

Bill No. SB 544

Barcode 124088

CHAMBER ACTION

Senate

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The Committee on Criminal Justice (Crist) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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

790.065 Sale and delivery of firearms.--

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

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

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

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

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1 a firearm; ~~or~~

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

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

10 a. As used in this subparagraph, the term "adjudicated  
11 mentally defective" means a determination by a court that a  
12 person, as a result of marked subnormal intelligence, or  
13 mental illness, incompetency, condition, or disease, is a  
14 danger to himself or herself or to others or lacks the mental  
15 capacity to contract or manage his or her own affairs. The  
16 term includes a judicial finding of incapacity under s.  
17 744.331(6)(a), an acquittal by reason of insanity of a person  
18 charged with a criminal offense, and a judicial finding that a  
19 criminal defendant is not competent to stand trial.

20 b. As used in this subparagraph, the term "committed  
21 to a mental institution" means involuntary commitment,  
22 commitment for mental defectiveness or mental illness, or  
23 commitment for substance abuse. The term includes involuntary  
24 inpatient placement as defined in s. 394.467, involuntary  
25 assessment and stabilization under s. 397.6818, and  
26 involuntary substance abuse treatment under s. 397.6957, but  
27 does not include a person in a mental institution for  
28 observation or a person who has been discharged from a mental  
29 institution based upon the initial review by the physician or  
30 a voluntary admission to a mental institution.

31 c. In order to check for such conditions, the

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1 department shall compile and maintain an automated database of  
2 persons who are prohibited from purchasing a firearm based on  
3 court records of adjudications of mental defectiveness or  
4 commitments to mental institutions. Each clerk of court shall  
5 submit these records to the department within 1 month after  
6 the order of adjudication or commitment is rendered. Reports  
7 may be submitted in an automated format. The reports must, at  
8 a minimum, include the name, any known alias or former name,  
9 the sex, and the date of birth of the individual. The  
10 department shall delete any mental health record from the  
11 database upon the request of an individual when at least 5  
12 years have elapsed since the individual's restoration to  
13 capacity by court order after being adjudicated an  
14 incapacitated person under s. 744.331 or similar laws of any  
15 other state, or, in the case of an individual who was  
16 previously committed to a mental institution under chapter 394  
17 or similar laws of any other state, when the individual  
18 produces a certificate from a licensed psychiatrist stating  
19 that he or she has not suffered from such disability for at  
20 least 5 years prior to the date of the request for removal of  
21 the record. If the department has received a subsequent record  
22 of an adjudication of mental defectiveness or commitment to a  
23 mental institution for such individual, the 5-year timeframe  
24 shall be calculated from the most recent adjudication of  
25 incapacitation or commitment.

26 d. The department may disclose the collected data to  
27 federal or state agencies for use exclusively in determining  
28 the lawfulness of a firearm sale or transfer. The department  
29 may also disclose any applicable collected data to the  
30 Department of Agriculture and Consumer Services for purposes  
31 of determining a person's eligibility for a concealed weapons

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1 or concealed firearms license upon receipt of an applicant  
2 fingerprint submission forwarded pursuant to s. 790.06(6)(a).  
3 If a potential buyer or transferee appeals a nonapproval based  
4 on such records, the clerks of court and mental institutions  
5 shall, upon request by the department, provide information to  
6 help determine whether the potential buyer or transferee is  
7 the same person as the subject of the record. Photographs and  
8 other data that may confirm or negate identity must be made  
9 available to the department for such purposes, notwithstanding  
10 any other provision of state law to the contrary. Information  
11 that is made confidential or exempt from disclosure by law  
12 shall remain confidential or exempt when transferred to the  
13 department.

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

16 914.25 Protective services for certain victims and  
17 witnesses.--

18 (4)(a) When a victim or witness is certified as  
19 provided in subsection (3), a law enforcement agency, in  
20 consultation with the certifying state attorney or the  
21 statewide prosecutor, may provide appropriate protective  
22 services. If a victim or witness needs to be temporarily  
23 relocated, the statewide prosecutor or the state attorney must  
24 notify the Department of Law Enforcement. The Department of  
25 Law Enforcement, in consultation with the statewide prosecutor  
26 or the state attorney, and any other law enforcement agency  
27 involved in the criminal investigation or prosecution, shall  
28 coordinate the temporary relocation of the victim or witness.

29 (b) Protective services, including temporary  
30 relocation services, may initially be provided for up to 1  
31 year or until the risk giving rise to the certification has

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1 diminished, whichever occurs sooner. ~~If deemed necessary,~~ The  
 2 statewide prosecutor or the state attorney may, at the end of  
 3 the certification year, recertify a victim or witness at risk  
 4 of harm for an additional period of up to 1 year or until the  
 5 risk giving rise to the certification has diminished,  
 6 whichever occurs first. A victim or witness at risk of harm  
 7 may be certified and recertified annually as provided in this  
 8 section to provide a maximum of 4 years of eligibility for  
 9 protective services.

10 (5) The lead law enforcement agency that provides  
 11 protective services, as authorized in this section, may seek  
 12 reimbursement for its reasonable expenses from the Victim and  
 13 Witness Protection Review Committee, pursuant to ~~the~~  
 14 ~~provisions of s. 943.031.~~ This section does not prevent any  
 15 law enforcement agency from providing protective services at  
 16 the agency's expense beyond the 4-year maximum period  
 17 established in this section. Any additional expenditures for  
 18 protective services are not eligible for reimbursement under  
 19 this section.

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

22 937.021 Missing child reports.--

23 (3)(a) Upon receiving a request to record, report,  
 24 transmit, display, or release Amber Alert or Missing Child  
 25 Alert information from the law enforcement agency having  
 26 jurisdiction over the missing or endangered child, the  
 27 Department of Law Enforcement as the state Amber Alert  
 28 coordinator; any state or local law enforcement agency and the  
 29 personnel of these agencies; any radio or television network,  
 30 broadcaster, or other media representative; any dealer of  
 31 communications services as defined in s. 202.11; or any

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1 agency, employee, individual, or entity is immune from civil  
 2 liability for damages for complying in good faith with the  
 3 request and is presumed to have acted in good faith in  
 4 recording, reporting, transmitting, displaying, or releasing  
 5 Amber Alert or Missing Child Alert information pertaining to  
 6 such child.

7       (b) The presumption of good faith is not overcome if a  
 8 technical or clerical error is made by an agency, employee,  
 9 individual, or entity acting at the request of the local law  
 10 enforcement agency having jurisdiction, or if the Amber Alert  
 11 or Missing Child Alert information is incomplete or incorrect  
 12 because the information received from the local law  
 13 enforcement agency was incomplete or incorrect.

14       (c) Neither this subsection nor any other provision of  
 15 law creates a duty of the agency, employee, individual, or  
 16 entity to record, report, transmit, display, or release the  
 17 Amber Alert or Missing Child Alert information received from  
 18 the local law enforcement agency having jurisdiction. The  
 19 decision to do so is discretionary with the agency, employee,  
 20 individual, or entity receiving that information from the  
 21 local law enforcement agency having jurisdiction.

