

1 A bill to be entitled
2 An act relating to retention of law enforcement,
3 correctional, and correctional probation officers;
4 amending s. 318.15, F.S.; increasing a service charge paid
5 for reinstatement of a suspended driver's license and
6 privilege to drive; revising provisions for distribution
7 and use of funds; amending s. 318.18, F.S.; increasing a
8 civil penalty for late payment of civil traffic penalties;
9 revising provisions for distribution and use of funds;
10 amending s. 322.21, F.S.; increasing the fees for
11 reinstating a suspended or revoked driver's license;
12 revising provisions for distribution and use of funds;
13 amending s. 322.29, F.S.; conforming provisions to changes
14 made by the act; amending s. 943.0585, F.S.; increasing
15 the processing fee for a certificate of eligibility for
16 expunction of criminal history records; revising
17 provisions for distribution and use of funds; amending s.
18 943.059, F.S.; increasing the processing fee for a
19 certificate of eligibility for sealing of criminal history
20 records; revising provisions for distribution and use of
21 funds; amending s. 945.215, F.S.; providing for a
22 surcharge on items for resale at inmate canteens and
23 vending machines maintained at correctional facilities;
24 providing for use of the surcharge; amending s. 943.25,
25 F.S.; providing that funds from a specified trust fund may
26 be used for retention of specified officers; providing an
27 effective date.
28

29 Be It Enacted by the Legislature of the State of Florida:

30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56

Section 1. Subsection (2) of section 318.15, Florida Statutes, is amended to read:

318.15 Failure to comply with civil penalty or to appear; penalty.--

(2) After suspension of the driver's license and privilege to drive of a person under subsection (1), the license and privilege may not be reinstated until the person complies with all obligations and penalties imposed on him or her under s. 318.18 and presents to a driver license office a certificate of compliance issued by the court, together with a nonrefundable service charge of up to \$60 ~~\$47.50~~ imposed under s. 322.29, or presents a certificate of compliance and pays the aforementioned service charge of up to \$60 ~~\$47.50~~ to the clerk of the court or a driver licensing agent authorized in s. 322.135 clearing such suspension. Of the charge collected by the clerk of the court or driver licensing agent, \$10 shall be remitted to the Department of Revenue to be deposited into the Highway Safety Operating Trust Fund and \$12.50 shall be remitted to the Department of Revenue to be deposited into the Criminal Justice Standards and Training Trust Fund and used to retain law enforcement, correctional, and correctional probation officers, as defined in s. 943.10(1), (2), and (3), who are employed in sworn or certified public safety occupations by the state. Such person shall also be in compliance with requirements of chapter 322 prior to reinstatement.

Section 2. Paragraph (a) of subsection (8) of section

57 | 318.18, Florida Statutes, is amended to read:

58 | 318.18 Amount of penalties.--The penalties required for a
59 | noncriminal disposition pursuant to s. 318.14 or a criminal
60 | offense listed in s. 318.17 are as follows:

61 | (8)(a) Any person who fails to comply with the court's
62 | requirements or who fails to pay the civil penalties specified
63 | in this section within the 30-day period provided for in s.
64 | 318.14 must pay an additional civil penalty of \$24 ~~\$16~~, \$6.50 of
65 | which must be remitted to the Department of Revenue for deposit
66 | in the General Revenue Fund, ~~and~~ \$9.50 of which must be remitted
67 | to the Department of Revenue for deposit in the Highway Safety
68 | Operating Trust Fund, and \$8 of which must be remitted to the
69 | Department of Revenue to be deposited into the Criminal Justice
70 | Standards and Training Trust Fund. The portion of each
71 | additional fee imposed by this paragraph remitted to the
72 | Criminal Justice Standards and Training Trust Fund shall be used
73 | to retain law enforcement, correctional, and correctional
74 | probation officers, as defined in s. 943.10(1), (2), and (3),
75 | who are employed in sworn or certified public safety occupations
76 | by the state. Of this additional civil penalty of \$16, \$4 is not
77 | revenue for purposes of s. 28.36 and may not be used in
78 | establishing the budget of the clerk of the court under that
79 | section or s. 28.35. The department shall contract with the
80 | Florida Association of Court Clerks, Inc., to design, establish,
81 | operate, upgrade, and maintain an automated statewide Uniform
82 | Traffic Citation Accounting System to be operated by the clerks
83 | of the court which shall include, but not be limited to, the
84 | accounting for traffic infractions by type, a record of the

