history record to the entities set forth in subparagraphs (a)1.,
 1032 4., 5., ~~and 6.,~~ and 8. for their respective licensing, access
 1033 authorization, and employment purposes. It is unlawful for any
 1034 employee of an entity set forth in subparagraph (a)1.,
 1035 subparagraph (a)4., subparagraph (a)5., ~~or~~ subparagraph (a)6.,
 1036 or subparagraph (a)8. to disclose information relating to the

1037 existence of a sealed criminal history record of a person
 1038 seeking employment, access authorization, or licensure with such
 1039 entity or contractor, except to the person to whom the criminal
 1040 history record relates or to persons having direct
 1041 responsibility for employment, access authorization, or
 1042 licensure decisions. Any person who violates the provisions of
 1043 this paragraph commits a misdemeanor of the first degree,
 1044 punishable as provided in s. 775.082 or s. 775.083.

1045 (5) STATUTORY REFERENCES.--Any reference to any other
 1046 chapter, section, or subdivision of the Florida Statutes in this
 1047 section constitutes a general reference under the doctrine of
 1048 incorporation by reference.

1049 Section 12. Subsection (5) of section 943.13, Florida
 1050 Statutes, is amended to read:

1051 943.13 Officers' minimum qualifications for employment or
 1052 appointment.--On or after October 1, 1984, any person employed
 1053 or appointed as a full-time, part-time, or auxiliary law
 1054 enforcement officer or correctional officer; on or after October
 1055 1, 1986, any person employed as a full-time, part-time, or
 1056 auxiliary correctional probation officer; and on or after
 1057 October 1, 1986, any person employed as a full-time, part-time,
 1058 or auxiliary correctional officer by a private entity under
 1059 contract to the Department of Corrections, to a county
 1060 commission, or to the Department of Management Services shall:

1061 (5) Have documentation of his or her processed
 1062 fingerprints on file with the employing agency or, if a private
 1063 correctional officer, have documentation of his or her processed
 1064 fingerprints on file with the Department of Corrections or the

1065 Criminal Justice Standards and Training Commission. If
 1066 administrative delays are caused by the department or the
 1067 Federal Bureau of Investigation and the person has complied with
 1068 subsections (1)-(4) and (6)-(9), he or she may be employed or
 1069 appointed for a period not to exceed 1 calendar year from the
 1070 date he or she was employed or appointed or until return of the
 1071 processed fingerprints documenting noncompliance with
 1072 subsections (1)-(4) or subsection (7), whichever occurs first.
 1073 Beginning January 15, 2007, the department shall retain and
 1074 enter into the statewide automated fingerprint identification
 1075 system authorized by s. 943.05 all fingerprints submitted to the
 1076 department as required by this section. Thereafter, the
 1077 fingerprints shall be available for all purposes and uses
 1078 authorized for arrest fingerprint cards entered in the statewide
 1079 automated fingerprint identification system pursuant to s.
 1080 943.051. The department shall search all arrest fingerprint
 1081 cards received pursuant to s. 943.051 against the fingerprints
 1082 retained in the statewide automated fingerprint identification
 1083 system pursuant to this section and report to the employing
 1084 agency any arrest records that are identified with the retained
 1085 employee's fingerprints. By January 1, 2008, a person who must
 1086 meet minimum qualifications as provided in this section and
 1087 whose fingerprints are not retained by the department pursuant
 1088 to this section must be refingerprinted. These fingerprints must
 1089 be forwarded to the department for processing and retention.

1090 Section 13. Section 943.1715, Florida Statutes, is amended
 1091 to read:

1092 943.1715 Basic skills training relating to diverse

1093 populations.--The commission shall establish and maintain
 1094 standards for instruction of officers in the subject of
 1095 interpersonal skills relating to diverse populations, with an
 1096 emphasis on the awareness of cultural differences. Every basic
 1097 skills course required in order for officers to obtain initial
 1098 certification must include ~~a minimum of 8 hours~~ training in
 1099 interpersonal skills with diverse populations.

1100 Section 14. Section 943.1716, Florida Statutes, is amended
 1101 to read:

1102 943.1716 Continued employment training relating to diverse
 1103 populations.--The commission shall by rule require that each
 1104 officer receive, as part of the 40 hours of required instruction
 1105 for continued employment or appointment as an officer, ~~8 hours~~
 1106 ~~of~~ instruction in the subject of interpersonal skills relating
 1107 to diverse populations, with an emphasis on the awareness of
 1108 cultural differences.

