

By Senator Siplin

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1 A bill to be entitled

2 An act relating to court-ordered expunction and sealing of
3 criminal history records; amending s. 943.0585, F.S.;
4 increasing from one to three the number of arrests or
5 incidents that a petitioner may offer for expunction by
6 the court without certain conditions; decreasing the
7 number of years that a criminal history record must be
8 sealed before the criminal history record is eligible for
9 expunction; amending s. 943.059, F.S.; increasing from one
10 to three the number of arrests or incidents that a
11 petitioner may request be sealed by the court without
12 certain conditions; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Section 943.0585, Florida Statutes, is amended
17 to read:

18 943.0585 Court-ordered expunction of criminal history
19 records.--The courts of this state have jurisdiction over their
20 own procedures, including the maintenance, expunction, and
21 correction of judicial records containing criminal history
22 information to the extent such procedures are not inconsistent
23 with the conditions, responsibilities, and duties established by
24 this section. Any court of competent jurisdiction may order a
25 criminal justice agency to expunge the criminal history record of
26 a minor or an adult who complies with the requirements of this
27 section. The court shall not order a criminal justice agency to
28 expunge a criminal history record until the person seeking to
29 expunge a criminal history record has applied for and received a

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30 certificate of eligibility for expunction pursuant to subsection
31 (2). A criminal history record that relates to a violation of s.
32 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
33 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
34 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
35 916.1075, a violation enumerated in s. 907.041, or any violation
36 specified as a predicate offense for registration as a sexual
37 predator pursuant to s. 775.21, without regard to whether that
38 offense alone is sufficient to require such registration, or for
39 registration as a sexual offender pursuant to s. 943.0435, may
40 not be expunged, without regard to whether adjudication was
41 withheld, if the defendant was found guilty of or pled guilty or
42 nolo contendere to the offense, or if the defendant, as a minor,
43 was found to have committed, or pled guilty or nolo contendere to
44 committing, the offense as a delinquent act. The court may only
45 order expunction of a criminal history record pertaining to three
46 arrests ~~one arrest~~ or three incidents ~~one incident~~ of alleged
47 criminal activity, except as provided in this section. The court
48 may, at its sole discretion, order the expunction of a criminal
49 history record pertaining to more than three arrests ~~one arrest~~
50 if the additional arrests directly relate to the original arrests
51 ~~arrest~~. If the court intends to order the expunction of records
52 pertaining to such additional arrests, such intent must be
53 specified in the order. A criminal justice agency may not expunge
54 any record pertaining to such additional arrests if the order to
55 expunge does not articulate the intention of the court to expunge
56 a record pertaining to more than three arrests ~~one arrest~~. This
57 section does not prevent the court from ordering the expunction
58 of only a portion of a criminal history record pertaining to

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59 three arrests ~~one arrest~~ or three incidents ~~one incident~~ of
60 alleged criminal activity. Notwithstanding any law to the
61 contrary, a criminal justice agency may comply with laws, court
62 orders, and official requests of other jurisdictions relating to
63 expunction, correction, or confidential handling of criminal
64 history records or information derived therefrom. This section
65 does not confer any right to the expunction of any criminal
66 history record, and any request for expunction of a criminal
67 history record may be denied at the sole discretion of the court.

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

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

73 (b) The petitioner's sworn statement attesting that the
74 petitioner:

75 1. Has never, prior to the date on which the petition is
76 filed, been adjudicated guilty of a criminal offense or
77 comparable ordinance violation, or been adjudicated delinquent
78 for committing any felony or a misdemeanor specified in s.
79 943.051(3)(b).

80 2. Has not been adjudicated guilty of, or adjudicated
81 delinquent for committing, any of the acts stemming from the
82 arrest or alleged criminal activity to which the petition
83 pertains.

84 3. Has not ~~never~~ secured more than two previous sealings or
85 expunctions ~~a prior sealing or expunction~~ of a criminal history
86 record under this section, former s. 893.14, former s. 901.33, or
87 former s. 943.058, or from any jurisdiction outside the state,

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88 unless expunction is sought of a criminal history record
89 previously sealed for 2 ~~10~~ years pursuant to paragraph (2)(h) and
90 the record is otherwise eligible for expunction.

