

By the Committee on Military Affairs and Domestic Security

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1 A bill to be entitled
2 An act relating to seaport security; amending s.
3 311.12, F.S.; revising provisions relating to seaport
4 security; authorizing the Department of Law
5 Enforcement to exempt all or part of a port from
6 certain security requirements; providing criteria for
7 determining eligibility to enter restricted access
8 areas; establishing a statewide access eligibility
9 reporting system within the department; deleting the
10 requirement that seaports promptly notify the
11 department of any changes in access levels; specifying
12 that costs for the department's access reporting
13 system may be charged and paid by the seaport, other
14 employing entity, or person screened; providing
15 additional criminal offenses that disqualify a person
16 from employment by or access to a seaport; deleting
17 the requirement that the department notify the port
18 authority that denied employment of the final
19 disposition of a waiver request from background
20 screening requirements; allowing, rather than
21 requiring, certain applications for a waiver from
22 security requirements to be submitted to the Domestic
23 Security Council for review; requiring a copy of the
24 department's legislative report to be provided to each
25 seaport governing body or authority; adding the
26 department to those entities responsible for
27 allocating funds for security projects; repealing s.
28 311.111, F.S., relating to unrestricted and restricted
29 public access areas and secured restricted access

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30 areas; repealing s. 311.125, F.S., relating to the
31 Uniform Port Access Credential System and the Uniform
32 Port Access Credential Card; amending ss. 311.123,
33 311.124, 311.13, 943.0585, and 943.059, F.S.;
34 conforming terms and cross-references; providing an
35 effective date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. Section 311.12, Florida Statutes, is amended to
40 read:

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

43 311.12 Seaport security.-

44 (1) SECURITY STANDARDS.-

45 (a) The statewide minimum standards for seaport security
46 applicable to seaports listed in s. 311.09 shall be those based
47 on the Florida Seaport Security Assessment 2000 and set forth in
48 the Port Security Standards Compliance Plan delivered to the
49 Speaker of the House of Representatives and the President of the
50 Senate on December 11, 2000. The Office of Drug Control within
51 the Executive Office of the Governor shall maintain a sufficient
52 number of copies of the standards for public use at its offices,
53 and shall provide copies to each affected seaport upon request.

54 (b) A seaport may implement security measures that are more
55 stringent, more extensive, or supplemental to the minimum
56 security standards established by this subsection, except that
57 for purposes of qualifying for employment and access to
58 restricted access areas, a seaport must meet but may not exceed

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59 the disqualifying offenses provided in paragraph (6) (d).

60 (2) EXEMPTION.—The Department of Law Enforcement may exempt
61 all or part of a seaport listed in s. 311.09 from the
62 requirements of this section if the department determines that
63 activity associated with the use of the seaport or part of the
64 seaport is not vulnerable to criminal activity or terrorism. The
65 department shall periodically review such exemptions to
66 determine if there is a change in use. Such change may warrant
67 removal of all or part of the exemption.

68 (3) SECURITY PLAN.—Each seaport listed in s. 311.09 shall
69 adopt and maintain a security plan specific to that seaport
70 which provides for a secure seaport infrastructure that promotes
71 the safety and security of state residents and visitors and the
72 flow of legitimate trade and travel.

73 (a) Beginning January 1, 2007, and every 5 years
74 thereafter, each seaport director, with the assistance of the
75 Regional Domestic Security Task Force and in conjunction with
76 the United States Coast Guard, shall revise the seaport's
77 security plan based on the director's ongoing assessment of
78 security risks, the risks of terrorist activities, and the
79 specific and identifiable needs of the seaport for ensuring that
80 the seaport is in substantial compliance with the minimum
81 security standards established under subsection (1).

82 (b) Each adopted or revised security plan must be reviewed
83 and approved by the Office of Drug Control and the Department of
84 Law Enforcement for compliance with federal facility security
85 assessment requirements under 33 C.F.R. s. 105.305 and the
86 minimum security standards established under subsection (1).
87 Within 30 days after completion, a copy of the written review

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88 shall be delivered to the United States Coast Guard, the
89 Regional Domestic Security Task Force, and the Domestic Security
90 Oversight Council.

91 (4) RESTRICTED ACCESS AREAS.—Each seaport listed in s.
92 311.09 must clearly designate in seaport security plans, and
93 clearly identify with appropriate signs and markers on the
94 premises of a seaport, all restricted access areas, access
95 eligibility requirements, and corresponding security enforcement
96 authorizations, which may include, but not be limited to, clear
97 notice of the prohibition against possession of concealed
98 weapons and other contraband material on the premises of the
99 seaport, as provided in paragraph (e).

