

1 A bill to be entitled

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

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

55 a name change petition; amending s. 943.05, F.S.;

56 authorizing the Department of Law Enforcement to retain

57 fingerprints in certain circumstances and use retained

58 fingerprints for certain purposes; providing for an annual

59 fee; providing for waiver of the fee for good cause shown;

60 providing for free services for certain purposes; amending

61 s. 943.053, F.S.; requiring the department to make certain

62 information available to judges; limiting use of

63 information; authorizing a criminal justice agency to

64 obtain a criminal history background check of a

65 noncertified agency employee by submitting fingerprints to

66 the department; requiring that the criminal history check

67 be provided by the department in certain circumstances;

68 amending s. 943.0585, F.S.; prohibiting a court from

69 expunging a criminal history record containing certain

70 sexual offenses or certain offenses that require

71 registration as a sexual offender; requiring a valid

72 certificate of eligibility for expunction in a petition to

73 expunge a criminal history record; specifying the time

74 during which a certificate of eligibility for expunction

75 is valid; requiring that a trial may not have occurred in

76 order for a person to obtain a statement from the state

77 attorney authorizing the expunction of a criminal record;

78 authorizing a person who has secured a prior sealing of a

79 criminal history record to seek a certificate of

80 eligibility for expunction if the criminal history record

81 was previously sealed for a certain number of years and is

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

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

136 of the investigations to the Agency for Workforce
 137 Innovation; authorizing the department to purchase
 138 goodwill and promotional materials; limiting the annual
 139 amount of such expenditures; prohibiting the unauthorized
 140 use of the department's emblems and names; providing a
 141 penalty; amending s. 932.7055, F.S.; deleting certain
 142 reporting requirements; repealing s. 932.707, F.S.,
 143 relating to penalty for noncompliance with reporting
 144 requirements; providing effective dates.

145

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

147

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

151 790.065 Sale and delivery of firearms.--

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

155 (a) Review any records available ~~criminal history records~~
 156 to determine if the potential buyer or transferee:

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

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

161 ~~or~~

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

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

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

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

188 institution based upon the initial review by the physician or a
189 voluntary admission to a mental institution.

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

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

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

237 914.25 Protective services for certain victims and
238 witnesses.--

239 (4) (a) When a victim or witness is certified as provided
240 in subsection (3), a law enforcement agency, in consultation
241 with the certifying state attorney or the statewide prosecutor,

242 may provide appropriate protective services. If a victim or
243 witness needs to be temporarily relocated, the statewide
244 prosecutor or the state attorney must notify the Department of
245 Law Enforcement. The Department of Law Enforcement, in
246 consultation with the statewide prosecutor or the state
247 attorney, and any other law enforcement agency involved in the
248 criminal investigation or prosecution, shall coordinate the
249 temporary relocation of the victim or witness.

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

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

269 section. Any such additional expenditures for protective
270 services are not eligible for the reimbursement provided in this
271 section.

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

274 937.021 Missing child reports.--

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

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

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

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

307 938.07 Driving or boating under the
308 influence.--Notwithstanding any other provision of s. 316.193 or
309 s. 327.35, a court cost of \$135 shall be added to any fine
310 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
311 remit the funds to the Department of Revenue, \$25 of which shall
312 be deposited in the Emergency Medical Services Trust Fund, \$50
313 shall be deposited in the Operating ~~Criminal Justice Standards~~
314 ~~and Training~~ Trust Fund of the Department of Law Enforcement to
315 be used for operational expenses in conducting the statewide
316 criminal analysis laboratory system established in s. 943.32,
317 and \$60 shall be deposited in the Brain and Spinal Cord Injury
318 Rehabilitation Trust Fund created in s. 381.79.

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

321 938.27 Judgment for costs on conviction.--

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

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

336 943.052 Disposition reporting.--The Criminal Justice
337 Information Program shall, by rule, establish procedures and a
338 format for each criminal justice agency to monitor its records
339 and submit reports, as provided by this section, to the program.
340 The disposition report shall be developed by the program and
341 shall include the offender-based transaction system number.

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

348 2008, a disposition report for each disposition relating to a
 349 minor offender is mandatory.