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

94
95 Any person who knowingly provides false information on such sworn
96 statement to the court commits a felony of the third degree,
97 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

98 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior to
99 petitioning the court to expunge a criminal history record, a
100 person seeking to expunge a criminal history record shall apply
101 to the department for a certificate of eligibility for
102 expunction. The department shall, by rule adopted pursuant to
103 chapter 120, establish procedures pertaining to the application
104 for and issuance of certificates of eligibility for expunction. A
105 certificate of eligibility for expunction is valid for 12 months
106 after the date stamped on the certificate when issued by the
107 department. After that time, the petitioner must reapply to the
108 department for a new certificate of eligibility. Eligibility for
109 a renewed certification of eligibility must be based on the
110 status of the applicant and the law in effect at the time of the
111 renewal application. The department shall issue a certificate of
112 eligibility for expunction to a person who is the subject of a
113 criminal history record if that person:

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

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

119 2. That an indictment, information, or other charging
120 document, if filed or issued in the case, was dismissed or nolle
121 prosequi by the state attorney or statewide prosecutor, or was
122 dismissed by a court of competent jurisdiction, and that none of
123 the charges related to the arrest or alleged criminal activity to
124 which the petition to expunge pertains resulted in a trial,
125 without regard to whether the outcome of the trial was other than
126 an adjudication of guilt.

127 3. That the criminal history record does not relate to a
128 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, s.
129 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
130 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
131 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
132 any violation specified as a predicate offense for registration
133 as a sexual predator pursuant to s. 775.21, without regard to
134 whether that offense alone is sufficient to require such
135 registration, or for registration as a sexual offender pursuant
136 to s. 943.0435, where the defendant was found guilty of, or pled
137 guilty or nolo contendere to any such offense, or that the
138 defendant, as a minor, was found to have committed, or pled
139 guilty or nolo contendere to committing, such an offense as a
140 delinquent act, without regard to whether adjudication was
141 withheld.

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

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145 (c) Has submitted to the department a certified copy of the
146 disposition of the charge to which the petition to expunge
147 pertains.

148 (d) Has never, prior to the date on which the application
149 for a certificate of eligibility is filed, been adjudicated
150 guilty of a criminal offense or comparable ordinance violation,
151 or been adjudicated delinquent for committing any felony or a
152 misdemeanor specified in s. 943.051(3)(b).

153 (e) Has not been adjudicated guilty of, or adjudicated
154 delinquent for committing, any of the acts stemming from the
155 arrest or alleged criminal activity to which the petition to
156 expunge pertains.

157 (f) Has not ~~never~~ secured more than two previous sealings
158 or expunctions ~~a prior sealing or expunction~~ of a criminal
159 history record under this section, former s. 893.14, former s.
160 901.33, or former s. 943.058, unless expunction is sought of a
161 criminal history record previously sealed for 2 ~~10~~ years pursuant
162 to paragraph (h) and the record is otherwise eligible for
163 expunction.

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

167 (h) Has previously obtained a court order sealing the
168 record under this section, former s. 893.14, former s. 901.33, or
169 former s. 943.058 for a minimum of 2 ~~10~~ years because
170 adjudication was withheld or because all charges related to the
171 arrest or alleged criminal activity to which the petition to
172 expunge pertains were not dismissed prior to trial, without
173 regard to whether the outcome of the trial was other than an

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174 adjudication of guilt. The requirement for the record to have
175 previously been sealed for a minimum of 2 ~~10~~ years does not apply
176 when a plea was not entered or all charges related to the arrest
177 or alleged criminal activity to which the petition to expunge
178 pertains were dismissed prior to trial.

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

180 (a) In judicial proceedings under this section, a copy of
181 the completed petition to expunge shall be served upon the
182 appropriate state attorney or the statewide prosecutor and upon
183 the arresting agency; however, it is not necessary to make any
184 agency other than the state a party. The appropriate state
185 attorney or the statewide prosecutor and the arresting agency may
186 respond to the court regarding the completed petition to expunge.

