

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Needelman offered the following:

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3 **Amendment to Senate Amendment (206662) (with title**  
4 **amendment)**

5 Between lines 69 and 70, insert:

6 Section 4. Effective upon the effective date of HB 7089 or  
7 similar legislation, if such legislation becomes law, paragraph  
8 (a) of subsection (3) of section 943.053, Florida Statutes, is  
9 amended to read:

10 943.053 Dissemination of criminal justice information;  
11 fees.--

12 (3) (a) 1. Criminal history information, including  
13 information relating to minors, compiled by the Criminal Justice  
14 Information Program from intrastate sources shall be available  
15 on a priority basis to criminal justice agencies for criminal  
16 justice purposes free of charge. After providing the program

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17 with all known identifying information, persons in the private  
18 sector and noncriminal justice agencies may be provided criminal  
19 history information upon tender of fees as established in this  
20 subsection and in the manner prescribed by rule of the  
21 Department of Law Enforcement. Such fees are to offset the cost  
22 of producing the record information, including the total cost of  
23 creating, storing, maintaining, updating, retrieving, improving,  
24 and providing criminal history information in a centralized,  
25 automated database, including personnel, technology, and  
26 infrastructure expenses. Any access to criminal history  
27 information by the private sector or noncriminal justice  
28 agencies as provided in this subsection shall be assessed  
29 without regard to the quantity or category of criminal history  
30 record information requested. Fees may be waived or reduced by  
31 the executive director of the Department of Law Enforcement for  
32 good cause shown.

33 3. The subject of a criminal history record which is  
34 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
35 of the State Constitution under subparagraph 2. when he or she  
36 attains the age of 18 years may thereafter lawfully deny or fail  
37 to acknowledge the arrests and dispositions covered by the  
38 confidentiality and exemption, except when the subject of the  
39 record:

40 a. Is a candidate for employment with a criminal justice  
41 agency;

42 b. Is a defendant in a criminal prosecution;

43 c. Petitions for expunction or sealing under s. 943.0585  
44 or s. 943.059;

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45 d. Is a candidate for admission to The Florida Bar;

46 e. Is seeking to be employed or licensed by or to contract  
47 with the Department of Children and Family Services or the  
48 Department of Juvenile Justice or to be employed or used by a  
49 contractor or licensee of either department in a sensitive  
50 position having direct contact with children, the  
51 developmentally disabled, the aged, or the elderly as provided  
52 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
53 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
54 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;

55 f. Is seeking to be employed or licensed by the Department  
56 of Education, any district school board, any university  
57 laboratory school, any charter school, any private or parochial  
58 school, or any local governmental entity that licenses child  
59 care facilities;

60 g. Is attempting to purchase a firearm from a licensed  
61 importer, licensed manufacturer, or licensed dealer and is  
62 subject to a criminal history background check under state or  
63 federal law; or

64 h. Is seeking authorization from a Florida seaport  
65 identified in s. 311.09 for employment within or access to one  
66 or more of such seaports pursuant to s. 311.12 or s. 311.125.

67 4. Subject to the exceptions in subparagraph 3., a person  
68 whose criminal history record is confidential and exempt from s.  
69 119.07(1) and s. 24(a), Art. I of the State Constitution under  
70 subparagraph 2. when he or she attains the age of 18 years may  
71 not be held under any provision of law of this state to commit  
72 perjury or to be otherwise liable for giving a false statement

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73 by reason of such person's failure to recite or acknowledge the  
74 confidential and exempt criminal history record.

