

By the Committees on Judiciary; Criminal Justice; and Senator Fasano

590-1748-06

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

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. 932.7055,
7 F.S.; deleting a requirement that every law
8 enforcement agency submit semiannual reports to
9 the department regarding seized or forfeited
10 property; deleting a requirement that the
11 department submit an annual report to the
12 criminal justice committees of the Legislature;
13 amending s. 937.021, F.S.; providing immunity
14 to the department, other law enforcement
15 agencies, media representatives, and dealers of
16 communications services from civil liability
17 for complying in good faith with a request to
18 record or report information of an Amber Alert
19 or Missing Child Alert; providing that a
20 technical or clerical error or incorrect or
21 incomplete information does not overcome the
22 presumption of good faith in reporting
23 information about an Amber Alert or Missing
24 Child Alert; providing that it is a
25 discretionary decision of a law enforcement
26 agency or its employees to report, record, or
27 display Amber Alert or Missing Child Alert
28 information; amending s. 938.07, F.S. ;
29 requiring that a portion of certain court costs
30 imposed for a conviction of driving or boating
31 under the influence be deposited into the

1 department's Operating Trust Fund instead of
2 the Criminal Justice Standards and Training
3 Trust Fund; amending s. 938.27, F.S.; requiring
4 that investigative costs recovered on behalf of
5 the department be deposited into the Forfeiture
6 and Investigative Trust Fund; amending s.
7 943.05, F.S.; authorizing the department to
8 retain fingerprints in certain circumstances
9 and use retained fingerprints for certain
10 purposes; amending s. 943.052, F.S.; requiring
11 that disposition reports for dispositions
12 relating to minor offenders are mandatory after
13 a specified date; amending s. 68.07, F.S.;
14 requiring a set of fingerprints as part of a
15 name-change petition; amending s. 943.053,
16 F.S.; requiring the department to make certain
17 information available to judges; limiting the
18 use of information; authorizing a criminal
19 justice agency to obtain a criminal history
20 background check of a noncertified agency
21 employee by submitting fingerprints to the
22 department; requiring that a criminal history
23 check be provided by the department in certain
24 circumstances; amending s. 943.0585, F.S.;
25 prohibiting a court from expunging a criminal
26 history record containing certain sexual
27 offenses or certain offenses that require
28 registration as a sexual offender; requiring a
29 valid certificate of eligibility for expunction
30 in a petition to expunge a criminal history
31 record; specifying the time during which a

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

1 purchase a firearm; providing that a person who
2 is seeking authorization for employment or
3 access to a seaport may not deny or fail to
4 acknowledge an arrest covered by a sealed
5 record; providing that the department may
6 acknowledge a sealed criminal history record
7 under certain circumstances; amending s.
8 943.13, F.S.; requiring the department to enter
9 the fingerprints of law enforcement or
10 correctional officers into a statewide
11 automated fingerprint identification system;
12 requiring the department to search each arrest
13 fingerprint card received against fingerprints
14 retained in the statewide automated fingerprint
15 identification system; providing for
16 refingerprinting by a certain date; amending
17 ss. 943.1715 and 943.1716, F.S.; deleting the
18 minimum number of hours required for basic
19 skills training and continued employment
20 training relating to diverse populations for
21 law enforcement officers; repealing s.
22 943.2569, F.S., relating to an annual financial
23 audit of criminal justice selection centers;
24 amending s. 943.257, F.S.; authorizing the
25 Criminal Justice Standards and Training
26 Commission and the advisory board of a criminal
27 justice selection center to inspect and copy
28 any documents from a center in order to conduct
29 oversight responsibilities, including documents
30 pertaining to any internal or independent
31 audits; amending s. 943.401, F.S.; requiring

1 the department to investigate all public
2 assistance that is provided by the state;
3 requiring public assistance recipients to
4 consent in writing to an investigation into
5 their employment and financial histories by the
6 Agency for Workforce Innovation; requiring the
7 department to report the results of the
8 investigations to the Agency for Workforce
9 Innovation; authorizing the department to
10 purchase goodwill and promotional materials;
11 limiting the annual amount of such
12 expenditures; prohibiting the unauthorized use
13 of the department's emblems and names;
14 providing a penalty; providing effective dates.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Effective February 1, 2007, paragraph (a)
19 of subsection (2) of section 790.065, Florida Statutes, is
20 amended to read:

21 790.065 Sale and delivery of firearms.--

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

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

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

30
31

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

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

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

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

22 b. As used in this subparagraph, the term "committed
23 to a mental institution" means involuntary commitment,
24 commitment for mental defectiveness or mental illness, or
25 commitment for substance abuse. The term includes involuntary
26 inpatient placement as defined in s. 394.467, involuntary
27 assessment and stabilization under s. 397.6818, and
28 involuntary substance abuse treatment under s. 397.6957, but
29 does not include a person in a mental institution for
30 observation or a person who has been discharged from a mental
31

1 institution based upon the initial review by the physician or
2 a voluntary admission to a mental institution.