22       Section 4. Section 938.07, Florida Statutes, is  
 23 amended to read:

24       938.07 Driving or boating under the  
 25 influence.--Notwithstanding any other provision of s. 316.193  
 26 or s. 327.35, a court cost of \$135 shall be added to any fine  
 27 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall  
 28 remit the funds to the Department of Revenue, \$25 of which  
 29 shall be deposited in the Emergency Medical Services Trust  
 30 Fund, \$50 shall be deposited in the ~~Operating Criminal Justice~~  
 31 ~~Standards and Training~~ Trust Fund of the Department of Law

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1 Enforcement to be used for operational expenses in conducting  
 2 the statewide criminal analysis laboratory system established  
 3 in s. 943.32, and \$60 shall be deposited in the Brain and  
 4 Spinal Cord Injury Rehabilitation Trust Fund created in s.  
 5 381.79.

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

8 938.27 Judgment for costs on conviction.--

9 (7) Investigative costs that ~~which~~ are recovered shall  
 10 be returned to the appropriate investigative agency that ~~which~~  
 11 incurred the expense. Such costs ~~shall~~ include actual expenses  
 12 incurred in conducting the investigation and prosecution of  
 13 the criminal case; however, costs may also include the  
 14 salaries of permanent employees. Any investigative costs  
 15 recovered on behalf of a state agency must be remitted to the  
 16 Department of Revenue for deposit in the agency operating  
 17 trust fund, and a report of the payment must be sent to the  
 18 agency, except that any investigative costs recovered on  
 19 behalf of the Department of Law Enforcement shall be deposited  
 20 in the department's Forfeiture and Investigative Support Trust  
 21 Fund under s. 943.362.

22 Section 6. Paragraphs (g) and (h) are added to  
 23 subsection (2) of section 943.05, Florida Statutes, to read:

24 943.05 Criminal Justice Information Program; duties;  
 25 crime reports.--

26 (2) The program shall:

27 (g) As authorized by law, retain fingerprints  
 28 submitted by criminal and noncriminal justice agencies to the  
 29 department for a criminal history background screening in a  
 30 manner provided by rule and enter the fingerprints in the  
 31 statewide automated fingerprint identification system

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1 authorized by paragraph (b). Such fingerprints shall be  
 2 available for all purposes and uses authorized for arrest  
 3 fingerprint cards entered into the statewide automated  
 4 fingerprint identification system pursuant to s. 943.051.

5 (h) As authorized by law, search all arrest  
 6 fingerprint cards received under s. 943.051 against the  
 7 fingerprints retained in the statewide automated fingerprint  
 8 identification system under paragraph (g). Any arrest record  
 9 that is identified with the retained fingerprints of a person  
 10 subject to background screening as provided in paragraph (g)  
 11 shall be reported to the appropriate agency. Agencies may  
 12 participate in this search process by paying an annual fee to  
 13 the department and informing the department of any change in  
 14 the affiliation, employment, contractual status, or place of  
 15 affiliation, employment, or contracting of the persons whose  
 16 fingerprints are retained under paragraph (g). The department  
 17 shall adopt a rule setting the amount of the annual fee to be  
 18 imposed upon each participating agency for performing searches  
 19 and establishing the procedures for the retention of  
 20 fingerprints and the dissemination of search results. The fee  
 21 may be borne as provided by law. Fees may be waived or reduced  
 22 by the executive director for good cause shown. Consistent  
 23 with the recognition of criminal justice agencies expressed in  
 24 s. 943.053(3), these services shall be provided to criminal  
 25 justice agencies for criminal justice purposes free of charge.

26 Section 7. Subsection (2) of section 943.052, Florida  
 27 Statutes, is amended to read:

28 943.052 Disposition reporting.--The Criminal Justice  
 29 Information Program shall, by rule, establish procedures and a  
 30 format for each criminal justice agency to monitor its records  
 31 and submit reports, as provided by this section, to the

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1 program. The disposition report shall be developed by the  
 2 program and shall include the offender-based transaction  
 3 system number.

4 (2) Each clerk of the court shall submit the uniform  
 5 dispositions to the program or in a manner acceptable to the  
 6 program. The report shall be submitted at least once a month  
 7 and, when acceptable by the program, may be submitted in an  
 8 automated format. The disposition report is mandatory for  
 9 dispositions relating to adult offenders only. Beginning July  
 10 1, 2008, a disposition report for each disposition relating to  
 11 a minor offender is mandatory.

12 Section 8. Subsections (2) and (5) of section 68.07,  
 13 Florida Statutes, are amended to read:

14 68.07 Change of name.--

15 (2) The petition shall include a set copy of the  
 16 petitioner's fingerprints taken by a law enforcement agency  
 17 except where a former name is being restored and be verified  
 18 and show:

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

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

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

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

29 (e) Petitioner's occupation and where petitioner is  
 30 employed and has been employed for 5 years next preceding  
 31 filing of the petition. If petitioner owns and operates a

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1 business, the name and place of it shall be stated and  
 2 petitioner's connection therewith and how long petitioner has  
 3 been identified with said business. If petitioner is in a  
 4 profession, the profession shall be stated, where the  
 5 petitioner has practiced the profession and if a graduate of a  
 6 school or schools, the name or names thereof, time of  
 7 graduation, and degrees received.

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

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

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

16 (i) Whether any money judgment has ever been entered  
 17 against petitioner and if so, the name of the judgment  
 18 creditor, the amount and date thereof, the court by which  
 19 entered, and whether the judgment has been satisfied.

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

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

27 (5) The clerk must, upon the filing of the final  
 28 judgment, send a report of the judgment to the Department of  
 29 Law Enforcement on a form to be furnished by that department.  
 30 The Department of Law Enforcement must send a copy of the  
 31 report to the Department of Highway Safety and Motor Vehicles,

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1 which may be delivered by electronic transmission. The report  
2 must contain sufficient information to identify the  
3 petitioner, including a set copy of the petitioner's  
4 fingerprints taken by a law enforcement agency, the new name  
5 of the petitioner, and the file number of the judgment. Any  
6 information retained by the Department of Law Enforcement and  
7 the Department of Highway Safety and Motor Vehicles may be  
8 revised or supplemented by said departments to reflect changes  
9 made by the final judgment. With respect to a person convicted  
10 of a felony in another state or of a federal offense, the  
11 Department of Law Enforcement must send the report to the  
12 respective state's office of law enforcement records or to the  
13 office of the Federal Bureau of Investigation. The Department  
14 of Law Enforcement may forward the report to any other law  
15 enforcement agency it believes may retain information related  
16 to the petitioner. Any costs associated with fingerprinting  
17 must be paid by the petitioner.

