

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to law enforcement; amending s. 790.065,
7 F.S.; requiring the Department of Law Enforcement to
8 review other records in addition to criminal history
9 records to evaluate a potential buyer or transferee of a
10 firearm, including an adjudication of mental defectiveness
11 or a commitment to a mental institution as criteria that
12 prohibit a person from purchasing a firearm; providing
13 definitions; requiring the department to maintain an
14 automated database of persons who are prohibited from
15 purchasing a firearm; requiring each clerk of court to
16 submit certain court records to the department within a
17 certain period; requiring the department to delete certain
18 records from the automated database upon the request of an
19 individual meeting specified conditions; authorizing the
20 department to disclose collected data to other federal or
21 state agencies with regard to the sale or transfer of a
22 firearm; authorizing the department to disclose certain
23 information to the Department of Agriculture and Consumer

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24 Services for determining the eligibility of an applicant
25 for a concealed weapons or concealed firearms license;
26 requiring the clerk of court or mental hospital to provide
27 additional information upon request following an appeal of
28 an unapproved sale or transfer of a firearm; amending s.
29 914.25, F.S.; providing for recertification for protective
30 services for an additional period, with reimbursement for
31 expenses from the Victim and Witness Protection Review
32 Committee; providing for unlimited protective services for
33 a victim or witness without reimbursement; amending s.
34 937.021, F.S.; providing immunity to the Department of Law
35 Enforcement, other law enforcement agencies, and media
36 representatives from civil liability for complying in good
37 faith with a request to record or report information of an
38 Amber Alert or Missing Child Alert; providing that a
39 technical or clerical error or incorrect or incomplete
40 information does not overcome the presumption of good
41 faith in reporting information about an Amber Alert or
42 Missing Child Alert; providing that it is a discretionary
43 decision to report, record, or display Amber Alert or
44 Missing Child Alert information received from the local
45 law enforcement agency having jurisdiction; amending s.
46 938.07, F.S.; requiring that a portion of certain court
47 costs imposed for a conviction of driving or boating under
48 the influence be deposited into the Operating Trust Fund
49 of the Department of Law Enforcement instead of the
50 Criminal Justice Standards and Training Trust Fund;
51 amending s. 938.27, F.S.; requiring that investigative

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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52 costs recovered on behalf of the Department of Law
53 Enforcement be deposited into the department's Forfeiture
54 and Investigative Trust Fund; amending s. 943.052, F.S.;
55 requiring that disposition reports for dispositions
56 relating to minor offenders are mandatory after a
57 specified date; amending s. 68.07, F.S.; requiring a set
58 of fingerprints as part of a name change petition;
59 amending s. 943.05, F.S.; authorizing the Department of
60 Law Enforcement to retain fingerprints in certain
61 circumstances and use retained fingerprints for certain
62 purposes; providing for an annual fee; providing for
63 waiver of the fee for good cause shown; providing for free
64 services for certain purposes; amending s. 943.053, F.S.;
65 requiring the department to make certain information
66 available to judges; limiting use of information;
67 authorizing a criminal justice agency to obtain a criminal
68 history background check of a noncertified agency employee
69 by submitting fingerprints to the department; requiring
70 that the criminal history check be provided by the
71 department in certain circumstances; amending s. 943.0585,
72 F.S.; prohibiting a court from expunging a criminal
73 history record containing certain sexual offenses or
74 certain offenses that require registration as a sexual
75 offender; requiring a valid certificate of eligibility for
76 expunction in a petition to expunge a criminal history
77 record; specifying the time during which a certificate of
78 eligibility for expunction is valid; requiring that a
79 trial may not have occurred in order for a person to

80 | obtain a statement from the state attorney authorizing the
 81 | expunction of a criminal record; authorizing a person who
 82 | has secured a prior sealing of a criminal history record
 83 | to seek a certificate of eligibility for expunction if the
 84 | criminal history record was previously sealed for a
 85 | certain number of years and is otherwise eligible for
 86 | expunction; providing that a person who is seeking
 87 | authorization for employment within or access to a seaport
 88 | may not deny or fail to acknowledge arrests covered by
 89 | expunged records; providing that the department may
 90 | acknowledge expunged criminal history records under
 91 | certain circumstances; prohibiting seaport employees from
 92 | disclosing expunged criminal history record information
 93 | except to certain persons; providing penalties; amending
 94 | s. 943.059, F.S.; enumerating certain sexual offenses and
 95 | offenses that require registration as a sexual offender
 96 | which may not be sealed; requiring a valid certificate of
 97 | eligibility for sealing in a petition to seal a criminal
 98 | history record; specifying the period during which a
 99 | certificate of eligibility for sealing is valid; providing
 100 | that the information contained in a sealed criminal record
 101 | is available to a criminal justice agency for the purpose
 102 | of conducting a criminal history background check for
 103 | approval of a firearms purchase or transfer; prohibiting a
 104 | person from denying arrests covered by his or her sealed
 105 | criminal record when attempting to purchase a firearm;
 106 | providing that a person who is seeking authorization for
 107 | employment within or access to a seaport may not deny or

108 fail to acknowledge arrests covered by sealed records;
 109 providing that the department may acknowledge sealed
 110 criminal history records under certain circumstances;
 111 prohibiting seaport employees from disclosing sealed
 112 criminal history record information except to certain
 113 persons; providing penalties; amending s. 943.13, F.S.;
 114 requiring the department to enter law enforcement,
 115 correctional, and correctional probation officers'
 116 fingerprints into a statewide automated fingerprint
 117 identification system; requiring the department to search
 118 each arrest fingerprint card received against fingerprints
 119 retained in the statewide automated fingerprint
 120 identification system; providing for refingerprinting by a
 121 certain date; amending ss. 943.1715 and 943.1716, F.S.;
 122 deleting the minimum number of hours required for basic
 123 skills training and continued employment training relating
 124 to diverse populations for law enforcement, correctional,
 125 and correctional probation officers; repealing s.
 126 943.2569, F.S., relating to an annual financial audit of
 127 criminal justice selection centers; amending s. 943.257,
 128 F.S.; authorizing the Criminal Justice Standards and
 129 Training Commission and the advisory board of a criminal
 130 justice selection center to inspect and copy any documents
 131 from a center in order to carry out oversight
 132 responsibilities, including documents pertaining to any
 133 internal or independent audits; amending s. 943.401, F.S.;
 134 requiring the department to investigate all public
 135 assistance that is provided by the state; requiring public

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136 assistance recipients to consent in writing to an
 137 investigation into their employment and financial
 138 histories by the Agency for Workforce Innovation;
 139 requiring the department to report the results of the
 140 investigations to the Agency for Workforce Innovation;
 141 authorizing the department to purchase goodwill and
 142 promotional materials; limiting the annual amount of such
 143 expenditures; prohibiting the unauthorized use of the
 144 department's emblems and names; providing a penalty;
 145 providing effective dates.