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

352 68.07 Change of name.--

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

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

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

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

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

367 (e) Petitioner's occupation and where petitioner is
 368 employed and has been employed for 5 years next preceding filing
 369 of the petition. If petitioner owns and operates a business, the
 370 name and place of it shall be stated and petitioner's connection
 371 therewith and how long petitioner has been identified with said
 372 business. If petitioner is in a profession, the profession shall
 373 be stated, where the petitioner has practiced the profession and

374 | if a graduate of a school or schools, the name or names thereof,
375 | time of graduation, and degrees received.

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

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

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

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

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

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

395 | (5) The clerk must, upon the filing of the final judgment,
396 | send a report of the judgment to the Department of Law
397 | Enforcement on a form to be furnished by that department. The
398 | Department of Law Enforcement must send a copy of the report to
399 | the Department of Highway Safety and Motor Vehicles, which may
400 | be delivered by electronic transmission. The report must contain

401 sufficient information to identify the petitioner, including a
402 set copy of the petitioner's fingerprints taken by a law
403 enforcement agency, the new name of the petitioner, and the file
404 number of the judgment. Any information retained by the
405 Department of Law Enforcement and the Department of Highway
406 Safety and Motor Vehicles may be revised or supplemented by said
407 departments to reflect changes made by the final judgment. With
408 respect to a person convicted of a felony in another state or of
409 a federal offense, the Department of Law Enforcement must send
410 the report to the respective state's office of law enforcement
411 records or to the office of the Federal Bureau of Investigation.
412 The Department of Law Enforcement may forward the report to any
413 other law enforcement agency it believes may retain information
414 related to the petitioner. Any costs associated with
415 fingerprinting must be paid by the petitioner.

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

418 943.05 Criminal Justice Information Program; duties; crime
419 reports.--

420 (2) The program shall:

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

428 the statewide automated fingerprint identification system
429 pursuant to s. 943.051.

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

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

452 Section 9. Subsections (5) through (9) of section 943.053,
453 Florida Statutes, are renumbered as subsections (6) through

454 (10), respectively, and new subsections (5), (11), and (12) are
455 added to that section, to read:

456 943.053 Dissemination of criminal justice information;
457 fees.--

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

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

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

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

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

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

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

535 | s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
536 | 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
537 | 893.135, s. 916.1075, ~~or~~ a violation enumerated in s. 907.041,
538 | or any violation specified as a predicate offense for
539 | registration as a sexual predator pursuant to s. 775.21, without
540 | regard to whether that offense alone is sufficient to require
541 | such registration, or for registration as a sexual offender
542 | pursuant to s. 943.0435, may not be expunged, without regard to
543 | whether adjudication was withheld, if the defendant was found
544 | guilty of or pled guilty or nolo contendere to the offense, or
545 | if the defendant, as a minor, was found to have committed, or
546 | pled guilty or nolo contendere to committing, the offense as a
547 | delinquent act. The court may only order expunction of a
548 | criminal history record pertaining to one arrest or one incident
549 | of alleged criminal activity, except as provided in this
550 | section. The court may, at its sole discretion, order the
551 | expunction of a criminal history record pertaining to more than
552 | one arrest if the additional arrests directly relate to the
553 | original arrest. If the court intends to order the expunction of
554 | records pertaining to such additional arrests, such intent must
555 | be specified in the order. A criminal justice agency may not
556 | expunge any record pertaining to such additional arrests if the
557 | order to expunge does not articulate the intention of the court
558 | to expunge a record pertaining to more than one arrest. This
559 | section does not prevent the court from ordering the expunction
560 | of only a portion of a criminal history record pertaining to one
561 | arrest or one incident of alleged criminal activity.

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

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

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

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

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

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

586 3. Has never secured a prior sealing or expunction of a
587 criminal history record under this section, former s. 893.14,
588 former s. 901.33, or former s. 943.058, or from any jurisdiction

589 | outside the state, unless expunction is sought of a criminal
 590 | history record previously sealed for 10 years pursuant to
 591 | paragraph (2) (h) and the record is otherwise eligible for
 592 | expunction.

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

596 |
 597 | Any person who knowingly provides false information on such
 598 | sworn statement to the court commits a felony of the third
 599 | degree, punishable as provided in s. 775.082, s. 775.083, or s.
 600 | 775.084.

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

615 | eligibility for expunction to a person who is the subject of a
616 | criminal history record if that person:

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

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

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

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

642 | pled guilty or nolo contendere to committing, such an offense as
643 | a delinquent act, without regard to whether adjudication was
644 | withheld.

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

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

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

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

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

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

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

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

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

696 | may respond to the court regarding the completed petition to
697 | expunge.

