

## CHAMBER ACTION

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1 The Justice Council 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

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, media  
36 representatives, and dealers of communications services  
37 from civil liability for complying in good faith with a  
38 request to record or report information of an Amber Alert  
39 or Missing Child Alert; providing that a technical or  
40 clerical error or incorrect or incomplete information does  
41 not overcome the presumption of good faith in reporting  
42 information about an Amber Alert or Missing Child Alert;  
43 providing that it is a discretionary decision to report,  
44 record, or display Amber Alert or Missing Child Alert  
45 information received from the local law enforcement agency  
46 having jurisdiction; amending s. 938.07, F.S.; requiring  
47 that a portion of certain court costs imposed for a  
48 conviction of driving or boating under the influence be  
49 deposited into the Operating Trust Fund of the Department  
50 of Law Enforcement instead of the Criminal Justice  
51 Standards and Training Trust Fund; amending s. 938.27,

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

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

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

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136 requiring public assistance recipients to consent in  
 137 writing to an investigation into their employment and  
 138 financial histories by the Agency for Workforce  
 139 Innovation; requiring the department to report the results  
 140 of the investigations to the Agency for Workforce  
 141 Innovation; authorizing the department to purchase  
 142 goodwill and promotional materials; limiting the annual  
 143 amount of such expenditures; prohibiting the unauthorized  
 144 use of the department's emblems and names; providing a  
 145 penalty; amending s. 932.7055, F.S.; deleting certain  
 146 reporting requirements; repealing s. 932.707, F.S.,  
 147 relating to penalty for noncompliance with reporting  
 148 requirements; providing effective dates.

149

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

151

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

155 790.065 Sale and delivery of firearms.--

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

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

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

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

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

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

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

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

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

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



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

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

242 914.25 Protective services for certain victims and  
243 witnesses.--

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

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

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

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

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275 services are not eligible for the reimbursement provided in this  
276 section.

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

279 937.021 Missing child reports.--

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

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

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

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

310 Section 4. Section 938.07, Florida Statutes, is amended to  
 311 read:

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

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

326 938.27 Judgment for costs on conviction.--

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

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

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

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

347 (2) Each clerk of the court shall submit the uniform  
 348 dispositions to the program or in a manner acceptable to the  
 349 program. The report shall be submitted at least once a month  
 350 and, when acceptable by the program, may be submitted in an  
 351 automated format. The disposition report is mandatory for  
 352 dispositions relating to adult offenders only. Beginning July 1,  
 353 2008, a disposition report for each disposition relating to a  
 354 minor offender is mandatory.

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

357 68.07 Change of name.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

423 |           943.05 Criminal Justice Information Program; duties; crime  
 424 | reports.--

425 |       (2) The program shall:

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

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



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

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

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

461 943.053 Dissemination of criminal justice information;  
462 fees.--

463 (5) Notwithstanding the provisions of s. 943.0525, and any  
464 user agreements adopted pursuant thereto, and notwithstanding  
465 the confidentiality of sealed records as provided for in s.  
466 943.059, the department shall make online access to Florida  
467 criminal justice information available to each judge in the

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

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

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

496 with the retained employee fingerprints must be reported to the  
497 submitting employing agency.

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

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523 Section 10. Section 943.0585, Florida Statutes, is amended  
524 to read:

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

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

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

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

580 (b) The petitioner's sworn statement attesting that the  
581 petitioner:

582 1. Has never, prior to the date on which the petition is  
583 filed, been adjudicated guilty of a criminal offense or  
584 comparable ordinance violation, or been adjudicated delinquent  
585 for committing any a felony or a misdemeanor specified in s.  
586 943.051(3) (b) .

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

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

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

601  
602 Any person who knowingly provides false information on such  
603 sworn statement to the court commits a felony of the third  
604 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
605 775.084.

