



301658

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/31/2009	.	
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The Committee on Military Affairs and Domestic Security
(Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 311.115, Florida Statutes, is created to
read:

311.115 Seaport Security Standards Advisory Council.—The
Seaport Security Standards Advisory Council is created under the
Office of Drug Control. The council shall serve as an advisory
council as provided in s. 20.03(7).



301658

12 (1) The members of the council shall be appointed by the
13 Governor and consist of the following:

14 (a) Two seaport directors.

15 (b) Two seaport security directors.

16 (c) One designee to represent seaport tenants.

17 (d) One designee to represent seaport workers.

18 (e) One designee from the Department of Law Enforcement.

19 (f) One designee from the Office of Motor Carrier
20 Compliance of the Department of Transportation.

21 (g) One designee from the Attorney General's Office.

22 (h) One designee from the Department of Agriculture and
23 Consumer Services.

24 (i) One designee from the Office of Tourism, Trade, and
25 Economic Development.

26 (j) One designee from the Office of Drug Control.

27 (k) One designee from the Fish and Wildlife Conservation
28 Commission.

29 (1) The director of the Division of Emergency Management,
30 or designee.

31 (2) In addition to the members designated in subsection
32 (1), the council may invite a representative of the United
33 States Coast Guard to attend and participate in council meetings
34 as an ex officio, nonvoting member of the council.

35 (3) Members of the council shall be appointed to 4-year
36 terms. A vacancy shall be filled by the original appointing
37 authority for the balance of the unexpired term.

38 (4) The council shall be chaired by a designee from the
39 Office of Drug Control.

40 (5) Beginning January 15, 2007, and at least every 4 years



301658

41 thereafter, the Office of Drug Control shall convene the council
42 to review the minimum security standards referenced in s.
43 311.12(1) for applicability to and effectiveness in combating
44 current narcotics and terrorism threats to the state's seaports.
45 All sources of information allowed by law shall be used in
46 assessing the applicability and effectiveness of the standards.

47 (6) Council members shall serve without pay; however, per
48 diem and travel allowances may be claimed for attendance at
49 officially called meetings as provided by s. 112.061.

50 (7) The council shall consult with the appropriate area
51 maritime security committees to assess possible impacts to
52 commerce and trade contained in the council's nonclassified
53 recommendations and findings.

54 (8) The recommendations and findings of the council shall
55 be transmitted to the Governor, the President of the Senate, and
56 the Speaker of the House of Representatives.

57 Section 2. Section 311.12, Florida Statutes, is amended to
58 read:

59 (Substantial rewording of section. See
60 s. 311.12, F.S., for present text.)

61 311.12 Seaport security.—

62 (1) SECURITY STANDARDS.—

63 (a) The statewide minimum standards for seaport security
64 applicable to seaports listed in s. 311.09 shall be those based
65 on the Florida Seaport Security Assessment 2000 and set forth in
66 the Port Security Standards Compliance Plan delivered to the
67 Speaker of the House of Representatives and the President of the
68 Senate on December 11, 2000. The Office of Drug Control within
69 the Executive Office of the Governor shall maintain a sufficient



301658

70 number of copies of the standards at its offices for
71 distribution to the public, and provide copies to each affected
72 seaport upon request.

73 (b) A seaport may implement security measures that are more
74 stringent, more extensive, or supplemental to the minimum
75 security standards established by this subsection.

76 (2) EXEMPTION.—The Department of Law Enforcement may exempt
77 all or part of a seaport listed in s. 311.09 from the
78 requirements of this section if the department determines that
79 activity associated with the use of the seaport or part of the
80 seaport is not vulnerable to criminal activity or terrorism. The
81 department shall periodically review such exemptions to
82 determine if there is a change in use. Such change may warrant
83 removal of all or part of the exemption.

84 (3) SECURITY PLAN.—Each seaport listed in s. 311.09 shall
85 adopt and maintain a security plan specific to that seaport
86 which provides for a secure seaport infrastructure that promotes
87 the safety and security of state residents and visitors and the
88 flow of legitimate trade and travel.