187 (b) If relief is granted by the court, the clerk of the
188 court shall certify copies of the order to the appropriate state
189 attorney or the statewide prosecutor and the arresting agency.
190 The arresting agency is responsible for forwarding the order to
191 any other agency to which the arresting agency disseminated the
192 criminal history record information to which the order pertains.
193 The department shall forward the order to expunge to the Federal
194 Bureau of Investigation. The clerk of the court shall certify a
195 copy of the order to any other agency which the records of the
196 court reflect has received the criminal history record from the
197 court.

198 (c) For an order to expunge entered by a court prior to
199 July 1, 1992, the department shall notify the appropriate state
200 attorney or statewide prosecutor of an order to expunge which is
201 contrary to law because the person who is the subject of the
202 record has previously been convicted of a crime or comparable

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203 ordinance violation or has had a prior criminal history record
204 sealed or expunged. Upon receipt of such notice, the appropriate
205 state attorney or statewide prosecutor shall take action, within
206 60 days, to correct the record and petition the court to void the
207 order to expunge. The department shall seal the record until such
208 time as the order is voided by the court.

209 (d) On or after July 1, 1992, the department or any other
210 criminal justice agency is not required to act on an order to
211 expunge entered by a court when such order does not comply with
212 the requirements of this section. Upon receipt of such an order,
213 the department must notify the issuing court, the appropriate
214 state attorney or statewide prosecutor, the petitioner or the
215 petitioner's attorney, and the arresting agency of the reason for
216 noncompliance. The appropriate state attorney or statewide
217 prosecutor shall take action within 60 days to correct the record
218 and petition the court to void the order. No cause of action,
219 including contempt of court, shall arise against any criminal
220 justice agency for failure to comply with an order to expunge
221 when the petitioner for such order failed to obtain the
222 certificate of eligibility as required by this section or such
223 order does not otherwise comply with the requirements of this
224 section.

225 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
226 criminal history record of a minor or an adult which is ordered
227 expunged by a court of competent jurisdiction pursuant to this
228 section must be physically destroyed or obliterated by any
229 criminal justice agency having custody of such record; except
230 that any criminal history record in the custody of the department
231 must be retained in all cases. A criminal history record ordered

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232 expunged that is retained by the department is confidential and
233 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
234 of the State Constitution and not available to any person or
235 entity except upon order of a court of competent jurisdiction. A
236 criminal justice agency may retain a notation indicating
237 compliance with an order to expunge.

238 (a) The person who is the subject of a criminal history
239 record that is expunged under this section or under other
240 provisions of law, including former s. 893.14, former s. 901.33,
241 and former s. 943.058, may lawfully deny or fail to acknowledge
242 the arrests covered by the expunged record, except when the
243 subject of the record:

244 1. Is a candidate for employment with a criminal justice
245 agency;

246 2. Is a defendant in a criminal prosecution;

247 3. Concurrently or subsequently petitions for relief under
248 this section or s. 943.059;

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

250 5. Is seeking to be employed or licensed by or to contract
251 with the Department of Children and Family Services or the
252 Department of Juvenile Justice or to be employed or used by such
253 contractor or licensee in a sensitive position having direct
254 contact with children, the developmentally disabled, the aged, or
255 the elderly as provided in s. 110.1127(3), s. 393.063, s.
256 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
257 409.175(2)(i), s. 415.102(4), chapter 916, s. 985.644, chapter
258 400, or chapter 429;

259 6. Is seeking to be employed or licensed by the Department
260 of Education, any district school board, any university

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261 laboratory school, any charter school, any private or parochial
262 school, or any local governmental entity that licenses child care
263 facilities; or

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

267 (b) Subject to the exceptions in paragraph (a), a person
268 who has been granted an expunction under this section, former s.
269 893.14, former s. 901.33, or former s. 943.058 may not be held
270 under any provision of law of this state to commit perjury or to
271 be otherwise liable for giving a false statement by reason of
272 such person's failure to recite or acknowledge an expunged
273 criminal history record.