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

29 d. The department may disclose the collected data to
30 federal or state agencies for use exclusively in determining
31 the lawfulness of a firearm sale or transfer. The department

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

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

19 914.25 Protective services for certain victims and
20 witnesses.--

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

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

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

23 Section 3. Subsection (9) of section 932.7055, Florida
24 Statutes, is amended to read:

25 932.7055 Disposition of liens and forfeited
26 property.--

27 ~~(9)(a) Every law enforcement agency shall submit~~
28 ~~semiannual reports to the Department of Law Enforcement~~
29 ~~indicating whether the agency has seized or forfeited property~~
30 ~~under the Florida Contraband Forfeiture Act. Any law~~
31 ~~enforcement agency receiving or expending forfeited property~~

1 ~~or proceeds from the sale of forfeited property in accordance~~
2 ~~with the Florida Contraband Forfeiture Act shall submit~~
3 ~~completed semiannual reports, by April 10, and October 10,~~
4 ~~documenting the receipts and expenditures, on forms~~
5 ~~promulgated by the Department of Law Enforcement, to the~~
6 ~~entity which has budgetary authority over such agency and to~~
7 ~~the Department of Law Enforcement. The semiannual report~~
8 ~~shall specify the type, approximate value, any court case~~
9 ~~number, type of offense, disposition of the property received,~~
10 ~~and the amount of any proceeds received or expended.~~

11 ~~(b) The Department of Law Enforcement shall submit an~~
12 ~~annual report to the criminal justice committees of the House~~
13 ~~of Representatives and of the Senate compiling the information~~
14 ~~and data related in the semiannual reports submitted by the~~
15 ~~law enforcement agencies. The annual report shall also~~
16 ~~contain a list of law enforcement agencies which have failed~~
17 ~~to meet the reporting requirements and a summary of any action~~
18 ~~which has been taken against the noncomplying agency by the~~
19 ~~Office of the Chief Financial Officer.~~

20 ~~(c) Neither the law enforcement agency nor the entity~~
21 ~~having budgetary control over the law enforcement agency shall~~
22 ~~anticipate future forfeitures or proceeds therefrom in the~~
23 ~~adoption and approval of the budget for the law enforcement~~
24 ~~agency.~~

25 Section 4. Subsection (3) is added to section 937.021,
26 Florida Statutes, to read:

27 937.021 Missing child reports.--

28 (3)(a) Upon receiving a request to record, report,
29 transmit, display, or release Amber Alert or Missing Child
30 Alert information from the law enforcement agency having
31 jurisdiction over the missing or endangered child, the

1 Department of Law Enforcement as the state Amber Alert
2 coordinator; any state or local law enforcement agency and the
3 personnel of these agencies; any radio or television network,
4 broadcaster, or other media representative; any dealer of
5 communications services as defined in s. 202.11; or any
6 agency, employee, individual, or entity is immune from civil
7 liability for damages for complying in good faith with the
8 request and is presumed to have acted in good faith in
9 recording, reporting, transmitting, displaying, or releasing
10 Amber Alert or Missing Child Alert information pertaining to
11 such child.

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

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

27 Section 5. Section 938.07, Florida Statutes, is
28 amended to read:

29 938.07 Driving or boating under the
30 influence.--Notwithstanding any other provision of s. 316.193
31 or s. 327.35, a court cost of \$135 shall be added to any fine

1 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
2 remit the funds to the Department of Revenue, \$25 of which
3 shall be deposited in the Emergency Medical Services Trust
4 Fund, \$50 shall be deposited in the Operating Criminal Justice
5 ~~Standards and Training~~ Trust Fund of the Department of Law
6 Enforcement to be used for operational expenses in conducting
7 the statewide criminal analysis laboratory system established
8 in s. 943.32, and \$60 shall be deposited in the Brain and
9 Spinal Cord Injury Rehabilitation Trust Fund created in s.
10 381.79.

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

13 938.27 Judgment for costs on conviction.--

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

27 Section 7. Paragraphs (g) and (h) are added to
28 subsection (2) of section 943.05, Florida Statutes, to read:

29 943.05 Criminal Justice Information Program; duties;
30 crime reports.--

31 (2) The program shall:

1 (g) As authorized by law, retain fingerprints
2 submitted by criminal and noncriminal justice agencies to the
3 department for a criminal history background screening in a
4 manner provided by rule and enter the fingerprints in the
5 statewide automated fingerprint identification system
6 authorized by paragraph (b). Such fingerprints shall be
7 available for all purposes and uses authorized for arrest
8 fingerprint cards entered into the statewide automated
9 fingerprint identification system pursuant to s. 943.051.

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

1 Section 8. Subsection (2) of section 943.052, Florida
2 Statutes, is amended to read:

3 943.052 Disposition reporting.--The Criminal Justice
4 Information Program shall, by rule, establish procedures and a
5 format for each criminal justice agency to monitor its records
6 and submit reports, as provided by this section, to the
7 program. The disposition report shall be developed by the
8 program and shall include the offender-based transaction
9 system number.