89 (a) Beginning January 1, 2007, and every 5 years
90 thereafter, each seaport director, with the assistance of the
91 Regional Domestic Security Task Force and in conjunction with
92 the United States Coast Guard, shall revise the seaport's
93 security plan based on the director's ongoing assessment of
94 security risks, the risks of terrorist activities, and the
95 specific and identifiable needs of the seaport for ensuring that
96 the seaport is in substantial compliance with the minimum
97 security standards established under subsection (1).

98 (b) Each adopted or revised security plan must be reviewed



301658

99 and approved by the Office of Drug Control and the Department of
100 Law Enforcement for compliance with federal facility security
101 assessment requirements under 33 C.F.R. s. 105.305 and the
102 minimum security standards established under subsection (1).
103 Within 30 days after completion, a copy of the written review
104 shall be delivered to the United States Coast Guard, the
105 Regional Domestic Security Task Force, and the Domestic Security
106 Oversight Council.

107 (4) RESTRICTED ACCESS AREAS.—Each seaport listed in s.
108 311.09 must clearly designate in seaport security plans, and
109 clearly identify with appropriate signs and markers on the
110 premises of a seaport, all restricted access areas, access
111 eligibility requirements, and corresponding security enforcement
112 authorizations, which may include, but not be limited to, clear
113 notice of the prohibition against possession of concealed
114 weapons and other contraband material on the premises of the
115 seaport, as provided in paragraph (f).

116 (a) The seaport's security plan must set forth the
117 conditions and restrictions to be imposed on persons employed
118 at, doing business at, or visiting the seaport relating to
119 restricted access areas that are sufficient to provide
120 substantial compliance with the minimum security standards
121 established in subsection (1).

122 (b) All persons and objects in restricted access areas are
123 subject to search by a sworn state-certified law enforcement
124 officer, a Class D seaport security officer certified under
125 Maritime Transportation Security Act guidelines and s. 311.121,
126 or an employee of the seaport security force certified under the
127 Maritime Transportation Security Act guidelines and s. 311.121.



301658

128 (c) Persons found in restricted access areas without the
129 proper permission are subject to the trespass provisions of ss.
130 810.08 and 810.09.

131 (d) During a period of high terrorist threat level, as
132 designated by the United States Department of Homeland Security
133 or the Department of Law Enforcement, or during an emergency
134 declared at a port by the seaport security director due to
135 events applicable to that particular seaport, the management or
136 controlling authority of the port may temporarily designate any
137 part of the seaport property as a restricted access area. The
138 duration of such designation is limited to the period in which
139 the high terrorist threat level is in effect or a port emergency
140 exists.

141 (e) As determined by the seaport director's most current
142 risk assessment report under paragraph (3) (a), any restricted
143 access area that has a potential human occupancy of 50 persons
144 or more, any cruise terminal, or any business operation that is
145 adjacent to a public access area must be protected from the most
146 probable and credible terrorist threat to human life.

147 (f) Any person in a restricted access area who has in his
148 or her possession a concealed weapon, or who operates or has
149 possession or control of a vehicle in or upon which a concealed
150 weapon is placed or stored, commits a misdemeanor of the first
151 degree, punishable as provided in s. 775.082 or s. 775.083. This
152 paragraph does not apply to active-duty certified federal or
153 state law enforcement personnel or persons so designated by the
154 seaport director in writing.

155 (5) WAIVER FROM SECURITY REQUIREMENTS.—The Office of Drug
156 Control and the Department of Law Enforcement may modify or



301658

157 waive any physical facility requirement or other requirement
158 contained in the minimum security standards upon a determination
159 that the purposes of the standards have been reasonably met or
160 exceeded by the seaport requesting the modification or waiver.
161 An alternate means of compliance must not diminish the safety or
162 security of the seaport and must be verified through an
163 extensive risk analysis conducted by the seaport director.

164 (a) Waiver requests shall be submitted in writing, along
165 with supporting documentation, to the Office of Drug Control and
166 the Department of Law Enforcement. The office and the department
167 have 90 days to jointly grant or reject the waiver, in whole or
168 in part.