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

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

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

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

633 without regard to whether the outcome of the trial was other  
634 than an adjudication of guilt.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 760 1. Is a candidate for employment with a criminal justice  
761 agency;
- 762 2. Is a defendant in a criminal prosecution;
- 763 3. Concurrently or subsequently petitions for relief under  
764 this section or s. 943.059;
- 765 4. Is a candidate for admission to The Florida Bar;
- 766 5. Is seeking to be employed or licensed by or to contract  
767 with the Department of Children and Family Services or the  
768 Department of Juvenile Justice or to be employed or used by such  
769 contractor or licensee in a sensitive position having direct  
770 contact with children, the developmentally disabled, the aged,  
771 or the elderly as provided in s. 110.1127(3), s. 393.063, s.  
772 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.

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773 409.175(2)(i), s. 415.102(4), s. 916.106(10) and (13), s.  
774 985.407, or chapter 400; ~~or~~

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

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

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

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

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

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

814 Section 11. Section 943.059, Florida Statutes, is amended  
 815 to read:

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

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

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

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

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

871 (b) The petitioner's sworn statement attesting that the  
 872 petitioner:

873 1. Has never, prior to the date on which the petition is  
 874 filed, been adjudicated guilty of a criminal offense or  
 875 comparable ordinance violation, or been adjudicated delinquent  
 876 for committing any a felony or a misdemeanor specified in s.  
 877 943.051(3)(b).

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

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



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884 former s. 901.33, former s. 943.058, or from any jurisdiction  
885 outside the state.

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

889  
890 Any person who knowingly provides false information on such  
891 sworn statement to the court commits a felony of the third  
892 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
893 775.084.

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

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

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

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

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

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

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

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

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

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938 may respond to the court regarding the completed petition to  
939 seal.

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

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

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

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

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

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

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993 8. for their respective licensing, access authorization, and  
994 employment purposes.

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

1000 1. Is a candidate for employment with a criminal justice  
1001 agency;

1002 2. Is a defendant in a criminal prosecution;

1003 3. Concurrently or subsequently petitions for relief under  
1004 this section or s. 943.0585;

1005 4. Is a candidate for admission to The Florida Bar;

1006 5. Is seeking to be employed or licensed by or to contract  
1007 with the Department of Children and Family Services or the  
1008 Department of Juvenile Justice or to be employed or used by such  
1009 contractor or licensee in a sensitive position having direct  
1010 contact with children, the developmentally disabled, the aged,  
1011 or the elderly as provided in s. 110.1127(3), s. 393.063, s.  
1012 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.  
1013 409.175(2)(i), s. 415.102(4), s. 415.103, s. 916.106(10) and  
1014 (13), s. 985.407, or chapter 400; ~~or~~

1015 6. Is seeking to be employed or licensed by the Department  
1016 of Education, any district school board, any university  
1017 laboratory school, any charter school, any private or parochial  
1018 school, or any local governmental entity that licenses child  
1019 care facilities;i:-

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1020           7. Is attempting to purchase a firearm from a licensed  
 1021 importer, licensed manufacturer, or licensed dealer and is  
 1022 subject to a criminal history background check under state or  
 1023 federal law; or

1024           8. Is seeking authorization from a Florida seaport  
 1025 identified in s. 311.09 for employment within or access to one  
 1026 or more of such seaports pursuant to s. 311.12 or s. 311.125.

1027           (b) Subject to the exceptions in paragraph (a), a person  
 1028 who has been granted a sealing under this section, former s.  
 1029 893.14, former s. 901.33, or former s. 943.058 may not be held  
 1030 under any provision of law of this state to commit perjury or to  
 1031 be otherwise liable for giving a false statement by reason of  
 1032 such person's failure to recite or acknowledge a sealed criminal  
 1033 history record.