146

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

148

149 Section 1. Effective February 1, 2007, paragraph (a) of
 150 subsection (2) of section 790.065, Florida Statutes, is amended
 151 to read:

152 790.065 Sale and delivery of firearms.--

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

156 (a) Review criminal history records and other records that
 157 have been provided to the department to determine if the
 158 potential buyer or transferee:

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

161 2. Has been convicted of a misdemeanor crime of domestic
 162 violence, and therefore is prohibited from purchasing a firearm;

163 ~~or~~

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

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

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

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

192 c. In order to check for these conditions, the department
 193 shall compile and maintain an automated database of persons who
 194 are prohibited from purchasing a firearm based on court records
 195 of adjudications of mental defectiveness or commitments to
 196 mental institutions. Clerks of court are required to submit
 197 these records to the department within 1 month after the
 198 rendition of the adjudication or commitment. Reports may be
 199 submitted in an automated format. The reports must, at a
 200 minimum, include the name, along with any known alias or former
 201 name, the sex, and the date of birth of the subject. The
 202 department shall delete any mental health record from the
 203 database upon request of an individual when 5 years have elapsed
 204 since the individual's restoration to capacity by court order
 205 after being adjudicated an incapacitated person under s.
 206 744.331, or similar laws of any other state; or, in the case of
 207 an individual who was previously committed to a mental
 208 institution under chapter 394, or similar laws of any other
 209 state, when the individual produces a certificate from a
 210 licensed psychiatrist that he or she has not suffered from
 211 disability for at least 5 years prior to the date of request for
 212 removal of the record. Where the department has received a
 213 subsequent record of an adjudication of mental defectiveness or
 214 commitment to a mental institution for such individual, the 5-
 215 year timeframe shall be calculated from the most recent
 216 adjudication of incapacitation or commitment.

217 d. The department is authorized to disclose the collected
 218 data to agencies of the Federal Government and other states for
 219 use exclusively in determining the lawfulness of a firearm sale

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220 | or transfer. The department is also authorized to disclose any
 221 | applicable collected data to the Department of Agriculture and
 222 | Consumer Services for determination of eligibility for issuance
 223 | of a concealed weapons or concealed firearms license upon
 224 | receipt of an applicant fingerprint submission forwarded
 225 | pursuant to s. 790.06(6)(a). When a potential buyer or
 226 | transferee appeals a nonapproval based on these records, the
 227 | clerks of court and mental institutions shall, upon request by
 228 | the department, provide information to help determine whether
 229 | the potential buyer or transferee is the same person as the
 230 | subject of the record. Photographs and any other data that could
 231 | confirm or negate identity must be made available to the
 232 | department for such purposes, notwithstanding any other
 233 | provision of state law to the contrary. Any such information
 234 | that is made confidential or exempt from disclosure by law shall
 235 | retain such confidential or exempt status when transferred to
 236 | the department.

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

239 | 914.25 Protective services for certain victims and
 240 | witnesses.--

241 | (4)(a) When a victim or witness is certified as provided
 242 | in subsection (3), a law enforcement agency, in consultation
 243 | with the certifying state attorney or the statewide prosecutor,
 244 | may provide appropriate protective services. If a victim or
 245 | witness needs to be temporarily relocated, the statewide
 246 | prosecutor or the state attorney must notify the Department of
 247 | Law Enforcement. The Department of Law Enforcement, in

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248 | consultation with the statewide prosecutor or the state
 249 | attorney, and any other law enforcement agency involved in the
 250 | criminal investigation or prosecution, shall coordinate the
 251 | temporary relocation of the victim or witness.

252 | (b) Protective services, including temporary relocation
 253 | services, may initially be provided for up to 1 year or until
 254 | the risk giving rise to the certification has diminished,
 255 | ~~whichever occurs sooner. If deemed necessary,~~ The statewide
 256 | prosecutor or the state attorney may, at the end of the
 257 | certification year, recertify a victim or witness at risk of
 258 | harm for an additional period of up to 1 year or until the risk
 259 | giving rise to the certification has diminished, whichever
 260 | occurs first. A victim or witness at risk of harm may be
 261 | certified and recertified annually as provided in this section
 262 | to provide a maximum of 4 years of eligibility for protective
 263 | services.

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

274 | Section 3. Subsection (3) is added to section 937.021,
 275 | Florida Statutes, to read:

276 | 937.021 Missing child reports.--

277 | (3)(a) Upon receiving a request to record, report,

278 | transmit, display, or release Amber Alert or Missing Child Alert

279 | information from the law enforcement agency having jurisdiction

280 | over the missing or endangered child, the Department of Law

281 | Enforcement as the state Amber Alert coordinator; any state or

282 | local law enforcement agency and the personnel of these

283 | agencies; any radio or television network, broadcaster, or other

284 | media representative; or any agency, employee, individual, or

285 | entity is immune from civil liability for damages for complying

286 | in good faith with the request and is presumed to have acted in

287 | good faith in recording, reporting, transmitting, displaying, or

288 | releasing Amber Alert or Missing Child Alert information

289 | pertaining to such child.

