



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

1 retain fingerprints in certain circumstances  
2 and use retained fingerprints for certain  
3 purposes; amending s. 943.052, F.S.; requiring  
4 that disposition reports for dispositions  
5 relating to minor offenders are mandatory after  
6 a specified date; amending s. 68.07, F.S.;  
7 requiring a set of fingerprints as part of a  
8 name-change petition; amending s. 943.053,  
9 F.S.; requiring the department to make certain  
10 information available to judges; limiting the  
11 use of information; authorizing a criminal  
12 justice agency to obtain a criminal history  
13 background check of a noncertified agency  
14 employee by submitting fingerprints to the  
15 department; requiring that a criminal history  
16 check be provided by the department in certain  
17 circumstances; amending s. 943.0585, F.S.;  
18 prohibiting a court from expunging a criminal  
19 history record containing certain sexual  
20 offenses or certain offenses that require  
21 registration as a sexual offender; requiring a  
22 valid certificate of eligibility for expunction  
23 in a petition to expunge a criminal history  
24 record; specifying the time during which a  
25 certificate of eligibility for expunction is  
26 valid; requiring that a trial must not have  
27 occurred in order for a person to obtain a  
28 statement from the state attorney authorizing  
29 the expunction of a criminal record;  
30 authorizing a person who has secured a prior  
31 sealing or expunction of a criminal history

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

1 943.13, F.S.; requiring the department to enter  
2 the fingerprints of law enforcement or  
3 correctional officers into a statewide  
4 automated fingerprint identification system;  
5 requiring the department to search each arrest  
6 fingerprint card received against fingerprints  
7 retained in the statewide automated fingerprint  
8 identification system; providing for  
9 refingerprinting by a certain date; amending  
10 ss. 943.1715 and 943.1716, F.S.; deleting the  
11 minimum number of hours required for basic  
12 skills training and continued employment  
13 training relating to diverse populations for  
14 law enforcement officers; repealing s.  
15 943.2569, F.S., relating to an annual financial  
16 audit of criminal justice selection centers;  
17 amending s. 943.257, F.S.; authorizing the  
18 Criminal Justice Standards and Training  
19 Commission and the advisory board of a criminal  
20 justice selection center to inspect and copy  
21 any documents from a center in order to conduct  
22 oversight responsibilities, including documents  
23 pertaining to any internal or independent  
24 audits; amending s. 943.401, F.S.; requiring  
25 the department to investigate all public  
26 assistance that is provided by the state;  
27 requiring public assistance recipients to  
28 consent in writing to an investigation into  
29 their employment and financial histories by the  
30 Agency for Workforce Innovation; requiring the  
31 department to report the results of the

1 investigations to the Agency for Workforce  
2 Innovation; authorizing the department to  
3 purchase goodwill and promotional materials;  
4 limiting the annual amount of such  
5 expenditures; prohibiting the unauthorized use  
6 of the department's emblems and names;  
7 providing a penalty; providing an effective  
8 date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
12 Section 1. Effective February 1, 2007, paragraph (a)  
13 of subsection (2) of section 790.065, Florida Statutes, is  
14 amended to read:

15 790.065 Sale and delivery of firearms.--

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

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

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

24 2. Has been convicted of a misdemeanor crime of  
25 domestic violence, and therefore is prohibited from purchasing  
26 a firearm; ~~or~~

27 3. Has had adjudication of guilt withheld or  
28 imposition of sentence suspended on any felony or misdemeanor  
29 crime of domestic violence unless 3 years have elapsed since  
30 probation or any other conditions set by the court have been  
31 fulfilled or expunction has occurred; or

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

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

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

25           c. In order to check for such conditions, the  
26 department shall compile and maintain an automated database of  
27 persons who are prohibited from purchasing a firearm based on  
28 court records of adjudications of mental defectiveness or  
29 commitments to mental institutions. Each clerk of court shall  
30 submit these records to the department within 1 month after  
31 the order of adjudication or commitment is rendered. Reports