100 (a) The seaport's security plan must set forth the
101 conditions and restrictions to be imposed on persons employed
102 at, doing business at, or visiting the seaport relating to
103 restricted access areas that are sufficient to provide
104 substantial compliance with the minimum security standards
105 established in subsection (1).

106 (b) Seaport employees and other persons working at the
107 seaport who have regular access to such areas, visitors who have
108 business with the seaport, and cruise ship passengers holding
109 valid boarding documents have express permission to enter a
110 restricted access area.

111 1. Seaport employees or other persons working at the
112 seaport are considered to have "regular access" if they enter a
113 restricted area more than five times in a 90-day period.

114 2. A person who enters a restricted access area five times
115 or less in a 90-day period is considered a "visitor." Upon
116 arrival at a restricted access area, a visitor must, at a

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117 minimum, stop at a check point, show valid identification, and
118 receive a visitor's pass before proceeding. The visitor's pass
119 must be plainly displayed on the person of the visitor or in the
120 windshield of the vehicle, and designate which area of the
121 seaport may be accessed by the visitor. Failure to display the
122 visitor's pass shall result in revocation of permission to work
123 at the seaport. Public conveyances, such as buses carrying
124 passengers into restricted access areas, must be able to verify
125 that all passengers have legitimate business at the seaport.
126 Procedures for implementation of this requirement are the
127 responsibility of each seaport.

128 3. Cruise ship passengers are those persons scheduled for
129 immediate departure who have permission to board a ship that is
130 in port. Upon arrival at a restricted access area, cruise ship
131 passengers must, at a minimum, stop at a check point and show
132 valid identification and boarding documents.

133 4. Any person found in these areas without the proper
134 permission is subject to the trespass provisions of ss. 810.08
135 and 810.09.

136 5. All persons and objects in these areas are subject to
137 search by a sworn state-certified law enforcement officer, a
138 Class D seaport security officer certified under Maritime
139 Transportation Security Act guidelines and s. 311.121, or an
140 employee of the seaport security force certified under the
141 Maritime Transportation Security Act guidelines and s. 311.121.

142 (c) During a period of high terrorist threat level, as
143 designated by the United States Department of Homeland Security
144 or the Department of Law Enforcement, or during an emergency
145 declared at a port by the seaport security director due to

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146 events applicable to that particular seaport, the management or
147 controlling authority of the port may temporarily designate any
148 part of the seaport property as a restricted access area. The
149 duration of such designation is limited to the period in which
150 the high terrorist threat level is in effect or a port emergency
151 exists.

152 (d) As determined by the seaport director's most current
153 risk assessment report under paragraph (3) (a), any restricted
154 access area that has a potential human occupancy of 50 persons
155 or more, any cruise terminal, or any business operation that is
156 adjacent to a public access area must be protected from the most
157 probable and credible terrorist threat to human life.

158 (e) Any person in a restricted access area who has in his
159 or her possession a concealed weapon, or who operates or has
160 possession or control of a vehicle in or upon which a concealed
161 weapon is placed or stored, commits a misdemeanor of the first
162 degree, punishable as provided in s. 775.082 or s. 775.083. This
163 paragraph does not apply to active-duty certified federal or
164 state law enforcement personnel or persons so designated by the
165 seaport director in writing.

166 (5) ACCESS ELIGIBILITY REPORTING SYSTEM.—

167 (a) The Department of Law Enforcement shall administer a
168 statewide seaport access eligibility reporting system. The
169 system must, at a minimum, consist of:

170 1. A centralized, secure database for collecting and
171 maintaining fingerprints and other biometric means of identity,
172 and any other identifying information of persons employed by or
173 doing business at a state seaport;

174 2. A methodology for receiving data from each seaport and

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175 transmitting data to each seaport regarding access eligibility;
176 and

177 3. The ability to identify persons who have violated the
178 requirements of this subsection and to deactivate the access
179 eligibility of such persons.

180 (b) Each seaport listed in s. 311.09 is responsible for
181 granting, modifying, restricting, or denying access to
182 restricted access areas to seaport employees, other persons
183 working at the seaport, visitors who have business with the
184 seaport, or other persons regularly appearing at the seaport.
185 Each seaport is responsible for access eligibility verification
186 at its location.

187 (c) Each person working at a seaport is eligible to enter a
188 seaport participating in the access eligibility reporting system
189 based on the level of permission allowed by each respective
190 seaport.