290 | (b) The presumption of good faith is not overcome if a

291 | technical or clerical error is made by any such agency,

292 | employee, individual, or entity acting at the request of the

293 | local law enforcement agency having jurisdiction or if the Amber

294 | Alert or Missing Child Alert information is incomplete or

295 | incorrect because the information received from the local law

296 | enforcement agency was incomplete or incorrect.

297 | (c) Neither this subsection nor any other provision of law

298 | creates a duty of the agency, employee, individual, or entity to

299 | record, report, transmit, display, or release the Amber Alert or

300 | Missing Child Alert information received from the local law

301 | enforcement agency having jurisdiction. The decision to record,

302 | report, transmit, display, or release information is

303 | discretionary with the agency, employee, individual, or entity

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304 receiving that information from the local law enforcement agency
305 having jurisdiction.

306 Section 4. Section 938.07, Florida Statutes, is amended to
307 read:

308 938.07 Driving or boating under the
309 influence.--Notwithstanding any other provision of s. 316.193 or
310 s. 327.35, a court cost of \$135 shall be added to any fine
311 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
312 remit the funds to the Department of Revenue, \$25 of which shall
313 be deposited in the Emergency Medical Services Trust Fund, \$50
314 shall be deposited in the Operating Criminal Justice Standards
315 and Training Trust Fund of the Department of Law Enforcement to
316 be used for operational expenses in conducting the statewide
317 criminal analysis laboratory system established in s. 943.32,
318 and \$60 shall be deposited in the Brain and Spinal Cord Injury
319 Rehabilitation Trust Fund created in s. 381.79.

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

322 938.27 Judgment for costs on conviction.--

323 (7) Investigative costs that ~~which~~ are recovered shall be
324 returned to the appropriate investigative agency that ~~which~~
325 incurred the expense. Such costs ~~shall~~ include actual expenses
326 incurred in conducting the investigation and prosecution of the
327 criminal case; however, costs may also include the salaries of
328 permanent employees. Any investigative costs recovered on behalf
329 of a state agency must be remitted to the Department of Revenue
330 for deposit in the agency operating trust fund, and a report of
331 the payment must be sent to the agency, except that any

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332 investigative costs recovered on behalf of the Department of Law
 333 Enforcement shall be deposited in the department's Forfeiture
 334 and Investigative Support Trust Fund under s. 943.362.

335 Section 6. Subsection (2) of section 943.052, Florida
 336 Statutes, is amended to read:

337 943.052 Disposition reporting.--The Criminal Justice
 338 Information Program shall, by rule, establish procedures and a
 339 format for each criminal justice agency to monitor its records
 340 and submit reports, as provided by this section, to the program.
 341 The disposition report shall be developed by the program and
 342 shall include the offender-based transaction system number.

343 (2) Each clerk of the court shall submit the uniform
 344 dispositions to the program or in a manner acceptable to the
 345 program. The report shall be submitted at least once a month
 346 and, when acceptable by the program, may be submitted in an
 347 automated format. The disposition report is mandatory for
 348 dispositions relating to adult offenders only. Beginning July 1,
 349 2008, a disposition report for each disposition relating to a
 350 minor offender is mandatory.

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

353 68.07 Change of name.--

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

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

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

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

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

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

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

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

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

385 (i) Whether any money judgment has ever been entered
386 against petitioner and if so, the name of the judgment creditor,

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387 | the amount and date thereof, the court by which entered, and
388 | whether the judgment has been satisfied.

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

393 | (k) That the petitioner's civil rights have never been
394 | suspended, or if the petitioner's civil rights have been
395 | suspended, that full restoration of civil rights has occurred.

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

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415 related to the petitioner. Any costs associated with
416 fingerprinting must be paid by the petitioner.

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

419 943.05 Criminal Justice Information Program; duties; crime
420 reports.--

421 (2) The program shall:

422 (g) As authorized by law, retain fingerprints submitted by
423 criminal and noncriminal justice agencies to the department for
424 a criminal history background screening in a manner provided by
425 law and enter the fingerprints in the statewide automated
426 fingerprint identification system authorized by paragraph (b).
427 Such fingerprints shall thereafter be available for all purposes
428 and uses authorized for arrest fingerprint cards entered into
429 the statewide automated fingerprint identification system
430 pursuant to s. 943.051.

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

438 2. Agencies may participate in this search process by
439 payment of an annual fee to the department and by informing the
440 department of any change in the affiliation, employment, or
441 contractual status or place of affiliation, employment, or
442 contracting of the persons whose fingerprints are retained under

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443 paragraph (g). The department shall adopt a rule setting the
 444 amount of the annual fee to be imposed upon each participating
 445 agency for performing these searches and establishing the
 446 procedures for the retention of fingerprints and the
 447 dissemination of search results. The fee may be borne as
 448 provided by law. Fees may be waived or reduced by the executive
 449 director for good cause shown. Consistent with the recognition
 450 of criminal justice agencies expressed in s. 943.053(3), these
 451 services will be provided to criminal justice agencies for
 452 criminal justice purposes free of charge.

453 Section 9. Subsections (5) through (9) of section 943.053,
 454 Florida Statutes, are renumbered as subsections (6) through
 455 (10), respectively, and new subsections (5), (11), and (12) are
 456 added to that section, to read:

457 943.053 Dissemination of criminal justice information;
 458 fees.--

459 (5) Notwithstanding the provisions of s. 943.0525, and any
 460 user agreements adopted pursuant thereto, and notwithstanding
 461 the confidentiality of sealed records as provided for in s.
 462 943.059, the department shall make online access to Florida
 463 criminal justice information available to each judge in the
 464 state courts system for the purpose of assisting judges in their
 465 case-related decisionmaking responsibilities. Such online access
 466 shall be provided without charge to the state courts system.
 467 Sealed records received by the courts under this section remain
 468 confidential and exempt from the provisions of s. 119.07(1). The
 469 information provided pursuant to this section shall not take the
 470 place of any information required to be provided to the courts

471 by any other agency or entity. Information provided under this
472 section shall be used only for the official court business for
473 which it was requested and may not be further disseminated.

