

CHAMBER ACTION

1 The Criminal Justice Appropriations Committee recommends the
2 following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

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

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

52 Standards and Training Trust Fund; amending s. 938.27,
53 F.S.; requiring that investigative costs recovered on
54 behalf of the Department of Law Enforcement be deposited
55 into the department's Forfeiture and Investigative Trust
56 Fund; amending s. 943.052, F.S.; requiring that
57 disposition reports for dispositions relating to minor
58 offenders are mandatory after a specified date; amending
59 s. 68.07, F.S.; requiring a set of fingerprints as part of
60 a name change petition; amending s. 943.05, F.S.;
61 authorizing the Department of Law Enforcement to retain
62 fingerprints in certain circumstances and use retained
63 fingerprints for certain purposes; providing for an annual
64 fee; providing for waiver of the fee for good cause shown;
65 providing for free services for certain purposes; amending
66 s. 943.053, F.S.; requiring the department to make certain
67 information available to judges; limiting use of
68 information; authorizing a criminal justice agency to
69 obtain a criminal history background check of a
70 noncertified agency employee by submitting fingerprints to
71 the department; requiring that the criminal history check
72 be provided by the department in certain circumstances;
73 amending s. 943.0585, F.S.; prohibiting a court from
74 expunging a criminal history record containing certain
75 sexual offenses or certain offenses that require
76 registration as a sexual offender; requiring a valid
77 certificate of eligibility for expunction in a petition to
78 expunge a criminal history record; specifying the time
79 during which a certificate of eligibility for expunction

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

108 | who is seeking authorization for employment within or
109 | access to a seaport may not deny or fail to acknowledge
110 | arrests covered by sealed records; providing that the
111 | department may acknowledge sealed criminal history records
112 | under certain circumstances; prohibiting seaport employees
113 | from disclosing sealed criminal history record information
114 | except to certain persons; providing penalties; amending
115 | s. 943.13, F.S.; requiring the department to enter law
116 | enforcement, correctional, and correctional probation
117 | officers' fingerprints into a statewide automated
118 | fingerprint identification system; requiring the
119 | department to search each arrest fingerprint card received
120 | against fingerprints retained in the statewide automated
121 | fingerprint identification system; providing for
122 | refingerprinting by a certain date; amending ss. 943.1715
123 | and 943.1716, F.S.; deleting the minimum number of hours
124 | required for basic skills training and continued
125 | employment training relating to diverse populations for
126 | law enforcement, correctional, and correctional probation
127 | officers; repealing s. 943.2569, F.S., relating to an
128 | annual financial audit of criminal justice selection
129 | centers; amending s. 943.257, F.S.; authorizing the
130 | Criminal Justice Standards and Training Commission and the
131 | advisory board of a criminal justice selection center to
132 | inspect and copy any documents from a center in order to
133 | carry out oversight responsibilities, including documents
134 | pertaining to any internal or independent audits; amending
135 | s. 943.401, F.S.; requiring the department to investigate

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

147

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

149

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

153 790.065 Sale and delivery of firearms.--

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

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

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

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

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

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

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

183 b. As used in this subparagraph, "committed to a mental
184 institution" means involuntary commitment, commitment for mental
185 defectiveness or mental illness, and commitment for substance
186 abuse. The phrase shall include involuntary inpatient placement
187 as defined in s. 394.467, involuntary assessment and
188 stabilization under s. 397.6818, and involuntary substance abuse
189 treatment under s. 397.6957, but shall not include a person in a

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190 mental institution for observation or discharged from a mental
191 institution based upon the initial review by the physician or a
192 voluntary admission to a mental institution.

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

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

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

240 914.25 Protective services for certain victims and
 241 witnesses.--

242 (4) (a) When a victim or witness is certified as provided
 243 in subsection (3), a law enforcement agency, in consultation
 244 with the certifying state attorney or the statewide prosecutor,
 245 may provide appropriate protective services. If a victim or

246 witness needs to be temporarily relocated, the statewide
 247 prosecutor or the state attorney must notify the Department of
 248 Law Enforcement. The Department of Law Enforcement, in
 249 consultation with the statewide prosecutor or the state
 250 attorney, and any other law enforcement agency involved in the
 251 criminal investigation or prosecution, shall coordinate the
 252 temporary relocation of the victim or witness.