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

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

720 | (d) On or after July 1, 1992, the department or any other
721 | criminal justice agency is not required to act on an order to
722 | expunge entered by a court when such order does not comply with

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

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

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

- 755 1. Is a candidate for employment with a criminal justice
 756 agency;
- 757 2. Is a defendant in a criminal prosecution;
- 758 3. Concurrently or subsequently petitions for relief under
 759 this section or s. 943.059;
- 760 4. Is a candidate for admission to The Florida Bar;
- 761 5. Is seeking to be employed or licensed by or to contract
 762 with the Department of Children and Family Services or the
 763 Department of Juvenile Justice or to be employed or used by such
 764 contractor or licensee in a sensitive position having direct
 765 contact with children, the developmentally disabled, the aged,
 766 or the elderly as provided in s. 110.1127(3), s. 393.063, s.
 767 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
 768 409.175(2)(i), s. 415.102(4), s. 916.106(10) and (13), s.
 769 985.407, or chapter 400; ~~or~~
- 770 6. Is seeking to be employed or licensed by the Department
 771 of Education, any district school board, any university
 772 laboratory school, any charter school, any private or parochial
 773 school, or any local governmental entity that licenses child
 774 care facilities; or

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

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

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

802 access authorization, or licensure decisions. Any person who
803 violates this paragraph commits a misdemeanor of the first
804 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

811 943.059 Court-ordered sealing of criminal history
812 records.--The courts of this state shall continue to have
813 jurisdiction over their own procedures, including the
814 maintenance, sealing, and correction of judicial records
815 containing criminal history information to the extent such
816 procedures are not inconsistent with the conditions,
817 responsibilities, and duties established by this section. Any
818 court of competent jurisdiction may order a criminal justice
819 agency to seal the criminal history record of a minor or an
820 adult who complies with the requirements of this section. The
821 court shall not order a criminal justice agency to seal a
822 criminal history record until the person seeking to seal a
823 criminal history record has applied for and received a
824 certificate of eligibility for sealing pursuant to subsection
825 (2). A criminal history record that relates to a violation of s.
826 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
827 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
828 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.

829 | 916.1075, ~~or~~ a violation enumerated in s. 907.041, or any
830 | violation specified as a predicate offense for registration as a
831 | sexual predator pursuant to s. 775.21, without regard to whether
832 | that offense alone is sufficient to require such registration,
833 | or for registration as a sexual offender pursuant to s.
834 | 943.0435, may not be sealed, without regard to whether
835 | adjudication was withheld, if the defendant was found guilty of
836 | or pled guilty or nolo contendere to the offense, or if the
837 | defendant, as a minor, was found to have committed or pled
838 | guilty or nolo contendere to committing the offense as a
839 | delinquent act. The court may only order sealing of a criminal
840 | history record pertaining to one arrest or one incident of
841 | alleged criminal activity, except as provided in this section.
842 | The court may, at its sole discretion, order the sealing of a
843 | criminal history record pertaining to more than one arrest if
844 | the additional arrests directly relate to the original arrest.
845 | If the court intends to order the sealing of records pertaining
846 | to such additional arrests, such intent must be specified in the
847 | order. A criminal justice agency may not seal any record
848 | pertaining to such additional arrests if the order to seal does
849 | not articulate the intention of the court to seal records
850 | pertaining to more than one arrest. This section does not
851 | prevent the court from ordering the sealing of only a portion of
852 | a criminal history record pertaining to one arrest or one
853 | incident of alleged criminal activity. Notwithstanding any law
854 | to the contrary, a criminal justice agency may comply with laws,
855 | court orders, and official requests of other jurisdictions

856 relating to sealing, correction, or confidential handling of
 857 criminal history records or information derived therefrom. This
 858 section does not confer any right to the sealing of any criminal
 859 history record, and any request for sealing a criminal history
 860 record may be denied at the sole discretion of the court.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

988 | 8. for their respective licensing, access authorization, and
 989 | employment purposes.