191 (d) A criminal history check must be performed on employee
192 applicants, current employees, and other persons working within
193 or authorized to regularly enter a restricted access area in
194 accordance with subsection (6). Based upon the criminal history
195 check, each seaport may determine the specific access
196 eligibility that shall be granted to that person.

197 (e) Persons, corporations, or other business entities that
198 employ persons to work or do business at seaports shall notify
199 the seaport of the termination, resignation, work-related
200 incapacitation, or death of an employee who has access
201 permission.

202 1. If the seaport determines that the person has been
203 employed by another appropriate entity or is self-employed for

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204 purposes of performing work at the seaport, the seaport may
205 reinstate the person's access eligibility.

206 2. A business entity's failure to report a change in an
207 employee's work status within 7 days after that change may
208 result in revocation of the business entity's access to the
209 seaport.

210 (6) CRIMINAL HISTORY SCREENING.—

211 (a) In addition to other requirements for employment or
212 access established by each seaport in its seaport security plan,
213 the plan must identify the criminal offenses listed in paragraph
214 (d) which disqualify a person from seaport employment or regular
215 access to restricted access areas of the seaport. A fingerprint-
216 based criminal history check shall be performed on employee
217 applicants, current employees, and other persons working within
218 or authorized to regularly enter a restricted access area, or
219 the entire seaport if the seaport security plan does not
220 designate one or more restricted access areas.

221 1. Such checks must be performed at least once every 5
222 years, or at more frequent intervals as provided by the seaport
223 security plan.

224 2. Each individual who is subject to a criminal history
225 check shall file a complete set of fingerprints taken in a
226 manner required by the Department of Law Enforcement and the
227 seaport security plan. Fingerprints shall be submitted to the
228 Department of Law Enforcement for state processing and forwarded
229 to the Federal Bureau of Investigation for federal processing.
230 The results of each fingerprint-based check must be reported to
231 the requesting seaport and may be shared among seaports.

232 (b) A Florida Crime Information Center name-based criminal

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233 history clearance must be performed at least once a year, and
234 may be performed on a random basis more frequently, to ensure
235 that persons screened under paragraph (a) continue to meet the
236 screening requirements for restricted access areas. Failure to
237 comply with the criminal history clearances is grounds for
238 immediate denial of access. In addition to access permissions
239 granted or denied by seaports, access eligibility may be
240 restricted or revoked by the Department of Law Enforcement if
241 the person is suspected of terrorism or criminal violations that
242 could affect the security of a port or otherwise render the
243 person ineligible for seaport access.

244 (c) The cost of the criminal history checks, including the
245 cost of the initial state and federal fingerprint-based check,
246 the annual name-based criminal history clearance, and the use of
247 the Department of Law Enforcement's statewide access eligibility
248 reporting system shall be paid by the seaport, another employing
249 entity, or the person screened to the department or to the
250 seaport, if it is acting as an agent of the department for
251 purposes of collecting the remittance. A seaport may charge an
252 additional administrative fee to cover the costs of
253 participating in the access eligibility reporting system under
254 subsection (5).

255 (d) Any person who has been convicted of, or entered a plea
256 of guilty or nolo contendere to, regardless of adjudication, any
257 of the following offenses is disqualified from employment or
258 unescorted access unless, after release from incarceration or
259 any supervision imposed as a result of sentencing, the person
260 has remained free from a subsequent conviction, regardless of
261 adjudication, of the following listed offenses for at least 7

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- 262 years before the employment or access date under consideration:
- 263 1. An act of terrorism as defined in s. 775.30.
- 264 2. A violation involving a weapon of mass destruction or
- 265 hoax weapon of mass destruction as provided in s. 790.166.
- 266 3. Planting of a hoax bomb as provided in s. 790.165.
- 267 4. A violation of s. 876.02 or 876.36.
- 268 5. A violation of s. 860.065.
- 269 6. Trafficking as provided in s. 893.135.
- 270 7. Racketeering activity as provided in s. 895.03.
- 271 8. Dealing in stolen property as provided in s. 812.019.
- 272 9. Money laundering as provided in s. 896.101.
- 273 10. Criminal use of personal identification as provided in
- 274 s. 817.568.
- 275 11. Bribery as provided in s. 838.015.
- 276 12. A violation of s. 316.302 relating to the transport of
- 277 hazardous materials.
- 278 13. A forcible felony as defined in s. 776.08.
- 279 14. A violation of s. 790.07.
- 280 15. Any crime which includes the use or possession of a
- 281 weapon or firearm.
- 282 16. A felony violation for theft as provided in s. 812.014.
- 283 17. Robbery as provided in s. 812.13.
- 284 18. Burglary as provided in s. 810.02.
- 285 19. Any violation involving the sale, manufacture,
- 286 delivery, or possession with intent to sell, manufacture, or
- 287 deliver a controlled substance.
- 288 20. Any offense under the laws of another jurisdiction that
- 289 is similar to an offense in this list.
- 290 21. Conspiracy or attempt to commit any of the listed

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291 offenses.