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

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

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273 services are not eligible for the reimbursement provided in this
274 section.

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

277 937.021 Missing child reports.--

278 (3) (a) Upon receiving a request to record, report,
279 transmit, display, or release Amber Alert or Missing Child Alert
280 information from the law enforcement agency having jurisdiction
281 over the missing or endangered child, the Department of Law
282 Enforcement as the state Amber Alert coordinator; any state or
283 local law enforcement agency and the personnel of these
284 agencies; any radio or television network, broadcaster, or other
285 media representative; any dealer of communications services as
286 defined in s. 202.11; or any agency, employee, individual, or
287 entity is immune from civil liability for damages for complying
288 in good faith with the request and is presumed to have acted in
289 good faith in recording, reporting, transmitting, displaying, or
290 releasing Amber Alert or Missing Child Alert information
291 pertaining to such child.

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

299 (c) Neither this subsection nor any other provision of law
300 creates a duty of the agency, employee, individual, or entity to

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301 record, report, transmit, display, or release the Amber Alert or
 302 Missing Child Alert information received from the local law
 303 enforcement agency having jurisdiction. The decision to record,
 304 report, transmit, display, or release information is
 305 discretionary with the agency, employee, individual, or entity
 306 receiving that information from the local law enforcement agency
 307 having jurisdiction.

308 Section 4. Section 938.07, Florida Statutes, is amended to
 309 read:

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

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

324 938.27 Judgment for costs on conviction.--

325 (7) Investigative costs that ~~which~~ are recovered shall be
 326 returned to the appropriate investigative agency that ~~which~~
 327 incurred the expense. Such costs ~~shall~~ include actual expenses
 328 incurred in conducting the investigation and prosecution of the

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329 criminal case; however, costs may also include the salaries of
 330 permanent employees. Any investigative costs recovered on behalf
 331 of a state agency must be remitted to the Department of Revenue
 332 for deposit in the agency operating trust fund, and a report of
 333 the payment must be sent to the agency, except that any
 334 investigative costs recovered on behalf of the Department of Law
 335 Enforcement shall be deposited in the department's Forfeiture
 336 and Investigative Support Trust Fund under s. 943.362.

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

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

345 (2) Each clerk of the court shall submit the uniform
 346 dispositions to the program or in a manner acceptable to the
 347 program. The report shall be submitted at least once a month
 348 and, when acceptable by the program, may be submitted in an
 349 automated format. The disposition report is mandatory for
 350 dispositions relating to adult offenders only. Beginning July 1,
 351 2008, a disposition report for each disposition relating to a
 352 minor offender is mandatory.

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

355 68.07 Change of name.--

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

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

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

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

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

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

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

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

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

387 (i) Whether any money judgment has ever been entered
 388 against petitioner and if so, the name of the judgment creditor,
 389 the amount and date thereof, the court by which entered, and
 390 whether the judgment has been satisfied.

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

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

398 (5) The clerk must, upon the filing of the final judgment,
 399 send a report of the judgment to the Department of Law
 400 Enforcement on a form to be furnished by that department. The
 401 Department of Law Enforcement must send a copy of the report to
 402 the Department of Highway Safety and Motor Vehicles, which may
 403 be delivered by electronic transmission. The report must contain
 404 sufficient information to identify the petitioner, including a
 405 set ~~copy~~ of the petitioner's fingerprints taken by a law
 406 enforcement agency, the new name of the petitioner, and the file
 407 number of the judgment. Any information retained by the
 408 Department of Law Enforcement and the Department of Highway
 409 Safety and Motor Vehicles may be revised or supplemented by said
 410 departments to reflect changes made by the final judgment. With

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411 | respect to a person convicted of a felony in another state or of
 412 | a federal offense, the Department of Law Enforcement must send
 413 | the report to the respective state's office of law enforcement
 414 | records or to the office of the Federal Bureau of Investigation.
 415 | The Department of Law Enforcement may forward the report to any
 416 | other law enforcement agency it believes may retain information
 417 | related to the petitioner. Any costs associated with
 418 | fingerprinting must be paid by the petitioner.