1034           (c) Information relating to the existence of a sealed  
 1035 criminal record provided in accordance with the provisions of  
 1036 paragraph (a) is confidential and exempt from the provisions of  
 1037 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
 1038 except that the department shall disclose the sealed criminal  
 1039 history record to the entities set forth in subparagraphs (a)1.,  
 1040 4., 5., ~~and~~ 6., and 8. for their respective licensing, access  
 1041 authorization, and employment purposes. It is unlawful for any  
 1042 employee of an entity set forth in subparagraph (a)1.,  
 1043 subparagraph (a)4., subparagraph (a)5., ~~or~~ subparagraph (a)6.,  
 1044 or subparagraph (a)8. to disclose information relating to the  
 1045 existence of a sealed criminal history record of a person  
 1046 seeking employment, access authorization, or licensure with such  
 1047 entity or contractor, except to the person to whom the criminal

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1048 history record relates or to persons having direct  
 1049 responsibility for employment, access authorization, or  
 1050 licensure decisions. Any person who violates the provisions of  
 1051 this paragraph commits a misdemeanor of the first degree,  
 1052 punishable as provided in s. 775.082 or s. 775.083.

1053 (5) STATUTORY REFERENCES.--Any reference to any other  
 1054 chapter, section, or subdivision of the Florida Statutes in this  
 1055 section constitutes a general reference under the doctrine of  
 1056 incorporation by reference.

1057 Section 12. Subsection (5) of section 943.13, Florida  
 1058 Statutes, is amended to read:

1059 943.13 Officers' minimum qualifications for employment or  
 1060 appointment.--On or after October 1, 1984, any person employed  
 1061 or appointed as a full-time, part-time, or auxiliary law  
 1062 enforcement officer or correctional officer; on or after October  
 1063 1, 1986, any person employed as a full-time, part-time, or  
 1064 auxiliary correctional probation officer; and on or after  
 1065 October 1, 1986, any person employed as a full-time, part-time,  
 1066 or auxiliary correctional officer by a private entity under  
 1067 contract to the Department of Corrections, to a county  
 1068 commission, or to the Department of Management Services shall:

1069 (5) Have documentation of his or her processed  
 1070 fingerprints on file with the employing agency or, if a private  
 1071 correctional officer, have documentation of his or her processed  
 1072 fingerprints on file with the Department of Corrections or the  
 1073 Criminal Justice Standards and Training Commission. If  
 1074 administrative delays are caused by the department or the  
 1075 Federal Bureau of Investigation and the person has complied with

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1076 subsections (1)-(4) and (6)-(9), he or she may be employed or  
1077 appointed for a period not to exceed 1 calendar year from the  
1078 date he or she was employed or appointed or until return of the  
1079 processed fingerprints documenting noncompliance with  
1080 subsections (1)-(4) or subsection (7), whichever occurs first.  
1081 Beginning January 15, 2007, the department shall retain and  
1082 enter into the statewide automated fingerprint identification  
1083 system authorized by s. 943.05 all fingerprints submitted to the  
1084 department as required by this section. Thereafter, the  
1085 fingerprints shall be available for all purposes and uses  
1086 authorized for arrest fingerprint cards entered in the statewide  
1087 automated fingerprint identification system pursuant to s.  
1088 943.051. The department shall search all arrest fingerprint  
1089 cards received pursuant to s. 943.051 against the fingerprints  
1090 retained in the statewide automated fingerprint identification  
1091 system pursuant to this section and report to the employing  
1092 agency any arrest records that are identified with the retained  
1093 employee's fingerprints. By January 1, 2008, a person who must  
1094 meet minimum qualifications as provided in this section and  
1095 whose fingerprints are not retained by the department pursuant  
1096 to this section must be refingerprinted. These fingerprints must  
1097 be forwarded to the department for processing and retention.

1098 Section 13. Section 943.1715, Florida Statutes, is amended  
1099 to read:

1100 943.1715 Basic skills training relating to diverse  
1101 populations.--The commission shall establish and maintain  
1102 standards for instruction of officers in the subject of  
1103 interpersonal skills relating to diverse populations, with an



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1104 emphasis on the awareness of cultural differences. Every basic  
 1105 skills course required in order for officers to obtain initial  
 1106 certification must include ~~a minimum of 8 hours~~ training in  
 1107 interpersonal skills with diverse populations.