292 (e) The Department of Law Enforcement shall establish a
293 waiver process for an individual who is found to be unqualified
294 under paragraph (d) and denied employment by a seaport or
295 unescorted access to restricted access areas.

296 1. Consideration for a waiver shall be based on the
297 circumstances of any disqualifying act or offense, restitution
298 made by the individual, and other factors from which it may be
299 determined that the individual does not pose a risk of engaging
300 in any act within the public seaports regulated under this
301 chapter which poses a risk to or threatens the security of the
302 seaport and the public's health, safety, or welfare.

303 2. The waiver process begins when an individual who has
304 been denied initial employment within or unescorted access to
305 restricted areas of a public seaport submits an application for
306 a waiver and a notarized letter or affidavit from the
307 individual's employer or union representative which states the
308 mitigating reasons for initiating the waiver process.

309 3. Within 90 days after receipt of the application, the
310 administrative staff of the Parole Commission shall conduct a
311 factual review of the waiver application. Findings of fact shall
312 be transmitted to the department for review. The department
313 shall make a copy of those findings available to the applicant
314 before final disposition of the waiver request.

315 4. The department shall make a final disposition of the
316 waiver request based on the factual findings of the
317 investigation by the Parole Commission. The department shall
318 notify the waiver applicant of the final disposition of the
319 waiver.

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320 5. The review process under this paragraph is exempt from
321 chapter 120.

322 6. By October 1 of each year, each seaport shall report to
323 the department each instance of denial of employment within, or
324 access to, restricted areas, and each instance waiving an appeal
325 of a denial occurring during the last 12 months. The report must
326 include the identity of the individual affected, the factors
327 supporting the denial or waiver, and any other material factors
328 used to make the determination.

329 (f) In addition to the waiver procedure established by the
330 Department of Law Enforcement under paragraph (e), each seaport
331 security plan may establish a procedure to appeal a denial of
332 employment or access based upon procedural inaccuracies or
333 discrepancies regarding criminal history factors established
334 pursuant to this subsection.

335 (g) Each seaport may allow immediate waivers on a temporary
336 basis to meet special or emergency needs of the seaport or its
337 users. Policies, procedures, and criteria for implementation of
338 this provision must be included in the seaport security plan.
339 All waivers granted by the seaports pursuant to this paragraph
340 must be reported to the department within 30 days after
341 issuance.

342 (7) WAIVER FROM SECURITY REQUIREMENTS.—The Office of Drug
343 Control and the Department of Law Enforcement may modify or
344 wave any physical facility requirement or other requirement
345 contained in the minimum security standards upon a determination
346 that the purposes of the standards have been reasonably met or
347 exceeded by the seaport requesting the modification or waiver.
348 An alternate means of compliance must not diminish the safety or

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349 security of the seaport and must be verified through an
350 extensive risk analysis conducted by the seaport director.

351 (a) Waiver requests shall be submitted in writing, along
352 with supporting documentation, to the Office of Drug Control and
353 the Department of Law Enforcement. The office and the department
354 have 90 days to jointly grant or reject the waiver, in whole or
355 in part.

356 (b) The seaport may submit any waivers that are not granted
357 or are jointly rejected to the Domestic Security Oversight
358 Council for review within 90 days. The council shall recommend
359 that the Office of Drug Control and the Department of Law
360 Enforcement grant the waiver or reject the waiver, in whole or
361 in part. The office and the department shall give great weight
362 to the council's recommendations.

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

366 (d) Any modifications or waivers granted under this
367 subsection shall be noted in the annual report submitted by the
368 Department of Law Enforcement pursuant to subsection (9).

369 (8) INSPECTIONS.—It is the intent of the Legislature that
370 the state's seaports adhere to security practices that are
371 consistent with the risks assigned to each seaport through the
372 ongoing risk assessment process established in paragraph (3)(a).

373 (a) The Department of Law Enforcement, or any entity
374 designated by the department, shall conduct at least one annual
375 unannounced inspection of each seaport to determine whether the
376 seaport is meeting the minimum security standards established
377 pursuant to subsection (1), and to identify seaport security

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378 changes or improvements needed or otherwise recommended.