169 (b) The seaport may submit any waivers that are not granted
170 or are jointly rejected to the Domestic Security Oversight
171 Council for review within 90 days. The council shall recommend
172 that the Office of Drug Control and the Department of Law
173 Enforcement grant the waiver or reject the waiver, in whole or
174 in part. The office and the department shall give great weight
175 to the council's recommendations.

176 (c) A request seeking a waiver from the seaport law
177 enforcement personnel standards established under s. 311.122(3)
178 may not be granted for percentages below 10 percent.

179 (d) Any modifications or waivers granted under this
180 subsection shall be noted in the annual report submitted by the
181 Department of Law Enforcement pursuant to paragraph (7) (a).

182 (6) INSPECTIONS.—It is the intent of the Legislature that
183 the state's seaports adhere to security practices that are
184 consistent with the risks assigned to each seaport through the
185 ongoing risk assessment process established in paragraph (3) (a).



301658

186 (a) The Department of Law Enforcement, or any entity
187 designated by the department, shall conduct at least one annual
188 unannounced inspection of each seaport to determine whether the
189 seaport is meeting the minimum security standards established
190 pursuant to subsection (1), and to identify seaport security
191 changes or improvements needed or otherwise recommended.

192 (b) The Department of Law Enforcement, or any entity
193 designated by the department, may conduct additional announced
194 or unannounced inspections or operations within or affecting any
195 seaport to test compliance with, or the effectiveness of,
196 security plans and operations at each seaport, to determine
197 compliance with physical facility requirements and standards, or
198 to assist the department in identifying changes or improvements
199 needed to bring a seaport into compliance with minimum security
200 standards.

201 (c) Within 30 days after completing the inspection report,
202 the department shall submit a copy of the report to the Domestic
203 Security Oversight Council.

204 (d) A seaport may request that the Domestic Security
205 Oversight Council review the findings in the department's report
206 as they relate to the requirements of this section. The council
207 may review only those findings that are in dispute by the
208 seaport. In reviewing the disputed findings, the council may
209 concur in the findings of the department or the seaport, or may
210 recommend corrective action to the seaport. The department and
211 the seaport shall give great weight to the council's findings
212 and recommendations.

213 (e) All seaports shall allow the Department of Law
214 Enforcement, or entity designated by the department, unimpeded



301658

215 access to affected areas and facilities for the purpose of plan
216 or compliance inspections or other operations authorized by this
217 section.

218 (7) REPORTS.-

219 (a) The Department of Law Enforcement, in consultation with
220 the Office of Drug Control, shall annually complete a report
221 indicating the observations and findings of all reviews,
222 inspections, or other operations relating to the seaports
223 conducted during the year and any recommendations resulting from
224 such reviews, inspections, and operations. A copy of the report
225 shall be provided to the Governor, the President of the Senate,
226 the Speaker of the House of Representatives, the governing body
227 of each seaport or seaport authority, and each seaport director.
228 The report must include each director's response indicating what
229 actions, if any, have been taken or are planned to be taken
230 pursuant to the observations, findings, and recommendations
231 reported by the department.

232 (b) After the Department of Law Enforcement completes the
233 annual inspection report in paragraph (a), the department shall
234 provide an assessment briefing to the board members of the
235 governing authority of each seaport and to the local regional
236 domestic security task force co-chairs. The briefing must
237 address the findings from the inspections, areas of concern, and
238 recommendations for improvements.

239 1. The department shall provide at least one assessment
240 briefing per year to the board during a meeting of the board.
241 The board must make transcripts and audio recordings of all
242 proceedings during such briefings.

243 2. Each board member of a governing authority having



301658

244 responsibility for seaport oversight or operations must attend
245 the assessment briefings. All attendance records shall be
246 published and announced at the next regular meeting of the
247 board.

248 (8) FUNDING.—

249 (a) In making decisions regarding the funding of security
250 projects or other funding applicable to each seaport listed in
251 s. 311.09, the Legislature may consider the Department of Law
252 Enforcement's annual report under subsection (7) as
253 authoritative, especially regarding each seaport's degree of
254 substantial compliance with the minimum security standards
255 established in subsection (1).