85 disposition of the citations, and an accounting system for the
 86 fines assessed and the subsequent fine amounts paid to the
 87 clerks of the court. On or before December 1, 2001, the clerks
 88 of the court must provide the information required by this
 89 chapter to be transmitted to the department by electronic
 90 transmission pursuant to the contract.

91 Section 3. Subsection (8) of section 322.21, Florida
 92 Statutes, is amended to read:

93 322.21 License fees; procedure for handling and collecting
 94 fees; distribution of funds.--

95 (8) Any person who applies for reinstatement following the
 96 suspension or revocation of the person's driver's license shall
 97 pay a service fee of \$45 ~~\$35~~ following a suspension, and \$75 ~~\$60~~
 98 following a revocation, which is in addition to the fee for a
 99 license. Any person who applies for reinstatement of a
 100 commercial driver's license following the disqualification of
 101 the person's privilege to operate a commercial motor vehicle
 102 shall pay a service fee of \$75 ~~\$60~~, which is in addition to the
 103 fee for a license. The department shall collect all of these
 104 fees at the time of reinstatement. The department shall issue
 105 proper receipts for such fees and shall promptly transmit all
 106 funds received by it as follows:

107 (a) Of the \$45 ~~\$35~~ fee received from a licensee for
 108 reinstatement following a suspension, the department shall
 109 deposit \$15 in the General Revenue Fund, and \$20 in the Highway
 110 Safety Operating Trust Fund, and \$10 into the Criminal Justice
 111 Standards and Training Trust Fund.

112 (b) Of the \$75 ~~\$60~~ fee received from a licensee for

CS/HB 1195

2009

113 reinstatement following a revocation or disqualification, the
 114 department shall deposit \$35 in the General Revenue Fund, and
 115 \$25 in the Highway Safety Operating Trust Fund, and \$15 into the
 116 Criminal Justice Standards and Training Trust Fund.

117
 118 If the revocation or suspension of the driver's license was for
 119 a violation of s. 316.193, or for refusal to submit to a lawful
 120 breath, blood, or urine test, an additional fee of \$130 ~~\$115~~
 121 must be charged. However, only one \$130 ~~\$115~~ fee may be
 122 collected from one person convicted of violations arising out of
 123 the same incident. The department shall collect the \$130 ~~\$115~~
 124 fee and deposit \$115 of the fee into the Highway Safety
 125 Operating Trust Fund and \$15 of the fee into the Criminal
 126 Justice Standards and Training Trust Fund at the time of
 127 reinstatement of the person's driver's license, but the fee may
 128 not be collected if the suspension or revocation is overturned.
 129 If the revocation or suspension of the driver's license was for
 130 a conviction for a violation of s. 817.234(8) or (9) or s.
 131 817.505, an additional fee of \$180 is imposed for each offense.
 132 The department shall collect and deposit the additional fee into
 133 the Highway Safety Operating Trust Fund at the time of
 134 reinstatement of the person's driver's license. The portion of
 135 each additional fee imposed by this subsection remitted to the
 136 Criminal Justice Standards and Training Trust Fund shall be used
 137 to retain law enforcement, correctional, and correctional
 138 probation officers, as defined in s. 943.10(1), (2), and (3),
 139 who are employed in sworn or certified public safety occupations
 140 by the state.