474 (11) A criminal justice agency that is authorized under
475 federal rules or law to conduct a criminal history background
476 check on an agency employee who is not certified by the Criminal
477 Justice Standards and Training Commission under s. 943.12 may
478 submit to the department the fingerprints of the noncertified
479 employee to obtain state and national criminal history
480 information. Effective January 15, 2007, the fingerprints
481 submitted shall be retained and entered in the statewide
482 automated fingerprint identification system authorized by s.
483 943.05 and shall be available for all purposes and uses
484 authorized for arrest fingerprint cards entered in the statewide
485 automated fingerprint identification system pursuant to s.
486 943.051. The department shall search all arrest fingerprint
487 cards received pursuant to s. 943.051 against the fingerprints
488 retained in the statewide automated fingerprint identification
489 system pursuant to this section. In addition to all purposes and
490 uses authorized for arrest fingerprint cards for which submitted
491 fingerprints may be used, any arrest record that is identified
492 with the retained employee fingerprints must be reported to the
493 submitting employing agency.

494 (12) Notwithstanding any other provision of law, when a
495 criminal history check or a duty to disclose the absence of a
496 criminal history check is mandated by state law, or when a
497 privilege or benefit is conferred by state law in return for
498 exercising an option of conducting a criminal history check, the

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499 referenced criminal history check, whether it is an initial or
 500 renewal check, shall include a Florida criminal history provided
 501 by the department as set forth in this section. Such Florida
 502 criminal history information may be provided by a private vendor
 503 only if that information is directly obtained from the
 504 department for each request. When a national criminal history
 505 check is required or authorized by state law, the national
 506 criminal history check shall be submitted by and through the
 507 department in the manner established by the department for such
 508 checks, unless otherwise required by federal law. The fee for
 509 criminal history information as established by state law or, in
 510 the case of national checks, by the Federal Government, shall be
 511 borne by the person or entity submitting the request, or as
 512 provided by law. Criminal history information provided by any
 513 other governmental entity of this state or any private entity
 514 shall not be substituted for criminal history information
 515 provided by the department when the criminal history check or a
 516 duty to disclose the absence of a criminal history check is
 517 required by statute or is made a condition of a privilege or
 518 benefit by law.

519 Section 10. Section 943.0585, Florida Statutes, is amended
 520 to read:

521 943.0585 Court-ordered expunction of criminal history
 522 records.--The courts of this state have jurisdiction over their
 523 own procedures, including the maintenance, expunction, and
 524 correction of judicial records containing criminal history
 525 information to the extent such procedures are not inconsistent
 526 with the conditions, responsibilities, and duties established by

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527 | this section. Any court of competent jurisdiction may order a
 528 | criminal justice agency to expunge the criminal history record
 529 | of a minor or an adult who complies with the requirements of
 530 | this section. The court shall not order a criminal justice
 531 | agency to expunge a criminal history record until the person
 532 | seeking to expunge a criminal history record has applied for and
 533 | received a certificate of eligibility for expunction pursuant to
 534 | subsection (2). A criminal history record that relates to a
 535 | violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
 536 | s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
 537 | 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
 538 | 893.135, s. 916.1075, ~~or~~ a violation enumerated in s. 907.041,
 539 | or any violation specified as a predicate offense for
 540 | registration as a sexual predator pursuant to s. 775.21, without
 541 | regard to whether that offense alone is sufficient to require
 542 | such registration, or for registration as a sexual offender
 543 | pursuant to s. 943.0435, may not be expunged, without regard to
 544 | whether adjudication was withheld, if the defendant was found
 545 | guilty of or pled guilty or nolo contendere to the offense, or
 546 | if the defendant, as a minor, was found to have committed, or
 547 | pled guilty or nolo contendere to committing, the offense as a
 548 | delinquent act. The court may only order expunction of a
 549 | criminal history record pertaining to one arrest or one incident
 550 | of alleged criminal activity, except as provided in this
 551 | section. The court may, at its sole discretion, order the
 552 | expunction of a criminal history record pertaining to more than
 553 | one arrest if the additional arrests directly relate to the
 554 | original arrest. If the court intends to order the expunction of

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555 records pertaining to such additional arrests, such intent must
 556 be specified in the order. A criminal justice agency may not
 557 expunge any record pertaining to such additional arrests if the
 558 order to expunge does not articulate the intention of the court
 559 to expunge a record pertaining to more than one arrest. This
 560 section does not prevent the court from ordering the expunction
 561 of only a portion of a criminal history record pertaining to one
 562 arrest or one incident of alleged criminal activity.

563 Notwithstanding any law to the contrary, a criminal justice
 564 agency may comply with laws, court orders, and official requests
 565 of other jurisdictions relating to expunction, correction, or
 566 confidential handling of criminal history records or information
 567 derived therefrom. This section does not confer any right to the
 568 expunction of any criminal history record, and any request for
 569 expunction of a criminal history record may be denied at the
 570 sole discretion of the court.

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

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

576 (b) The petitioner's sworn statement attesting that the
 577 petitioner:

578 1. Has never, prior to the date on which the petition is
 579 filed, been adjudicated guilty of a criminal offense or
 580 comparable ordinance violation, or been adjudicated delinquent
 581 for committing any a felony or a misdemeanor specified in s.
 582 943.051(3)(b).

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583 | 2. Has not been adjudicated guilty of, or adjudicated
584 | delinquent for committing, any of the acts stemming from the
585 | arrest or alleged criminal activity to which the petition
586 | pertains.

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

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

597 |
598 | Any person who knowingly provides false information on such
599 | sworn statement to the court commits a felony of the third
600 | degree, punishable as provided in s. 775.082, s. 775.083, or s.
601 | 775.084.