256 (b) The Legislature shall regularly review the ongoing
257 costs of operational security on seaports, the impacts of this
258 section on those costs, mitigating factors that may reduce costs
259 without reducing security, and the methods by which seaports may
260 implement operational security using a combination of sworn law
261 enforcement officers and private security services.

262 (c) Subject to the provisions of this chapter and
263 appropriations made for seaport security, state funds may not be
264 expended for security costs without certification of need for
265 such expenditures by the Office of Ports Administrator within
266 the Department of Law Enforcement.

267 (d) If funds are appropriated for seaport security, the
268 Office of Drug Control, the Department of Law Enforcement, and
269 the Florida Seaport Transportation and Economic Development
270 Council shall mutually determine the allocation of such funds
271 for security project needs identified in the approved seaport
272 security plans. Any seaport that receives state funds for



301658

273 security projects must enter into a joint participation
274 agreement with the appropriate state entity and use the seaport
275 security plan as the basis for the agreement.

276 1. If funds are made available over more than 1 fiscal
277 year, the agreement must reflect the entire scope of the project
278 approved in the security plan and, as practicable, allow for
279 reimbursement for authorized projects over more than 1 year.

280 2. The agreement may include specific timeframes for
281 completion of a security project and the applicable funding
282 reimbursement dates. The agreement may also require a
283 contractual penalty of up to \$1,000 per day to be imposed for
284 failure to meet project completion dates if state funding is
285 available. Any such penalty shall be deposited into the State
286 Transportation Trust Fund and used for seaport security
287 operations and capital improvements.

288 Section 3. Sections 311.111 and 311.125, Florida Statutes,
289 are repealed.

290 Section 4. Subsection (3) of section 311.121, Florida
291 Statutes, is amended to read:

292 311.121 Qualifications, training, and certification of
293 licensed security officers at Florida seaports.-

294 (3)~~(a)~~ The Seaport Security Officer Qualification,
295 Training, and Standards Coordinating Council is created under
296 the Department of Law Enforcement.

297 (a)~~(b)~~1. The executive director of the Department of Law
298 Enforcement shall appoint 11 members to the council to ~~which~~
299 shall include:

300 1.~~a~~. The seaport administrator of the Department of Law
301 Enforcement.



301658

302 ~~2.b.~~ The Commissioner of Education or designee ~~chancellor~~
303 ~~of the Community College System.~~

304 ~~3.e.~~ The director of the Division of Licensing of the
305 Department of Agriculture and Consumer Services.

306 ~~4.d.~~ The administrator of the Florida Seaport
307 Transportation and Economic Development Council.

308 ~~5.e.~~ Two seaport security directors from seaports
309 designated under s. 311.09.

310 ~~6.f.~~ One director of a state law enforcement academy.

311 ~~7.g.~~ One representative of a local law enforcement agency.

312 ~~8.h.~~ Two representatives of contract security services.

313 ~~9.i.~~ One representative of the Division of Driver Licenses
314 of the Department of Highway Safety and Motor Vehicles.

315 ~~(b)2.~~ In addition to the members designated in paragraph
316 (a) subparagraph 1., the executive director may invite a
317 representative of the United States Coast Guard to attend and
318 participate in council meetings as an ex officio, nonvoting
319 member of the council.

320 (c) Council members designated under subparagraphs (a)1.-4.
321 ~~in sub-subparagraphs (b)1.a.-d.~~ shall serve for the duration of
322 their employment or appointment. Council members designated
323 under subparagraphs (b)5.-9. ~~sub-subparagraphs (b)1.e.-i.~~ shall
324 be appointed for ~~serve~~ 4-year terms, except that the initial
325 appointment for the representative of a local law enforcement
326 agency, one representative of a contract security agency, and
327 one seaport security director from a seaport designated in s.
328 311.09 shall be appointed for 2-year terms ~~serve for terms of 2~~
329 ~~years.~~

330 (d) The chancellor of the Community College System shall



301658

331 serve as chair of the council.

332 (e) The council shall meet upon the call of the chair, and
333 at least once a year to update or modify curriculum
334 recommendations.