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

421 | 943.05 Criminal Justice Information Program; duties; crime
 422 | reports.--

423 | (2) The program shall:

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

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

438 screening as provided in paragraph (g) shall be reported to the
439 appropriate agency.

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

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

459 943.053 Dissemination of criminal justice information;
460 fees.--

461 (5) Notwithstanding the provisions of s. 943.0525, and any
462 user agreements adopted pursuant thereto, and notwithstanding
463 the confidentiality of sealed records as provided for in s.
464 943.059, the department shall make online access to Florida
465 criminal justice information available to each judge in the

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466 state courts system for the purpose of assisting judges in their
467 case-related decisionmaking responsibilities. Such online access
468 shall be provided without charge to the state courts system.

469 Sealed records received by the courts under this section remain
470 confidential and exempt from the provisions of s. 119.07(1). The
471 information provided pursuant to this section shall not take the
472 place of any information required to be provided to the courts
473 by any other agency or entity. Information provided under this
474 section shall be used only for the official court business for
475 which it was requested and may not be further disseminated.

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

494 with the retained employee fingerprints must be reported to the
495 submitting employing agency.

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

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521 Section 10. Section 943.0585, Florida Statutes, is amended
522 to read:

523 943.0585 Court-ordered expunction of criminal history
524 records.--The courts of this state have jurisdiction over their
525 own procedures, including the maintenance, expunction, and
526 correction of judicial records containing criminal history
527 information to the extent such procedures are not inconsistent
528 with the conditions, responsibilities, and duties established by
529 this section. Any court of competent jurisdiction may order a
530 criminal justice agency to expunge the criminal history record
531 of a minor or an adult who complies with the requirements of
532 this section. The court shall not order a criminal justice
533 agency to expunge a criminal history record until the person
534 seeking to expunge a criminal history record has applied for and
535 received a certificate of eligibility for expunction pursuant to
536 subsection (2). A criminal history record that relates to a
537 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
538 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
539 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
540 893.135, s. 916.1075, ~~or~~ a violation enumerated in s. 907.041,
541 or any violation specified as a predicate offense for
542 registration as a sexual predator pursuant to s. 775.21, without
543 regard to whether that offense alone is sufficient to require
544 such registration, or for registration as a sexual offender
545 pursuant to s. 943.0435, may not be expunged, without regard to
546 whether adjudication was withheld, if the defendant was found
547 guilty of or pled guilty or nolo contendere to the offense, or
548 if the defendant, as a minor, was found to have committed, or

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549 | pled guilty or nolo contendere to committing, the offense as a
550 | delinquent act. The court may only order expunction of a
551 | criminal history record pertaining to one arrest or one incident
552 | of alleged criminal activity, except as provided in this
553 | section. The court may, at its sole discretion, order the
554 | expunction of a criminal history record pertaining to more than
555 | one arrest if the additional arrests directly relate to the
556 | original arrest. If the court intends to order the expunction of
557 | records pertaining to such additional arrests, such intent must
558 | be specified in the order. A criminal justice agency may not
559 | expunge any record pertaining to such additional arrests if the
560 | order to expunge does not articulate the intention of the court
561 | to expunge a record pertaining to more than one arrest. This
562 | section does not prevent the court from ordering the expunction
563 | of only a portion of a criminal history record pertaining to one
564 | arrest or one incident of alleged criminal activity.
565 | Notwithstanding any law to the contrary, a criminal justice
566 | agency may comply with laws, court orders, and official requests
567 | of other jurisdictions relating to expunction, correction, or
568 | confidential handling of criminal history records or information
569 | derived therefrom. This section does not confer any right to the
570 | expunction of any criminal history record, and any request for
571 | expunction of a criminal history record may be denied at the
572 | sole discretion of the court.