602 | (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior to
603 | petitioning the court to expunge a criminal history record, a
604 | person seeking to expunge a criminal history record shall apply
605 | to the department for a certificate of eligibility for
606 | expunction. The department shall, by rule adopted pursuant to
607 | chapter 120, establish procedures pertaining to the application
608 | for and issuance of certificates of eligibility for expunction.
609 | A certificate of eligibility for expunction is valid for 12
610 | months after the date stamped on the certificate when issued by

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611 the department. After that time, the petitioner must reapply to
 612 the department for a new certificate of eligibility. Eligibility
 613 for a renewed certification of eligibility must be based on the
 614 status of the applicant and the law in effect at the time of the
 615 most recent application. The department shall issue a
 616 certificate of eligibility for expunction to a person who is the
 617 subject of a criminal history record if that person:

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

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

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

631 3. That the criminal history record does not relate to a
 632 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
 633 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
 634 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
 635 893.135, s. 916.1075, ~~or~~ a violation enumerated in s. 907.041,
 636 or any violation specified as a predicate offense for
 637 registration as a sexual predator pursuant to s. 775.21, without
 638 regard to whether that offense alone is sufficient to require

639 such registration, or for registration as a sexual offender
 640 pursuant to s. 943.0435, where the defendant was found guilty
 641 of, or pled guilty or nolo contendere to any such offense, or
 642 that the defendant, as a minor, was found to have committed, or
 643 pled guilty or nolo contendere to committing, such an offense as
 644 a delinquent act, without regard to whether adjudication was
 645 withheld.

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

649 (c) Has submitted to the department a certified copy of
 650 the disposition of the charge to which the petition to expunge
 651 pertains.

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

657 (e) Has not been adjudicated guilty of, or adjudicated
 658 delinquent for committing, any of the acts stemming from the
 659 arrest or alleged criminal activity to which the petition to
 660 expunge pertains.

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

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

670 (h) Has previously obtained a court order sealing the
671 record under this section, former s. 893.14, former s. 901.33,
672 or former s. 943.058 for a minimum of 10 years because
673 adjudication was withheld or because all charges related to the
674 arrest or alleged criminal activity to which the petition to
675 expunge pertains were not dismissed prior to trial, without
676 regard to whether the outcome of the trial was other than an
677 adjudication of guilt. The requirement for the record to have
678 previously been sealed for a minimum of 10 years does not apply
679 when a plea was not entered or all charges related to the arrest
680 or alleged criminal activity to which the petition to expunge
681 pertains were dismissed prior to trial. ~~Is not required to wait~~
682 ~~a minimum of 10 years prior to being eligible for an expunction~~
683 ~~of such records because all charges related to the arrest or~~
684 ~~criminal activity to which the petition to expunge pertains were~~
685 ~~dismissed prior to trial, adjudication, or the withholding of~~
686 ~~adjudication. Otherwise, such criminal history record must be~~
687 ~~sealed under this section, former s. 893.14, former s. 901.33,~~
688 ~~or former s. 943.058 for at least 10 years before such record is~~
689 ~~eligible for expunction.~~

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

691 (a) In judicial proceedings under this section, a copy of
692 the completed petition to expunge shall be served upon the
693 appropriate state attorney or the statewide prosecutor and upon
694 the arresting agency; however, it is not necessary to make any

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695 | agency other than the state a party. The appropriate state
696 | attorney or the statewide prosecutor and the arresting agency
697 | may respond to the court regarding the completed petition to
698 | expunge.

699 | (b) If relief is granted by the court, the clerk of the
700 | court shall certify copies of the order to the appropriate state
701 | attorney or the statewide prosecutor and the arresting agency.
702 | The arresting agency is responsible for forwarding the order to
703 | any other agency to which the arresting agency disseminated the
704 | criminal history record information to which the order pertains.
705 | The department shall forward the order to expunge to the Federal
706 | Bureau of Investigation. The clerk of the court shall certify a
707 | copy of the order to any other agency which the records of the
708 | court reflect has received the criminal history record from the
709 | court.

710 | (c) For an order to expunge entered by a court prior to
711 | July 1, 1992, the department shall notify the appropriate state
712 | attorney or statewide prosecutor of an order to expunge which is
713 | contrary to law because the person who is the subject of the
714 | record has previously been convicted of a crime or comparable
715 | ordinance violation or has had a prior criminal history record
716 | sealed or expunged. Upon receipt of such notice, the appropriate
717 | state attorney or statewide prosecutor shall take action, within
718 | 60 days, to correct the record and petition the court to void
719 | the order to expunge. The department shall seal the record until
720 | such time as the order is voided by the court.

721 | (d) On or after July 1, 1992, the department or any other
722 | criminal justice agency is not required to act on an order to

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723 expunge entered by a court when such order does not comply with
 724 the requirements of this section. Upon receipt of such an order,
 725 the department must notify the issuing court, the appropriate
 726 state attorney or statewide prosecutor, the petitioner or the
 727 petitioner's attorney, and the arresting agency of the reason
 728 for noncompliance. The appropriate state attorney or statewide
 729 prosecutor shall take action within 60 days to correct the
 730 record and petition the court to void the order. No cause of
 731 action, including contempt of court, shall arise against any
 732 criminal justice agency for failure to comply with an order to
 733 expunge when the petitioner for such order failed to obtain the
 734 certificate of eligibility as required by this section or such
 735 order does not otherwise comply with the requirements of this
 736 section.

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

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

756 1. Is a candidate for employment with a criminal justice
 757 agency;

758 2. Is a defendant in a criminal prosecution;

759 3. Concurrently or subsequently petitions for relief under
 760 this section or s. 943.059;

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

762 5. Is seeking to be employed or licensed by or to contract
 763 with the Department of Children and Family Services or the
 764 Department of Juvenile Justice or to be employed or used by such
 765 contractor or licensee in a sensitive position having direct
 766 contact with children, the developmentally disabled, the aged,
 767 or the elderly as provided in s. 110.1127(3), s. 393.063, s.
 768 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
 769 409.175(2)(i), s. 415.102(4), s. 916.106(10) and (13), s.
 770 985.407, or chapter 400; ~~or~~

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

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

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

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

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804 violates this paragraph commits a misdemeanor of the first
805 degree, punishable as provided in s. 775.082 or s. 775.083.