379 (b) The Department of Law Enforcement, or any entity
380 designated by the department, may conduct additional announced
381 or unannounced inspections or operations within or affecting any
382 seaport to test compliance with, or the effectiveness of,
383 security plans and operations at each seaport, to determine
384 compliance with physical facility requirements and standards, or
385 to assist the department in identifying changes or improvements
386 needed to bring a seaport into compliance with minimum security
387 standards.

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

391 (d) A seaport may request that the Domestic Security
392 Oversight Council review the findings in the department's report
393 as they relate to the requirements of this section. The council
394 may review only those findings that are in dispute by the
395 seaport. In reviewing the disputed findings, the council may
396 concur in the findings of the department or the seaport, or may
397 recommend corrective action to the seaport. The department and
398 the seaport shall give great weight to the council's findings
399 and recommendations.

400 (e) The seaport director shall immediately implement any
401 security changes or improvements needed or recommended in the
402 report or, if the director requested a review by the Domestic
403 Security Oversight Council pursuant to paragraph (d),
404 immediately following the conclusion of that review.

405 (f) All seaports shall allow the Department of Law
406 Enforcement, or entity designated by the department, unimpeded

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407 access to affected areas and facilities for the purpose of plan
408 or compliance inspections or other operations authorized by this
409 section.

410 (9) LEGISLATIVE REPORT.— The Department of Law Enforcement,
411 in consultation with the Office of Drug Control, shall annually
412 complete a report indicating the observations and findings of
413 all reviews, inspections, or other operations relating to the
414 seaports conducted during the year and any recommendations
415 resulting from such reviews, inspections, and operations. A copy
416 of the report shall be provided to the Governor, the President
417 of the Senate, the Speaker of the House of Representatives, the
418 governing body of each seaport or seaport authority, and each
419 seaport director. The report must include each director's
420 responses indicating what actions, if any, have been taken or
421 are planned to be taken pursuant to the observations, findings,
422 and recommendations reported by the department.

423 (10) FUNDING.—

424 (a) In making security project or other funding decisions
425 applicable to each seaport listed in s. 311.09, the Legislature
426 may consider the Department of Law Enforcement's annual report
427 under subsection (9) as authoritative, especially regarding each
428 seaport's degree of substantial compliance with the minimum
429 security standards established in subsection (1).

430 (b) The Legislature shall regularly review the ongoing
431 costs of operational security on seaports, the impacts of this
432 section on those costs, mitigating factors that may reduce costs
433 without reducing security, and the methods by which seaports may
434 implement operational security using a combination of sworn law
435 enforcement officers and private security services.

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436 (c) Subject to the provisions of this chapter and
437 appropriations made for seaport security, state funds may not be
438 expended for security costs without certification of need for
439 such expenditures by the Office of Ports Administrator within
440 the Department of Law Enforcement.

441 (d) If funds are appropriated for seaport security, the
442 Office of Drug Control, the Department of Law Enforcement, and
443 the Florida Seaport Transportation and Economic Development
444 Council shall mutually determine the allocation of such funds
445 for security project needs identified in the approved seaport
446 security plans. Any seaport that receives state funds for
447 security projects must enter into a joint participation
448 agreement with the appropriate state entity and use the seaport
449 security plan as the basis for the agreement.

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

454 2. The agreement may include specific timeframes for
455 completion of a security project and the applicable funding
456 reimbursement dates. The agreement may also require a
457 contractual penalty of up to \$1,000 per day to be imposed for
458 failure to meet project completion dates if state funding is
459 available. Any such penalty shall be deposited into the State
460 Transportation Trust Fund and used for seaport security
461 operations and capital improvements.

462 (11) SEAPORT SECURITY STANDARDS ADVISORY COUNCIL.—The
463 Seaport Security Standards Advisory Council is created under the
464 Office of Drug Control. The council shall serve as an advisory

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465 council as provided in s. 20.03(7).

466 (a) The members of the council shall be appointed by the
467 Governor and consist of the following:

468 1. Two seaport directors.

469 2. Two seaport security directors.

470 3. One designee from the Department of Law Enforcement.

471 4. One designee from the Office of Motor Carrier Compliance
472 of the Department of Transportation.

473 5. One designee from the Attorney General's Office.

474 6. One designee from the Department of Agriculture and
475 Consumer Services.

476 7. One designee from the Office of Tourism, Trade, and
477 Economic Development.

478 8. One designee from the Office of Drug Control.