10 (2) Each clerk of the court shall submit the uniform
11 dispositions to the program or in a manner acceptable to the
12 program. The report shall be submitted at least once a month
13 and, when acceptable by the program, may be submitted in an
14 automated format. The disposition report is mandatory for
15 dispositions relating to adult offenders only. Beginning July
16 1, 2008, a disposition report for each disposition relating to
17 a minor offender is mandatory.

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

20 68.07 Change of name.--

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

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

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

30
31

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

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

6 (e) Petitioner's occupation and where petitioner is
7 employed and has been employed for 5 years next preceding
8 filing of the petition. If petitioner owns and operates a
9 business, the name and place of it shall be stated and
10 petitioner's connection therewith and how long petitioner has
11 been identified with said business. If petitioner is in a
12 profession, the profession shall be stated, where the
13 petitioner has practiced the profession and if a graduate of a
14 school or schools, the name or names thereof, time of
15 graduation, and degrees received.

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

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

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

24 (i) Whether any money judgment has ever been entered
25 against petitioner and if so, the name of the judgment
26 creditor, the amount and date thereof, the court by which
27 entered, and whether the judgment has been satisfied.

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

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

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

26 Section 10. Present subsections (5), (6), (7), (8),
27 and (9) of section 943.053, Florida Statutes, are redesignated
28 as subsections (6), (7), (8), (9), and (10), respectively, and
29 new subsections (5), (11), and (12) are added to that section,
30 to read:
31

1 943.053 Dissemination of criminal justice information;
2 fees.--

3 (5) Notwithstanding s. 943.0525, and any user
4 agreement adopted pursuant thereto, and notwithstanding the
5 confidentiality of sealed records as provided in s. 943.059,
6 the department shall make criminal justice information
7 available on-line to each judge in the state court system in
8 order to assist the judge in case-related decisionmaking.
9 On-line access shall be provided without charge to the state
10 court system. Sealed records received by courts under this
11 section remain confidential and exempt from s. 119.07(1). The
12 information provided pursuant to this subsection does not
13 replace any information required to be provided to the courts
14 by any other agency or entity. Information provided under this
15 subsection may be used only for the official court business
16 for which it was requested and may not be further
17 disseminated.

18 (11) A criminal justice agency that is authorized
19 under federal rules or law to conduct a criminal history
20 background check on an agency employee who is not certified by
21 the Criminal Justice Standards and Training Commission under
22 s. 943.12 may submit to the department the fingerprints of the
23 noncertified employee to obtain state and national criminal
24 history information. Effective January 15, 2007, fingerprints
25 submitted shall be retained and entered in the statewide
26 automated fingerprint identification system authorized by s.
27 943.05 and shall be available for all purposes and uses
28 authorized for arrest fingerprint cards entered in the
29 statewide automated fingerprint identification system pursuant
30 to s. 943.051. The department shall search all arrest
31 fingerprint cards received pursuant to s. 943.051 against the

1 fingerprints retained in the statewide automated fingerprint
2 identification system pursuant to this section. In addition to
3 the purposes and uses authorized for arrest fingerprint cards
4 for which submitted fingerprints may be used, any arrest
5 record that is identified with the retained employee
6 fingerprints must be reported to the submitting employing
7 agency.

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

1 Section 11. Section 943.0585, Florida Statutes, is
2 amended to read:

3 943.0585 Court-ordered expunction of criminal history
4 records.--The courts of this state have jurisdiction over
5 their own procedures, including the maintenance, expunction,
6 and correction of judicial records containing criminal history
7 information to the extent such procedures are not inconsistent
8 with the conditions, responsibilities, and duties established
9 by this section. Any court of competent jurisdiction may order
10 a criminal justice agency to expunge the criminal history
11 record of a minor or an adult who complies with the
12 requirements of this section. The court shall not order a
13 criminal justice agency to expunge a criminal history record
14 until the person seeking to expunge a criminal history record
15 has applied for and received a certificate of eligibility for
16 expunction pursuant to subsection (2). A criminal history
17 record that relates to a violation of s. 393.135, s. 394.4593,
18 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 810.14, s.
19 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s.
20 847.0135, s. 847.0145, s. 893.135, s. 916.1075, ~~or~~ a
21 violation enumerated in s. 907.041, or any violation specified
22 as a predicate offense for registration as a sexual predator
23 pursuant to s. 775.21, without regard to whether that offense
24 alone is sufficient to require such registration, or as a
25 sexual offender pursuant to s. 943.0435, may not be expunged,
26 without regard to whether adjudication was withheld, if the
27 defendant was found guilty of or pled guilty or nolo
28 contendere to the offense, or if the defendant, as a minor,
29 was found to have committed, or pled guilty or nolo contendere
30 to committing, the offense as a delinquent act. The court may
31 only order expunction of a criminal history record pertaining