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

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

578 (b) The petitioner's sworn statement attesting that the
579 petitioner:

580 1. Has never, prior to the date on which the petition is
581 filed, been adjudicated guilty of a criminal offense or
582 comparable ordinance violation, or been adjudicated delinquent
583 for committing any a felony or a misdemeanor specified in s.
584 943.051(3)(b).

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

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

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

599
600 Any person who knowingly provides false information on such
601 sworn statement to the court commits a felony of the third
602 degree, punishable as provided in s. 775.082, s. 775.083, or s.
603 775.084.

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

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

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

625 2. That an indictment, information, or other charging
626 document, if filed or issued in the case, was dismissed or nolle
627 prosequi by the state attorney or statewide prosecutor, or was
628 dismissed by a court of competent jurisdiction, and that none of
629 the charges related to the arrest or alleged criminal activity
630 to which the petition to expunge pertains resulted in a trial,

631 without regard to whether the outcome of the trial was other
632 than an adjudication of guilt.

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

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

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

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

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

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

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

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

687 ~~dismissed prior to trial, adjudication, or the withholding of~~
 688 ~~adjudication. Otherwise, such criminal history record must be~~
 689 ~~sealed under this section, former s. 893.14, former s. 901.33,~~
 690 ~~or former s. 943.058 for at least 10 years before such record is~~
 691 ~~eligible for expunction.~~

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

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

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

712 (c) For an order to expunge entered by a court prior to
 713 July 1, 1992, the department shall notify the appropriate state
 714 attorney or statewide prosecutor of an order to expunge which is

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715 contrary to law because the person who is the subject of the
716 record has previously been convicted of a crime or comparable
717 ordinance violation or has had a prior criminal history record
718 sealed or expunged. Upon receipt of such notice, the appropriate
719 state attorney or statewide prosecutor shall take action, within
720 60 days, to correct the record and petition the court to void
721 the order to expunge. The department shall seal the record until
722 such time as the order is voided by the court.

723 (d) On or after July 1, 1992, the department or any other
724 criminal justice agency is not required to act on an order to
725 expunge entered by a court when such order does not comply with
726 the requirements of this section. Upon receipt of such an order,
727 the department must notify the issuing court, the appropriate
728 state attorney or statewide prosecutor, the petitioner or the
729 petitioner's attorney, and the arresting agency of the reason
730 for noncompliance. The appropriate state attorney or statewide
731 prosecutor shall take action within 60 days to correct the
732 record and petition the court to void the order. No cause of
733 action, including contempt of court, shall arise against any
734 criminal justice agency for failure to comply with an order to
735 expunge when the petitioner for such order failed to obtain the
736 certificate of eligibility as required by this section or such
737 order does not otherwise comply with the requirements of this
738 section.

739 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
740 criminal history record of a minor or an adult which is ordered
741 expunged by a court of competent jurisdiction pursuant to this
742 section must be physically destroyed or obliterated by any

743 criminal justice agency having custody of such record; except
 744 that any criminal history record in the custody of the
 745 department must be retained in all cases. A criminal history
 746 record ordered expunged that is retained by the department is
 747 confidential and exempt from the provisions of s. 119.07(1) and
 748 s. 24(a), Art. I of the State Constitution and not available to
 749 any person or entity except upon order of a court of competent
 750 jurisdiction. A criminal justice agency may retain a notation
 751 indicating compliance with an order to expunge.

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

- 758 1. Is a candidate for employment with a criminal justice
 759 agency;
- 760 2. Is a defendant in a criminal prosecution;
- 761 3. Concurrently or subsequently petitions for relief under
 762 this section or s. 943.059;
- 763 4. Is a candidate for admission to The Florida Bar;
- 764 5. Is seeking to be employed or licensed by or to contract
 765 with the Department of Children and Family Services or the
 766 Department of Juvenile Justice or to be employed or used by such
 767 contractor or licensee in a sensitive position having direct
 768 contact with children, the developmentally disabled, the aged,
 769 or the elderly as provided in s. 110.1127(3), s. 393.063, s.
 770 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.