479 (b) In addition to the members designated in paragraph (a),
480 the council may invite a representative of the United States
481 Coast Guard to attend and participate in council meetings as an
482 ex officio, nonvoting member of the council.

483 (c) Members of the council shall be appointed to 4-year
484 terms. A vacancy shall be filled by the original appointing
485 authority for the balance of the unexpired term.

486 (d) The council shall be chaired by a designee from the
487 Office of Drug Control.

488 (e) Commencing on January 15, 2007, and at least every 4
489 years thereafter, the Office of Drug Control shall convene the
490 council to review the minimum security standards for
491 applicability to and effectiveness in combating current
492 narcotics and terrorism threats to the state's seaports. All
493 sources of information allowed by law shall be used in assessing

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494 the applicability and effectiveness of the standards.

495 (f) Council members shall serve without pay; however, per
496 diem and travel allowances may be claimed for attendance at
497 officially called meetings as provided by s. 112.061.

498 (g) The council shall consult with the appropriate area
499 maritime security committees to assess possible impacts to
500 commerce and trade contained in the council's nonclassified
501 recommendations and findings.

502 (h) The recommendations and findings of the council shall
503 be transmitted to the Governor, the President of the Senate, and
504 the Speaker of the House of Representatives.

505 Section 2. Sections 311.111 and 311.125, Florida Statutes,
506 are repealed.

507 Section 3. Section 311.123, Florida Statutes, is amended to
508 read:

509 311.123 Maritime domain security awareness training
510 program.—

511 (1) The Florida Seaport Transportation and Economic
512 Development Council, in conjunction with the Department of Law
513 Enforcement and the Office of Drug Control within the Executive
514 Office of the Governor, shall create a maritime domain security
515 awareness training program to instruct all personnel employed
516 within a seaport's boundaries about the security procedures
517 required of them for implementation of the seaport security plan
518 required under s. 311.12(3).

519 (2) The training program curriculum must include security
520 training required pursuant to 33 C.F.R. part 105 and must be
521 designed to enable the seaports in this state to meet the
522 training, drill, and exercise requirements of 33 C.F.R. part 105

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523 and individual seaport security plans and to otherwise comply
524 with the requirements of s. 311.12 ~~relating to security~~
525 ~~awareness~~.

526 Section 4. Subsection (1) of section 311.124, Florida
527 Statutes, is amended to read:

528 311.124 Trespassing; detention by a certified seaport
529 security officer.—

530 (1) Any Class D or Class G seaport security officer
531 certified under the Maritime Transportation Security Act
532 guidelines and s. 311.121 or any employee of the seaport
533 security force certified under the Maritime Transportation
534 Security Act guidelines and s. 311.121 who has probable cause to
535 believe that a person is trespassing pursuant to ~~the provisions~~
536 ~~of~~ s. 810.08 or s. 810.09 or this chapter in a designated
537 restricted access area pursuant to s. 311.12(4) ~~s. 311.111~~ is
538 authorized to detain such person in a reasonable manner for a
539 reasonable period of time pending the arrival of a law
540 enforcement officer, and such action does ~~shall~~ not render the
541 security officer criminally or civilly liable for false arrest,
542 false imprisonment, or unlawful detention.

543 Section 5. Section 311.13, Florida Statutes, is amended to
544 read:

545 311.13 Certain information exempt from disclosure.—Seaport
546 security plans ~~of a seaport authority~~ created pursuant to s.
547 311.12 ~~by act of the Legislature or of a seaport department of a~~
548 ~~county or municipality that operates an international seaport~~
549 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
550 Constitution. In addition, photographs, maps, blueprints,
551 drawings, and similar materials that depict critical seaport

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552 operating facilities are exempt from s. 119.07(1) and s. 24(a),
553 Art. I of the State Constitution, to the extent that a seaport
554 ~~authority created by act of the Legislature or a seaport~~
555 ~~department of a county or municipality that operates a seaport~~
556 reasonably determines that such items contain information that
557 is not generally known and that could jeopardize the security of
558 the seaport; however, information relating to real estate
559 leases, layout plans, blueprints, or information relevant
560 thereto, is not ~~to be~~ included in this exemption. ~~The exemptions~~
561 ~~in this section are applicable only to records held by a seaport~~
562 ~~authority created by act of the Legislature or to records of a~~
563 ~~county or municipal seaport department that operates a seaport.~~