18 Section 9. Present subsections (5), (6), (7), (8), and  
19 (9) of section 943.053, Florida Statutes, are redesignated as  
20 subsections (6), (7), (8), (9), and (10), respectively, and  
21 new subsections (5), (11), and (12) are added to that section,  
22 to read:

23 943.053 Dissemination of criminal justice information;  
24 fees.--

25 (5) Notwithstanding s. 943.0525, and any user  
26 agreement adopted pursuant thereto, and notwithstanding the  
27 confidentiality of sealed records as provided in s. 943.059,  
28 the department shall make criminal justice information  
29 available on-line to each judge in the state court system in  
30 order to assist the judge in case-related decisionmaking.  
31 On-line access shall be provided without charge to the state

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1 court system. Sealed records received by courts under this  
2 section remain confidential and exempt from s. 119.07(1). The  
3 information provided pursuant to this subsection does not  
4 replace any information required to be provided to the courts  
5 by any other agency or entity. Information provided under this  
6 subsection may be used only for the official court business  
7 for which it was requested and may not be further  
8 disseminated.

9       (11) A criminal justice agency that is authorized  
10 under federal rules or law to conduct a criminal history  
11 background check on an agency employee who is not certified by  
12 the Criminal Justice Standards and Training Commission under  
13 s. 943.12 may submit to the department the fingerprints of the  
14 noncertified employee to obtain state and national criminal  
15 history information. Effective January 15, 2007, fingerprints  
16 submitted shall be retained and entered in the statewide  
17 automated fingerprint identification system authorized by s.  
18 943.05 and shall be available for all purposes and uses  
19 authorized for arrest fingerprint cards entered in the  
20 statewide automated fingerprint identification system pursuant  
21 to s. 943.051. The department shall search all arrest  
22 fingerprint cards received pursuant to s. 943.051 against the  
23 fingerprints retained in the statewide automated fingerprint  
24 identification system pursuant to this section. In addition to  
25 the purposes and uses authorized for arrest fingerprint cards  
26 for which submitted fingerprints may be used, any arrest  
27 record that is identified with the retained employee  
28 fingerprints must be reported to the submitting employing  
29 agency.

30       (12) Notwithstanding any other provision of law, when  
31 a criminal history check or a duty to disclose the absence of

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1 a criminal history check is mandated by state law or when a  
2 privilege or benefit is conferred by state law in return for  
3 exercising an option of conducting a criminal history check,  
4 the referenced criminal history check, whether an initial or  
5 renewal check, shall include the state criminal history  
6 provided by the department as set forth in this section. Such  
7 criminal history information may be provided by a private  
8 vendor only if that information is directly obtained from the  
9 department for each request. A national criminal history check  
10 that is required or authorized by state law shall be submitted  
11 by and through the department in the manner established by the  
12 department for such checks, unless otherwise required by  
13 federal law. The fee for criminal history information as  
14 established by state law or, in the case of national checks,  
15 by the Federal Government, shall be borne by the person or  
16 entity submitting the request, or as provided by law. Criminal  
17 history information provided by any other governmental entity  
18 of this state or any private entity may not be substituted for  
19 criminal history information provided by the department if the  
20 criminal history check or a duty to disclose the absence of a  
21 criminal history check is required by statute or is made a  
22 condition of a privilege or benefit by law.

23           Section 10. Section 943.0585, Florida Statutes, is  
24 amended to read:

25           943.0585 Court-ordered expunction of criminal history  
26 records.--The courts of this state have jurisdiction over  
27 their own procedures, including the maintenance, expunction,  
28 and correction of judicial records containing criminal history  
29 information to the extent such procedures are not inconsistent  
30 with the conditions, responsibilities, and duties established  
31 by this section. Any court of competent jurisdiction may order

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1 a criminal justice agency to expunge the criminal history  
2 record of a minor or an adult who complies with the  
3 requirements of this section. The court shall not order a  
4 criminal justice agency to expunge a criminal history record  
5 until the person seeking to expunge a criminal history record  
6 has applied for and received a certificate of eligibility for  
7 expunction pursuant to subsection (2). A criminal history  
8 record that relates to a violation of s. 393.135, s. 394.4593,  
9 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 810.14, s.  
10 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s.  
11 847.0135, s. 847.0145, s. 893.135, s. 916.1075, ~~or~~ a  
12 violation enumerated in s. 907.041, or any violation specified  
13 as a predicate offense for registration as a sexual predator  
14 pursuant to s. 775.21, without regard to whether that offense  
15 alone is sufficient to require such registration, or as a  
16 sexual offender pursuant to s. 943.0435, may not be expunged,  
17 without regard to whether adjudication was withheld, if the  
18 defendant was found guilty of or pled guilty or nolo  
19 contendere to the offense, or if the defendant, as a minor,  
20 was found to have committed, or pled guilty or nolo contendere  
21 to committing, the offense as a delinquent act. The court may  
22 only order expunction of a criminal history record pertaining  
23 to one arrest or one incident of alleged criminal activity,  
24 except as provided in this section. The court may, at its sole  
25 discretion, order the expunction of a criminal history record  
26 pertaining to more than one arrest if the additional arrests  
27 directly relate to the original arrest. If the court intends  
28 to order the expunction of records pertaining to such  
29 additional arrests, such intent must be specified in the  
30 order. A criminal justice agency may not expunge any record  
31 pertaining to such additional arrests if the order to expunge

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1 does not articulate the intention of the court to expunge a  
 2 record pertaining to more than one arrest. This section does  
 3 not prevent the court from ordering the expunction of only a  
 4 portion of a criminal history record pertaining to one arrest  
 5 or one incident of alleged criminal activity. Notwithstanding  
 6 any law to the contrary, a criminal justice agency may comply  
 7 with laws, court orders, and official requests of other  
 8 jurisdictions relating to expunction, correction, or  
 9 confidential handling of criminal history records or  
 10 information derived therefrom. This section does not confer  
 11 any right to the expunction of any criminal history record,  
 12 and any request for expunction of a criminal history record  
 13 may be denied at the sole discretion of the court.

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

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

19 (b) The petitioner's sworn statement attesting that  
 20 the petitioner:

21 1. Has never, prior to the date on which the petition  
 22 is filed, been adjudicated guilty of a criminal offense or  
 23 comparable ordinance violation, or been adjudicated delinquent  
 24 for committing any a felony or a misdemeanor specified in s.  
 25 943.051(3)(b).

26 2. Has not been adjudicated guilty of, or adjudicated  
 27 delinquent for committing, any of the acts stemming from the  
 28 arrest or alleged criminal activity to which the petition  
 29 pertains.

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

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1 893.14, former s. 901.33, or former s. 943.058, or from any  
 2 jurisdiction outside the state, unless the expunction is  
 3 sought for a criminal history record that was previously  
 4 sealed for 10 years pursuant to paragraph (2)(h) and the  
 5 record is otherwise eligible for expunction.

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

10

11 Any person who knowingly provides false information on such  
 12 sworn statement to the court commits a felony of the third  
 13 degree, punishable as provided in s. 775.082, s. 775.083, or  
 14 s. 775.084.