1108 Section 14. Section 943.1716, Florida Statutes, is amended  
 1109 to read:

1110 943.1716 Continued employment training relating to diverse  
 1111 populations.--The commission shall by rule require that each  
 1112 officer receive, as part of the 40 hours of required instruction  
 1113 for continued employment or appointment as an officer, ~~8 hours~~  
 1114 ~~of~~ instruction in the subject of interpersonal skills relating  
 1115 to diverse populations, with an emphasis on the awareness of  
 1116 cultural differences.

1117 Section 15. Section 943.2569, Florida Statutes, is  
 1118 repealed.

1119 Section 16. Section 943.257, Florida Statutes, is amended  
 1120 to read:

1121 943.257 Independent audit documentation subject to  
 1122 inspection.--The Criminal Justice Standards and Training  
 1123 Commission or a center's advisory board may inspect and copy any  
 1124 documents from the center as required to carry out the  
 1125 commission's or the respective board's oversight  
 1126 responsibilities, including information and documents related to  
 1127 applicant evaluations and center expenditures. In addition, the  
 1128 commission or board may inspect and copy the documentation of  
 1129 any internal or independent audits conducted by or on behalf of  
 1130 the centers to ensure that candidate and inservice officer  
 1131 assessments have been made and that expenditures are in

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1132 conformance with the requirements of this act and with other  
1133 applicable procedures.

1134 Section 17. Subsections (1) and (3) of section 943.401,  
1135 Florida Statutes, are amended to read:

1136 943.401 Public assistance fraud.--

1137 (1) (a) The Department of Law Enforcement shall investigate  
1138 all public assistance provided to residents of the state or  
1139 provided to others by the state ~~made under the provisions of~~  
1140 ~~chapter 409 or chapter 414~~. In the course of such investigation  
1141 the Department of Law Enforcement shall examine all records,  
1142 including electronic benefits transfer records and make inquiry  
1143 of all persons who may have knowledge as to any irregularity  
1144 incidental to the disbursement of public moneys, food stamps, or  
1145 other items or benefits authorizations to recipients.

1146 (b) All public assistance recipients, as a condition  
1147 precedent to qualification for public assistance received and as  
1148 defined under the provisions of chapter 409, chapter 411, or  
1149 chapter 414, shall first give in writing, to the Agency for  
1150 Health Care Administration, the Department of Health, the Agency  
1151 for Workforce Innovation, and the Department of Children and  
1152 Family Services, as appropriate, and to the Department of Law  
1153 Enforcement, consent to make inquiry of past or present  
1154 employers and records, financial or otherwise.

1155 (3) The results of such investigation shall be reported by  
1156 the Department of Law Enforcement to the appropriate legislative  
1157 committees, the Agency for Health Care Administration, the  
1158 Department of Health, the Agency for Workforce Innovation, and

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1159 the Department of Children and Family Services, and to such  
1160 others as the Department of Law Enforcement may determine.

1161 Section 18. Authority to purchase goodwill and promotional  
1162 materials.--

1163 (1) The Legislature recognizes that the Department of Law  
1164 Enforcement functions as one of the state's primary law  
1165 enforcement representatives in national and international  
1166 meetings, conferences, and cooperative efforts. The department  
1167 often hosts delegates from other federal, state, local, and  
1168 international agencies and is in a position to function as a  
1169 representative of the state fostering goodwill and effective  
1170 interagency working relationships. It is the intent of the  
1171 Legislature that the department be allowed, consistent with the  
1172 dignity and integrity of the state, to purchase and distribute  
1173 material and items of collection to those with whom the  
1174 department has contact in meetings, conferences, and cooperative  
1175 efforts.

1176 (2) In addition to expenditures separately authorized by  
1177 law, the department may expend not more than \$5,000 annually to  
1178 purchase and distribute promotional materials or items that  
1179 serve to advance with dignity and integrity the goodwill of this  
1180 state and the department and to provide basic refreshments at  
1181 official functions, seminars, or meetings of the department in  
1182 which dignitaries or representatives from the Federal  
1183 Government, other states or nationalities, or other agencies are  
1184 in attendance.