1 | to one arrest or one incident of alleged criminal activity,
2 | except as provided in this section. The court may, at its sole
3 | discretion, order the expunction of a criminal history record
4 | pertaining to more than one arrest if the additional arrests
5 | directly relate to the original arrest. If the court intends
6 | to order the expunction of records pertaining to such
7 | additional arrests, such intent must be specified in the
8 | order. A criminal justice agency may not expunge any record
9 | pertaining to such additional arrests if the order to expunge
10 | does not articulate the intention of the court to expunge a
11 | record pertaining to more than one arrest. This section does
12 | not prevent the court from ordering the expunction of only a
13 | portion of a criminal history record pertaining to one arrest
14 | or one incident of alleged criminal activity. Notwithstanding
15 | any law to the contrary, a criminal justice agency may comply
16 | with laws, court orders, and official requests of other
17 | jurisdictions relating to expunction, correction, or
18 | confidential handling of criminal history records or
19 | information derived therefrom. This section does not confer
20 | any right to the expunction of any criminal history record,
21 | and any request for expunction of a criminal history record
22 | may be denied at the sole discretion of the court.

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

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

28 | (b) The petitioner's sworn statement attesting that
29 | the petitioner:

30 | 1. Has never, prior to the date on which the petition
31 | is filed, been adjudicated guilty of a criminal offense or

1 comparable ordinance violation, or been adjudicated delinquent
2 for committing any a felony or a misdemeanor specified in s.
3 943.051(3)(b).

4 2. Has not been adjudicated guilty of, or adjudicated
5 delinquent for committing, any of the acts stemming from the
6 arrest or alleged criminal activity to which the petition
7 pertains.

8 3. Has never secured a prior sealing or expunction of
9 a criminal history record under this section, former s.
10 893.14, former s. 901.33, or former s. 943.058, or from any
11 jurisdiction outside the state, unless the expunction is
12 sought for a criminal history record that was previously
13 sealed for 10 years pursuant to paragraph (2)(h) and the
14 record is otherwise eligible for expunction.

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

19
20 Any person who knowingly provides false information on such
21 sworn statement to the court commits a felony of the third
22 degree, punishable as provided in s. 775.082, s. 775.083, or
23 s. 775.084.

24 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
25 to petitioning the court to expunge a criminal history record,
26 a person seeking to expunge a criminal history record shall
27 apply to the department for a certificate of eligibility for
28 expunction. The department shall, by rule adopted pursuant to
29 chapter 120, establish procedures pertaining to the
30 application for and issuance of certificates of eligibility
31 for expunction. A certificate of eligibility for expunction is

1 valid for 12 months after the date stamped on the certificate
2 when issued by the Department of Law Enforcement. After that
3 time, the petitioner must reapply to the department for a new
4 certificate of eligibility. Eligibility for a renewed
5 certification of eligibility must be based on the status of
6 the applicant and the law in effect at the time of the renewal
7 application. The department shall issue a certificate of
8 eligibility for expunction to a person who is the subject of a
9 criminal history record if that person:

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

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

15 2. That an indictment, information, or other charging
16 document, if filed or issued in the case, was dismissed or
17 nolle prosequi by the state attorney or statewide prosecutor,
18 or was dismissed by a court of competent jurisdiction, and
19 that none of the charges related to the arrest or alleged
20 criminal activity to which the petition to expunge pertains
21 resulted in a trial, without regard to whether the outcome of
22 the trial was other than an adjudication of guilt.

23 3. That the criminal history record does not relate to
24 a violation of s. 393.135, s. 394.4593, s. 787.025, chapter
25 794, s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
26 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.
27 847.0145, s. 893.135, s. 916.1075, or a violation enumerated
28 in s. 907.041, or any violation specified as a predicate
29 offense for registration as a sexual predator pursuant to s.
30 775.21, without regard to whether that offense alone is
31 sufficient to require such registration, or as a sexual

1 offender pursuant to s. 943.0435, where the defendant was
2 found guilty of, or pled guilty or nolo contendere to any such
3 offense, or that the defendant, as a minor, was found to have
4 committed, or pled guilty or nolo contendere to committing,
5 such an offense as a delinquent act, without regard to whether
6 adjudication was withheld.

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

10 (c) Has submitted to the department a certified copy
11 of the disposition of the charge to which the petition to
12 expunge pertains.

13 (d) Has never, prior to the date on which the
14 application for a certificate of eligibility is filed, been
15 adjudicated guilty of a criminal offense or comparable
16 ordinance violation, or been adjudicated delinquent for
17 committing any ~~a~~ felony or a misdemeanor specified in s.
18 943.051(3)(b).

19 (e) Has not been adjudicated guilty of, or adjudicated
20 delinquent for committing, any of the acts stemming from the
21 arrest or alleged criminal activity to which the petition to
22 expunge pertains.

23 (f) Has never secured a prior sealing or expunction of
24 a criminal history record under this section, former s.
25 893.14, former s. 901.33, or former s. 943.058, unless
26 expunction is sought of a criminal history record previously
27 sealed for 10 years pursuant to paragraph (h) and the record
28 is otherwise eligible for expunction.

