

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 state and national criminal history
26 records, wants and warrants, protective orders, records of
27 commitment and adjudication for mental illness, records
28 supplied under provisions of the Brady Act requiring
29 background checks before the sale and transfer of a firearm,
30 and other records that have been provided to the department

31

1 ~~criminal history records~~ to determine if the potential buyer
2 or transferee:

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

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

8 3. Has had adjudication of guilt withheld or
9 imposition of sentence suspended on any felony or misdemeanor
10 crime of domestic violence unless 3 years have elapsed since
11 probation or any other conditions set by the court have been
12 fulfilled or expunction has occurred; ~~or~~

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

16 a. As used in this subparagraph, the term "adjudicated
17 mentally defective" means a determination by a court that a
18 person, as a result of marked subnormal intelligence, or
19 mental illness, incompetency, condition, or disease, is a
20 danger to himself or herself or to others or lacks the mental
21 capacity to contract or manage his or her own affairs. The
22 term includes a judicial finding of incapacity under s.
23 744.331(6)(a), an acquittal by reason of insanity of a person
24 charged with a criminal offense, and a judicial finding that a
25 criminal defendant is not competent to stand trial.

26 b. As used in this subparagraph, the term "committed
27 to a mental institution" means involuntary commitment,
28 commitment for mental defectiveness or mental illness, or
29 commitment for substance abuse. The term includes involuntary
30 inpatient placement as defined in s. 394.467, involuntary
31 assessment and stabilization under s. 397.6818, and

1 involuntary substance abuse treatment under s. 397.6957, but
2 does not include a person in a mental institution for
3 observation or a person who has been discharged from a mental
4 institution based upon the initial review by the physician or
5 a voluntary admission to a mental institution.

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

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

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

22 914.25 Protective services for certain victims and
23 witnesses.--

24 (4)(a) When a victim or witness is certified as
25 provided in subsection (3), a law enforcement agency, in
26 consultation with the certifying state attorney or the
27 statewide prosecutor, may provide appropriate protective
28 services. If a victim or witness needs to be temporarily
29 relocated, the statewide prosecutor or the state attorney must
30 notify the Department of Law Enforcement. The Department of
31 Law Enforcement, in consultation with the statewide prosecutor

1 or the state attorney, and any other law enforcement agency
2 involved in the criminal investigation or prosecution, shall
3 coordinate the temporary relocation of the victim or witness.

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

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

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

28 932.7055 Disposition of liens and forfeited
29 property.--

30 (9)(a) ~~Every law enforcement agency shall submit~~
31 ~~semiannual reports to the Department of Law Enforcement~~

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

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

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

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

30 937.021 Missing child reports.--
31

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

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

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

31

1 Section 5. Section 938.07, Florida Statutes, is
2 amended to read:

3 938.07 Driving or boating under the
4 influence.--Notwithstanding any other provision of s. 316.193
5 or s. 327.35, a court cost of \$135 shall be added to any fine
6 imposed pursuant to s. 316.193 or s. 327.35. The clerks shall
7 remit the funds to the Department of Revenue, \$25 of which
8 shall be deposited in the Emergency Medical Services Trust
9 Fund, \$50 shall be deposited in the Operating Criminal Justice
10 ~~Standards and Training~~ Trust Fund of the Department of Law
11 Enforcement to be used for operational expenses in conducting
12 the statewide criminal analysis laboratory system established
13 in s. 943.32, and \$60 shall be deposited in the Brain and
14 Spinal Cord Injury Rehabilitation Trust Fund created in s.
15 381.79.

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

18 938.27 Judgment for costs on conviction.--

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

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

3 943.05 Criminal Justice Information Program; duties;
4 crime reports.--

5 (2) The program shall:

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

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

1 by the executive director for good cause shown. Consistent
2 with the recognition of criminal justice agencies expressed in
3 s. 943.053(3), these services shall be provided to criminal
4 justice agencies for criminal justice purposes free of charge.