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771 409.175(2)(i), s. 415.102(4), s. 916.106(10) and (13), s.
772 985.407, or chapter 400; ~~or~~

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

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

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

788 (c) Information relating to the existence of an expunged
789 criminal history record which is provided in accordance with
790 paragraph (a) is confidential and exempt from the provisions of
791 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
792 except that the department shall disclose the existence of a
793 criminal history record ordered expunged to the entities set
794 forth in subparagraphs (a)1., 4., 5., ~~and 6.~~, and 7. for their
795 respective licensing, access authorization, and employment
796 purposes, and to criminal justice agencies for their respective
797 criminal justice purposes. It is unlawful for any employee of an
798 entity set forth in subparagraph (a)1., subparagraph (a)4.,

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799 | subparagraph (a)5., ~~or~~ subparagraph (a)6., or subparagraph(a)7.
 800 | to disclose information relating to the existence of an expunged
 801 | criminal history record of a person seeking employment, access
 802 | authorization, or licensure with such entity or contractor,
 803 | except to the person to whom the criminal history record relates
 804 | or to persons having direct responsibility for employment,
 805 | access authorization, or licensure decisions. Any person who
 806 | violates this paragraph commits a misdemeanor of the first
 807 | degree, punishable as provided in s. 775.082 or s. 775.083.

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

812 | Section 11. Section 943.059, Florida Statutes, is amended
 813 | to read:

814 | 943.059 Court-ordered sealing of criminal history
 815 | records.--The courts of this state shall continue to have
 816 | jurisdiction over their own procedures, including the
 817 | maintenance, sealing, and correction of judicial records
 818 | containing criminal history information to the extent such
 819 | procedures are not inconsistent with the conditions,
 820 | responsibilities, and duties established by this section. Any
 821 | court of competent jurisdiction may order a criminal justice
 822 | agency to seal the criminal history record of a minor or an
 823 | adult who complies with the requirements of this section. The
 824 | court shall not order a criminal justice agency to seal a
 825 | criminal history record until the person seeking to seal a
 826 | criminal history record has applied for and received a

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827 certificate of eligibility for sealing pursuant to subsection
828 (2). A criminal history record that relates to a violation of s.
829 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
830 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
831 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
832 916.1075, ~~or~~ a violation enumerated in s. 907.041, or any
833 violation specified as a predicate offense for registration as a
834 sexual predator pursuant to s. 775.21, without regard to whether
835 that offense alone is sufficient to require such registration,
836 or for registration as a sexual offender pursuant to s.
837 943.0435, may not be sealed, without regard to whether
838 adjudication was withheld, if the defendant was found guilty of
839 or pled guilty or nolo contendere to the offense, or if the
840 defendant, as a minor, was found to have committed or pled
841 guilty or nolo contendere to committing the offense as a
842 delinquent act. The court may only order sealing of a criminal
843 history record pertaining to one arrest or one incident of
844 alleged criminal activity, except as provided in this section.
845 The court may, at its sole discretion, order the sealing of a
846 criminal history record pertaining to more than one arrest if
847 the additional arrests directly relate to the original arrest.
848 If the court intends to order the sealing of records pertaining
849 to such additional arrests, such intent must be specified in the
850 order. A criminal justice agency may not seal any record
851 pertaining to such additional arrests if the order to seal does
852 not articulate the intention of the court to seal records
853 pertaining to more than one arrest. This section does not
854 prevent the court from ordering the sealing of only a portion of

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855 a criminal history record pertaining to one arrest or one
 856 incident of alleged criminal activity. Notwithstanding any law
 857 to the contrary, a criminal justice agency may comply with laws,
 858 court orders, and official requests of other jurisdictions
 859 relating to sealing, correction, or confidential handling of
 860 criminal history records or information derived therefrom. This
 861 section does not confer any right to the sealing of any criminal
 862 history record, and any request for sealing a criminal history
 863 record may be denied at the sole discretion of the court.

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

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

869 (b) The petitioner's sworn statement attesting that the
 870 petitioner:

871 1. Has never, prior to the date on which the petition is
 872 filed, been adjudicated guilty of a criminal offense or
 873 comparable ordinance violation, or been adjudicated delinquent
 874 for committing any a felony or a misdemeanor specified in s.
 875 943.051(3)(b).