15 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior  
 16 to petitioning the court to expunge a criminal history record,  
 17 a person seeking to expunge a criminal history record shall  
 18 apply to the department for a certificate of eligibility for  
 19 expunction. The department shall, by rule adopted pursuant to  
 20 chapter 120, establish procedures pertaining to the  
 21 application for and issuance of certificates of eligibility  
 22 for expunction. A certificate of eligibility for expunction is  
 23 valid for 12 months after the date stamped on the certificate  
 24 when issued by the Department of Law Enforcement. After that  
 25 time, the petitioner must reapply to the department for a new  
 26 certificate of eligibility. Eligibility for a renewed  
 27 certification of eligibility must be based on the status of  
 28 the applicant and the law in effect at the time of the most  
 29 recent application. The department shall issue a certificate  
 30 of eligibility for expunction to a person who is the subject  
 31 of a criminal history record if that person:

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

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

6 2. That an indictment, information, or other charging  
7 document, if filed or issued in the case, was dismissed or  
8 nolle prosequi by the state attorney or statewide prosecutor,  
9 or was dismissed by a court of competent jurisdiction, and  
10 that none of the charges related to the arrest or alleged  
11 criminal activity to which the petition to expunge pertains  
12 resulted in a trial, without regard to whether the outcome of  
13 the trial was other than an adjudication of guilt.

14 3. That the criminal history record does not relate to  
15 a violation of s. 393.135, s. 394.4593, s. 787.025, chapter  
16 794, s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,  
17 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.  
18 847.0145, s. 893.135, s. 916.1075, or a violation enumerated  
19 in s. 907.041, or any violation specified as a predicate  
20 offense for registration as a sexual predator pursuant to s.  
21 775.21, without regard to whether that offense alone is  
22 sufficient to require such registration, or as a sexual  
23 offender pursuant to s. 943.0435, where the defendant was  
24 found guilty of, or pled guilty or nolo contendere to any such  
25 offense, or that the defendant, as a minor, was found to have  
26 committed, or pled guilty or nolo contendere to committing,  
27 such an offense as a delinquent act, without regard to whether  
28 adjudication was withheld.

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

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1 (c) Has submitted to the department a certified copy  
 2 of the disposition of the charge to which the petition to  
 3 expunge pertains.

4 (d) Has never, prior to the date on which the  
 5 application for a certificate of eligibility is filed, been  
 6 adjudicated guilty of a criminal offense or comparable  
 7 ordinance violation, or been adjudicated delinquent for  
 8 committing any a felony or a misdemeanor specified in s.  
 9 943.051(3)(b).

10 (e) Has not been adjudicated guilty of, or adjudicated  
 11 delinquent for committing, any of the acts stemming from the  
 12 arrest or alleged criminal activity to which the petition to  
 13 expunge pertains.

14 (f) Has never secured a prior sealing or expunction of  
 15 a criminal history record under this section, former s.  
 16 893.14, former s. 901.33, or former s. 943.058, unless  
 17 expunction is sought of a criminal history record previously  
 18 sealed for 10 years pursuant to paragraph (h) and the record  
 19 is otherwise eligible for expunction.

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

23 (h) Has previously obtained a court order sealing the  
 24 record under this section, former s. 893.14, former s. 901.33,  
 25 or former s. 943.058 for a minimum of 10 years because  
 26 adjudication was withheld or because all charges related to  
 27 the arrest or alleged criminal activity to which the petition  
 28 to expunge pertains were not dismissed prior to trial, without  
 29 regard to whether the outcome of the trial was other than an  
 30 adjudication of guilt. The requirement for the record to have  
 31 previously been sealed for a minimum of 10 years does not

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1 apply when a plea was not entered or all charges related to  
2 the arrest or alleged criminal activity to which the petition  
3 to expunge pertains were dismissed prior to trial. Is not  
4 required to wait a minimum of 10 years prior to being eligible  
5 for an expunction of such records because all charges related  
6 to the arrest or criminal activity to which the petition to  
7 expunge pertains were dismissed prior to trial, adjudication,  
8 or the withholding of adjudication. Otherwise, such criminal  
9 history record must be sealed under this section, former s.  
10 893.14, former s. 901.33, or former s. 943.058 for at least 10  
11 years before such record is eligible for expunction.

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

13 (a) In judicial proceedings under this section, a copy  
14 of the completed petition to expunge shall be served upon the  
15 appropriate state attorney or the statewide prosecutor and  
16 upon the arresting agency; however, it is not necessary to  
17 make any agency other than the state a party. The appropriate  
18 state attorney or the statewide prosecutor and the arresting  
19 agency may respond to the court regarding the completed  
20 petition to expunge.

21 (b) If relief is granted by the court, the clerk of  
22 the court shall certify copies of the order to the appropriate  
23 state attorney or the statewide prosecutor and the arresting  
24 agency. The arresting agency is responsible for forwarding the  
25 order to any other agency to which the arresting agency  
26 disseminated the criminal history record information to which  
27 the order pertains. The department shall forward the order to  
28 expunge to the Federal Bureau of Investigation. The clerk of  
29 the court shall certify a copy of the order to any other  
30 agency which the records of the court reflect has received the  
31 criminal history record from the court.

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1           (c) For an order to expunge entered by a court prior  
2 to July 1, 1992, the department shall notify the appropriate  
3 state attorney or statewide prosecutor of an order to expunge  
4 which is contrary to law because the person who is the subject  
5 of the record has previously been convicted of a crime or  
6 comparable ordinance violation or has had a prior criminal  
7 history record sealed or expunged. Upon receipt of such  
8 notice, the appropriate state attorney or statewide prosecutor  
9 shall take action, within 60 days, to correct the record and  
10 petition the court to void the order to expunge. The  
11 department shall seal the record until such time as the order  
12 is voided by the court.

13           (d) On or after July 1, 1992, the department or any  
14 other criminal justice agency is not required to act on an  
15 order to expunge entered by a court when such order does not  
16 comply with the requirements of this section. Upon receipt of  
17 such an order, the department must notify the issuing court,  
18 the appropriate state attorney or statewide prosecutor, the  
19 petitioner or the petitioner's attorney, and the arresting  
20 agency of the reason for noncompliance. The appropriate state  
21 attorney or statewide prosecutor shall take action within 60  
22 days to correct the record and petition the court to void the  
23 order. No cause of action, including contempt of court, shall  
24 arise against any criminal justice agency for failure to  
25 comply with an order to expunge when the petitioner for such  
26 order failed to obtain the certificate of eligibility as  
27 required by this section or such order does not otherwise  
28 comply with the requirements of this section.