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

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

14 (2) Each clerk of the court shall submit the uniform
15 dispositions to the program or in a manner acceptable to the
16 program. The report shall be submitted at least once a month
17 and, when acceptable by the program, may be submitted in an
18 automated format. The disposition report is mandatory for
19 dispositions relating to adult offenders only. Beginning July
20 1, 2008, a disposition report for each disposition relating to
21 a minor offender is mandatory.

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

24 68.07 Change of name.--

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

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

31

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

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

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

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

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

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

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

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

31

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

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

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

30 Section 10. Present subsections (5), (6), (7), (8),
31 and (9) of section 943.053, Florida Statutes, are redesignated

1 as subsections (6), (7), (8), (9), and (10), respectively, and
2 new subsections (5), (11), and (12) are added to that section,
3 to read:

4 943.053 Dissemination of criminal justice information;
5 fees.--

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

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

1 statewide automated fingerprint identification system pursuant
2 to s. 943.051. The department shall search all arrest
3 fingerprint cards received pursuant to s. 943.051 against the
4 fingerprints retained in the statewide automated fingerprint
5 identification system pursuant to this section. In addition to
6 the purposes and uses authorized for arrest fingerprint cards
7 for which submitted fingerprints may be used, any arrest
8 record that is identified with the retained employee
9 fingerprints must be reported to the submitting employing
10 agency.

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

1 criminal history check or a duty to disclose the absence of a
2 criminal history check is required by statute or is made a
3 condition of a privilege or benefit by law.

4 Section 11. Section 943.0585, Florida Statutes, is
5 amended to read:

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

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

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

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

31 |

1 (b) The petitioner's sworn statement attesting that
2 the petitioner:

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

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

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

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

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

28 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
29 to petitioning the court to expunge a criminal history record,
30 a person seeking to expunge a criminal history record shall
31 apply to the department for a certificate of eligibility for

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

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

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

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

27 3. That the criminal history record does not relate to
28 a violation of s. 393.135, s. 394.4593, s. 787.025, chapter
29 794, s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
30 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.
31 847.0145, s. 893.135, s. 916.1075, or a violation enumerated

1 | in s. 907.041, or any violation specified as a predicate
2 | offense for registration as a sexual predator pursuant to s.
3 | 775.21, without regard to whether that offense alone is
4 | sufficient to require such registration, or as a sexual
5 | offender pursuant to s. 943.0435, where the defendant was
6 | found guilty of, or pled guilty or nolo contendere to any such
7 | offense, or that the defendant, as a minor, was found to have
8 | committed, or pled guilty or nolo contendere to committing,
9 | such an offense as a delinquent act, without regard to whether
10 | adjudication was withheld.

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

14 | (c) Has submitted to the department a certified copy
15 | of the disposition of the charge to which the petition to
16 | expunge pertains.

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

23 | (e) 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 | expunge pertains.

27 | (f) 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, unless
30 | expunction is sought of a criminal history record previously
31 |

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

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

6 (h) Has previously obtained a court order sealing the
7 record under this section, former s. 893.14, former s. 901.33,
8 or former s. 943.058 for a minimum of 10 years because
9 adjudication was withheld or because all charges related to
10 the arrest or alleged criminal activity to which the petition
11 to expunge pertains were not dismissed prior to trial, without
12 regard to whether the outcome of the trial was other than an
13 adjudication of guilt. The requirement for the record to have
14 previously been sealed for a minimum of 10 years does not
15 apply when a plea was not entered or all charges related to
16 the arrest or alleged criminal activity to which the petition
17 to expunge pertains were dismissed prior to trial. ~~Is not~~
18 ~~required to wait a minimum of 10 years prior to being eligible~~
19 ~~for an expunction of such records because all charges related~~
20 ~~to the arrest or criminal activity to which the petition to~~
21 ~~expunge pertains were dismissed prior to trial, adjudication,~~
22 ~~or the withholding of adjudication. Otherwise, such criminal~~
23 ~~history record must be sealed under this section, former s.~~
24 ~~893.14, former s. 901.33, or former s. 943.058 for at least 10~~
25 ~~years before such record is eligible for expunction.~~

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

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

1 | state attorney or the statewide prosecutor and the arresting
2 | agency may respond to the court regarding the completed
3 | petition to expunge.