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

20 d. The department may disclose the collected data to  
21 federal or state agencies for use exclusively in determining  
22 the lawfulness of a firearm sale or transfer. The department  
23 may also disclose any applicable collected data to the  
24 Department of Agriculture and Consumer Services for purposes  
25 of determining a person's eligibility for a concealed weapons  
26 or concealed firearms license upon receipt of an applicant  
27 fingerprint submission forwarded pursuant to s. 790.06(6)(a).  
28 If a potential buyer or transferee appeals a nonapproval based  
29 on such records, the clerks of court and mental institutions  
30 shall, upon request by the department, provide information to  
31 help determine whether the potential buyer or transferee is



1 the same person as the subject of the record. Photographs and  
2 other data that may confirm or negate identity must be made  
3 available to the department for such purposes, notwithstanding  
4 any other provision of state law to the contrary. Information  
5 that is made confidential or exempt from disclosure by law  
6 shall remain confidential or exempt when transferred to the  
7 department.

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

10 914.25 Protective services for certain victims and  
11 witnesses.--

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

23 (b) Protective services, including temporary  
24 relocation services, may initially be provided for up to 1  
25 year or until the risk giving rise to the certification has  
26 diminished, whichever occurs sooner. ~~If deemed necessary,~~ The  
27 statewide prosecutor or the state attorney may, at the end of  
28 the certification year, recertify a victim or witness at risk  
29 of harm for an additional period of up to 1 year or until the  
30 risk giving rise to the certification has diminished,  
31 whichever occurs first. A victim or witness at risk of harm

1 may be certified and recertified annually as provided in this  
2 section to provide a maximum of 4 years of eligibility for  
3 protective services.

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

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

16 937.021 Missing child reports.--

17 (3)(a) Upon receiving a request to record, report,  
18 transmit, display, or release Amber Alert or Missing Child  
19 Alert information from the law enforcement agency having  
20 jurisdiction over the missing or endangered child, the  
21 Department of Law Enforcement as the state Amber Alert  
22 coordinator; any state or local law enforcement agency and the  
23 personnel of these agencies; any radio or television network,  
24 broadcaster, or other media representative; any dealer of  
25 communications services as defined in s. 202.11; or any  
26 agency, employee, individual, or entity is immune from civil  
27 liability for damages for complying in good faith with the  
28 request and is presumed to have acted in good faith in  
29 recording, reporting, transmitting, displaying, or releasing  
30 Amber Alert or Missing Child Alert information pertaining to  
31 such child.

1        (b) The presumption of good faith is not overcome if a  
2 technical or clerical error is made by an agency, employee,  
3 individual, or entity acting at the request of the local law  
4 enforcement agency having jurisdiction, or if the Amber Alert  
5 or Missing Child Alert information is incomplete or incorrect  
6 because the information received from the local law  
7 enforcement agency was incomplete or incorrect.

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

16        Section 4. Section 938.07, Florida Statutes, is  
17 amended to read:

18        938.07 Driving or boating under the  
19 influence.--Notwithstanding any other provision of s. 316.193  
20 or s. 327.35, a court cost of \$135 shall be added to any fine  
21 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall  
22 remit the funds to the Department of Revenue, \$25 of which  
23 shall be deposited in the Emergency Medical Services Trust  
24 Fund, \$50 shall be deposited in the Operating Criminal Justice  
25 ~~Standards and Training~~ Trust Fund of the Department of Law  
26 Enforcement to be used for operational expenses in conducting  
27 the statewide criminal analysis laboratory system established  
28 in s. 943.32, and \$60 shall be deposited in the Brain and  
29 Spinal Cord Injury Rehabilitation Trust Fund created in s.  
30 381.79.  
31

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

3           938.27 Judgment for costs on conviction.--

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

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

19           943.05 Criminal Justice Information Program; duties;  
20 crime reports.--

21           (2) The program shall:

22           (g) As authorized by law, retain fingerprints  
23 submitted by criminal and noncriminal justice agencies to the  
24 department for a criminal history background screening in a  
25 manner provided by rule and enter the fingerprints in the  
26 statewide automated fingerprint identification system  
27 authorized by paragraph (b). Such fingerprints shall be  
28 available for all purposes and uses authorized for arrest  
29 fingerprint cards entered into the statewide automated  
30 fingerprint identification system pursuant to s. 943.051.