274 (c) Information relating to the existence of an expunged
275 criminal history record which is provided in accordance with
276 paragraph (a) is confidential and exempt from the provisions of
277 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
278 except that the department shall disclose the existence of a
279 criminal history record ordered expunged to the entities set
280 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their
281 respective licensing, access authorization, and employment
282 purposes, and to criminal justice agencies for their respective
283 criminal justice purposes. It is unlawful for any employee of an
284 entity set forth in subparagraph (a)1., subparagraph (a)4.,
285 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to
286 disclose information relating to the existence of an expunged
287 criminal history record of a person seeking employment, access
288 authorization, or licensure with such entity or contractor,
289 except to the person to whom the criminal history record relates

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290 or to persons having direct responsibility for employment, access
291 authorization, or licensure decisions. Any person who violates
292 this paragraph commits a misdemeanor of the first degree,
293 punishable as provided in s. 775.082 or s. 775.083.

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

298 Section 2. Section 943.059, Florida Statutes, is amended to
299 read:

300 943.059 Court-ordered sealing of criminal history
301 records.--The courts of this state shall continue to have
302 jurisdiction over their own procedures, including the
303 maintenance, sealing, and correction of judicial records
304 containing criminal history information to the extent such
305 procedures are not inconsistent with the conditions,
306 responsibilities, and duties established by this section. Any
307 court of competent jurisdiction may order a criminal justice
308 agency to seal the criminal history record of a minor or an adult
309 who complies with the requirements of this section. The court
310 shall not order a criminal justice agency to seal a criminal
311 history record until the person seeking to seal a criminal
312 history record has applied for and received a certificate of
313 eligibility for sealing pursuant to subsection (2). A criminal
314 history record that relates to a violation of s. 393.135, s.
315 394.4593, s. 787.025, chapter 794, s. 796.03, s. 800.04, s.
316 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s.
317 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a
318 violation enumerated in s. 907.041, or any violation specified as

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319 a predicate offense for registration as a sexual predator
320 pursuant to s. 775.21, without regard to whether that offense
321 alone is sufficient to require such registration, or for
322 registration as a sexual offender pursuant to s. 943.0435, may
323 not be sealed, without regard to whether adjudication was
324 withheld, if the defendant was found guilty of or pled guilty or
325 nolo contendere to the offense, or if the defendant, as a minor,
326 was found to have committed or pled guilty or nolo contendere to
327 committing the offense as a delinquent act. The court may only
328 order sealing of a criminal history record pertaining to three
329 arrests ~~one arrest~~ or three incidents ~~one incident~~ of alleged
330 criminal activity, except as provided in this section. The court
331 may, at its sole discretion, order the sealing of a criminal
332 history record pertaining to more than three arrests ~~one arrest~~
333 if the additional arrests directly relate to the original arrests
334 ~~arrest~~. If the court intends to order the sealing of records
335 pertaining to such additional arrests, such intent must be
336 specified in the order. A criminal justice agency may not seal
337 any record pertaining to such additional arrests if the order to
338 seal does not articulate the intention of the court to seal
339 records pertaining to more than three arrests ~~one arrest~~. This
340 section does not prevent the court from ordering the sealing of
341 only a portion of a criminal history record pertaining to three
342 arrests ~~one arrest~~ or three incidents ~~one incident~~ of alleged
343 criminal activity. Notwithstanding any law to the contrary, a
344 criminal justice agency may comply with laws, court orders, and
345 official requests of other jurisdictions relating to sealing,
346 correction, or confidential handling of criminal history records
347 or information derived therefrom. This section does not confer

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348 any right to the sealing of any criminal history record, and any
349 request for sealing a criminal history record may be denied at
350 the sole discretion of the court.

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

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

356 (b) The petitioner's sworn statement attesting that the
357 petitioner:

358 1. Has never, prior to the date on which the petition is
359 filed, been adjudicated guilty of a criminal offense or
360 comparable ordinance violation, or been adjudicated delinquent
361 for committing any felony or a misdemeanor specified in s.
362 943.051(3)(b).