29           (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
30 criminal history record of a minor or an adult which is  
31 ordered expunged by a court of competent jurisdiction pursuant

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1 to this section must be physically destroyed or obliterated by  
 2 any criminal justice agency having custody of such record;  
 3 except that any criminal history record in the custody of the  
 4 department must be retained in all cases. A criminal history  
 5 record ordered expunged that is retained by the department is  
 6 confidential and exempt from the provisions of s. 119.07(1)  
 7 and s. 24(a), Art. I of the State Constitution and not  
 8 available to any person or entity except upon order of a court  
 9 of competent jurisdiction. A criminal justice agency may  
 10 retain a notation indicating compliance with an order to  
 11 expunge.

12 (a) The person who is the subject of a criminal  
 13 history record that is expunged under this section or under  
 14 other provisions of law, including former s. 893.14, former s.  
 15 901.33, and former s. 943.058, may lawfully deny or fail to  
 16 acknowledge the arrests covered by the expunged record, except  
 17 when the subject of the record:

18 1. Is a candidate for employment with a criminal  
 19 justice agency;

20 2. Is a defendant in a criminal prosecution;

21 3. Concurrently or subsequently petitions for relief  
 22 under this section or s. 943.059;

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

24 5. Is seeking to be employed or licensed by or to  
 25 contract with the Department of Children and Family Services  
 26 or the Department of Juvenile Justice or to be employed or  
 27 used by such contractor or licensee in a sensitive position  
 28 having direct contact with children, the developmentally  
 29 disabled, the aged, or the elderly as provided in s.

30 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
 31 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.

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1 916.106(10) and (13), s. 985.407, or chapter 400; ~~or~~

2           6. Is seeking to be employed or licensed by the  
3 Department of Education, any district school board, any  
4 university laboratory school, any charter school, any private  
5 or parochial school, or any local governmental entity that  
6 licenses child care facilities; ~~or~~

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

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

17           (c) Information relating to the existence of an  
18 expunged criminal history record which is provided in  
19 accordance with paragraph (a) is confidential and exempt from  
20 the provisions of s. 119.07(1) and s. 24(a), Art. I of the  
21 State Constitution, except that the department shall disclose  
22 the existence of a criminal history record ordered expunged to  
23 the entities set forth in subparagraphs (a)1., 4., 5., ~~and 6.~~  
24 and 7. for their respective licensing, access authorization,  
25 and employment purposes, and to criminal justice agencies for  
26 their respective criminal justice purposes. It is unlawful for  
27 any employee of an entity set forth in subparagraph (a)1.,  
28 subparagraph (a)4., subparagraph (a)5., ~~or~~ subparagraph (a)6.  
29 or subparagraph (a)7. to disclose information relating to the  
30 existence of an expunged criminal history record of a person  
31 seeking employment, access authorization, or licensure with

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1 such entity or contractor, except to the person to whom the  
 2 criminal history record relates or to persons having direct  
 3 responsibility for employment, access authorization, or  
 4 licensure decisions. Any person who violates this paragraph  
 5 commits a misdemeanor of the first degree, punishable as  
 6 provided in s. 775.082 or s. 775.083.

7 (5) STATUTORY REFERENCES.--Any reference to any other  
 8 chapter, section, or subdivision of the Florida Statutes in  
 9 this section constitutes a general reference under the  
 10 doctrine of incorporation by reference.

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

13 943.059 Court-ordered sealing of criminal history  
 14 records.--The courts of this state shall continue to have  
 15 jurisdiction over their own procedures, including the  
 16 maintenance, sealing, and correction of judicial records  
 17 containing criminal history information to the extent such  
 18 procedures are not inconsistent with the conditions,  
 19 responsibilities, and duties established by this section. Any  
 20 court of competent jurisdiction may order a criminal justice  
 21 agency to seal the criminal history record of a minor or an  
 22 adult who complies with the requirements of this section. The  
 23 court shall not order a criminal justice agency to seal a  
 24 criminal history record until the person seeking to seal a  
 25 criminal history record has applied for and received a  
 26 certificate of eligibility for sealing pursuant to subsection  
 27 (2). A criminal history record that relates to a violation of  
 28 s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03,  
 29 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,  
 30 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
 31 893.135, s. 916.1075, ~~or~~ a violation enumerated in s. 907.041,

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1 or any violation specified as a predicate offense for  
2 registration as a sexual predator pursuant to s. 775.21,  
3 without regard to whether that offense alone is sufficient to  
4 require such registration, or as a sexual offender pursuant to  
5 s. 943.0435, may not be sealed, without regard to whether  
6 adjudication was withheld, if the defendant was found guilty  
7 of or pled guilty or nolo contendere to the offense, or if the  
8 defendant, as a minor, was found to have committed or pled  
9 guilty or nolo contendere to committing the offense as a  
10 delinquent act. The court may only order sealing of a criminal  
11 history record pertaining to one arrest or one incident of  
12 alleged criminal activity, except as provided in this section.  
13 The court may, at its sole discretion, order the sealing of a  
14 criminal history record pertaining to more than one arrest if  
15 the additional arrests directly relate to the original arrest.  
16 If the court intends to order the sealing of records  
17 pertaining to such additional arrests, such intent must be  
18 specified in the order. A criminal justice agency may not seal  
19 any record pertaining to such additional arrests if the order  
20 to seal does not articulate the intention of the court to seal  
21 records pertaining to more than one arrest. This section does  
22 not prevent the court from ordering the sealing of only a  
23 portion of a criminal history record pertaining to one arrest  
24 or one incident of alleged criminal activity. Notwithstanding  
25 any law to the contrary, a criminal justice agency may comply  
26 with laws, court orders, and official requests of other  
27 jurisdictions relating to sealing, correction, or confidential  
28 handling of criminal history records or information derived  
29 therefrom. This section does not confer any right to the  
30 sealing of any criminal history record, and any request for  
31 sealing a criminal history record may be denied at the sole

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1 discretion of the court.

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

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

7 (b) The petitioner's sworn statement attesting that  
8 the petitioner:

9 1. Has never, prior to the date on which the petition  
10 is filed, been adjudicated guilty of a criminal offense or  
11 comparable ordinance violation, or been adjudicated delinquent  
12 for committing any a felony or misdemeanor specified in s.  
13 943.051(3)(b).

14 2. Has not been adjudicated guilty of or adjudicated  
15 delinquent for committing any of the acts stemming from the  
16 arrest or alleged criminal activity to which the petition to  
17 seal pertains.

18 3. Has never secured a prior sealing or expunction of  
19 a criminal history record under this section, former s.  
20 893.14, former s. 901.33, former s. 943.058, or from any  
21 jurisdiction outside the state.

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

26  
27 Any person who knowingly provides false information on such  
28 sworn statement to the court commits a felony of the third  
29 degree, punishable as provided in s. 775.082, s. 775.083, or  
30 s. 775.084.