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

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

24           943.052 Disposition reporting.--The Criminal Justice  
25 Information Program shall, by rule, establish procedures and a  
26 format for each criminal justice agency to monitor its records  
27 and submit reports, as provided by this section, to the  
28 program. The disposition report shall be developed by the  
29 program and shall include the offender-based transaction  
30 system number.  
31

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

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

11           68.07 Change of name.--

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

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

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

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

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

26           (e) Petitioner's occupation and where petitioner is  
27 employed and has been employed for 5 years next preceding  
28 filing of the petition. If petitioner owns and operates a  
29 business, the name and place of it shall be stated and  
30 petitioner's connection therewith and how long petitioner has  
31 been identified with said business. If petitioner is in a

1 | profession, the profession shall be stated, where the  
2 | petitioner has practiced the profession and if a graduate of a  
3 | school or schools, the name or names thereof, time of  
4 | graduation, and degrees received.

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

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

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

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

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

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

24 |         (5) The clerk must, upon the filing of the final  
25 | judgment, send a report of the judgment to the Department of  
26 | Law Enforcement on a form to be furnished by that department.  
27 | The Department of Law Enforcement must send a copy of the  
28 | report to the Department of Highway Safety and Motor Vehicles,  
29 | which may be delivered by electronic transmission. The report  
30 | must contain sufficient information to identify the  
31 | petitioner, including a ~~set copy~~ of the petitioner's

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

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

20 943.053 Dissemination of criminal justice information;  
21 fees.--

22 (5) Notwithstanding s. 943.0525, and any user  
23 agreement adopted pursuant thereto, and notwithstanding the  
24 confidentiality of sealed records as provided in s. 943.059,  
25 the department shall make criminal justice information  
26 available on-line to each judge in the state court system in  
27 order to assist the judge in case-related decisionmaking.  
28 On-line access shall be provided without charge to the state  
29 court system. Sealed records received by courts under this  
30 section remain confidential and exempt from s. 119.07(1). The  
31 information provided pursuant to this subsection does not



1 replace any information required to be provided to the courts  
2 by any other agency or entity. Information provided under this  
3 subsection may be used only for the official court business  
4 for which it was requested and may not be further  
5 disseminated.

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

27 (12) Notwithstanding any other provision of law, when  
28 a criminal history check or a duty to disclose the absence of  
29 a criminal history check is mandated by state law or when a  
30 privilege or benefit is conferred by state law in return for  
31 exercising an option of conducting a criminal history check,

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

20 Section 10. Section 943.0585, Florida Statutes, is  
21 amended to read:

22 943.0585 Court-ordered expunction of criminal history  
23 records.--The courts of this state have jurisdiction over  
24 their own procedures, including the maintenance, expunction,  
25 and correction of judicial records containing criminal history  
26 information to the extent such procedures are not inconsistent  
27 with the conditions, responsibilities, and duties established  
28 by this section. Any court of competent jurisdiction may order  
29 a criminal justice agency to expunge the criminal history  
30 record of a minor or an adult who complies with the  
31 requirements of this section. The court shall not order a

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

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

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

14 |           (a) A valid certificate of eligibility for expunction  
15 | issued by the department pursuant to subsection (2).

16 |           (b) The petitioner's sworn statement attesting that  
17 | the petitioner:

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

23 |           2. Has not been adjudicated guilty of, or adjudicated  
24 | delinquent for committing, any of the acts stemming from the  
25 | arrest or alleged criminal activity to which the petition  
26 | pertains.