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

1 (h) Has previously obtained a court order sealing the
2 record under this section, former s. 893.14, former s. 901.33,
3 or former s. 943.058 for a minimum of 10 years because
4 adjudication was withheld or because all charges related to
5 the arrest or alleged criminal activity to which the petition
6 to expunge pertains were not dismissed prior to trial, without
7 regard to whether the outcome of the trial was other than an
8 adjudication of guilt. The requirement for the record to have
9 previously been sealed for a minimum of 10 years does not
10 apply when a plea was not entered or all charges related to
11 the arrest or alleged criminal activity to which the petition
12 to expunge pertains were dismissed prior to trial. ~~Is not~~
13 ~~required to wait a minimum of 10 years prior to being eligible~~
14 ~~for an expunction of such records because all charges related~~
15 ~~to the arrest or criminal activity to which the petition to~~
16 ~~expunge pertains were dismissed prior to trial, adjudication,~~
17 ~~or the withholding of adjudication. Otherwise, such criminal~~
18 ~~history record must be sealed under this section, former s.~~
19 ~~893.14, former s. 901.33, or former s. 943.058 for at least 10~~
20 ~~years before such record is eligible for expunction.~~

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

22 (a) In judicial proceedings under this section, a copy
23 of the completed petition to expunge shall be served upon the
24 appropriate state attorney or the statewide prosecutor and
25 upon the arresting agency; however, it is not necessary to
26 make any agency other than the state a party. The appropriate
27 state attorney or the statewide prosecutor and the arresting
28 agency may respond to the court regarding the completed
29 petition to expunge.

30 (b) If relief is granted by the court, the clerk of
31 the court shall certify copies of the order to the appropriate

1 state attorney or the statewide prosecutor and the arresting
2 agency. The arresting agency is responsible for forwarding the
3 order to any other agency to which the arresting agency
4 disseminated the criminal history record information to which
5 the order pertains. The department shall forward the order to
6 expunge to the Federal Bureau of Investigation. The clerk of
7 the court shall certify a copy of the order to any other
8 agency which the records of the court reflect has received the
9 criminal history record from the court.

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

22 (d) On or after July 1, 1992, the department or any
23 other criminal justice agency is not required to act on an
24 order to expunge entered by a court when such order does not
25 comply with the requirements of this section. Upon receipt of
26 such an order, the department must notify the issuing court,
27 the appropriate state attorney or statewide prosecutor, the
28 petitioner or the petitioner's attorney, and the arresting
29 agency of the reason for noncompliance. The appropriate state
30 attorney or statewide prosecutor shall take action within 60
31 days to correct the record and petition the court to void the

1 order. No cause of action, including contempt of court, shall
2 arise against any criminal justice agency for failure to
3 comply with an order to expunge when the petitioner for such
4 order failed to obtain the certificate of eligibility as
5 required by this section or such order does not otherwise
6 comply with the requirements of this section.

7 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
8 criminal history record of a minor or an adult which is
9 ordered expunged by a court of competent jurisdiction pursuant
10 to this section must be physically destroyed or obliterated by
11 any criminal justice agency having custody of such record;
12 except that any criminal history record in the custody of the
13 department must be retained in all cases. A criminal history
14 record ordered expunged that is retained by the department is
15 confidential and exempt from the provisions of s. 119.07(1)
16 and s. 24(a), Art. I of the State Constitution and not
17 available to any person or entity except upon order of a court
18 of competent jurisdiction. A criminal justice agency may
19 retain a notation indicating compliance with an order to
20 expunge.

21 (a) The person who is the subject of a criminal
22 history record that is expunged under this section or under
23 other provisions of law, including former s. 893.14, former s.
24 901.33, and former s. 943.058, may lawfully deny or fail to
25 acknowledge the arrests covered by the expunged record, except
26 when the subject of the record:

27 1. Is a candidate for employment with a criminal
28 justice agency;

29 2. Is a defendant in a criminal prosecution;

30 3. Concurrently or subsequently petitions for relief
31 under this section or s. 943.059;

- 1 4. Is a candidate for admission to The Florida Bar;
- 2 5. Is seeking to be employed or licensed by or to
- 3 contract with the Department of Children and Family Services
- 4 or the Department of Juvenile Justice or to be employed or
- 5 used by such contractor or licensee in a sensitive position
- 6 having direct contact with children, the developmentally
- 7 disabled, the aged, or the elderly as provided in s.
- 8 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
- 9 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
- 10 916.106(10) and (13), s. 985.407, or chapter 400; ~~or~~
- 11 6. Is seeking to be employed or licensed by the
- 12 Department of Education, any district school board, any
- 13 university laboratory school, any charter school, any private
- 14 or parochial school, or any local governmental entity that
- 15 licenses child care facilities; or-
- 16 7. Is seeking authorization from a Florida seaport
- 17 identified in s. 311.09 for employment within or access to one
- 18 or more of such seaports, pursuant to s. 311.12 or s. 311.125.
- 19 (b) Subject to the exceptions in paragraph (a), a
- 20 person who has been granted an expunction under this section,
- 21 former s. 893.14, former s. 901.33, or former s. 943.058 may
- 22 not be held under any provision of law of this state to commit
- 23 perjury or to be otherwise liable for giving a false statement
- 24 by reason of such person's failure to recite or acknowledge an
- 25 expunged criminal history record.
- 26 (c) Information relating to the existence of an
- 27 expunged criminal history record which is provided in
- 28 accordance with paragraph (a) is confidential and exempt from
- 29 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
- 30 State Constitution, except that the department shall disclose
- 31 the existence of a criminal history record ordered expunged to