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

880 3. Has never secured a prior sealing or expunction of a
 881 criminal history record under this section, former s. 893.14,

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882 former s. 901.33, former s. 943.058, or from any jurisdiction
883 outside the state.

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

887
888 Any person who knowingly provides false information on such
889 sworn statement to the court commits a felony of the third
890 degree, punishable as provided in s. 775.082, s. 775.083, or s.
891 775.084.

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

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

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

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

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

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

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

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

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

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936 may respond to the court regarding the completed petition to
937 seal.

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

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

960 (d) On or after July 1, 1992, the department or any other
961 criminal justice agency is not required to act on an order to
962 seal entered by a court when such order does not comply with the
963 requirements of this section. Upon receipt of such an order, the

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964 department must notify the issuing court, the appropriate state
965 attorney or statewide prosecutor, the petitioner or the
966 petitioner's attorney, and the arresting agency of the reason
967 for noncompliance. The appropriate state attorney or statewide
968 prosecutor shall take action within 60 days to correct the
969 record and petition the court to void the order. No cause of
970 action, including contempt of court, shall arise against any
971 criminal justice agency for failure to comply with an order to
972 seal when the petitioner for such order failed to obtain the
973 certificate of eligibility as required by this section or when
974 such order does not comply with the requirements of this
975 section.

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

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

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991 8. for their respective licensing, access authorization, and
992 employment purposes.

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

998 1. Is a candidate for employment with a criminal justice
999 agency;

1000 2. Is a defendant in a criminal prosecution;

1001 3. Concurrently or subsequently petitions for relief under
1002 this section or s. 943.0585;

1003 4. Is a candidate for admission to The Florida Bar;

1004 5. Is seeking to be employed or licensed by or to contract
1005 with the Department of Children and Family Services or the
1006 Department of Juvenile Justice or to be employed or used by such
1007 contractor or licensee in a sensitive position having direct
1008 contact with children, the developmentally disabled, the aged,
1009 or the elderly as provided in s. 110.1127(3), s. 393.063, s.
1010 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
1011 409.175(2)(i), s. 415.102(4), s. 415.103, s. 916.106(10) and
1012 (13), s. 985.407, or chapter 400; ~~or~~

1013 6. Is seeking to be employed or licensed by the Department
1014 of Education, any district school board, any university
1015 laboratory school, any charter school, any private or parochial
1016 school, or any local governmental entity that licenses child
1017 care facilities;i:-

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1018 7. Is attempting to purchase a firearm from a licensed
 1019 importer, licensed manufacturer, or licensed dealer and is
 1020 subject to a criminal history background check under state or
 1021 federal law; or

1022 8. Is seeking authorization from a Florida seaport
 1023 identified in s. 311.09 for employment within or access to one
 1024 or more of such seaports pursuant to s. 311.12 or s. 311.125.

1025 (b) Subject to the exceptions in paragraph (a), a person
 1026 who has been granted a sealing under this section, former s.
 1027 893.14, former s. 901.33, or former s. 943.058 may not be held
 1028 under any provision of law of this state to commit perjury or to
 1029 be otherwise liable for giving a false statement by reason of
 1030 such person's failure to recite or acknowledge a sealed criminal
 1031 history record.

1032 (c) Information relating to the existence of a sealed
 1033 criminal record provided in accordance with the provisions of
 1034 paragraph (a) is confidential and exempt from the provisions of
 1035 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1036 except that the department shall disclose the sealed criminal
 1037 history record to the entities set forth in subparagraphs (a)1.,
 1038 4., 5., ~~and~~ 6., and 8. for their respective licensing, access
 1039 authorization, and employment purposes. It is unlawful for any
 1040 employee of an entity set forth in subparagraph (a)1.,
 1041 subparagraph (a)4., subparagraph (a)5., ~~or~~ subparagraph (a)6.,
 1042 or subparagraph (a)8. to disclose information relating to the
 1043 existence of a sealed criminal history record of a person
 1044 seeking employment, access authorization, or licensure with such
 1045 entity or contractor, except to the person to whom the criminal

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1046 history record relates or to persons having direct
1047 responsibility for employment, access authorization, or
1048 licensure decisions. Any person who violates the provisions of
1049 this paragraph commits a misdemeanor of the first degree,
1050 punishable as provided in s. 775.082 or s. 775.083.