564 Section 6. Paragraph (a) of subsection (4) of section
565 943.0585, Florida Statutes, is amended to read:

566 943.0585 Court-ordered expunction of criminal history
567 records.—The courts of this state have jurisdiction over their
568 own procedures, including the maintenance, expunction, and
569 correction of judicial records containing criminal history
570 information to the extent such procedures are not inconsistent
571 with the conditions, responsibilities, and duties established by
572 this section. Any court of competent jurisdiction may order a
573 criminal justice agency to expunge the criminal history record
574 of a minor or an adult who complies with the requirements of
575 this section. The court shall not order a criminal justice
576 agency to expunge a criminal history record until the person
577 seeking to expunge a criminal history record has applied for and
578 received a certificate of eligibility for expunction pursuant to
579 subsection (2). A criminal history record that relates to a
580 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,

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581 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
582 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
583 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
584 any violation specified as a predicate offense for registration
585 as a sexual predator pursuant to s. 775.21, without regard to
586 whether that offense alone is sufficient to require such
587 registration, or for registration as a sexual offender pursuant
588 to s. 943.0435, may not be expunged, without regard to whether
589 adjudication was withheld, if the defendant was found guilty of
590 or pled guilty or nolo contendere to the offense, or if the
591 defendant, as a minor, was found to have committed, or pled
592 guilty or nolo contendere to committing, the offense as a
593 delinquent act. The court may only order expunction of a
594 criminal history record pertaining to one arrest or one incident
595 of alleged criminal activity, except as provided in this
596 section. The court may, at its sole discretion, order the
597 expunction of a criminal history record pertaining to more than
598 one arrest if the additional arrests directly relate to the
599 original arrest. If the court intends to order the expunction of
600 records pertaining to such additional arrests, such intent must
601 be specified in the order. A criminal justice agency may not
602 expunge any record pertaining to such additional arrests if the
603 order to expunge does not articulate the intention of the court
604 to expunge a record pertaining to more than one arrest. This
605 section does not prevent the court from ordering the expunction
606 of only a portion of a criminal history record pertaining to one
607 arrest or one incident of alleged criminal activity.
608 Notwithstanding any law to the contrary, a criminal justice
609 agency may comply with laws, court orders, and official requests

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610 of other jurisdictions relating to expunction, correction, or
611 confidential handling of criminal history records or information
612 derived therefrom. This section does not confer any right to the
613 expunction of any criminal history record, and any request for
614 expunction of a criminal history record may be denied at the
615 sole discretion of the court.

616 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
617 criminal history record of a minor or an adult which is ordered
618 expunged by a court of competent jurisdiction pursuant to this
619 section must be physically destroyed or obliterated by any
620 criminal justice agency having custody of such record; except
621 that any criminal history record in the custody of the
622 department must be retained in all cases. A criminal history
623 record ordered expunged that is retained by the department is
624 confidential and exempt from the provisions of s. 119.07(1) and
625 s. 24(a), Art. I of the State Constitution and not available to
626 any person or entity except upon order of a court of competent
627 jurisdiction. A criminal justice agency may retain a notation
628 indicating compliance with an order to expunge.

629 (a) The person who is the subject of a criminal history
630 record that is expunged under this section or under other
631 provisions of law, including former s. 893.14, former s. 901.33,
632 and former s. 943.058, may lawfully deny or fail to acknowledge
633 the arrests covered by the expunged record, except when the
634 subject of the record:

- 635 1. Is a candidate for employment with a criminal justice
636 agency;
- 637 2. Is a defendant in a criminal prosecution;
- 638 3. Concurrently or subsequently petitions for relief under

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639 this section or s. 943.059;

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

641 5. Is seeking to be employed or licensed by or to contract
642 with the Department of Children and Family Services, the Agency
643 for Health Care Administration, the Agency for Persons with
644 Disabilities, or the Department of Juvenile Justice or to be
645 employed or used by such contractor or licensee in a sensitive
646 position having direct contact with children, the
647 developmentally disabled, the aged, or the elderly as provided
648 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
649 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),
650 chapter 916, s. 985.644, chapter 400, or chapter 429;

651 6. Is seeking to be employed or licensed by the Department
652 of Education, any district school board, any university
653 laboratory school, any charter school, any private or parochial
654 school, or any local governmental entity that licenses child
655 care facilities; or

656 7. Is seeking authorization from a ~~Florida~~ seaport listed
657 ~~identified~~ in s. 311.09 for employment within or access to one
658 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125~~.