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

995 | 1. Is a candidate for employment with a criminal justice
 996 | agency;

997 | 2. Is a defendant in a criminal prosecution;

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

1000 | 4. Is a candidate for admission to The Florida Bar;

1001 | 5. Is seeking to be employed or licensed by or to contract
 1002 | with the Department of Children and Family Services or the
 1003 | Department of Juvenile Justice or to be employed or used by such
 1004 | contractor or licensee in a sensitive position having direct
 1005 | contact with children, the developmentally disabled, the aged,
 1006 | or the elderly as provided in s. 110.1127(3), s. 393.063, s.
 1007 | 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
 1008 | 409.175(2)(i), s. 415.102(4), s. 415.103, s. 916.106(10) and
 1009 | (13), s. 985.407, or chapter 400; ~~or~~

1010 | 6. Is seeking to be employed or licensed by the Department
 1011 | of Education, any district school board, any university
 1012 | laboratory school, any charter school, any private or parochial
 1013 | school, or any local governmental entity that licenses child
 1014 | care facilities;:-

1015 7. Is attempting to purchase a firearm from a licensed
1016 importer, licensed manufacturer, or licensed dealer and is
1017 subject to a criminal history background check under state or
1018 federal law; or

1019 8. Is seeking authorization from a Florida seaport
1020 identified in s. 311.09 for employment within or access to one
1021 or more of such seaports pursuant to s. 311.12 or s. 311.125.

1022 (b) Subject to the exceptions in paragraph (a), a person
1023 who has been granted a sealing under this section, former s.
1024 893.14, former s. 901.33, or former s. 943.058 may not be held
1025 under any provision of law of this state to commit perjury or to
1026 be otherwise liable for giving a false statement by reason of
1027 such person's failure to recite or acknowledge a sealed criminal
1028 history record.

1029 (c) Information relating to the existence of a sealed
1030 criminal record provided in accordance with the provisions of
1031 paragraph (a) is confidential and exempt from the provisions of
1032 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1033 except that the department shall disclose the sealed criminal
1034 history record to the entities set forth in subparagraphs (a)1.,
1035 4., 5., ~~and~~ 6., and 8. for their respective licensing, access
1036 authorization, and employment purposes. It is unlawful for any
1037 employee of an entity set forth in subparagraph (a)1.,
1038 subparagraph (a)4., subparagraph (a)5., ~~or~~ subparagraph (a)6.,
1039 or subparagraph (a)8. to disclose information relating to the
1040 existence of a sealed criminal history record of a person
1041 seeking employment, access authorization, or licensure with such

1042 entity or contractor, except to the person to whom the criminal
 1043 history record relates or to persons having direct
 1044 responsibility for employment, access authorization, or
 1045 licensure decisions. Any person who violates the provisions of
 1046 this paragraph commits a misdemeanor of the first degree,
 1047 punishable as provided in s. 775.082 or s. 775.083.

1048 (5) STATUTORY REFERENCES.--Any reference to any other
 1049 chapter, section, or subdivision of the Florida Statutes in this
 1050 section constitutes a general reference under the doctrine of
 1051 incorporation by reference.

1052 Section 12. Subsection (5) of section 943.13, Florida
 1053 Statutes, is amended to read:

1054 943.13 Officers' minimum qualifications for employment or
 1055 appointment.--On or after October 1, 1984, any person employed
 1056 or appointed as a full-time, part-time, or auxiliary law
 1057 enforcement officer or correctional officer; on or after October
 1058 1, 1986, any person employed as a full-time, part-time, or
 1059 auxiliary correctional probation officer; and on or after
 1060 October 1, 1986, any person employed as a full-time, part-time,
 1061 or auxiliary correctional officer by a private entity under
 1062 contract to the Department of Corrections, to a county
 1063 commission, or to the Department of Management Services shall:

1064 (5) Have documentation of his or her processed
 1065 fingerprints on file with the employing agency or, if a private
 1066 correctional officer, have documentation of his or her processed
 1067 fingerprints on file with the Department of Corrections or the
 1068 Criminal Justice Standards and Training Commission. If

1069 administrative delays are caused by the department or the
1070 Federal Bureau of Investigation and the person has complied with
1071 subsections (1)-(4) and (6)-(9), he or she may be employed or
1072 appointed for a period not to exceed 1 calendar year from the
1073 date he or she was employed or appointed or until return of the
1074 processed fingerprints documenting noncompliance with
1075 subsections (1)-(4) or subsection (7), whichever occurs first.
1076 Beginning January 15, 2007, the department shall retain and
1077 enter into the statewide automated fingerprint identification
1078 system authorized by s. 943.05 all fingerprints submitted to the
1079 department as required by this section. Thereafter, the
1080 fingerprints shall be available for all purposes and uses
1081 authorized for arrest fingerprint cards entered in the statewide
1082 automated fingerprint identification system pursuant to s.
1083 943.051. The department shall search all arrest fingerprint
1084 cards received pursuant to s. 943.051 against the fingerprints
1085 retained in the statewide automated fingerprint identification
1086 system pursuant to this section and report to the employing
1087 agency any arrest records that are identified with the retained
1088 employee's fingerprints. By January 1, 2008, a person who must
1089 meet minimum qualifications as provided in this section and
1090 whose fingerprints are not retained by the department pursuant
1091 to this section must be refingerprinted. These fingerprints must
1092 be forwarded to the department for processing and retention.