75 Section 5. Paragraph (a) of subsection (4) of section  
76 943.0585, Florida Statutes, is amended to read:

77 943.0585 Court-ordered expunction of criminal history  
78 records.--The courts of this state have jurisdiction over their  
79 own procedures, including the maintenance, expunction, and  
80 correction of judicial records containing criminal history  
81 information to the extent such procedures are not inconsistent  
82 with the conditions, responsibilities, and duties established by  
83 this section. Any court of competent jurisdiction may order a  
84 criminal justice agency to expunge the criminal history record  
85 of a minor or an adult who complies with the requirements of  
86 this section. The court shall not order a criminal justice  
87 agency to expunge a criminal history record until the person  
88 seeking to expunge a criminal history record has applied for and  
89 received a certificate of eligibility for expunction pursuant to  
90 subsection (2). A criminal history record that relates to a  
91 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
92 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
93 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
94 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
95 any violation specified as a predicate offense for registration  
96 as a sexual predator pursuant to s. 775.21, without regard to  
97 whether that offense alone is sufficient to require such  
98 registration, or for registration as a sexual offender pursuant  
99 to s. 943.0435, may not be expunged, without regard to whether  
100 adjudication was withheld, if the defendant was found guilty of  
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101 or pled guilty or nolo contendere to the offense, or if the  
102 defendant, as a minor, was found to have committed, or pled  
103 guilty or nolo contendere to committing, the offense as a  
104 delinquent act. The court may only order expunction of a  
105 criminal history record pertaining to one arrest or one incident  
106 of alleged criminal activity, except as provided in this  
107 section. The court may, at its sole discretion, order the  
108 expunction of a criminal history record pertaining to more than  
109 one arrest if the additional arrests directly relate to the  
110 original arrest. If the court intends to order the expunction of  
111 records pertaining to such additional arrests, such intent must  
112 be specified in the order. A criminal justice agency may not  
113 expunge any record pertaining to such additional arrests if the  
114 order to expunge does not articulate the intention of the court  
115 to expunge a record pertaining to more than one arrest. This  
116 section does not prevent the court from ordering the expunction  
117 of only a portion of a criminal history record pertaining to one  
118 arrest or one incident of alleged criminal activity.

119 Notwithstanding any law to the contrary, a criminal justice  
120 agency may comply with laws, court orders, and official requests  
121 of other jurisdictions relating to expunction, correction, or  
122 confidential handling of criminal history records or information  
123 derived therefrom. This section does not confer any right to the  
124 expunction of any criminal history record, and any request for  
125 expunction of a criminal history record may be denied at the  
126 sole discretion of the court.

127 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
128 criminal history record of a minor or an adult which is ordered

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129 expunged by a court of competent jurisdiction pursuant to this  
130 section must be physically destroyed or obliterated by any  
131 criminal justice agency having custody of such record; except  
132 that any criminal history record in the custody of the  
133 department must be retained in all cases. A criminal history  
134 record ordered expunged that is retained by the department is  
135 confidential and exempt from the provisions of s. 119.07(1) and  
136 s. 24(a), Art. I of the State Constitution and not available to  
137 any person or entity except upon order of a court of competent  
138 jurisdiction. A criminal justice agency may retain a notation  
139 indicating compliance with an order to expunge.

140 (a) The person who is the subject of a criminal history  
141 record that is expunged under this section or under other  
142 provisions of law, including s. 943.0515, former s. 893.14,  
143 former s. 901.33, and former s. 943.058, may lawfully deny or  
144 fail to acknowledge the arrests covered by the expunged record,  
145 except when the subject of the record:

- 146 1. Is a candidate for employment with a criminal justice  
147 agency;
- 148 2. Is a defendant in a criminal prosecution;
- 149 3. Concurrently or subsequently petitions for relief under  
150 this section or s. 943.059;
- 151 4. Is a candidate for admission to The Florida Bar;
- 152 5. Is seeking to be employed or licensed by or to contract  
153 with the Department of Children and Family Services or the  
154 Department of Juvenile Justice or to be employed or used by such  
155 contractor or licensee in a sensitive position having direct  
156 contact with children, the developmentally disabled, the aged,

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157 or the elderly as provided in s. 110.1127(3), s. 393.063, s.  
158 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.  
159 409.175(2)(i), s. 415.102(4), chapter 916, s. 985.644, chapter  
160 400, or chapter 429;

161 6. Is seeking to be employed or licensed by the Department  
162 of Education, any district school board, any university  
163 laboratory school, any charter school, any private or parochial  
164 school, or any local governmental entity that licenses child  
165 care facilities; or

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

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172 **T I T L E A M E N D M E N T**

173 Remove line 1245 and insert:  
174 options; amending s. 943.053, F.S.; revising provisions relating  
175 to dissemination of criminal justice information; amending s.  
176 943.0585, F.S., relating to court-ordered expunction of criminal  
177 history records, to revise a reference; amending s. 984.05,  
178 F.S., conforming cross-