335 (f) Council members shall serve without pay; however, per
336 diem and travel allowances may be claimed for attendance of
337 officially called meetings as provided by s. 112.061.

338 (g) ~~By December 1, 2006,~~ The council shall identify the
339 qualifications, training, and standards for seaport security
340 officer certification and recommend a curriculum for the seaport
341 security officer training program that includes at least ~~shall~~
342 ~~include no less than~~ 218 hours of initial certification training
343 and that conforms to or exceeds model courses approved under ~~by~~
344 ~~the Federal Maritime Act under~~ s. 109 of the Federal Maritime
345 Transportation Security Act of 2002 for facility personnel with
346 specific security duties.

347 1. ~~(h)~~ The council may recommend training equivalencies that
348 may be substituted for portions of the required training.

349 2. ~~(i)~~ The council shall recommend a continuing education
350 curriculum of at least ~~no less than~~ 8 hours of additional
351 training for each annual licensing period.

352 Section 5. Section 311.123, Florida Statutes, is amended to
353 read:

354 311.123 Maritime domain security awareness training
355 program.—

356 (1) The Florida Seaport Transportation and Economic
357 Development Council, in conjunction with the Department of Law
358 Enforcement and the Office of Drug Control within the Executive
359 Office of the Governor, shall create a maritime domain security



301658

360 awareness training program to instruct all personnel employed
361 within a seaport's boundaries about the security procedures
362 required of them for implementation of the seaport security plan
363 required under s. 311.12(3).

364 (2) The training program curriculum must include security
365 training required pursuant to 33 C.F.R. part 105 and must be
366 designed to enable the seaports in this state to meet the
367 training, drill, and exercise requirements of 33 C.F.R. part 105
368 and individual seaport security plans and to otherwise comply
369 with the requirements of s. 311.12 ~~relating to security~~
370 ~~awareness.~~

371 Section 6. Subsection (1) of section 311.124, Florida
372 Statutes, is amended to read:

373 311.124 Trespassing; detention by a certified seaport
374 security officer.—

375 (1) Any Class D or Class G seaport security officer
376 certified under the Maritime Transportation Security Act
377 guidelines and s. 311.121 or any employee of the seaport
378 security force certified under the Maritime Transportation
379 Security Act guidelines and s. 311.121 who has probable cause to
380 believe that a person is trespassing pursuant to ~~the provisions~~
381 ~~of~~ s. 810.08 or s. 810.09 or this chapter in a designated
382 restricted access area pursuant to s. 311.12(4) ~~s. 311.111~~ is
383 authorized to detain such person in a reasonable manner for a
384 reasonable period of time pending the arrival of a law
385 enforcement officer, and such action does ~~shall~~ not render the
386 security officer criminally or civilly liable for false arrest,
387 false imprisonment, or unlawful detention.

388 Section 7. Section 311.13, Florida Statutes, is amended to



301658

389 read:

390 311.13 Certain information exempt from disclosure.—Seaport
391 security plans ~~of a seaport authority created pursuant to s.~~
392 ~~311.12 by act of the Legislature or of a seaport department of a~~
393 ~~county or municipality that operates an international seaport~~
394 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
395 Constitution. In addition, photographs, maps, blueprints,
396 drawings, and similar materials that depict critical seaport
397 operating facilities are exempt from s. 119.07(1) and s. 24(a),
398 Art. I of the State Constitution, to the extent that a seaport
399 ~~authority created by act of the Legislature or a seaport~~
400 ~~department of a county or municipality that operates a seaport~~
401 reasonably determines that such items contain information that
402 is not generally known and that could jeopardize the security of
403 the seaport; however, information relating to real estate
404 leases, layout plans, blueprints, or information relevant
405 thereto, is not ~~to be~~ included in this exemption. ~~The exemptions~~
406 ~~in this section are applicable only to records held by a seaport~~
407 ~~authority created by act of the Legislature or to records of a~~
408 ~~county or municipal seaport department that operates a seaport.~~