1093 Section 13. Section 943.1715, Florida Statutes, is amended
1094 to read:

1095 | 943.1715 Basic skills training relating to diverse
 1096 | populations.--The commission shall establish and maintain
 1097 | standards for instruction of officers in the subject of
 1098 | interpersonal skills relating to diverse populations, with an
 1099 | emphasis on the awareness of cultural differences. Every basic
 1100 | skills course required in order for officers to obtain initial
 1101 | certification must include ~~a minimum of 8 hours~~ training in
 1102 | interpersonal skills with diverse populations.

1103 | Section 14. Section 943.1716, Florida Statutes, is amended
 1104 | to read:

1105 | 943.1716 Continued employment training relating to diverse
 1106 | populations.--The commission shall by rule require that each
 1107 | officer receive, as part of the 40 hours of required instruction
 1108 | for continued employment or appointment as an officer, ~~8 hours~~
 1109 | ~~of~~ instruction in the subject of interpersonal skills relating
 1110 | to diverse populations, with an emphasis on the awareness of
 1111 | cultural differences.

1112 | Section 15. Section 943.2569, Florida Statutes, is
 1113 | repealed.

1114 | Section 16. Section 943.257, Florida Statutes, is amended
 1115 | to read:

1116 | 943.257 Independent audit documentation subject to
 1117 | inspection.--The Criminal Justice Standards and Training
 1118 | Commission or a center's advisory board may inspect and copy any
 1119 | documents from the center as required to carry out the
 1120 | commission's or the respective board's oversight
 1121 | responsibilities, including information and documents related to

1122 applicant evaluations and center expenditures. In addition, the
1123 commission or board may inspect and copy the documentation of
1124 any internal or independent audits conducted by or on behalf of
1125 the centers to ensure that candidate and inservice officer
1126 assessments have been made and that expenditures are in
1127 conformance with the requirements of this act and with other
1128 applicable procedures.

1129 Section 17. Subsections (1) and (3) of section 943.401,
1130 Florida Statutes, are amended to read:

1131 943.401 Public assistance fraud.--

1132 (1) (a) The Department of Law Enforcement shall investigate
1133 all public assistance provided to residents of the state or
1134 provided to others by the state ~~made under the provisions of~~
1135 ~~chapter 409 or chapter 414.~~ In the course of such investigation
1136 the Department of Law Enforcement shall examine all records,
1137 including electronic benefits transfer records and make inquiry
1138 of all persons who may have knowledge as to any irregularity
1139 incidental to the disbursement of public moneys, food stamps, or
1140 other items or benefits authorizations to recipients.

1141 (b) All public assistance recipients, as a condition
1142 precedent to qualification for public assistance received and as
1143 defined under the provisions of chapter 409, chapter 411, or
1144 chapter 414, shall first give in writing, to the Agency for
1145 Health Care Administration, the Department of Health, the Agency
1146 for Workforce Innovation, and the Department of Children and
1147 Family Services, as appropriate, and to the Department of Law

1148 Enforcement, consent to make inquiry of past or present
 1149 employers and records, financial or otherwise.

1150 (3) The results of such investigation shall be reported by
 1151 the Department of Law Enforcement to the appropriate legislative
 1152 committees, the Agency for Health Care Administration, the
 1153 Department of Health, the Agency for Workforce Innovation, and
 1154 the Department of Children and Family Services, and to such
 1155 others as the Department of Law Enforcement may determine.