1051 (5) STATUTORY REFERENCES.--Any reference to any other
1052 chapter, section, or subdivision of the Florida Statutes in this
1053 section constitutes a general reference under the doctrine of
1054 incorporation by reference.

1055 Section 12. Subsection (5) of section 943.13, Florida
1056 Statutes, is amended to read:

1057 943.13 Officers' minimum qualifications for employment or
1058 appointment.--On or after October 1, 1984, any person employed
1059 or appointed as a full-time, part-time, or auxiliary law
1060 enforcement officer or correctional officer; on or after October
1061 1, 1986, any person employed as a full-time, part-time, or
1062 auxiliary correctional probation officer; and on or after
1063 October 1, 1986, any person employed as a full-time, part-time,
1064 or auxiliary correctional officer by a private entity under
1065 contract to the Department of Corrections, to a county
1066 commission, or to the Department of Management Services shall:

1067 (5) Have documentation of his or her processed
1068 fingerprints on file with the employing agency or, if a private
1069 correctional officer, have documentation of his or her processed
1070 fingerprints on file with the Department of Corrections or the
1071 Criminal Justice Standards and Training Commission. If
1072 administrative delays are caused by the department or the
1073 Federal Bureau of Investigation and the person has complied with

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1074 subsections (1)-(4) and (6)-(9), he or she may be employed or
 1075 appointed for a period not to exceed 1 calendar year from the
 1076 date he or she was employed or appointed or until return of the
 1077 processed fingerprints documenting noncompliance with
 1078 subsections (1)-(4) or subsection (7), whichever occurs first.
 1079 Beginning January 15, 2007, the department shall retain and
 1080 enter into the statewide automated fingerprint identification
 1081 system authorized by s. 943.05 all fingerprints submitted to the
 1082 department as required by this section. Thereafter, the
 1083 fingerprints shall be available for all purposes and uses
 1084 authorized for arrest fingerprint cards entered in the statewide
 1085 automated fingerprint identification system pursuant to s.
 1086 943.051. The department shall search all arrest fingerprint
 1087 cards received pursuant to s. 943.051 against the fingerprints
 1088 retained in the statewide automated fingerprint identification
 1089 system pursuant to this section and report to the employing
 1090 agency any arrest records that are identified with the retained
 1091 employee's fingerprints. By January 1, 2008, a person who must
 1092 meet minimum qualifications as provided in this section and
 1093 whose fingerprints are not retained by the department pursuant
 1094 to this section must be refingerprinted. These fingerprints must
 1095 be forwarded to the department for processing and retention.

1096 Section 13. Section 943.1715, Florida Statutes, is amended
 1097 to read:

1098 943.1715 Basic skills training relating to diverse
 1099 populations.--The commission shall establish and maintain
 1100 standards for instruction of officers in the subject of
 1101 interpersonal skills relating to diverse populations, with an

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1102 emphasis on the awareness of cultural differences. Every basic
 1103 skills course required in order for officers to obtain initial
 1104 certification must include ~~a minimum of 8 hours~~ training in
 1105 interpersonal skills with diverse populations.

1106 Section 14. Section 943.1716, Florida Statutes, is amended
 1107 to read:

1108 943.1716 Continued employment training relating to diverse
 1109 populations.--The commission shall by rule require that each
 1110 officer receive, as part of the 40 hours of required instruction
 1111 for continued employment or appointment as an officer, ~~8 hours~~
 1112 ~~of~~ instruction in the subject of interpersonal skills relating
 1113 to diverse populations, with an emphasis on the awareness of
 1114 cultural differences.

1115 Section 15. Section 943.2569, Florida Statutes, is
 1116 repealed.

1117 Section 16. Section 943.257, Florida Statutes, is amended
 1118 to read:

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

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1130 conformance with the requirements of this act and with other
1131 applicable procedures.