4 | (b) If relief is granted by the court, the clerk of
5 | the court shall certify copies of the order to the appropriate
6 | state attorney or the statewide prosecutor and the arresting
7 | agency. The arresting agency is responsible for forwarding the
8 | order to any other agency to which the arresting agency
9 | disseminated the criminal history record information to which
10 | the order pertains. The department shall forward the order to
11 | expunge to the Federal Bureau of Investigation. The clerk of
12 | the court shall certify a copy of the order to any other
13 | agency which the records of the court reflect has received the
14 | criminal history record from the court.

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

27 | (d) On or after July 1, 1992, the department or any
28 | other criminal justice agency is not required to act on an
29 | order to expunge entered by a court when such order does not
30 | comply with the requirements of this section. Upon receipt of
31 | such an order, the department must notify the issuing court,

1 | the appropriate state attorney or statewide prosecutor, the
2 | petitioner or the petitioner's attorney, and the arresting
3 | agency of the reason for noncompliance. The appropriate state
4 | attorney or statewide prosecutor shall take action within 60
5 | days to correct the record and petition the court to void the
6 | order. No cause of action, including contempt of court, shall
7 | arise against any criminal justice agency for failure to
8 | comply with an order to expunge when the petitioner for such
9 | order failed to obtain the certificate of eligibility as
10 | required by this section or such order does not otherwise
11 | comply with the requirements of this section.

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

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

- 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. 943.059;
- 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.
15 916.106(10) and (13), s. 985.407, or chapter 400; ~~or~~
- 16 6. Is seeking to be employed or licensed by the
17 Department of Education, any district school board, any
18 university laboratory school, any charter school, any private
19 or parochial school, or any local governmental entity that
20 licenses child care facilities; or-
- 21 7. Is seeking authorization from a Florida seaport
22 identified in s. 311.09 for employment within or access to one
23 or more of such seaports, pursuant to s. 311.12 or s. 311.125.
- 24 (b) Subject to the exceptions in paragraph (a), a
25 person who has been granted an expunction under this section,
26 former s. 893.14, former s. 901.33, or former s. 943.058 may
27 not be held under any provision of law of this state to commit
28 perjury or to be otherwise liable for giving a false statement
29 by reason of such person's failure to recite or acknowledge an
30 expunged criminal history record.
- 31

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

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

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

28 943.059 Court-ordered sealing of criminal history
29 records.--The courts of this state shall continue to have
30 jurisdiction over their own procedures, including the
31 maintenance, sealing, and correction of judicial records

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

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

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

20 | (a) A valid certificate of eligibility for sealing
21 | issued by the department pursuant to subsection (2).

22 | (b) The petitioner's sworn statement attesting that
23 | the petitioner:

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

29 | 2. 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 | 3. 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, former s. 943.058, or from any
6 | jurisdiction outside the state.

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

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

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

1 eligibility for sealing to a person who is the subject of a
2 criminal history record provided that such person:

3 (a) Has submitted to the department a certified copy
4 of the disposition of the charge to which the petition to seal
5 pertains.

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

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

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

19 (e) Has never secured a prior sealing or expunction of
20 a criminal history record under this section, former s.
21 893.14, former s. 901.33, or former s. 943.058.

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

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

26 (a) In judicial proceedings under this section, a copy
27 of the completed petition to seal shall be served upon the
28 appropriate state attorney or the statewide prosecutor and
29 upon the arresting agency; however, it is not necessary to
30 make any agency other than the state a party. The appropriate
31 state attorney or the statewide prosecutor and the arresting

1 agency may respond to the court regarding the completed
2 petition to seal.