806 (5) STATUTORY REFERENCES.--Any reference to any other
807 chapter, section, or subdivision of the Florida Statutes in this
808 section constitutes a general reference under the doctrine of
809 incorporation by reference.

810 Section 11. Section 943.059, Florida Statutes, is amended
811 to read:

812 943.059 Court-ordered sealing of criminal history
813 records.--The courts of this state shall continue to have
814 jurisdiction over their own procedures, including the
815 maintenance, sealing, and correction of judicial records
816 containing criminal history information to the extent such
817 procedures are not inconsistent with the conditions,
818 responsibilities, and duties established by this section. Any
819 court of competent jurisdiction may order a criminal justice
820 agency to seal the criminal history record of a minor or an
821 adult who complies with the requirements of this section. The
822 court shall not order a criminal justice agency to seal a
823 criminal history record until the person seeking to seal a
824 criminal history record has applied for and received a
825 certificate of eligibility for sealing pursuant to subsection
826 (2). A criminal history record that relates to a violation of s.
827 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
828 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
829 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
830 916.1075, ~~or~~ a violation enumerated in s. 907.041, or any
831 violation specified as a predicate offense for registration as a

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832 | sexual predator pursuant to s. 775.21, without regard to whether
 833 | that offense alone is sufficient to require such registration,
 834 | or for registration as a sexual offender pursuant to s.
 835 | 943.0435, may not be sealed, without regard to whether
 836 | adjudication was withheld, if the defendant was found guilty of
 837 | or pled guilty or nolo contendere to the offense, or if the
 838 | defendant, as a minor, was found to have committed or pled
 839 | guilty or nolo contendere to committing the offense as a
 840 | delinquent act. The court may only order sealing of a criminal
 841 | history record pertaining to one arrest or one incident of
 842 | alleged criminal activity, except as provided in this section.
 843 | The court may, at its sole discretion, order the sealing of a
 844 | criminal history record pertaining to more than one arrest if
 845 | the additional arrests directly relate to the original arrest.
 846 | If the court intends to order the sealing of records pertaining
 847 | to such additional arrests, such intent must be specified in the
 848 | order. A criminal justice agency may not seal any record
 849 | pertaining to such additional arrests if the order to seal does
 850 | not articulate the intention of the court to seal records
 851 | pertaining to more than one arrest. This section does not
 852 | prevent the court from ordering the sealing of only a portion of
 853 | a criminal history record pertaining to one arrest or one
 854 | incident of alleged criminal activity. Notwithstanding any law
 855 | to the contrary, a criminal justice agency may comply with laws,
 856 | court orders, and official requests of other jurisdictions
 857 | relating to sealing, correction, or confidential handling of
 858 | criminal history records or information derived therefrom. This
 859 | section does not confer any right to the sealing of any criminal

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

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

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

867 (b) The petitioner's sworn statement attesting that the
868 petitioner:

869 1. Has never, prior to the date on which the petition is
870 filed, been adjudicated guilty of a criminal offense or
871 comparable ordinance violation, or been adjudicated delinquent
872 for committing any a felony or a misdemeanor specified in s.
873 943.051(3)(b).

874 2. Has not been adjudicated guilty of or adjudicated
875 delinquent for committing any of the acts stemming from the
876 arrest or alleged criminal activity to which the petition to
877 seal pertains.

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

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

885
886 Any person who knowingly provides false information on such
887 sworn statement to the court commits a felony of the third

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888 degree, punishable as provided in s. 775.082, s. 775.083, or s.
889 775.084.

890 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
891 petitioning the court to seal a criminal history record, a
892 person seeking to seal a criminal history record shall apply to
893 the department for a certificate of eligibility for sealing. The
894 department shall, by rule adopted pursuant to chapter 120,
895 establish procedures pertaining to the application for and
896 issuance of certificates of eligibility for sealing. A
897 certificate of eligibility for sealing is valid for 12 months
898 after the date stamped on the certificate when issued by the
899 department. After that time, the petitioner must reapply to the
900 department for a new certificate of eligibility. Eligibility for
901 a renewed certification of eligibility must be based on the
902 status of the applicant and the law in effect at the time of the
903 most recent application. The department shall issue a

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

906 (a) Has submitted to the department a certified copy of
907 the disposition of the charge to which the petition to seal
908 pertains.

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

912 (c) Has never, prior to the date on which the application
913 for a certificate of eligibility is filed, been adjudicated
914 guilty of a criminal offense or comparable ordinance violation,

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915 | or been adjudicated delinquent for committing any a felony or a
916 | misdemeanor specified in s. 943.051(3)(b).

917 | (d) Has not been adjudicated guilty of or adjudicated
918 | delinquent for committing any of the acts stemming from the
919 | arrest or alleged criminal activity to which the petition to
920 | seal pertains.

921 | (e) Has never secured a prior sealing or expunction of a
922 | criminal history record under this section, former s. 893.14,
923 | former s. 901.33, or former s. 943.058.

924 | (f) Is no longer under court supervision applicable to the
925 | disposition of the arrest or alleged criminal activity to which
926 | the petition to seal pertains.

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

928 | (a) In judicial proceedings under this section, a copy of
929 | the completed petition to seal shall be served upon the
930 | appropriate state attorney or the statewide prosecutor and upon
931 | the arresting agency; however, it is not necessary to make any
932 | agency other than the state a party. The appropriate state
933 | attorney or the statewide prosecutor and the arresting agency
934 | may respond to the court regarding the completed petition to
935 | seal.

936 | (b) If relief is granted by the court, the clerk of the
937 | court shall certify copies of the order to the appropriate state
938 | attorney or the statewide prosecutor and to the arresting
939 | agency. The arresting agency is responsible for forwarding the
940 | order to any other agency to which the arresting agency
941 | disseminated the criminal history record information to which
942 | the order pertains. The department shall forward the order to

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943 | seal to the Federal Bureau of Investigation. The clerk of the
 944 | court shall certify a copy of the order to any other agency
 945 | which the records of the court reflect has received the criminal
 946 | history record from the court.