27 |           3. Has never secured a prior sealing or expunction of  
28 | a criminal history record under this section, former s.  
29 | 893.14, former s. 901.33, or former s. 943.058, or from any  
30 | jurisdiction outside the state, unless the expunction is  
31 | sought for a criminal history record that was previously

1 sealed for 10 years pursuant to paragraph (2)(h) and the  
2 record is otherwise eligible for expunction.

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

7  
8 Any person who knowingly provides false information on such  
9 sworn statement to the court commits a felony of the third  
10 degree, punishable as provided in s. 775.082, s. 775.083, or  
11 s. 775.084.

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

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

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

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

11           3. That the criminal history record does not relate to  
12 a violation of s. 393.135, s. 394.4593, s. 787.025, chapter  
13 794, s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,  
14 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.  
15 847.0145, s. 893.135, s. 916.1075, or a violation enumerated  
16 in s. 907.041, or any violation specified as a predicate  
17 offense for registration as a sexual predator pursuant to s.  
18 775.21, without regard to whether that offense alone is  
19 sufficient to require such registration, or as a sexual  
20 offender pursuant to s. 943.0435, where the defendant was  
21 found guilty of, or pled guilty or nolo contendere to any such  
22 offense, or that the defendant, as a minor, was found to have  
23 committed, or pled guilty or nolo contendere to committing,  
24 such an offense as a delinquent act, without regard to whether  
25 adjudication was withheld.

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

29           (c) Has submitted to the department a certified copy  
30 of the disposition of the charge to which the petition to  
31 expunge pertains.

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

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

11 (f) Has never secured a prior sealing or expunction of  
12 a criminal history record under this section, former s.  
13 893.14, former s. 901.33, or former s. 943.058, unless  
14 expunction is sought of a criminal history record previously  
15 sealed for 10 years pursuant to paragraph (h) and the record  
16 is otherwise eligible for expunction.

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

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

1 ~~required to wait a minimum of 10 years prior to being eligible~~  
2 ~~for an expunction of such records because all charges related~~  
3 ~~to the arrest or criminal activity to which the petition to~~  
4 ~~expunge pertains were dismissed prior to trial, adjudication,~~  
5 ~~or the withholding of adjudication. Otherwise, such criminal~~  
6 ~~history record must be sealed under this section, former s.~~  
7 ~~893.14, former s. 901.33, or former s. 943.058 for at least 10~~  
8 ~~years before such record is eligible for expunction.~~

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

10 (a) In judicial proceedings under this section, a copy  
11 of the completed petition to expunge 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 expunge.

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 the arresting  
21 agency. The arresting agency is responsible for forwarding the  
22 order to any other agency to which the arresting agency  
23 disseminated the criminal history record information to which  
24 the order pertains. The department shall forward the order to  
25 expunge to the Federal Bureau of Investigation. The clerk of  
26 the court shall certify a copy of the order to any other  
27 agency which the records of the court reflect has received the  
28 criminal history record from the court.

29 (c) For an order to expunge entered by a court prior  
30 to July 1, 1992, the department shall notify the appropriate  
31 state attorney or statewide prosecutor of an order to expunge



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

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

26 |         (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
27 | criminal history record of a minor or an adult which is  
28 | ordered expunged by a court of competent jurisdiction pursuant  
29 | to this section must be physically destroyed or obliterated by  
30 | any criminal justice agency having custody of such record;  
31 | except that any criminal history record in the custody of the

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

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

15 1. Is a candidate for employment with a criminal  
16 justice agency;

17 2. Is a defendant in a criminal prosecution;

18 3. Concurrently or subsequently petitions for relief  
19 under this section or s. 943.059;

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

21 5. Is seeking to be employed or licensed by or to  
22 contract with the Department of Children and Family Services  
23 or the Department of Juvenile Justice or to be employed or  
24 used by such contractor or licensee in a sensitive position  
25 having direct contact with children, the developmentally  
26 disabled, the aged, or the elderly as provided in s.  
27 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
28 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
29 916.106(10) and (13), s. 985.407, or chapter 400; ~~or~~

30 6. Is seeking to be employed or licensed by the  
31 Department of Education, any district school board, any

1 university laboratory school, any charter school, any private  
2 or parochial school, or any local governmental entity that  
3 licenses child care facilities; ~~or-~~

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

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

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

1 licensure decisions. Any person who violates this paragraph  
2 commits a misdemeanor of the first degree, punishable as  
3 provided in s. 775.082 or s. 775.083.