3 (b) If relief is granted by the court, the clerk of
4 the court shall certify copies of the order to the appropriate
5 state attorney or the statewide prosecutor and to the
6 arresting agency. The arresting agency is responsible for
7 forwarding the order to any other agency to which the
8 arresting agency disseminated the criminal history record
9 information to which the order pertains. The department shall
10 forward the order to seal to the Federal Bureau of
11 Investigation. The clerk of the court shall certify a copy of
12 the order to any other agency which the records of the court
13 reflect has received the criminal history record from the
14 court.

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

27 (d) On or after July 1, 1992, the department or any
28 other criminal justice agency is not required to act on an
29 order to seal entered by a court when such order does not
30 comply with the requirements of this section. Upon receipt of
31 such an order, the department must notify the issuing court,

1 | the appropriate state attorney or statewide prosecutor, the
2 | petitioner or the petitioner's attorney, and the arresting
3 | agency of the reason for noncompliance. The appropriate state
4 | attorney or statewide prosecutor shall take action within 60
5 | days to correct the record and petition the court to void the
6 | order. No cause of action, including contempt of court, shall
7 | arise against any criminal justice agency for failure to
8 | comply with an order to seal when the petitioner for such
9 | order failed to obtain the certificate of eligibility as
10 | required by this section or when such order does not comply
11 | with the requirements of this section.

12 | (e) An order sealing a criminal history record
13 | pursuant to this section does not require that such record be
14 | surrendered to the court, and such record shall continue to be
15 | maintained by the department and other criminal justice
16 | agencies.

17 | (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
18 | criminal history record of a minor or an adult which is
19 | ordered sealed by a court of competent jurisdiction pursuant
20 | to this section is confidential and exempt from the provisions
21 | of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
22 | and is available only to the person who is the subject of the
23 | record, to the subject's attorney, to criminal justice
24 | agencies for their respective criminal justice purposes, which
25 | include conducting a criminal history background check for
26 | approval of firearms purchases or transfers as authorized by
27 | state or federal law, or to those entities set forth in
28 | subparagraphs (a)1., 4., 5., ~~and 6., and 8.~~ for their
29 | respective licensing, access authorization, and employment
30 | purposes.
31 |

1 (a) The subject of a criminal history record sealed
2 under this section or under other provisions of law, including
3 former s. 893.14, former s. 901.33, and former s. 943.058, may
4 lawfully deny or fail to acknowledge the arrests covered by
5 the sealed record, except when the subject of the record:
6 1. Is a candidate for employment with a criminal
7 justice agency;
8 2. Is a defendant in a criminal prosecution;
9 3. Concurrently or subsequently petitions for relief
10 under this section or s. 943.0585;
11 4. Is a candidate for admission to The Florida Bar;
12 5. Is seeking to be employed or licensed by or to
13 contract with the Department of Children and Family Services
14 or the Department of Juvenile Justice or to be employed or
15 used by such contractor or licensee in a sensitive position
16 having direct contact with children, the developmentally
17 disabled, the aged, or the elderly as provided in s.
18 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
19 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
20 415.103, s. 916.106(10) and (13), s. 985.407, or chapter 400;
21 ~~or~~
22 6. Is seeking to be employed or licensed by the
23 Department of Education, any district school board, any
24 university laboratory school, any charter school, any private
25 or parochial school, or any local governmental entity that
26 licenses child care facilities;
27 7. Is attempting to purchase a firearm from a licensed
28 importer, licensed manufacturer, or licensed dealer and is
29 subject to a criminal history background check under state or
30 federal law; or
31

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

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

11 (c) Information relating to the existence of a sealed
12 criminal record provided in accordance with the provisions of
13 paragraph (a) is confidential and exempt from the provisions
14 of s. 119.07(1) and s. 24(a), Art. I of the State
15 Constitution, except that the department shall disclose the
16 sealed criminal history record to the entities set forth in
17 subparagraphs (a)1., 4., 5., ~~and 6., and 8.~~ for their
18 respective licensing, access authorization, and employment
19 purposes. It is unlawful for any employee of an entity set
20 forth in subparagraph (a)1., subparagraph (a)4., subparagraph
21 (a)5., ~~or~~ subparagraph (a)6., or subparagraph (a)8. to
22 disclose information relating to the existence of a sealed
23 criminal history record of a person seeking employment, access
24 authorization, or licensure with such entity or contractor,
25 except to the person to whom the criminal history record
26 relates or to persons having direct responsibility for
27 employment, access authorization, or licensure decisions. Any
28 person who violates the provisions of this paragraph commits a
29 misdemeanor of the first degree, punishable as provided in s.
30 775.082 or s. 775.083.