409 Section 8. Paragraph (a) of subsection (4) of section
410 943.0585, Florida Statutes, is amended to read:

411 943.0585 Court-ordered expunction of criminal history
412 records.—The courts of this state have jurisdiction over their
413 own procedures, including the maintenance, expunction, and
414 correction of judicial records containing criminal history
415 information to the extent such procedures are not inconsistent
416 with the conditions, responsibilities, and duties established by
417 this section. Any court of competent jurisdiction may order a



301658

418 criminal justice agency to expunge the criminal history record
419 of a minor or an adult who complies with the requirements of
420 this section. The court shall not order a criminal justice
421 agency to expunge a criminal history record until the person
422 seeking to expunge a criminal history record has applied for and
423 received a certificate of eligibility for expunction pursuant to
424 subsection (2). A criminal history record that relates to a
425 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
426 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
427 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
428 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
429 any violation specified as a predicate offense for registration
430 as a sexual predator pursuant to s. 775.21, without regard to
431 whether that offense alone is sufficient to require such
432 registration, or for registration as a sexual offender pursuant
433 to s. 943.0435, may not be expunged, without regard to whether
434 adjudication was withheld, if the defendant was found guilty of
435 or pled guilty or nolo contendere to the offense, or if the
436 defendant, as a minor, was found to have committed, or pled
437 guilty or nolo contendere to committing, the offense as a
438 delinquent act. The court may only order expunction of a
439 criminal history record pertaining to one arrest or one incident
440 of alleged criminal activity, except as provided in this
441 section. The court may, at its sole discretion, order the
442 expunction of a criminal history record pertaining to more than
443 one arrest if the additional arrests directly relate to the
444 original arrest. If the court intends to order the expunction of
445 records pertaining to such additional arrests, such intent must
446 be specified in the order. A criminal justice agency may not



301658

447 expunge any record pertaining to such additional arrests if the
448 order to expunge does not articulate the intention of the court
449 to expunge a record pertaining to more than one arrest. This
450 section does not prevent the court from ordering the expunction
451 of only a portion of a criminal history record pertaining to one
452 arrest or one incident of alleged criminal activity.

453 Notwithstanding any law to the contrary, a criminal justice
454 agency may comply with laws, court orders, and official requests
455 of other jurisdictions relating to expunction, correction, or
456 confidential handling of criminal history records or information
457 derived therefrom. This section does not confer any right to the
458 expunction of any criminal history record, and any request for
459 expunction of a criminal history record may be denied at the
460 sole discretion of the court.

461 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
462 criminal history record of a minor or an adult which is ordered
463 expunged by a court of competent jurisdiction pursuant to this
464 section must be physically destroyed or obliterated by any
465 criminal justice agency having custody of such record; except
466 that any criminal history record in the custody of the
467 department must be retained in all cases. A criminal history
468 record ordered expunged that is retained by the department is
469 confidential and exempt from the provisions of s. 119.07(1) and
470 s. 24(a), Art. I of the State Constitution and not available to
471 any person or entity except upon order of a court of competent
472 jurisdiction. A criminal justice agency may retain a notation
473 indicating compliance with an order to expunge.

474 (a) The person who is the subject of a criminal history
475 record that is expunged under this section or under other



301658

476 provisions of law, including former s. 893.14, former s. 901.33,
477 and former s. 943.058, may lawfully deny or fail to acknowledge
478 the arrests covered by the expunged record, except when the
479 subject of the record:

- 480 1. Is a candidate for employment with a criminal justice
481 agency;
 - 482 2. Is a defendant in a criminal prosecution;
 - 483 3. Concurrently or subsequently petitions for relief under
484 this section or s. 943.059;
 - 485 4. Is a candidate for admission to The Florida Bar;
 - 486 5. Is seeking to be employed or licensed by or to contract
487 with the Department of Children and Family Services, the Agency
488 for Health Care Administration, the Agency for Persons with
489 Disabilities, or the Department of Juvenile Justice or to be
490 employed or used by such contractor or licensee in a sensitive
491 position having direct contact with children, the
492 developmentally disabled, the aged, or the elderly as provided
493 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
494 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),
495 chapter 916, s. 985.644, chapter 400, or chapter 429;
 - 496 6. Is seeking to be employed or licensed by the Department
497 of Education, any district school board, any university
498 laboratory school, any charter school, any private or parochial
499 school, or any local governmental entity that licenses child
500 care facilities; or
 - 501 ~~7. Is seeking authorization from a Florida seaport~~
502 ~~identified in s. 311.09 for employment within or access to one~~
503 ~~or more of such seaports pursuant to s. 311.12 or s. 311.125.~~
- 504 Section 9. Paragraph (a) of subsection (4) of section