363 2. Has not been adjudicated guilty of or adjudicated
364 delinquent for committing any of the acts stemming from the
365 arrest or alleged criminal activity to which the petition to seal
366 pertains.

367 3. Has not ~~never~~ secured more than two previous sealings or
368 expunctions ~~a prior sealing or expunction~~ of a criminal history
369 record under this section, former s. 893.14, former s. 901.33,
370 former s. 943.058, or from any jurisdiction outside the state.

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

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

378 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
379 petitioning the court to seal a criminal history record, a person
380 seeking to seal a criminal history record shall apply to the
381 department for a certificate of eligibility for sealing. The
382 department shall, by rule adopted pursuant to chapter 120,
383 establish procedures pertaining to the application for and
384 issuance of certificates of eligibility for sealing. A
385 certificate of eligibility for sealing is valid for 12 months
386 after the date stamped on the certificate when issued by the
387 department. After that time, the petitioner must reapply to the
388 department for a new certificate of eligibility. Eligibility for
389 a renewed certification of eligibility must be based on the
390 status of the applicant and the law in effect at the time of the
391 renewal application. The department shall issue a certificate of
392 eligibility for sealing to a person who is the subject of a
393 criminal history record provided that such person:

394 (a) Has submitted to the department a certified copy of the
395 disposition of the charge or charges to which the petition to
396 seal pertains.

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

400 (c) Has never, prior to the date on which the application
401 for a certificate of eligibility is filed, been adjudicated
402 guilty of a criminal offense or comparable ordinance violation,

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403 or been adjudicated delinquent for committing any felony or a
404 misdemeanor specified in s. 943.051(3)(b).

405 (d) Has not been adjudicated guilty of or adjudicated
406 delinquent for committing any of the acts stemming from the
407 arrest or alleged criminal activity to which the petition to seal
408 pertains.

409 (e) Has not ~~never~~ secured more than two previous sealings
410 or expunctions ~~a prior sealing or expunction~~ of a criminal
411 history record under this section, former s. 893.14, former s.
412 901.33, or former s. 943.058.

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

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

417 (a) In judicial proceedings under this section, a copy of
418 the completed petition to seal shall be served upon the
419 appropriate state attorney or the statewide prosecutor and upon
420 the arresting agency; however, it is not necessary to make any
421 agency other than the state a party. The appropriate state
422 attorney or the statewide prosecutor and the arresting agency may
423 respond to the court regarding the completed petition to seal.

424 (b) If relief is granted by the court, the clerk of the
425 court shall certify copies of the order to the appropriate state
426 attorney or the statewide prosecutor and to the arresting agency.
427 The arresting agency is responsible for forwarding the order to
428 any other agency to which the arresting agency disseminated the
429 criminal history record information to which the order pertains.
430 The department shall forward the order to seal to the Federal
431 Bureau of Investigation. The clerk of the court shall certify a

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432 | copy of the order to any other agency which the records of the
433 | court reflect has received the criminal history record from the
434 | court.

435 | (c) For an order to seal entered by a court prior to July
436 | 1, 1992, the department shall notify the appropriate state
437 | attorney or statewide prosecutor of any order to seal which is
438 | contrary to law because the person who is the subject of the
439 | record has previously been convicted of a crime or comparable
440 | ordinance violation or has had a prior criminal history record
441 | sealed or expunged. Upon receipt of such notice, the appropriate
442 | state attorney or statewide prosecutor shall take action, within
443 | 60 days, to correct the record and petition the court to void the
444 | order to seal. The department shall seal the record until such
445 | time as the order is voided by the court.