141 Section 4. Subsection (2) of section 322.29, Florida
 142 Statutes, is amended to read:

143 322.29 Surrender and return of license.--

144 (2) The provisions of subsection (1) to the contrary
 145 notwithstanding, no examination is required for the return of a
 146 license suspended under s. 318.15 or s. 322.245 unless an
 147 examination is otherwise required by this chapter. Every person
 148 applying for the return of a license suspended under s. 318.15
 149 or s. 322.245 shall present to the department certification from
 150 the court that he or she has complied with all obligations and
 151 penalties imposed on him or her pursuant to s. 318.15 or, in the
 152 case of a suspension pursuant to s. 322.245, that he or she has
 153 complied with all directives of the court and the requirements
 154 of s. 322.245 and shall pay to the department a nonrefundable
 155 service fee of \$47.50, of which \$37.50 shall be deposited into
 156 the General Revenue Fund and \$10 shall be deposited into the
 157 Highway Safety Operating Trust Fund. If reinstated by the clerk
 158 of the court or tax collector, \$37.50 shall be retained and \$10
 159 shall be remitted to the Department of Revenue for deposit into
 160 the Highway Safety Operating Trust Fund. However, the service
 161 fee is not required if the person is required to pay a \$45 ~~\$35~~
 162 fee or \$75 ~~\$60~~ fee under the provisions of s. 322.21.

163 Section 5. Paragraph (b) of subsection (2) of section
 164 943.0585, Florida Statutes, is amended to read:

165 943.0585 Court-ordered expunction of criminal history
 166 records.--The courts of this state have jurisdiction over their
 167 own procedures, including the maintenance, expunction, and
 168 correction of judicial records containing criminal history

169 information to the extent such procedures are not inconsistent
170 with the conditions, responsibilities, and duties established by
171 this section. Any court of competent jurisdiction may order a
172 criminal justice agency to expunge the criminal history record
173 of a minor or an adult who complies with the requirements of
174 this section. The court shall not order a criminal justice
175 agency to expunge a criminal history record until the person
176 seeking to expunge a criminal history record has applied for and
177 received a certificate of eligibility for expunction pursuant to
178 subsection (2). A criminal history record that relates to a
179 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
180 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
181 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
182 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
183 any violation specified as a predicate offense for registration
184 as a sexual predator pursuant to s. 775.21, without regard to
185 whether that offense alone is sufficient to require such
186 registration, or for registration as a sexual offender pursuant
187 to s. 943.0435, may not be expunged, without regard to whether
188 adjudication was withheld, if the defendant was found guilty of
189 or pled guilty or nolo contendere to the offense, or if the
190 defendant, as a minor, was found to have committed, or pled
191 guilty or nolo contendere to committing, the offense as a
192 delinquent act. The court may only order expunction of a
193 criminal history record pertaining to one arrest or one incident
194 of alleged criminal activity, except as provided in this
195 section. The court may, at its sole discretion, order the
196 expunction of a criminal history record pertaining to more than

CS/HB 1195

2009

197 one arrest if the additional arrests directly relate to the
198 original arrest. If the court intends to order the expunction of
199 records pertaining to such additional arrests, such intent must
200 be specified in the order. A criminal justice agency may not
201 expunge any record pertaining to such additional arrests if the
202 order to expunge does not articulate the intention of the court
203 to expunge a record pertaining to more than one arrest. This
204 section does not prevent the court from ordering the expunction
205 of only a portion of a criminal history record pertaining to one
206 arrest or one incident of alleged criminal activity.

207 Notwithstanding any law to the contrary, a criminal justice
208 agency may comply with laws, court orders, and official requests
209 of other jurisdictions relating to expunction, correction, or
210 confidential handling of criminal history records or information
211 derived therefrom. This section does not confer any right to the
212 expunction of any criminal history record, and any request for
213 expunction of a criminal history record may be denied at the
214 sole discretion of the court.