301658

505 943.059, Florida Statutes, is amended to read:

506 943.059 Court-ordered sealing of criminal history records.—
507 The courts of this state shall continue to have jurisdiction
508 over their own procedures, including the maintenance, sealing,
509 and correction of judicial records containing criminal history
510 information to the extent such procedures are not inconsistent
511 with the conditions, responsibilities, and duties established by
512 this section. Any court of competent jurisdiction may order a
513 criminal justice agency to seal the criminal history record of a
514 minor or an adult who complies with the requirements of this
515 section. The court shall not order a criminal justice agency to
516 seal a criminal history record until the person seeking to seal
517 a criminal history record has applied for and received a
518 certificate of eligibility for sealing pursuant to subsection
519 (2). A criminal history record that relates to a violation of s.
520 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
521 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
522 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
523 916.1075, a violation enumerated in s. 907.041, or any violation
524 specified as a predicate offense for registration as a sexual
525 predator pursuant to s. 775.21, without regard to whether that
526 offense alone is sufficient to require such registration, or for
527 registration as a sexual offender pursuant to s. 943.0435, may
528 not be sealed, without regard to whether adjudication was
529 withheld, if the defendant was found guilty of or pled guilty or
530 nolo contendere to the offense, or if the defendant, as a minor,
531 was found to have committed or pled guilty or nolo contendere to
532 committing the offense as a delinquent act. The court may only
533 order sealing of a criminal history record pertaining to one



301658

534 arrest or one incident of alleged criminal activity, except as
535 provided in this section. The court may, at its sole discretion,
536 order the sealing of a criminal history record pertaining to
537 more than one arrest if the additional arrests directly relate
538 to the original arrest. If the court intends to order the
539 sealing of records pertaining to such additional arrests, such
540 intent must be specified in the order. A criminal justice agency
541 may not seal any record pertaining to such additional arrests if
542 the order to seal does not articulate the intention of the court
543 to seal records pertaining to more than one arrest. This section
544 does not prevent the court from ordering the sealing of only a
545 portion of a criminal history record pertaining to one arrest or
546 one incident of alleged criminal activity. Notwithstanding any
547 law to the contrary, a criminal justice agency may comply with
548 laws, court orders, and official requests of other jurisdictions
549 relating to sealing, correction, or confidential handling of
550 criminal history records or information derived therefrom. This
551 section does not confer any right to the sealing of any criminal
552 history record, and any request for sealing a criminal history
553 record may be denied at the sole discretion of the court.

554 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
555 history record of a minor or an adult which is ordered sealed by
556 a court of competent jurisdiction pursuant to this section is
557 confidential and exempt from the provisions of s. 119.07(1) and
558 s. 24(a), Art. I of the State Constitution and is available only
559 to the person who is the subject of the record, to the subject's
560 attorney, to criminal justice agencies for their respective
561 criminal justice purposes, which include conducting a criminal
562 history background check for approval of firearms purchases or



301658

563 transfers as authorized by state or federal law, to judges in
564 the state courts system for the purpose of assisting them in
565 their case-related decisionmaking responsibilities, as set forth
566 in s. 943.053(5), or to those entities set forth in
567 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
568 licensing, access authorization, and employment purposes.