31 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to

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1 petitioning the court to seal a criminal history record, a  
 2 person seeking to seal a criminal history record shall apply  
 3 to the department for a certificate of eligibility for  
 4 sealing. A certificate of eligibility for sealing is valid for  
 5 12 months after the date stamped on the certificate when  
 6 issued by the Department of Law Enforcement. After that time,  
 7 the petitioner must reapply to the department for a new  
 8 certificate of eligibility. Eligibility for a renewed  
 9 certification of eligibility must be based on the status of  
 10 the applicant and the law in effect at the time of the most  
 11 recent application. The department shall, by rule adopted  
 12 pursuant to chapter 120, establish procedures pertaining to  
 13 the application for and issuance of certificates of  
 14 eligibility for sealing. The department shall issue a  
 15 certificate of eligibility for sealing to a person who is the  
 16 subject of a criminal history record provided that such  
 17 person:

18           (a) Has submitted to the department a certified copy  
 19 of the disposition of the charge to which the petition to seal  
 20 pertains.

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

24           (c) Has never, prior to the date on which the  
 25 application for a certificate of eligibility is filed, been  
 26 adjudicated guilty of a criminal offense or comparable  
 27 ordinance violation, or been adjudicated delinquent for  
 28 committing any a felony or a misdemeanor specified in s.  
 29 943.051(3)(b).

30           (d) Has not been adjudicated guilty of or adjudicated  
 31 delinquent for committing any of the acts stemming from the

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1 arrest or alleged criminal activity to which the petition to  
2 seal pertains.

3 (e) Has never secured a prior sealing or expunction of  
4 a criminal history record under this section, former s.  
5 893.14, former s. 901.33, or former s. 943.058.

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

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

10 (a) In judicial proceedings under this section, a copy  
11 of the completed petition to seal shall be served upon the  
12 appropriate state attorney or the statewide prosecutor and  
13 upon the arresting agency; however, it is not necessary to  
14 make any agency other than the state a party. The appropriate  
15 state attorney or the statewide prosecutor and the arresting  
16 agency may respond to the court regarding the completed  
17 petition to seal.

18 (b) If relief is granted by the court, the clerk of  
19 the court shall certify copies of the order to the appropriate  
20 state attorney or the statewide prosecutor and to the  
21 arresting agency. The arresting agency is responsible for  
22 forwarding the order to any other agency to which the  
23 arresting agency disseminated the criminal history record  
24 information to which the order pertains. The department shall  
25 forward the order to seal to the Federal Bureau of  
26 Investigation. The clerk of the court shall certify a copy of  
27 the order to any other agency which the records of the court  
28 reflect has received the criminal history record from the  
29 court.

30 (c) For an order to seal entered by a court prior to  
31 July 1, 1992, the department shall notify the appropriate

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1 state attorney or statewide prosecutor of any order to seal  
 2 which is contrary to law because the person who is the subject  
 3 of the record has previously been convicted of a crime or  
 4 comparable ordinance violation or has had a prior criminal  
 5 history record sealed or expunged. Upon receipt of such  
 6 notice, the appropriate state attorney or statewide prosecutor  
 7 shall take action, within 60 days, to correct the record and  
 8 petition the court to void the order to seal. The department  
 9 shall seal the record until such time as the order is voided  
 10 by the court.

11 (d) On or after July 1, 1992, the department or any  
 12 other criminal justice agency is not required to act on an  
 13 order to seal entered by a court when such order does not  
 14 comply with the requirements of this section. Upon receipt of  
 15 such an order, the department must notify the issuing court,  
 16 the appropriate state attorney or statewide prosecutor, the  
 17 petitioner or the petitioner's attorney, and the arresting  
 18 agency of the reason for noncompliance. The appropriate state  
 19 attorney or statewide prosecutor shall take action within 60  
 20 days to correct the record and petition the court to void the  
 21 order. No cause of action, including contempt of court, shall  
 22 arise against any criminal justice agency for failure to  
 23 comply with an order to seal when the petitioner for such  
 24 order failed to obtain the certificate of eligibility as  
 25 required by this section or when such order does not comply  
 26 with the requirements of this section.

27 (e) An order sealing a criminal history record  
 28 pursuant to this section does not require that such record be  
 29 surrendered to the court, and such record shall continue to be  
 30 maintained by the department and other criminal justice  
 31 agencies.

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

15           (a) The subject of a criminal history record sealed  
 16 under this section or under other provisions of law, including  
 17 former s. 893.14, former s. 901.33, and former s. 943.058, may  
 18 lawfully deny or fail to acknowledge the arrests covered by  
 19 the sealed record, except when the subject of the record:

- 20           1. Is a candidate for employment with a criminal
- 21 justice agency;
- 22           2. Is a defendant in a criminal prosecution;
- 23           3. Concurrently or subsequently petitions for relief
- 24 under this section or s. 943.0585;
- 25           4. Is a candidate for admission to The Florida Bar;
- 26           5. Is seeking to be employed or licensed by or to
- 27 contract with the Department of Children and Family Services
- 28 or the Department of Juvenile Justice or to be employed or
- 29 used by such contractor or licensee in a sensitive position
- 30 having direct contact with children, the developmentally
- 31 disabled, the aged, or the elderly as provided in s.

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1 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
 2 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
 3 415.103, s. 916.106(10) and (13), s. 985.407, or chapter 400;  
 4 ~~or~~

5           6. Is seeking to be employed or licensed by the  
 6 Department of Education, any district school board, any  
 7 university laboratory school, any charter school, any private  
 8 or parochial school, or any local governmental entity that  
 9 licenses child care facilities;:-

10           7. Is attempting to purchase a firearm from a licensed  
 11 importer, licensed manufacturer, or licensed dealer and is  
 12 subject to a criminal history background check under state or  
 13 federal law; or

14           8. Is seeking authorization from a Florida seaport  
 15 identified in s. 311.09 for employment within or access to one  
 16 or more of such seaports, pursuant to s. 311.12 or s. 311.125.

17           (b) Subject to the exceptions in paragraph (a), a  
 18 person who has been granted a sealing under this section,  
 19 former s. 893.14, former s. 901.33, or former s. 943.058 may  
 20 not be held under any provision of law of this state to commit  
 21 perjury or to be otherwise liable for giving a false statement  
 22 by reason of such person's failure to recite or acknowledge a  
 23 sealed criminal history record.

24           (c) Information relating to the existence of a sealed  
 25 criminal record provided in accordance with the provisions of  
 26 paragraph (a) is confidential and exempt from the provisions  
 27 of s. 119.07(1) and s. 24(a), Art. I of the State  
 28 Constitution, except that the department shall disclose the  
 29 sealed criminal history record to the entities set forth in  
 30 subparagraphs (a)1., 4., 5., ~~and 6., and 8.~~ for their  
 31 respective licensing, access authorization, and employment

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1 purposes. It is unlawful for any employee of an entity set  
 2 forth in subparagraph (a)1., subparagraph (a)4., subparagraph  
 3 (a)5., ~~or~~ subparagraph (a)6., or subparagraph (a)8. to  
 4 disclose information relating to the existence of a sealed  
 5 criminal history record of a person seeking employment, access  
 6 authorization, or licensure with such entity or contractor,  
 7 except to the person to whom the criminal history record  
 8 relates or to persons having direct responsibility for  
 9 employment, access authorization, or licensure decisions. Any  
 10 person who violates the provisions of this paragraph commits a  
 11 misdemeanor of the first degree, punishable as provided in s.  
 12 775.082 or s. 775.083.