215 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior to
216 petitioning the court to expunge a criminal history record, a
217 person seeking to expunge a criminal history record shall apply
218 to the department for a certificate of eligibility for
219 expunction. The department shall, by rule adopted pursuant to
220 chapter 120, establish procedures pertaining to the application
221 for and issuance of certificates of eligibility for expunction.
222 A certificate of eligibility for expunction is valid for 12
223 months after the date stamped on the certificate when issued by
224 the department. After that time, the petitioner must reapply to

225 the department for a new certificate of eligibility. Eligibility
 226 for a renewed certification of eligibility must be based on the
 227 status of the applicant and the law in effect at the time of the
 228 renewal application. The department shall issue a certificate of
 229 eligibility for expunction to a person who is the subject of a
 230 criminal history record if that person:

231 (b) Remits a \$150 ~~\$75~~ processing fee to the department for
 232 placement of \$75 in the Department of Law Enforcement Operating
 233 Trust Fund and \$75 into the Criminal Justice Standard and
 234 Training Trust Fund to be used to retain law enforcement,
 235 correctional, and correctional probation officers, as defined in
 236 s. 943.10(1), (2), and (3), who are employed in sworn or
 237 certified public safety occupations by the state, unless such
 238 fee is waived by the executive director.

239 Section 6. Paragraph (b) of subsection (2) of section
 240 943.059, Florida Statutes, is amended to read:

241 943.059 Court-ordered sealing of criminal history
 242 records.--The courts of this state shall continue to have
 243 jurisdiction over their own procedures, including the
 244 maintenance, sealing, and correction of judicial records
 245 containing criminal history information to the extent such
 246 procedures are not inconsistent with the conditions,
 247 responsibilities, and duties established by this section. Any
 248 court of competent jurisdiction may order a criminal justice
 249 agency to seal the criminal history record of a minor or an
 250 adult who complies with the requirements of this section. The
 251 court shall not order a criminal justice agency to seal a
 252 criminal history record until the person seeking to seal a

253 criminal history record has applied for and received a
254 certificate of eligibility for sealing pursuant to subsection
255 (2). A criminal history record that relates to a violation of s.
256 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
257 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
258 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
259 916.1075, a violation enumerated in s. 907.041, or any violation
260 specified as a predicate offense for registration as a sexual
261 predator pursuant to s. 775.21, without regard to whether that
262 offense alone is sufficient to require such registration, or for
263 registration as a sexual offender pursuant to s. 943.0435, may
264 not be sealed, without regard to whether adjudication was
265 withheld, if the defendant was found guilty of or pled guilty or
266 nolo contendere to the offense, or if the defendant, as a minor,
267 was found to have committed or pled guilty or nolo contendere to
268 committing the offense as a delinquent act. The court may only
269 order sealing of a criminal history record pertaining to one
270 arrest or one incident of alleged criminal activity, except as
271 provided in this section. The court may, at its sole discretion,
272 order the sealing of a criminal history record pertaining to
273 more than one arrest if the additional arrests directly relate
274 to the original arrest. If the court intends to order the
275 sealing of records pertaining to such additional arrests, such
276 intent must be specified in the order. A criminal justice agency
277 may not seal any record pertaining to such additional arrests if
278 the order to seal does not articulate the intention of the court
279 to seal records pertaining to more than one arrest. This section
280 does not prevent the court from ordering the sealing of only a

281 | portion of a criminal history record pertaining to one arrest or
 282 | one incident of alleged criminal activity. Notwithstanding any
 283 | law to the contrary, a criminal justice agency may comply with
 284 | laws, court orders, and official requests of other jurisdictions
 285 | relating to sealing, correction, or confidential handling of
 286 | criminal history records or information derived therefrom. This
 287 | section does not confer any right to the sealing of any criminal
 288 | history record, and any request for sealing a criminal history
 289 | record may be denied at the sole discretion of the court.