1185 Section 19. Unauthorized use of Department of Law  
1186 Enforcement emblems or names prohibited.--

1187       (1) Whoever, except with the written permission of the  
 1188 executive director of the Department of Law Enforcement or as  
 1189 otherwise expressly authorized by the department, knowingly uses  
 1190 the words "Florida Department of Law Enforcement," the initials  
 1191 "F.D.L.E." or "FDLE," or the words "Florida Capitol Police," or  
 1192 any colorable imitation of such words or initials, or who uses a  
 1193 logo or emblem used by the department in connection with any  
 1194 advertisement, circular, book, pamphlet, or other publication,  
 1195 play, motion picture, broadcast, telecast, or other production,  
 1196 in any Internet web page or upon any product in a manner  
 1197 reasonably calculated to convey the impression that such  
 1198 advertisement, circular, book, pamphlet, or other publication,  
 1199 play, motion picture, broadcast, telecast, or other production,  
 1200 Internet web page, or product is approved, endorsed, or  
 1201 authorized by the Department of Law Enforcement commits a  
 1202 misdemeanor of the first degree, punishable as provided in s.  
 1203 775.082 or s. 775.083, Florida Statutes.

1204       (2) A violation of this section may be enjoined upon suit  
 1205 by the department or the Department of Legal Affairs upon  
 1206 complaint filed in any court of competent jurisdiction.

1207       Section 20. Subsection (9) of section 932.7055, Florida  
 1208 Statutes, is amended to read:

1209       932.7055 Disposition of liens and forfeited property.--

1210       ~~(9) (a) Every law enforcement agency shall submit~~  
 1211 ~~semiannual reports to the Department of Law Enforcement~~  
 1212 ~~indicating whether the agency has seized or forfeited property~~  
 1213 ~~under the Florida Contraband Forfeiture Act. Any law enforcement~~  
 1214 ~~agency receiving or expending forfeited property or proceeds~~

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1215 ~~from the sale of forfeited property in accordance with the~~  
1216 ~~Florida Contraband Forfeiture Act shall submit completed~~  
1217 ~~semiannual reports, by April 10, and October 10, documenting the~~  
1218 ~~receipts and expenditures, on forms promulgated by the~~  
1219 ~~Department of Law Enforcement, to the entity which has budgetary~~  
1220 ~~authority over such agency and to the Department of Law~~  
1221 ~~Enforcement. The semiannual report shall specify the type,~~  
1222 ~~approximate value, any court case number, type of offense,~~  
1223 ~~disposition of the property received, and the amount of any~~  
1224 ~~proceeds received or expended.~~

1225 ~~(b) The Department of Law Enforcement shall submit an~~  
1226 ~~annual report to the criminal justice committees of the House of~~  
1227 ~~Representatives and of the Senate compiling the information and~~  
1228 ~~data related in the semiannual reports submitted by the law~~  
1229 ~~enforcement agencies. The annual report shall also contain a~~  
1230 ~~list of law enforcement agencies which have failed to meet the~~  
1231 ~~reporting requirements and a summary of any action which has~~  
1232 ~~been taken against the noncomplying agency by the Office of the~~  
1233 ~~Chief Financial Officer.~~

1234 ~~(c) Neither the law enforcement agency nor the entity~~  
1235 ~~having budgetary control over the law enforcement agency shall~~  
1236 ~~anticipate future forfeitures or proceeds therefrom in the~~  
1237 ~~adoption and approval of the budget for the law enforcement~~  
1238 ~~agency.~~

1239 ~~Section 21. Section 932.707, Florida Statutes, is~~  
1240 ~~repealed.~~

1241 ~~Section 22. Except as otherwise expressly provided in this~~  
1242 ~~act, this act shall take effect July 1, 2006.~~