13 (5) STATUTORY REFERENCES.--Any reference to any other  
 14 chapter, section, or subdivision of the Florida Statutes in  
 15 this section constitutes a general reference under the  
 16 doctrine of incorporation by reference.

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

19 943.13 Officers' minimum qualifications for employment  
 20 or appointment.--On or after October 1, 1984, any person  
 21 employed or appointed as a full-time, part-time, or auxiliary  
 22 law enforcement officer or correctional officer; on or after  
 23 October 1, 1986, any person employed as a full-time,  
 24 part-time, or auxiliary correctional probation officer; and on  
 25 or after October 1, 1986, any person employed as a full-time,  
 26 part-time, or auxiliary correctional officer by a private  
 27 entity under contract to the Department of Corrections, to a  
 28 county commission, or to the Department of Management Services  
 29 shall:

30 (5) Have documentation of his or her processed  
 31 fingerprints on file with the employing agency or, if a

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1 private correctional officer, have documentation of his or her  
 2 processed fingerprints on file with the Department of  
 3 Corrections or the Criminal Justice Standards and Training  
 4 Commission. If administrative delays are caused by the  
 5 department or the Federal Bureau of Investigation and the  
 6 person has complied with subsections (1)-(4) and (6)-(9), he  
 7 or she may be employed or appointed for a period not to exceed  
 8 1 calendar year from the date he or she was employed or  
 9 appointed or until return of the processed fingerprints  
 10 documenting noncompliance with subsections (1)-(4) or  
 11 subsection (7), whichever occurs first. Beginning January 15,  
 12 2007, the department shall retain and enter into the statewide  
 13 automated fingerprint identification system authorized by s.  
 14 943.05 all fingerprints submitted to the department as  
 15 required by this section. Thereafter, the fingerprints shall  
 16 be available for all purposes and uses authorized for arrest  
 17 fingerprint cards entered in the statewide automated  
 18 fingerprint identification system pursuant to s. 943.051. The  
 19 department shall search all arrest fingerprints cards received  
 20 pursuant to s. 943.051 against the fingerprints retained in  
 21 the statewide automated fingerprint identification system  
 22 pursuant to this section and report to the employing agency  
 23 any arrest records that are identified with the retained  
 24 employee's fingerprints. By January 1, 2008, a person who must  
 25 meet the minimum qualifications provided in this section and  
 26 whose fingerprints are not retained by the department pursuant  
 27 to this section must be refingerprinted. These fingerprints  
 28 must be forwarded to the department for processing and  
 29 retention.

30 Section 13. Section 943.1715, Florida Statutes, is  
 31 amended to read:

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1           943.1715 Basic skills training relating to diverse  
 2 populations.--The commission shall establish and maintain  
 3 standards for instruction of officers in the subject of  
 4 interpersonal skills relating to diverse populations, with an  
 5 emphasis on the awareness of cultural differences. Every basic  
 6 skills course required in order for officers to obtain initial  
 7 certification must include ~~a minimum of 8 hours~~ training in  
 8 interpersonal skills with diverse populations.

9           Section 14. Section 943.1716, Florida Statutes, is  
 10 amended to read:

11           943.1716 Continued employment training relating to  
 12 diverse populations.--The commission shall by rule require  
 13 that each officer receive, as part of the 40 hours of required  
 14 instruction for continued employment or appointment as an  
 15 officer, ~~8 hours of~~ instruction in the subject of  
 16 interpersonal skills relating to diverse populations, with an  
 17 emphasis on the awareness of cultural differences.

18           Section 15. Section 943.2569, Florida Statutes, is  
 19 repealed.

20           Section 16. Section 943.257, Florida Statutes, is  
 21 amended to read:

22           943.257 Independent audit documentation subject to  
 23 inspection.--The Criminal Justice Standards and Training  
 24 Commission or a center's advisory board may inspect and copy  
 25 any documents from the center as required to carry out the  
 26 commission's or the respective board's oversight  
 27 responsibilities, including information and documents related  
 28 to applicant evaluations and center expenditures. The  
 29 commission or board may inspect and copy the documentation of  
 30 any internal or independent audits conducted by or on behalf  
 31 of the centers to ensure that candidate and inservice officer

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1 assessments have been made and that expenditures are in  
2 conformance with the requirements of this act and with other  
3 applicable procedures.

4 Section 17. Subsections (1) and (3) of section  
5 943.401, Florida Statutes, are amended to read:

6 943.401 Public assistance fraud.--

7 (1)(a) The Department of Law Enforcement shall  
8 investigate all public assistance provided to residents of the  
9 state or provided to others by the state ~~made under the~~  
10 ~~provisions of chapter 409 or chapter 414.~~ In the course of  
11 such investigation the Department of Law Enforcement shall  
12 examine all records, including electronic benefits transfer  
13 records and make inquiry of all persons who may have knowledge  
14 as to any irregularity incidental to the disbursement of  
15 public moneys, food stamps, or other items or benefits  
16 authorizations to recipients.

17 (b) All public assistance recipients, as a condition  
18 precedent to qualification for public assistance received and  
19 as defined under the provisions of chapter 409, chapter 411,  
20 or chapter 414, shall first give in writing, to the Agency for  
21 Health Care Administration, the Department of Health, the  
22 Agency for Workforce Innovation, and the Department of  
23 Children and Family Services, as appropriate, and to the  
24 Department of Law Enforcement, consent to make inquiry of past  
25 or present employers and records, financial or otherwise.

26 (3) The results of such investigation shall be  
27 reported by the Department of Law Enforcement to the  
28 appropriate legislative committees, the Agency for Health Care  
29 Administration, the Department of Health, the Agency for  
30 Workforce Innovation, and the Department of Children and  
31 Family Services, and to such others as the Department of Law

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1 Enforcement may determine.

2 Section 18. Authority to purchase goodwill and  
3 promotional materials.--

4 (1) The Legislature recognizes that the Department of  
5 Law Enforcement functions as one of the state's primary law  
6 enforcement representatives in national and international  
7 meetings, conferences, and cooperative efforts. The department  
8 often hosts delegates from other federal, state, local, and  
9 international agencies and is in a position to function as a  
10 representative of the state fostering goodwill and effective  
11 interagency working relationships. It is the intent of the  
12 Legislature that the department be allowed, consistent with  
13 the dignity and integrity of the state, to purchase and  
14 distribute material and items of collection to those with whom  
15 the department has contact in meetings, conferences, and  
16 cooperative efforts.

17 (2) In addition to expenditures separately authorized  
18 by law, the department may expend not more than \$5,000  
19 annually to purchase and distribute promotional materials or  
20 items that serve to advance with dignity and integrity the  
21 goodwill of this state and the department and to provide basic  
22 refreshments at official functions, seminars, or meetings of  
23 the department in which dignitaries or representatives from  
24 the Federal Government, other states or nationalities, or  
25 other agencies are in attendance.