569 (a) The subject of a criminal history record sealed under
570 this section or under other provisions of law, including former
571 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
572 deny or fail to acknowledge the arrests covered by the sealed
573 record, except when the subject of the record:

- 574 1. Is a candidate for employment with a criminal justice
575 agency;
- 576 2. Is a defendant in a criminal prosecution;
- 577 3. Concurrently or subsequently petitions for relief under
578 this section or s. 943.0585;
- 579 4. Is a candidate for admission to The Florida Bar;
- 580 5. Is seeking to be employed or licensed by or to contract
581 with the Department of Children and Family Services, the Agency
582 for Health Care Administration, the Agency for Persons with
583 Disabilities, or the Department of Juvenile Justice or to be
584 employed or used by such contractor or licensee in a sensitive
585 position having direct contact with children, the
586 developmentally disabled, the aged, or the elderly as provided
587 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
588 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
589 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;
- 590 6. Is seeking to be employed or licensed by the Department
591 of Education, any district school board, any university



301658

592 laboratory school, any charter school, any private or parochial
593 school, or any local governmental entity that licenses child
594 care facilities;

595 7. Is attempting to purchase a firearm from a licensed
596 importer, licensed manufacturer, or licensed dealer and is
597 subject to a criminal history background check under state or
598 federal law; or

599 8. Is seeking authorization from a Florida seaport
600 identified in s. 311.09 for employment within or access to one
601 or more of such seaports ~~pursuant to s. 311.12 or s. 311.125.~~

602 Section 10. The Office of Drug Control shall commission an
603 update of the Florida Seaport Security Assessment 2000
604 referenced in s. 311.12(1)(a), Florida Statutes. The office
605 shall consult with the Seaport Security Standards Advisory
606 Council in forming the parameters of the update. The updated
607 assessment shall be presented to the Legislature for review by
608 January 1, 2010. Pursuant to s. 311.13, Florida Statutes, any
609 records included in the assessment which are exempt from s.
610 119.07(1), Florida Statutes, are exempt from disclosure.

611 Section 11. Paragraph (b) of subsection (7) of s. 311.12,
612 Florida Statutes, as amended by this act, shall take effect only
613 if SB 2162, or similar legislation is enacted in the same
614 legislative session, or an extension thereof, and becomes law.

615 Section 12. Except as otherwise expressly provided in this
616 act, this act shall take effect July 1, 2009.

619 ===== T I T L E A M E N D M E N T =====

620 And the title is amended as follows:



301658

621 Delete everything before the enacting clause
622 and insert:

623 A bill to be entitled
624 An act relating to seaport security; creating s.
625 311.115, F.S.; establishing the Seaport Security
626 Standards Advisory Council; providing for membership
627 and terms of office; providing duties; requiring
628 reports to the Governor and Legislature; amending s.
629 311.12, F.S.; revising provisions relating to seaport
630 security; authorizing the Department of Law
631 Enforcement to exempt all or part of a port from
632 certain security requirements; deleting background
633 screening requirements; allowing, rather than
634 requiring, certain applications for a waiver from
635 security requirements to be submitted to the Domestic
636 Security Council for review; requiring a copy of the
637 department's legislative report to be provided to each
638 seaport governing body or authority; requiring the
639 department to provide assessment briefings to seaport
640 authority governing boards and local regional domestic
641 security task force co-chairs at least once per year;
642 requiring certain board members to attend assessment
643 briefings; adding the department to those entities
644 responsible for allocating funds for security
645 projects; repealing s. 311.111, F.S., relating to
646 unrestricted and restricted public access areas and
647 secured restricted access areas; repealing s. 311.125,
648 F.S., relating to the Uniform Port Access Credential
649 System and the Uniform Port Access Credential Card;



301658

650 amending s. 311.121, F.S.; revising the membership of
651 the Seaport Security Officer Qualification, Training,
652 and Standards Coordinating Council; amending ss.
653 311.123, 311.124, 311.13, F.S.; conforming terms and
654 cross-references; amending s. 943.0585, F.S.; deleting
655 an exception relating to expunged criminal records for
656 persons being screened for seaport employment;
657 conforming cross-references; amending s. 943.059,
658 F.S.; conforming cross-references; directing the
659 Office of Drug Control to commission an update of the
660 Florida Seaport Security Assessment 2000, which shall
661 be presented to the Legislature by a certain date;
662 providing a contingency with respect to assessment
663 briefings conducted by the department; providing an
664 effective date.