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

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

20 | Section 12. Section 943.059, Florida Statutes, is
21 | amended to read:

22 | 943.059 Court-ordered sealing of criminal history
23 | records.--The courts of this state shall continue to have
24 | jurisdiction over their own procedures, including the
25 | maintenance, sealing, and correction of judicial records
26 | containing criminal history information to the extent such
27 | procedures are not inconsistent with the conditions,
28 | responsibilities, and duties established by this section. Any
29 | court of competent jurisdiction may order a criminal justice
30 | agency to seal the criminal history record of a minor or an
31 | adult who complies with the requirements of this section. The

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

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

14 | (a) A valid certificate of eligibility for sealing
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 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 to
26 | seal 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, former s. 943.058, or from any
30 | jurisdiction outside the state.

31 |

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

5
6 Any person who knowingly provides false information on such
7 sworn statement to the court commits a felony of the third
8 degree, punishable as provided in s. 775.082, s. 775.083, or
9 s. 775.084.

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

27 (a) Has submitted to the department a certified copy
28 of the disposition of the charge to which the petition to seal
29 pertains.

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

4 (c) 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 (d) 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 seal pertains.

14 (e) 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.

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

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

21 (a) In judicial proceedings under this section, a copy
22 of the completed petition to seal shall be served upon the
23 appropriate state attorney or the statewide prosecutor and
24 upon the arresting agency; however, it is not necessary to
25 make any agency other than the state a party. The appropriate
26 state attorney or the statewide prosecutor and the arresting
27 agency may respond to the court regarding the completed
28 petition to seal.

29 (b) If relief is granted by the court, the clerk of
30 the court shall certify copies of the order to the appropriate
31 state attorney or the statewide prosecutor and to the

1 | arresting agency. The arresting agency is responsible for
2 | forwarding the order to any other agency to which the
3 | arresting agency disseminated the criminal history record
4 | information to which the order pertains. The department shall
5 | forward the order to seal to the Federal Bureau of
6 | Investigation. The clerk of the court shall certify a copy of
7 | the order to any other agency which the records of the court
8 | reflect has received the criminal history record from the
9 | court.

10 | (c) For an order to seal entered by a court prior to
11 | July 1, 1992, the department shall notify the appropriate
12 | state attorney or statewide prosecutor of any order to seal
13 | which is contrary to law because the person who is the subject
14 | of the record has previously been convicted of a crime or
15 | comparable ordinance violation or has had a prior criminal
16 | history record sealed or expunged. Upon receipt of such
17 | notice, the appropriate state attorney or statewide prosecutor
18 | shall take action, within 60 days, to correct the record and
19 | petition the court to void the order to seal. The department
20 | shall seal the record until such time as the order is voided
21 | by the court.

22 | (d) On or after July 1, 1992, the department or any
23 | other criminal justice agency is not required to act on an
24 | order to seal entered by a court when such order does not
25 | comply with the requirements of this section. Upon receipt of
26 | such an order, the department must notify the issuing court,
27 | the appropriate state attorney or statewide prosecutor, the
28 | petitioner or the petitioner's attorney, and the arresting
29 | agency of the reason for noncompliance. The appropriate state
30 | attorney or statewide prosecutor shall take action within 60
31 | days to correct the record and petition the court to void the

1 order. No cause of action, including contempt of court, shall
2 arise against any criminal justice agency for failure to
3 comply with an order to seal when the petitioner for such
4 order failed to obtain the certificate of eligibility as
5 required by this section or when such order does not comply
6 with the requirements of this section.

7 (e) An order sealing a criminal history record
8 pursuant to this section does not require that such record be
9 surrendered to the court, and such record shall continue to be
10 maintained by the department and other criminal justice
11 agencies.

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

26 (a) The subject of a criminal history record sealed
27 under this section or under other provisions of law, including
28 former s. 893.14, former s. 901.33, and former s. 943.058, may
29 lawfully deny or fail to acknowledge the arrests covered by
30 the sealed record, except when the subject of the record:
31