26 Section 19. Unauthorized use of Department of Law  
27 Enforcement emblems or names prohibited.--

28 (1) Whoever, except with the written permission of the  
29 executive director of the Department of Law Enforcement or as  
30 otherwise expressly authorized by the department, knowingly  
31 uses the words "Florida Department of Law Enforcement," the

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1 initials "F.D.L.E." or "FDLE," or the words "Florida Capitol  
2 Police," or any colorable imitation of such words or initials,  
3 or who uses a logo or emblem used by the department in  
4 connection with any advertisement, circular, book, pamphlet,  
5 or other publication, play, motion picture, broadcast,  
6 telecast, or other production, in any Internet web page or  
7 upon any product in a manner reasonably calculated to convey  
8 the impression that such advertisement, circular, book,  
9 pamphlet, or other publication, play, motion picture,  
10 broadcast, telecast, or other production, Internet web page,  
11 or product is approved, endorsed, or authorized by the  
12 department commits a misdemeanor of the first degree,  
13 punishable as provided in s. 775.082 or s. 775.083, Florida  
14 Statutes.

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

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

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22 ===== T I T L E   A M E N D M E N T =====

23 And the title is amended as follows:

24       Delete everything before the enacting clause

25

26 and insert:

27                       A bill to be entitled  
28       An act relating to the Department of Law  
29       Enforcement; amending s. 790.065, F.S.;  
30       requiring the department to review other  
31       records in addition to criminal history records

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

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1 without reimbursement; amending s. 937.021,  
2 F.S.; providing immunity to the department,  
3 other law enforcement agencies, media  
4 representatives, and dealers of communications  
5 services from civil liability for complying in  
6 good faith with a request to record or report  
7 information of an Amber Alert or Missing Child  
8 Alert; providing that a technical or clerical  
9 error or incorrect or incomplete information  
10 does not overcome the presumption of good faith  
11 in reporting information about an Amber Alert  
12 or Missing Child Alert; providing that it is a  
13 discretionary decision of a law enforcement  
14 agency or its employees to report, record, or  
15 display Amber Alert or Missing Child Alert  
16 information; amending s. 938.07, F.S.;  
17 requiring that a portion of certain court costs  
18 imposed for a conviction of driving or boating  
19 under the influence be deposited into the  
20 department's Operating Trust Fund instead of  
21 the Criminal Justice Standards and Training  
22 Trust Fund; amending s. 938.27, F.S.; requiring  
23 that investigative costs recovered on behalf of  
24 the department be deposited into the Forfeiture  
25 and Investigative Trust Fund; amending s.  
26 943.05, F.S.; authorizing the department to  
27 retain fingerprints in certain circumstances  
28 and use retained fingerprints for certain  
29 purposes; amending s. 943.052, F.S.; requiring  
30 that disposition reports for dispositions  
31 relating to minor offenders are mandatory after

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1 a specified date; amending s. 68.07, F.S.;

2 requiring a set of fingerprints as part of a

3 name-change petition; amending s. 943.053,

4 F.S.; requiring the department to make certain

5 information available to judges; limiting the

6 use of information; authorizing a criminal

7 justice agency to obtain a criminal history

8 background check of a noncertified agency

9 employee by submitting fingerprints to the

10 department; requiring that a criminal history

11 check be provided by the department in certain

12 circumstances; amending s. 943.0585, F.S.;

13 prohibiting a court from expunging a criminal

14 history record containing certain sexual

15 offenses or certain offenses that require

16 registration as a sexual offender; requiring a

17 valid certificate of eligibility for expunction

18 in a petition to expunge a criminal history

19 record; specifying the time during which a

20 certificate of eligibility for expunction is

21 valid; requiring that a trial must not have

22 occurred in order for a person to obtain a

23 statement from the state attorney authorizing

24 the expunction of a criminal record;

25 authorizing a person who has secured a prior

26 sealing or expunction of a criminal history

27 record to seek a certificate of eligibility for

28 expunction if the criminal history record was

29 previously sealed for a specified time and is

30 otherwise eligible for expunction; providing

31 that a person who is seeking authorization for

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1 employment or access to a seaport may not deny  
2 or fail to acknowledge an arrest covered by an  
3 expunged record; providing that the department  
4 may acknowledge an expunged criminal history  
5 record under certain circumstances; amending s.  
6 943.059, F.S.; enumerating certain sexual  
7 offenses and offenses that require registration  
8 as a sexual offender which may not be sealed;  
9 requiring a valid certificate of eligibility  
10 for sealing in a petition to seal a criminal  
11 history record; specifying the period during  
12 which a certificate of eligibility for sealing  
13 is valid; providing that information in a  
14 sealed criminal record is available to a  
15 criminal justice agency to conduct a criminal  
16 history background check for approval of a  
17 firearms purchase or transfer; prohibiting a  
18 person from denying arrests covered by his or  
19 her sealed criminal record when attempting to  
20 purchase a firearm; providing that a person who  
21 is seeking authorization for employment or  
22 access to a seaport may not deny or fail to  
23 acknowledge an arrest covered by a sealed  
24 record; providing that the department may  
25 acknowledge a sealed criminal history record  
26 under certain circumstances; amending s.  
27 943.13, F.S.; requiring the department to enter  
28 the fingerprints of law enforcement or  
29 correctional officers into a statewide  
30 automated fingerprint identification system;  
31 requiring the department to search each arrest

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1 fingerprint card received against fingerprints  
2 retained in the statewide automated fingerprint  
3 identification system; providing for  
4 refingerprinting by a certain date; amending  
5 ss. 943.1715 and 943.1716, F.S.; deleting the  
6 minimum number of hours required for basic  
7 skills training and continued employment  
8 training relating to diverse populations for  
9 law enforcement officers; repealing s.  
10 943.2569, F.S., relating to an annual financial  
11 audit of criminal justice selection centers;  
12 amending s. 943.257, F.S.; authorizing the  
13 Criminal Justice Standards and Training  
14 Commission and the advisory board of a criminal  
15 justice selection center to inspect and copy  
16 any documents from a center in order to conduct  
17 oversight responsibilities, including documents  
18 pertaining to any internal or independent  
19 audits; amending s. 943.401, F.S.; requiring  
20 the department to investigate all public  
21 assistance that is provided by the state;  
22 requiring public assistance recipients to  
23 consent in writing to an investigation into  
24 their employment and financial histories by the  
25 Agency for Workforce Innovation; requiring the  
26 department to report the results of the  
27 investigations to the Agency for Workforce  
28 Innovation; authorizing the department to  
29 purchase goodwill and promotional materials;  
30 limiting the annual amount of such  
31 expenditures; prohibiting the unauthorized use

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1 of the department's emblems and names;  
2 providing a penalty; providing an effective  
3 date.

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