947 | (c) For an order to seal entered by a court prior to July
 948 | 1, 1992, the department shall notify the appropriate state
 949 | attorney or statewide prosecutor of any order to seal which is
 950 | contrary to law because the person who is the subject of the
 951 | record has previously been convicted of a crime or comparable
 952 | ordinance violation or has had a prior criminal history record
 953 | sealed or expunged. Upon receipt of such notice, the appropriate
 954 | state attorney or statewide prosecutor shall take action, within
 955 | 60 days, to correct the record and petition the court to void
 956 | the order to seal. The department shall seal the record until
 957 | such time as the order is voided by the court.

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

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971 certificate of eligibility as required by this section or when
972 such order does not comply with the requirements of this
973 section.

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

978 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal
979 history record of a minor or an adult which is ordered sealed by
980 a court of competent jurisdiction pursuant to this section is
981 confidential and exempt from the provisions of s. 119.07(1) and
982 s. 24(a), Art. I of the State Constitution and is available only
983 to the person who is the subject of the record, to the subject's
984 attorney, to criminal justice agencies for their respective
985 criminal justice purposes, which include conducting a criminal
986 history background check for approval of firearms purchases or
987 transfers as authorized by state or federal law, or to those
988 entities set forth in subparagraphs (a)1., 4., 5., ~~and 6.~~, and
989 8. for their respective licensing, access authorization, and
990 employment purposes.

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

- 996 1. Is a candidate for employment with a criminal justice
997 agency;
- 998 2. Is a defendant in a criminal prosecution;

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999 3. Concurrently or subsequently petitions for relief under
1000 this section or s. 943.0585;

1001 4. Is a candidate for admission to The Florida Bar;

1002 5. Is seeking to be employed or licensed by or to contract
1003 with the Department of Children and Family Services or the
1004 Department of Juvenile Justice or to be employed or used by such
1005 contractor or licensee in a sensitive position having direct
1006 contact with children, the developmentally disabled, the aged,
1007 or the elderly as provided in s. 110.1127(3), s. 393.063, s.
1008 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
1009 409.175(2)(i), s. 415.102(4), s. 415.103, s. 916.106(10) and
1010 (13), s. 985.407, or chapter 400; ~~or~~

1011 6. Is seeking to be employed or licensed by the Department
1012 of Education, any district school board, any university
1013 laboratory school, any charter school, any private or parochial
1014 school, or any local governmental entity that licenses child
1015 care facilities; ~~or~~

1016 7. Is attempting to purchase a firearm from a licensed
1017 importer, licensed manufacturer, or licensed dealer and is
1018 subject to a criminal history background check under state or
1019 federal law; or

1020 8. Is seeking authorization from a Florida seaport
1021 identified in s. 311.09 for employment within or access to one
1022 or more of such seaports pursuant to s. 311.12 or s. 311.125.

1023 (b) Subject to the exceptions in paragraph (a), a person
1024 who has been granted a sealing under this section, former s.
1025 893.14, former s. 901.33, or former s. 943.058 may not be held
1026 under any provision of law of this state to commit perjury or to

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1027 | be otherwise liable for giving a false statement by reason of
 1028 | such person's failure to recite or acknowledge a sealed criminal
 1029 | history record.

1030 | (c) Information relating to the existence of a sealed
 1031 | criminal record provided in accordance with the provisions of
 1032 | paragraph (a) is confidential and exempt from the provisions of
 1033 | s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1034 | except that the department shall disclose the sealed criminal
 1035 | history record to the entities set forth in subparagraphs (a)1.,
 1036 | 4., 5., and 6., and 8. for their respective licensing, access
 1037 | authorization, and employment purposes. It is unlawful for any
 1038 | employee of an entity set forth in subparagraph (a)1.,
 1039 | subparagraph (a)4., subparagraph (a)5., ~~or~~ subparagraph (a)6.,
 1040 | or subparagraph (a)8. to disclose information relating to the
 1041 | existence of a sealed criminal history record of a person
 1042 | seeking employment, access authorization, or licensure with such
 1043 | entity or contractor, except to the person to whom the criminal
 1044 | history record relates or to persons having direct
 1045 | responsibility for employment, access authorization, or
 1046 | licensure decisions. Any person who violates the provisions of
 1047 | this paragraph commits a misdemeanor of the first degree,
 1048 | punishable as provided in s. 775.082 or s. 775.083.

1049 | (5) STATUTORY REFERENCES.--Any reference to any other
 1050 | chapter, section, or subdivision of the Florida Statutes in this
 1051 | section constitutes a general reference under the doctrine of
 1052 | incorporation by reference.

1053 | Section 12. Subsection (5) of section 943.13, Florida
 1054 | Statutes, is amended to read:

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1055 943.13 Officers' minimum qualifications for employment or
 1056 appointment.--On or after October 1, 1984, any person employed
 1057 or appointed as a full-time, part-time, or auxiliary law
 1058 enforcement officer or correctional officer; on or after October
 1059 1, 1986, any person employed as a full-time, part-time, or
 1060 auxiliary correctional probation officer; and on or after
 1061 October 1, 1986, any person employed as a full-time, part-time,
 1062 or auxiliary correctional officer by a private entity under
 1063 contract to the Department of Corrections, to a county
 1064 commission, or to the Department of Management Services shall:
 1065 (5) Have documentation of his or her processed
 1066 fingerprints on file with the employing agency or, if a private
 1067 correctional officer, have documentation of his or her processed
 1068 fingerprints on file with the Department of Corrections or the
 1069 Criminal Justice Standards and Training Commission. If
 1070 administrative delays are caused by the department or the
 1071 Federal Bureau of Investigation and the person has complied with
 1072 subsections (1)-(4) and (6)-(9), he or she may be employed or
 1073 appointed for a period not to exceed 1 calendar year from the
 1074 date he or she was employed or appointed or until return of the
 1075 processed fingerprints documenting noncompliance with
 1076 subsections (1)-(4) or subsection (7), whichever occurs first.
 1077 Beginning January 15, 2007, the department shall retain and
 1078 enter into the statewide automated fingerprint identification
 1079 system authorized by s. 943.05 all fingerprints submitted to the
 1080 department as required by this section. Thereafter, the
 1081 fingerprints shall be available for all purposes and uses
 1082 authorized for arrest fingerprint cards entered in the statewide

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1083 automated fingerprint identification system pursuant to s.
 1084 943.051. The department shall search all arrest fingerprint
 1085 cards received pursuant to s. 943.051 against the fingerprints
 1086 retained in the statewide automated fingerprint identification
 1087 system pursuant to this section and report to the employing
 1088 agency any arrest records that are identified with the retained
 1089 employee's fingerprints. By January 1, 2008, a person who must
 1090 meet minimum qualifications as provided in this section and
 1091 whose fingerprints are not retained by the department pursuant
 1092 to this section must be refingerprinted. These fingerprints must
 1093 be forwarded to the department for processing and retention.