- 1 1. Is a candidate for employment with a criminal
2 justice agency;
- 3 2. Is a defendant in a criminal prosecution;
- 4 3. Concurrently or subsequently petitions for relief
5 under this section or s. 943.0585;
- 6 4. Is a candidate for admission to The Florida Bar;
- 7 5. Is seeking to be employed or licensed by or to
8 contract with the Department of Children and Family Services
9 or the Department of Juvenile Justice or to be employed or
10 used by such contractor or licensee in a sensitive position
11 having direct contact with children, the developmentally
12 disabled, the aged, or the elderly as provided in s.
13 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
14 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
15 415.103, s. 916.106(10) and (13), s. 985.407, or chapter 400;
16 ~~or~~
- 17 6. Is seeking to be employed or licensed by the
18 Department of Education, any district school board, any
19 university laboratory school, any charter school, any private
20 or parochial school, or any local governmental entity that
21 licenses child care facilities;~~-~~
- 22 7. Is attempting to purchase a firearm from a licensed
23 importer, licensed manufacturer, or licensed dealer and is
24 subject to a criminal history background check under state or
25 federal law; or
- 26 8. Is seeking authorization from a Florida seaport
27 identified in s. 311.09 for employment within or access to one
28 or more of such seaports, pursuant to s. 311.12 or s. 311.125.
- 29 (b) Subject to the exceptions in paragraph (a), a
30 person who has been granted a sealing under this section,
31 former s. 893.14, former s. 901.33, or former s. 943.058 may

1 not be held under any provision of law of this state to commit
2 perjury or to be otherwise liable for giving a false statement
3 by reason of such person's failure to recite or acknowledge a
4 sealed criminal history record.

5 (c) Information relating to the existence of a sealed
6 criminal record provided in accordance with the provisions of
7 paragraph (a) is confidential and exempt from the provisions
8 of s. 119.07(1) and s. 24(a), Art. I of the State
9 Constitution, except that the department shall disclose the
10 sealed criminal history record to the entities set forth in
11 subparagraphs (a)1., 4., 5., ~~and 6., and 8.~~ for their
12 respective licensing, access authorization, and employment
13 purposes. It is unlawful for any employee of an entity set
14 forth in subparagraph (a)1., subparagraph (a)4., subparagraph
15 (a)5., ~~or~~ subparagraph (a)6., or subparagraph (a)8. to
16 disclose information relating to the existence of a sealed
17 criminal history record of a person seeking employment, access
18 authorization, or licensure with such entity or contractor,
19 except to the person to whom the criminal history record
20 relates or to persons having direct responsibility for
21 employment, access authorization, or licensure decisions. Any
22 person who violates the provisions of this paragraph commits a
23 misdemeanor of the first degree, punishable as provided in s.
24 775.082 or s. 775.083.

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

29 Section 13. Subsection (5) of section 943.13, Florida
30 Statutes, is amended to read:
31

1 943.13 Officers' minimum qualifications for employment
2 or appointment.--On or after October 1, 1984, any person
3 employed or appointed as a full-time, part-time, or auxiliary
4 law enforcement officer or correctional officer; on or after
5 October 1, 1986, any person employed as a full-time,
6 part-time, or auxiliary correctional probation officer; and on
7 or after October 1, 1986, any person employed as a full-time,
8 part-time, or auxiliary correctional officer by a private
9 entity under contract to the Department of Corrections, to a
10 county commission, or to the Department of Management Services
11 shall:

12 (5) Have documentation of his or her processed
13 fingerprints on file with the employing agency or, if a
14 private correctional officer, have documentation of his or her
15 processed fingerprints on file with the Department of
16 Corrections or the Criminal Justice Standards and Training
17 Commission. If administrative delays are caused by the
18 department or the Federal Bureau of Investigation and the
19 person has complied with subsections (1)-(4) and (6)-(9), he
20 or she may be employed or appointed for a period not to exceed
21 1 calendar year from the date he or she was employed or
22 appointed or until return of the processed fingerprints
23 documenting noncompliance with subsections (1)-(4) or
24 subsection (7), whichever occurs first. Beginning January 15,
25 2007, the department shall retain and enter into the statewide
26 automated fingerprint identification system authorized by s.
27 943.05 all fingerprints submitted to the department as
28 required by this section. Thereafter, the fingerprints shall
29 be available for all purposes and uses authorized for arrest
30 fingerprint cards entered in the statewide automated
31 fingerprint identification system pursuant to s. 943.051. The

1 department shall search all arrest fingerprints cards received
2 pursuant to s. 943.051 against the fingerprints retained in
3 the statewide automated fingerprint identification system
4 pursuant to this section and report to the employing agency
5 any arrest records that are identified with the retained
6 employee's fingerprints. By January 1, 2008, a person who must
7 meet the minimum qualifications provided in this section and
8 whose fingerprints are not retained by the department pursuant
9 to this section must be refingerprinted. These fingerprints
10 must be forwarded to the department for processing and
11 retention.

12 Section 14. Section 943.1715, Florida Statutes, is
13 amended to read:

14 943.1715 Basic skills training relating to diverse
15 populations.--The commission shall establish and maintain
16 standards for instruction of officers in the subject of
17 interpersonal skills relating to diverse populations, with an
18 emphasis on the awareness of cultural differences. Every basic
19 skills course required in order for officers to obtain initial
20 certification must include ~~a minimum of 8 hours~~ training in
21 interpersonal skills with diverse populations.