1156 Section 18. Authority to purchase goodwill and promotional
 1157 materials.--

1158 (1) The Legislature recognizes that the Department of Law
 1159 Enforcement functions as one of the state's primary law
 1160 enforcement representatives in national and international
 1161 meetings, conferences, and cooperative efforts. The department
 1162 often hosts delegates from other federal, state, local, and
 1163 international agencies and is in a position to function as a
 1164 representative of the state fostering goodwill and effective
 1165 interagency working relationships. It is the intent of the
 1166 Legislature that the department be allowed, consistent with the
 1167 dignity and integrity of the state, to purchase and distribute
 1168 material and items of collection to those with whom the
 1169 department has contact in meetings, conferences, and cooperative
 1170 efforts.

1171 (2) In addition to expenditures separately authorized by
 1172 law, the department may expend not more than \$5,000 annually to
 1173 purchase and distribute promotional materials or items that
 1174 serve to advance with dignity and integrity the goodwill of this

1175 state and the department and to provide basic refreshments at
1176 official functions, seminars, or meetings of the department in
1177 which dignitaries or representatives from the Federal
1178 Government, other states or nationalities, or other agencies are
1179 in attendance.

1180 Section 19. Unauthorized use of Department of Law
1181 Enforcement emblems or names prohibited.--

1182 (1) Whoever, except with the written permission of the
1183 executive director of the Department of Law Enforcement or as
1184 otherwise expressly authorized by the department, knowingly uses
1185 the words "Florida Department of Law Enforcement," the initials
1186 "F.D.L.E." or "FDLE," or the words "Florida Capitol Police," or
1187 any colorable imitation of such words or initials, or who uses a
1188 logo or emblem used by the department in connection with any
1189 advertisement, circular, book, pamphlet, or other publication,
1190 play, motion picture, broadcast, telecast, or other production,
1191 in any Internet web page or upon any product in a manner
1192 reasonably calculated to convey the impression that such
1193 advertisement, circular, book, pamphlet, or other publication,
1194 play, motion picture, broadcast, telecast, or other production,
1195 Internet web page, or product is approved, endorsed, or
1196 authorized by the Department of Law Enforcement commits a
1197 misdemeanor of the first degree, punishable as provided in s.
1198 775.082 or s. 775.083, Florida Statutes.

1199 (2) A violation of this section may be enjoined upon suit
1200 by the department or the Department of Legal Affairs upon
1201 complaint filed in any court of competent jurisdiction.

1202 Section 20. Subsection (9) of section 932.7055, Florida
 1203 Statutes, is amended to read:

1204 932.7055 Disposition of liens and forfeited property.--

1205 ~~(9) (a) Every law enforcement agency shall submit~~
 1206 ~~semiannual reports to the Department of Law Enforcement~~
 1207 ~~indicating whether the agency has seized or forfeited property~~
 1208 ~~under the Florida Contraband Forfeiture Act. Any law enforcement~~
 1209 ~~agency receiving or expending forfeited property or proceeds~~
 1210 ~~from the sale of forfeited property in accordance with the~~
 1211 ~~Florida Contraband Forfeiture Act shall submit completed~~
 1212 ~~semiannual reports, by April 10, and October 10, documenting the~~
 1213 ~~receipts and expenditures, on forms promulgated by the~~
 1214 ~~Department of Law Enforcement, to the entity which has budgetary~~
 1215 ~~authority over such agency and to the Department of Law~~
 1216 ~~Enforcement. The semiannual report shall specify the type,~~
 1217 ~~approximate value, any court case number, type of offense,~~
 1218 ~~disposition of the property received, and the amount of any~~
 1219 ~~proceeds received or expended.~~

1220 ~~(b) The Department of Law Enforcement shall submit an~~
 1221 ~~annual report to the criminal justice committees of the House of~~
 1222 ~~Representatives and of the Senate compiling the information and~~
 1223 ~~data related in the semiannual reports submitted by the law~~
 1224 ~~enforcement agencies. The annual report shall also contain a~~
 1225 ~~list of law enforcement agencies which have failed to meet the~~
 1226 ~~reporting requirements and a summary of any action which has~~
 1227 ~~been taken against the noncomplying agency by the Office of the~~
 1228 ~~Chief Financial Officer.~~

1229 ~~(e)~~ Neither the law enforcement agency nor the entity
1230 having budgetary control over the law enforcement agency shall
1231 anticipate future forfeitures or proceeds therefrom in the
1232 adoption and approval of the budget for the law enforcement
1233 agency.

1234 Section 21. Section 932.707, Florida Statutes, is
1235 repealed.

1236 Section 22. Except as otherwise expressly provided in this
1237 act, this act shall take effect July 1, 2006.