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

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

10 943.059 Court-ordered sealing of criminal history  
11 records.--The courts of this state shall continue to have  
12 jurisdiction over their own procedures, including the  
13 maintenance, sealing, and correction of judicial records  
14 containing criminal history information to the extent such  
15 procedures are not inconsistent with the conditions,  
16 responsibilities, and duties established by this section. Any  
17 court of competent jurisdiction may order a criminal justice  
18 agency to seal the criminal history record of a minor or an  
19 adult who complies with the requirements of this section. The  
20 court shall not order a criminal justice agency to seal a  
21 criminal history record until the person seeking to seal a  
22 criminal history record has applied for and received a  
23 certificate of eligibility for sealing pursuant to subsection  
24 (2). A criminal history record that relates to a violation of  
25 s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03,  
26 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,  
27 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
28 893.135, s. 916.1075, ~~or~~ a violation enumerated in s. 907.041,  
29 or any violation specified as a predicate offense for  
30 registration as a sexual predator pursuant to s. 775.21,  
31 without regard to whether that offense alone is sufficient to

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

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

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

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

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

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

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

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

25  
26 Any person who knowingly provides false information on such  
27 sworn statement to the court commits a felony of the third  
28 degree, punishable as provided in s. 775.082, s. 775.083, or  
29 s. 775.084.

30           (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to  
31 petitioning the court to seal a criminal history record, a

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

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

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

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

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

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



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.

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.

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

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

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:

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

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

1 Family Services, and to such others as the Department of Law  
2 Enforcement may determine.

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

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

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

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

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



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

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

19 Section 20. Except as otherwise expressly provided in  
20 this act, this act shall take effect July 1, 2006.  
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- 1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                   COMMITTEE SUBSTITUTE FOR  
3   Senate Bill 544
- 4 - Clarifies that dealers of communications services are  
5 provided civil immunity for complying in good faith to  
6 record or release Amber Alert or Missing Child Alert  
7 information.  
8 - Changes are referenced which authorizes FDLE to retain  
9 fingerprints submitted by criminal and noncriminal  
10 justice agencies for criminal history background  
11 screening in a manner provided by rule.  
12 - Clarifies that a person petitioning to have his or her  
13 criminal history record sealed or expunged must attest  
14 that he or she has never, prior to the filing date of the  
15 petition, been adjudicated guilty of a criminal offense  
16 or comparable ordinance violation, or been adjudicated  
17 delinquent for committing any felony or misdemeanor  
18 specified in s. 943.051(3)(b), F.S.  
19 - Revises the fingerprint retention date for sworn criminal  
20 justice employees.  
21 - Amends provision relating to public assistance fraud to  
22 clarify that all public assistance recipients, as a  
23 condition precedent to qualification for public  
24 assistance received and as defined under the provisions  
25 of chapters 409, 411, and 414, F.S., shall first give in  
26 writing, to the Agency for Health Care Administration,  
27 the Department of Health, the Agency for Workforce  
28 Innovation, and the Department of Children and Family  
29 Services, as appropriate, and to the Department of Law  
30 Enforcement, consent to make inquiry of past or present  
31 employers and records, financial or otherwise.  
- Changes language relating to waiving of fingerprint  
retention fees to conform language found in current law  
under s. 943.053(3)(a), F. S., which governs the  
dissemination of criminal justice information by the  
Department of Law Enforcement.