22 Section 15. Section 943.1716, Florida Statutes, is
23 amended to read:

24 943.1716 Continued employment training relating to
25 diverse populations.--The commission shall by rule require
26 that each officer receive, as part of the 40 hours of required
27 instruction for continued employment or appointment as an
28 officer, ~~8 hours of~~ instruction in the subject of
29 interpersonal skills relating to diverse populations, with an
30 emphasis on the awareness of cultural differences.

31

1 Section 16. Section 943.2569, Florida Statutes, is
2 repealed.

3 Section 17. Section 943.257, Florida Statutes, is
4 amended to read:

5 943.257 Independent audit documentation subject to
6 inspection.--The Criminal Justice Standards and Training
7 Commission or a center's advisory board may inspect and copy
8 any documents from the center as required to carry out the
9 commission's or the respective board's oversight
10 responsibilities, including information and documents related
11 to applicant evaluations and center expenditures. The
12 commission or board may inspect and copy the documentation of
13 any internal or independent audits conducted by or on behalf
14 of the centers to ensure that candidate and inservice officer
15 assessments have been made and that expenditures are in
16 conformance with the requirements of this act and with other
17 applicable procedures.

18 Section 18. Subsections (1) and (3) of section
19 943.401, Florida Statutes, are amended to read:

20 943.401 Public assistance fraud.--

21 (1)(a) The Department of Law Enforcement shall
22 investigate all public assistance provided to residents of the
23 state or provided to others by the state ~~made under the~~
24 ~~provisions of chapter 409 or chapter 414.~~ In the course of
25 such investigation the Department of Law Enforcement shall
26 examine all records, including electronic benefits transfer
27 records and make inquiry of all persons who may have knowledge
28 as to any irregularity incidental to the disbursement of
29 public moneys, food stamps, or other items or benefits
30 authorizations to recipients.

1 (b) All public assistance recipients, as a condition
2 precedent to qualification for public assistance received and
3 as defined under the provisions of chapter 409, chapter 411,
4 or chapter 414, shall first give in writing, to the Agency for
5 Health Care Administration, the Department of Health, the
6 Agency for Workforce Innovation, and the Department of
7 Children and Family Services, as appropriate, and to the
8 Department of Law Enforcement, consent to make inquiry of past
9 or present employers and records, financial or otherwise.

10 (3) The results of such investigation shall be
11 reported by the Department of Law Enforcement to the
12 appropriate legislative committees, the Agency for Health Care
13 Administration, the Department of Health, the Agency for
14 Workforce Innovation, and the Department of Children and
15 Family Services, and to such others as the Department of Law
16 Enforcement may determine.

17 Section 19. Authority to purchase goodwill and
18 promotional materials.--

19 (1) The Legislature recognizes that the Department of
20 Law Enforcement functions as one of the state's primary law
21 enforcement representatives in national and international
22 meetings, conferences, and cooperative efforts. The department
23 often hosts delegates from other federal, state, local, and
24 international agencies and is in a position to function as a
25 representative of the state fostering goodwill and effective
26 interagency working relationships. It is the intent of the
27 Legislature that the department be allowed, consistent with
28 the dignity and integrity of the state, to purchase and
29 distribute material and items of collection to those with whom
30 the department has contact in meetings, conferences, and
31 cooperative efforts.

1 (2) In addition to expenditures separately authorized
2 by law, the department may expend not more than \$5,000
3 annually to purchase and distribute promotional materials or
4 items that serve to advance with dignity and integrity the
5 goodwill of this state and the department and to provide basic
6 refreshments at official functions, seminars, or meetings of
7 the department in which dignitaries or representatives from
8 the Federal Government, other states or nationalities, or
9 other agencies are in attendance.

10 Section 20. Unauthorized use of Department of Law
11 Enforcement emblems or names prohibited.--

12 (1) Whoever, except with the written permission of the
13 executive director of the Department of Law Enforcement or as
14 otherwise expressly authorized by the department, knowingly
15 uses the words "Florida Department of Law Enforcement," the
16 initials "F.D.L.E." or "FDLE," or the words "Florida Capitol
17 Police," or any colorable imitation of such words or initials,
18 or who uses a logo or emblem used by the department in
19 connection with any advertisement, circular, book, pamphlet,
20 or other publication, play, motion picture, broadcast,
21 telecast, or other production, in any Internet web page or
22 upon any product in a manner reasonably calculated to convey
23 the impression that such advertisement, circular, book,
24 pamphlet, or other publication, play, motion picture,
25 broadcast, telecast, or other production, Internet web page,
26 or product is approved, endorsed, or authorized by the
27 department commits a misdemeanor of the first degree,
28 punishable as provided in s. 775.082 or s. 775.083, Florida
29 Statutes.

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

4 Section 21. Except as otherwise expressly provided in
5 this act, this act shall take effect July 1, 2006.

6
7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 CS/Senate Bill 544

10 The committee substitute proposes to repeal s. 932.7055(9)(a)
11 and (b), F.S. Paragraph (a) requires law enforcement agencies
12 to file reports relating to forfeited property with the
13 Florida Department of Law Enforcement (FDLE). Paragraph (b)
14 requires the FDLE to compile the information in the reports
15 into a report to the Legislature.