659 Section 7. Paragraph (a) of subsection (4) of section
660 943.059, Florida Statutes, is amended to read:

661 943.059 Court-ordered sealing of criminal history records.—
662 The courts of this state shall continue to have jurisdiction
663 over their own procedures, including the maintenance, sealing,
664 and correction of judicial records containing criminal history
665 information to the extent such procedures are not inconsistent
666 with the conditions, responsibilities, and duties established by
667 this section. Any court of competent jurisdiction may order a

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668 criminal justice agency to seal the criminal history record of a
669 minor or an adult who complies with the requirements of this
670 section. The court shall not order a criminal justice agency to
671 seal a criminal history record until the person seeking to seal
672 a criminal history record has applied for and received a
673 certificate of eligibility for sealing pursuant to subsection
674 (2). A criminal history record that relates to a violation of s.
675 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
676 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
677 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
678 916.1075, a violation enumerated in s. 907.041, or any violation
679 specified as a predicate offense for registration as a sexual
680 predator pursuant to s. 775.21, without regard to whether that
681 offense alone is sufficient to require such registration, or for
682 registration as a sexual offender pursuant to s. 943.0435, may
683 not be sealed, without regard to whether adjudication was
684 withheld, if the defendant was found guilty of or pled guilty or
685 nolo contendere to the offense, or if the defendant, as a minor,
686 was found to have committed or pled guilty or nolo contendere to
687 committing the offense as a delinquent act. The court may only
688 order sealing of a criminal history record pertaining to one
689 arrest or one incident of alleged criminal activity, except as
690 provided in this section. The court may, at its sole discretion,
691 order the sealing of a criminal history record pertaining to
692 more than one arrest if the additional arrests directly relate
693 to the original arrest. If the court intends to order the
694 sealing of records pertaining to such additional arrests, such
695 intent must be specified in the order. A criminal justice agency
696 may not seal any record pertaining to such additional arrests if

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697 the order to seal does not articulate the intention of the court
698 to seal records pertaining to more than one arrest. This section
699 does not prevent the court from ordering the sealing of only a
700 portion of a criminal history record pertaining to one arrest or
701 one incident of alleged criminal activity. Notwithstanding any
702 law to the contrary, a criminal justice agency may comply with
703 laws, court orders, and official requests of other jurisdictions
704 relating to sealing, correction, or confidential handling of
705 criminal history records or information derived therefrom. This
706 section does not confer any right to the sealing of any criminal
707 history record, and any request for sealing a criminal history
708 record may be denied at the sole discretion of the court.

709 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
710 history record of a minor or an adult which is ordered sealed by
711 a court of competent jurisdiction pursuant to this section is
712 confidential and exempt from the provisions of s. 119.07(1) and
713 s. 24(a), Art. I of the State Constitution and is available only
714 to the person who is the subject of the record, to the subject's
715 attorney, to criminal justice agencies for their respective
716 criminal justice purposes, which include conducting a criminal
717 history background check for approval of firearms purchases or
718 transfers as authorized by state or federal law, to judges in
719 the state courts system for the purpose of assisting them in
720 their case-related decisionmaking responsibilities, as set forth
721 in s. 943.053(5), or to those entities set forth in
722 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
723 licensing, access authorization, and employment purposes.

724 (a) The subject of a criminal history record sealed under
725 this section or under other provisions of law, including former

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726 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
727 deny or fail to acknowledge the arrests covered by the sealed
728 record, except when the subject of the record:

- 729 1. Is a candidate for employment with a criminal justice
730 agency;
- 731 2. Is a defendant in a criminal prosecution;
- 732 3. Concurrently or subsequently petitions for relief under
733 this section or s. 943.0585;
- 734 4. Is a candidate for admission to The Florida Bar;
- 735 5. Is seeking to be employed or licensed by or to contract
736 with the Department of Children and Family Services, the Agency
737 for Health Care Administration, the Agency for Persons with
738 Disabilities, or the Department of Juvenile Justice or to be
739 employed or used by such contractor or licensee in a sensitive
740 position having direct contact with children, the
741 developmentally disabled, the aged, or the elderly as provided
742 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
743 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
744 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;
- 745 6. Is seeking to be employed or licensed by the Department
746 of Education, any district school board, any university
747 laboratory school, any charter school, any private or parochial
748 school, or any local governmental entity that licenses child
749 care facilities;
- 750 7. Is attempting to purchase a firearm from a licensed
751 importer, licensed manufacturer, or licensed dealer and is
752 subject to a criminal history background check under state or
753 federal law; or
- 754 8. Is seeking authorization from a Florida seaport

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755 identified in s. 311.09 for employment within or access to one
756 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125~~.
757 Section 8. This act shall take effect July 1, 2009.