1132 Section 17. Subsections (1) and (3) of section 943.401,
1133 Florida Statutes, are amended to read:

1134 943.401 Public assistance fraud.--

1135 (1) (a) The Department of Law Enforcement shall investigate
1136 all public assistance provided to residents of the state or
1137 provided to others by the state ~~made under the provisions of~~
1138 ~~chapter 409 or chapter 414~~. In the course of such investigation
1139 the Department of Law Enforcement shall examine all records,
1140 including electronic benefits transfer records and make inquiry
1141 of all persons who may have knowledge as to any irregularity
1142 incidental to the disbursement of public moneys, food stamps, or
1143 other items or benefits authorizations to recipients.

1144 (b) All public assistance recipients, as a condition
1145 precedent to qualification for public assistance received and as
1146 defined under the provisions of chapter 409, chapter 411, or
1147 chapter 414, shall first give in writing, to the Agency for
1148 Health Care Administration, the Department of Health, the Agency
1149 for Workforce Innovation, and the Department of Children and
1150 Family Services, as appropriate, and to the Department of Law
1151 Enforcement, consent to make inquiry of past or present
1152 employers and records, financial or otherwise.

1153 (3) The results of such investigation shall be reported by
1154 the Department of Law Enforcement to the appropriate legislative
1155 committees, the Agency for Health Care Administration, the
1156 Department of Health, the Agency for Workforce Innovation, and

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1157 the Department of Children and Family Services, and to such
1158 others as the Department of Law Enforcement may determine.

1159 Section 18. Authority to purchase goodwill and promotional
1160 materials.--

1161 (1) The Legislature recognizes that the Department of Law
1162 Enforcement functions as one of the state's primary law
1163 enforcement representatives in national and international
1164 meetings, conferences, and cooperative efforts. The department
1165 often hosts delegates from other federal, state, local, and
1166 international agencies and is in a position to function as a
1167 representative of the state fostering goodwill and effective
1168 interagency working relationships. It is the intent of the
1169 Legislature that the department be allowed, consistent with the
1170 dignity and integrity of the state, to purchase and distribute
1171 material and items of collection to those with whom the
1172 department has contact in meetings, conferences, and cooperative
1173 efforts.

1174 (2) In addition to expenditures separately authorized by
1175 law, the department may expend not more than \$5,000 annually to
1176 purchase and distribute promotional materials or items that
1177 serve to advance with dignity and integrity the goodwill of this
1178 state and the department and to provide basic refreshments at
1179 official functions, seminars, or meetings of the department in
1180 which dignitaries or representatives from the Federal
1181 Government, other states or nationalities, or other agencies are
1182 in attendance.

1183 Section 19. Unauthorized use of Department of Law
1184 Enforcement emblems or names prohibited.--

1185 (1) Whoever, except with the written permission of the
 1186 executive director of the Department of Law Enforcement or as
 1187 otherwise expressly authorized by the department, knowingly uses
 1188 the words "Florida Department of Law Enforcement," the initials
 1189 "F.D.L.E." or "FDLE," or the words "Florida Capitol Police," or
 1190 any colorable imitation of such words or initials, or who uses a
 1191 logo or emblem used by the department in connection with any
 1192 advertisement, circular, book, pamphlet, or other publication,
 1193 play, motion picture, broadcast, telecast, or other production,
 1194 in any Internet web page or upon any product in a manner
 1195 reasonably calculated to convey the impression that such
 1196 advertisement, circular, book, pamphlet, or other publication,
 1197 play, motion picture, broadcast, telecast, or other production,
 1198 Internet web page, or product is approved, endorsed, or
 1199 authorized by the Department of Law Enforcement commits a
 1200 misdemeanor of the first degree, punishable as provided in s.
 1201 775.082 or s. 775.083, Florida Statutes.

1202 (2) A violation of this section may be enjoined upon suit
 1203 by the department or the Department of Legal Affairs upon
 1204 complaint filed in any court of competent jurisdiction.

1205 Section 20. Except as otherwise expressly provided in this
 1206 act, this act shall take effect July 1, 2006.