

ENROLLED  
HB 151, Engrossed 1

2006 Legislature

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

Page 1 of 47

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

hb0151-05-er

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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~~

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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.



## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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,

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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.

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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.--

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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,

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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



## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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,

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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.

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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



## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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.

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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.

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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,

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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.

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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



## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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.

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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.

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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.

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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;:-

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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



## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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:

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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.

ENROLLED

HB 151, Engrossed 1

2006 Legislature

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.~~

## ENROLLED

HB 151, Engrossed 1

2006 Legislature

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.