1109 Section 15. Section 943.2569, Florida Statutes, is
 1110 repealed.

1111 Section 16. Section 943.257, Florida Statutes, is amended
 1112 to read:

1113 943.257 Independent audit documentation subject to
 1114 inspection.--The Criminal Justice Standards and Training
 1115 Commission or a center's advisory board may inspect and copy any
 1116 documents from the center as required to carry out the
 1117 commission's or the respective board's oversight
 1118 responsibilities, including information and documents related to
 1119 applicant evaluations and center expenditures. In addition, the
 1120 commission or board may inspect and copy the documentation of

1121 any internal or independent audits conducted by or on behalf of
 1122 the centers to ensure that candidate and inservice officer
 1123 assessments have been made and that expenditures are in
 1124 conformance with the requirements of this act and with other
 1125 applicable procedures.

1126 Section 17. Subsections (1) and (3) of section 943.401,
 1127 Florida Statutes, are amended to read:

1128 943.401 Public assistance fraud.--

1129 (1)(a) The Department of Law Enforcement shall investigate
 1130 all public assistance provided to residents of the state or
 1131 provided to others by the state ~~made under the provisions of~~
 1132 ~~chapter 409 or chapter 414~~. In the course of such investigation
 1133 the Department of Law Enforcement shall examine all records,
 1134 including electronic benefits transfer records and make inquiry
 1135 of all persons who may have knowledge as to any irregularity
 1136 incidental to the disbursement of public moneys, food stamps, or
 1137 other items or benefits authorizations to recipients.

1138 (b) All public assistance recipients, as a condition
 1139 precedent to qualification for public assistance ~~under the~~
 1140 ~~provisions of chapter 409 or chapter 414~~, shall first give in
 1141 writing, to the Agency for Health Care Administration, the
 1142 Department of Health, the Agency for Workforce Innovation, and
 1143 the Department of Children and Family Services, as appropriate,
 1144 and to the Department of Law Enforcement, consent to make
 1145 inquiry of past or present employers and records, financial or
 1146 otherwise.

1147 (3) The results of such investigation shall be reported by
 1148 the Department of Law Enforcement to the appropriate legislative

1149 committees, the Agency for Health Care Administration, the
1150 Department of Health, the Agency for Workforce Innovation, and
1151 the Department of Children and Family Services, and to such
1152 others as the Department of Law Enforcement may determine.

1153 Section 18. Authority to purchase goodwill and promotional
1154 materials.--

1155 (1) The Legislature recognizes that the Department of Law
1156 Enforcement functions as one of the state's primary law
1157 enforcement representatives in national and international
1158 meetings, conferences, and cooperative efforts. The department
1159 often hosts delegates from other federal, state, local, and
1160 international agencies and is in a position to function as a
1161 representative of the state fostering goodwill and effective
1162 interagency working relationships. It is the intent of the
1163 Legislature that the department be allowed, consistent with the
1164 dignity and integrity of the state, to purchase and distribute
1165 material and items of collection to those with whom the
1166 department has contact in meetings, conferences, and cooperative
1167 efforts.

1168 (2) In addition to expenditures separately authorized by
1169 law, the department may expend not more than \$5,000 annually to
1170 purchase and distribute promotional materials or items that
1171 serve to advance with dignity and integrity the goodwill of this
1172 state and the department and to provide basic refreshments at
1173 official functions, seminars, or meetings of the department in
1174 which dignitaries or representatives from the Federal
1175 Government, other states or nationalities, or other agencies are
1176 in attendance.

1177 Section 19. Unauthorized use of Department of Law
 1178 Enforcement emblems or names prohibited.--

1179 (1) Whoever, except with the written permission of the
 1180 executive director of the Department of Law Enforcement or as
 1181 otherwise expressly authorized by the department, knowingly uses
 1182 the words "Florida Department of Law Enforcement," the initials
 1183 "F.D.L.E." or "FDLE," or the words "Florida Capitol Police," or
 1184 any colorable imitation of such words or initials, or who uses a
 1185 logo or emblem used by the department in connection with any
 1186 advertisement, circular, book, pamphlet, or other publication,
 1187 play, motion picture, broadcast, telecast, or other production,
 1188 in any Internet web page or upon any product in a manner
 1189 reasonably calculated to convey the impression that such
 1190 advertisement, circular, book, pamphlet, or other publication,
 1191 play, motion picture, broadcast, telecast, or other production,
 1192 Internet web page, or product is approved, endorsed, or
 1193 authorized by the Department of Law Enforcement commits a
 1194 misdemeanor of the first degree, punishable as provided in s.
 1195 775.082 or s. 775.083, Florida Statutes.

1196 (2) A violation of this section may be enjoined upon suit
 1197 by the department or the Department of Legal Affairs upon
 1198 complaint filed in any court of competent jurisdiction.

1199 Section 20. Except as otherwise expressly provided in this
 1200 act, this act shall take effect July 1, 2006.