290 | (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
 291 | petitioning the court to seal a criminal history record, a
 292 | person seeking to seal a criminal history record shall apply to
 293 | the department for a certificate of eligibility for sealing. The
 294 | department shall, by rule adopted pursuant to chapter 120,
 295 | establish procedures pertaining to the application for and
 296 | issuance of certificates of eligibility for sealing. A
 297 | certificate of eligibility for sealing is valid for 12 months
 298 | after the date stamped on the certificate when issued by the
 299 | department. After that time, the petitioner must reapply to the
 300 | department for a new certificate of eligibility. Eligibility for
 301 | a renewed certification of eligibility must be based on the
 302 | status of the applicant and the law in effect at the time of the
 303 | renewal application. The department shall issue a certificate of
 304 | eligibility for sealing to a person who is the subject of a
 305 | criminal history record provided that such person:

306 | (b) Remits a \$150 ~~\$75~~ processing fee to the department for
 307 | placement of \$75 in the Department of Law Enforcement Operating
 308 | Trust Fund and \$75 into the Criminal Justice Standards and

309 Training Trust Fund to be used to retain law enforcement,
 310 correctional, and correctional probation officers, as defined in
 311 s. 943.10(1), (2), and (3), who are employed in sworn or
 312 certified public safety occupations by the state, unless such
 313 fee is waived by the executive director.

314 Section 7. Paragraph (e) of subsection (1) of section
 315 945.215, Florida Statutes, is amended to read:

316 945.215 Inmate welfare and employee benefit trust funds.--

317 (1) INMATE PURCHASES; DEPARTMENT OF CORRECTIONS.--

318 (e) Items for resale at inmate canteens and vending
 319 machines maintained at the correctional facilities shall be
 320 priced comparatively with like items for retail sale at fair
 321 market prices except for an additional 4-percent surcharge
 322 imposed by this paragraph to be remitted to the Criminal Justice
 323 Standards and Training Trust Fund. The proceeds from the
 324 surcharge shall be used to retain law enforcement, correctional,
 325 and correctional probation officers, as defined in s. 943.10(1),
 326 (2), and (3), who are employed in sworn or certified public
 327 safety occupations by the state.

328 Section 8. Subsections (2) and (8) of section 943.25,
 329 Florida Statutes, are amended to read:

330 943.25 Criminal justice trust funds; source of funds; use
 331 of funds.--

332 (2) There is created, within the Department of Law
 333 Enforcement, the Criminal Justice Standards and Training Trust
 334 Fund to provide ~~for the purpose of providing~~ for the payment of
 335 necessary and proper expenses incurred by the operation of the
 336 commission and the Criminal Justice Professionalism Program and

CS/HB 1195

2009

337 providing commission-approved criminal justice advanced and
338 specialized training and criminal justice training school
339 enhancements, including and of establishing the provisions of s.
340 943.17 and developing the specific tests provided under s.
341 943.12(9), and for retention of law enforcement, correctional,
342 and correctional probation officers, as defined in s. 943.10(1),
343 (2), and (3), who are employed in sworn or certified public
344 safety occupations by the state. The program shall administer
345 the Criminal Justice Standards and Training Trust Fund and shall
346 report the status of the fund at each regularly scheduled
347 commission meeting.

348 (8) All funds deposited in the Criminal Justice Standards
349 and Training Trust Fund shall be made available to the
350 department for implementation of training programs approved by
351 the commission and the head of the department and for retention
352 of law enforcement, correctional, and correctional probation
353 officers, as defined in s. 943.10(1), (2), and (3), who are
354 employed in sworn or certified public safety occupations by the
355 state. Only funds deposited into the fund pursuant to s.
356 318.15(2), s. 318.18(8)(a), s. 322.21(8), s. 943.0585(2)(b), s.
357 943.059(2)(b), or s. 945.215(1)(e) may be used for retention of
358 law enforcement, correctional, and correctional probation
359 officers, as defined in s. 943.10(1), (2), and (3), who are
360 employed in sworn or certified public safety occupations by the
361 state. All funds appropriated for the purposes of retention must
362 be appropriated by the Legislature in the General Appropriations
363 Act.

364 Section 9. This act shall take effect July 1, 2009.