31

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

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

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

18 (5) Have documentation of his or her processed
19 fingerprints on file with the employing agency or, if a
20 private correctional officer, have documentation of his or her
21 processed fingerprints on file with the Department of
22 Corrections or the Criminal Justice Standards and Training
23 Commission. If administrative delays are caused by the
24 department or the Federal Bureau of Investigation and the
25 person has complied with subsections (1)-(4) and (6)-(9), he
26 or she may be employed or appointed for a period not to exceed
27 1 calendar year from the date he or she was employed or
28 appointed or until return of the processed fingerprints
29 documenting noncompliance with subsections (1)-(4) or
30 subsection (7), whichever occurs first. Beginning January 15,
31 2007, the department shall retain and enter into the statewide

1 automated fingerprint identification system authorized by s.
2 943.05 all fingerprints submitted to the department as
3 required by this section. Thereafter, the fingerprints shall
4 be available for all purposes and uses authorized for arrest
5 fingerprint cards entered in the statewide automated
6 fingerprint identification system pursuant to s. 943.051. The
7 department shall search all arrest fingerprints cards received
8 pursuant to s. 943.051 against the fingerprints retained in
9 the statewide automated fingerprint identification system
10 pursuant to this section and report to the employing agency
11 any arrest records that are identified with the retained
12 employee's fingerprints. By January 1, 2008, a person who must
13 meet the minimum qualifications provided in this section and
14 whose fingerprints are not retained by the department pursuant
15 to this section must be refingerprinted. These fingerprints
16 must be forwarded to the department for processing and
17 retention.

18 Section 14. Section 943.1715, Florida Statutes, is
19 amended to read:

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

28 Section 15. Section 943.1716, Florida Statutes, is
29 amended to read:

30 943.1716 Continued employment training relating to
31 diverse populations.--The commission shall by rule require

1 that each officer receive, as part of the 40 hours of required
2 instruction for continued employment or appointment as an
3 officer, ~~8 hours of~~ instruction in the subject of
4 interpersonal skills relating to diverse populations, with an
5 emphasis on the awareness of cultural differences.

6 Section 16. Section 943.2569, Florida Statutes, is
7 repealed.

8 Section 17. Section 943.257, Florida Statutes, is
9 amended to read:

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

23 Section 18. Subsections (1) and (3) of section
24 943.401, Florida Statutes, are amended to read:

25 943.401 Public assistance fraud.--

26 (1)(a) The Department of Law Enforcement shall
27 investigate all public assistance provided to residents of the
28 state or provided to others by the state ~~made under the~~
29 ~~provisions of chapter 409 or chapter 414.~~ In the course of
30 such investigation the Department of Law Enforcement shall
31 examine all records, including electronic benefits transfer

1 records and make inquiry of all persons who may have knowledge
2 as to any irregularity incidental to the disbursement of
3 public moneys, food stamps, or other items or benefits
4 authorizations to recipients.

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

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

21 Section 19. Authority to purchase goodwill and
22 promotional materials.--

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

1 the dignity and integrity of the state, to purchase and
2 distribute material and items of collection to those with whom
3 the department has contact in meetings, conferences, and
4 cooperative efforts.

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

14 Section 20. Unauthorized use of Department of Law
15 Enforcement emblems or names prohibited.--

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

1 punishable as provided in s. 775.082 or s. 775.083, Florida
2 Statutes.

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

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

8
9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 CS for CS for SB 544

12 The amendment adopted in committee replaced a general
13 reference to unspecified records used for the background check
14 to a listing of the specific data sources used.

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31