1094 Section 13. Section 943.1715, Florida Statutes, is amended
 1095 to read:

1096 943.1715 Basic skills training relating to diverse
 1097 populations.--The commission shall establish and maintain
 1098 standards for instruction of officers in the subject of
 1099 interpersonal skills relating to diverse populations, with an
 1100 emphasis on the awareness of cultural differences. Every basic
 1101 skills course required in order for officers to obtain initial
 1102 certification must include ~~a minimum of 8 hours~~ training in
 1103 interpersonal skills with diverse populations.

1104 Section 14. Section 943.1716, Florida Statutes, is amended
 1105 to read:

1106 943.1716 Continued employment training relating to diverse
 1107 populations.--The commission shall by rule require that each
 1108 officer receive, as part of the 40 hours of required instruction
 1109 for continued employment or appointment as an officer, ~~8 hours~~
 1110 ~~of~~ instruction in the subject of interpersonal skills relating

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1111 to diverse populations, with an emphasis on the awareness of
1112 cultural differences.

1113 Section 15. Section 943.2569, Florida Statutes, is
1114 repealed.

1115 Section 16. Section 943.257, Florida Statutes, is amended
1116 to read:

1117 943.257 Independent audit documentation subject to
1118 inspection.--The Criminal Justice Standards and Training
1119 Commission or a center's advisory board may inspect and copy any
1120 documents from the center as required to carry out the
1121 commission's or the respective board's oversight
1122 responsibilities, including information and documents related to
1123 applicant evaluations and center expenditures. In addition, the
1124 commission or board may inspect and copy the documentation of
1125 any internal or independent audits conducted by or on behalf of
1126 the centers to ensure that candidate and inservice officer
1127 assessments have been made and that expenditures are in
1128 conformance with the requirements of this act and with other
1129 applicable procedures.

1130 Section 17. Subsections (1) and (3) of section 943.401,
1131 Florida Statutes, are amended to read:

1132 943.401 Public assistance fraud.--

1133 (1)(a) The Department of Law Enforcement shall investigate
1134 all public assistance provided to residents of the state or
1135 provided to others by the state ~~made under the provisions of~~
1136 ~~chapter 409 or chapter 414.~~ In the course of such investigation
1137 the Department of Law Enforcement shall examine all records,
1138 including electronic benefits transfer records and make inquiry

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1139 of all persons who may have knowledge as to any irregularity
1140 incidental to the disbursement of public moneys, food stamps, or
1141 other items or benefits authorizations to recipients.

1142 (b) All public assistance recipients, as a condition
1143 precedent to qualification for public assistance ~~under the~~
1144 ~~provisions of chapter 409 or chapter 414~~, shall first give in
1145 writing, to the Agency for Health Care Administration, the
1146 Department of Health, the Agency for Workforce Innovation, and
1147 the Department of Children and Family Services, as appropriate,
1148 and to the Department of Law Enforcement, consent to make
1149 inquiry of past or present employers and records, financial or
1150 otherwise.

1151 (3) The results of such investigation shall be reported by
1152 the Department of Law Enforcement to the appropriate legislative
1153 committees, the Agency for Health Care Administration, the
1154 Department of Health, the Agency for Workforce Innovation, and
1155 the Department of Children and Family Services, and to such
1156 others as the Department of Law Enforcement may determine.

1157 Section 18. Authority to purchase goodwill and promotional
1158 materials.--

1159 (1) The Legislature recognizes that the Department of Law
1160 Enforcement functions as one of the state's primary law
1161 enforcement representatives in national and international
1162 meetings, conferences, and cooperative efforts. The department
1163 often hosts delegates from other federal, state, local, and
1164 international agencies and is in a position to function as a
1165 representative of the state fostering goodwill and effective
1166 interagency working relationships. It is the intent of the

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1167 Legislature that the department be allowed, consistent with the
 1168 dignity and integrity of the state, to purchase and distribute
 1169 material and items of collection to those with whom the
 1170 department has contact in meetings, conferences, and cooperative
 1171 efforts.

1172 (2) In addition to expenditures separately authorized by
 1173 law, the department may expend not more than \$5,000 annually to
 1174 purchase and distribute promotional materials or items that
 1175 serve to advance with dignity and integrity the goodwill of this
 1176 state and the department and to provide basic refreshments at
 1177 official functions, seminars, or meetings of the department in
 1178 which dignitaries or representatives from the Federal
 1179 Government, other states or nationalities, or other agencies are
 1180 in attendance.

1181 Section 19. Unauthorized use of Department of Law
 1182 Enforcement emblems or names prohibited.--

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

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1195 play, motion picture, broadcast, telecast, or other production,
1196 Internet web page, or product is approved, endorsed, or
1197 authorized by the Department of Law Enforcement commits a
1198 misdemeanor of the first degree, punishable as provided in s.
1199 775.082 or s. 775.083, Florida Statutes.

1200 (2) A violation of this section may be enjoined upon suit
1201 by the department or the Department of Legal Affairs upon
1202 complaint filed in any court of competent jurisdiction.

1203 Section 20. Except as otherwise expressly provided in this
1204 act, this act shall take effect July 1, 2006.