446 | (d) On or after July 1, 1992, the department or any other
447 | criminal justice agency is not required to act on an order to
448 | seal entered by a court when such order does not comply with the
449 | requirements of this section. Upon receipt of such an order, the
450 | department must notify the issuing court, the appropriate state
451 | attorney or statewide prosecutor, the petitioner or the
452 | petitioner's attorney, and the arresting agency of the reason for
453 | noncompliance. The appropriate state attorney or statewide
454 | prosecutor shall take action within 60 days to correct the record
455 | and petition the court to void the order. No cause of action,
456 | including contempt of court, shall arise against any criminal
457 | justice agency for failure to comply with an order to seal when
458 | the petitioner for such order failed to obtain the certificate of
459 | eligibility as required by this section or when such order does
460 | not comply with the requirements of this section.

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461 (e) An order sealing a criminal history record pursuant to
462 this section does not require that such record be surrendered to
463 the court, and such record shall continue to be maintained by the
464 department and other criminal justice agencies.

465 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal
466 history record of a minor or an adult which is ordered sealed by
467 a court of competent jurisdiction pursuant to this section is
468 confidential and exempt from the provisions of s. 119.07(1) and
469 s. 24(a), Art. I of the State Constitution and is available only
470 to the person who is the subject of the record, to the subject's
471 attorney, to criminal justice agencies for their respective
472 criminal justice purposes, which include conducting a criminal
473 history background check for approval of firearms purchases or
474 transfers as authorized by state or federal law, or to those
475 entities set forth in subparagraphs (a)1., 4., 5., 6., and 8. for
476 their respective licensing, access authorization, and employment
477 purposes.

478 (a) The subject of a criminal history record sealed under
479 this section or under other provisions of law, including former
480 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
481 deny or fail to acknowledge the arrests covered by the sealed
482 record, except when the subject of the record:

- 483 1. Is a candidate for employment with a criminal justice
484 agency;
- 485 2. Is a defendant in a criminal prosecution;
- 486 3. Concurrently or subsequently petitions for relief under
487 this section or s. 943.0585;
- 488 4. Is a candidate for admission to The Florida Bar;

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489 5. Is seeking to be employed or licensed by or to contract
490 with the Department of Children and Family Services or the
491 Department of Juvenile Justice or to be employed or used by such
492 contractor or licensee in a sensitive position having direct
493 contact with children, the developmentally disabled, the aged, or
494 the elderly as provided in s. 110.1127(3), s. 393.063, s.
495 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
496 409.175(2)(i), s. 415.102(4), s. 415.103, chapter 916, s.
497 985.644, chapter 400, or chapter 429;

498 6. Is seeking to be employed or licensed by the Department
499 of Education, any district school board, any university
500 laboratory school, any charter school, any private or parochial
501 school, or any local governmental entity that licenses child care
502 facilities;

503 7. Is attempting to purchase a firearm from a licensed
504 importer, licensed manufacturer, or licensed dealer and is
505 subject to a criminal history background check under state or
506 federal law; or

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

510 (b) Subject to the exceptions in paragraph (a), a person
511 who has been granted a sealing under this section, former s.
512 893.14, former s. 901.33, or former s. 943.058 may not be held
513 under any provision of law of this state to commit perjury or to
514 be otherwise liable for giving a false statement by reason of
515 such person's failure to recite or acknowledge a sealed criminal
516 history record.

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517 (c) Information relating to the existence of a sealed
518 criminal record provided in accordance with the provisions of
519 paragraph (a) is confidential and exempt from the provisions of
520 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
521 except that the department shall disclose the sealed criminal
522 history record to the entities set forth in subparagraphs (a)1.,
523 4., 5., 6., and 8. for their respective licensing, access
524 authorization, and employment purposes. It is unlawful for any
525 employee of an entity set forth in subparagraph (a)1.,
526 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or
527 subparagraph (a)8. to disclose information relating to the
528 existence of a sealed criminal history record of a person seeking
529 employment, access authorization, or licensure with such entity
530 or contractor, except to the person to whom the criminal history
531 record relates or to persons having direct responsibility for
532 employment, access authorization, or licensure decisions. Any
533 person who violates the provisions of this paragraph commits a
534 misdemeanor of the first degree, punishable as provided in s.
535 775.082 or s. 775.083.

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

540 Section 3. This act shall take effect July 1, 2008.