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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Criminal Justice (Wilson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Restrictions on the employment of ex-offenders; legislative intent; state agency reporting requirements.-

(1) The Legislature declares that it is the goal of this state to provide to prospective employees a clear statement of which crimes would disqualify ex-offenders from which occupations. It is the intent of the Legislature to make opportunities for employment available to ex-offenders so that they will be less likely to revert to criminal behavior, insofar



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13 as the employment of such persons does not detract from the
14 safety of the public. The Legislature further declares that
15 state agencies should identify all restrictions imposed by the
16 agencies or by boards that regulate professions and occupations
17 on employment and should make an effort to define each
18 restriction as narrowly as possible while continuing to maintain
19 public safety.

20 (2) Each state agency, including, but not limited to,
21 professional and occupational regulatory boards, shall, by
22 December 31, 2010, and every 8 years thereafter, submit to the
23 Governor, the President of the Senate, and the Speaker of the
24 House of Representatives a report that includes:

25 (a) A list of all agency or board policies that disqualify
26 from employment or licensure persons who have been convicted of
27 a crime and have completed any incarceration and restitution to
28 which they have been sentenced for such a crime.

29 (b) A determination of whether the disqualifying policies
30 are readily available to prospective employers and licensees.

31 (c) The identification and evaluation of alternatives to
32 the disqualifying policies to promote the employment of ex-
33 offenders and protect the public.

34 (d) An evaluation of whether the disqualifying polices are
35 too broad and whether crimes or acts of moral turpitude that
36 disqualify a person from licensure should be more specifically
37 or narrowly identified.

38 Section 2. Section 112.011, Florida Statutes, is amended to
39 read:

40 112.011 Disqualification from licensing and public
41 employment based on criminal conviction ~~Felons; removal of~~



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42 ~~disqualifications for employment, exceptions.-~~

43 (1) (a) Except as provided in s. 775.16, a person may ~~shall~~
44 not be disqualified from employment by the state, any of its
45 agencies or political subdivisions, or any municipality solely
46 because of a prior conviction for a crime. However, a person may
47 be denied employment by the state, any of its agencies or
48 political subdivisions, or any municipality by reason of the
49 prior conviction for a crime if the crime was a felony or first
50 degree misdemeanor and directly related to the position of
51 employment sought.

52 (b) Except as provided in s. 775.16, a person ~~whose civil~~
53 ~~rights have been restored shall not be disqualified to practice,~~
54 ~~pursue, or engage in any occupation, trade, vocation,~~
55 ~~profession, or business for which a license, permit, or~~
56 ~~certificate is required to be issued by the state, any of its~~
57 ~~agencies or political subdivisions, or any municipality solely~~
58 ~~because of a prior conviction for a crime. However, a person~~
59 ~~whose civil rights have been restored~~ may be denied a license,
60 permit, or certification to pursue, practice, or engage in an
61 occupation, trade, vocation, profession, or business by reason
62 of the prior conviction for a crime if the crime was a felony or
63 first degree misdemeanor relevant to the standards normally
64 associated with, or determined by the regulatory authority to be
65 necessary for the protection of the public or other parties for
66 ~~and directly related to the specific occupation, trade,~~
67 vocation, profession, or business for which the license, permit,
68 or certificate is sought.

69 (c) Notwithstanding any law to the contrary, a state agency
70 may not deny an application for a license, permit, certificate,



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71 or employment based on the applicant's lack of civil rights.
72 However, this paragraph does not apply to applications for a
73 license to carry a concealed weapon or firearm under chapter
74 790.

75 (2) (a) This section does ~~shall~~ not apply ~~be applicable~~ to
76 any law enforcement or correctional agency.

77 (b) This section shall not be applicable to the employment
78 practices of any fire department relating to the hiring of
79 firefighters. An applicant for employment with any fire
80 department who has ~~with~~ a prior felony conviction shall be
81 excluded from employment for a period of 4 years after
82 expiration of sentence or final release by the Parole Commission
83 unless the applicant, prior to the expiration of the 4-year
84 period, has received a full pardon or has had his or her civil
85 rights restored.

86 (c) This section does ~~shall~~ not apply ~~be applicable~~ to the
87 employment practices of any county or municipality relating to
88 the hiring of personnel for positions deemed to be critical to
89 security or public safety pursuant to ss. 125.5801 and 166.0442.

90 (3) Any complaint concerning the violation of this section
91 shall be adjudicated in accordance with the procedures set forth
92 in chapter 120 for administrative and judicial review.

93 Section 3. Section 943.0585, Florida Statutes, is amended
94 to read:

95 943.0585 Court-ordered expunction of criminal history
96 records.—The courts of this state have jurisdiction over their
97 own procedures, including the maintenance, expunction, and
98 correction of judicial records containing criminal history
99 information to the extent such procedures are not inconsistent



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100 with the conditions, responsibilities, and duties established by
101 this section. Any court of competent jurisdiction may order a
102 criminal justice agency to expunge the criminal history record
103 of a minor or an adult who complies with the requirements of
104 this section. The court shall not order a criminal justice
105 agency to expunge a criminal history record until the person
106 seeking to expunge a criminal history record has applied for and
107 received a certificate of eligibility for expunction pursuant to
108 subsection (2). A criminal history record that relates to a
109 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
110 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
111 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
112 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
113 any violation specified as a predicate offense for registration
114 as a sexual predator pursuant to s. 775.21, without regard to
115 whether that offense alone is sufficient to require such
116 registration, or for registration as a sexual offender pursuant
117 to s. 943.0435, may not be expunged, without regard to whether
118 adjudication was withheld, if the defendant was found guilty of
119 or pled guilty or nolo contendere to the offense, or if the
120 defendant, as a minor, was found to have committed, or pled
121 guilty or nolo contendere to committing, the offense as a
122 delinquent act. The court may only order expunction of a
123 criminal history record pertaining to one arrest or one incident
124 of alleged criminal activity, except as provided in this
125 section. The court may, at its sole discretion, order the
126 expunction of a criminal history record pertaining to more than
127 one arrest if the additional arrests directly relate to the
128 original arrest. If the court intends to order the expunction of



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129 records pertaining to such additional arrests, such intent must
130 be specified in the order. A criminal justice agency may not
131 expunge any record pertaining to such additional arrests if the
132 order to expunge does not articulate the intention of the court
133 to expunge a record pertaining to more than one arrest. This
134 section does not prevent the court from ordering the expunction
135 of only a portion of a criminal history record pertaining to one
136 arrest or one incident of alleged criminal activity.

137 Notwithstanding any law to the contrary, a criminal justice
138 agency may comply with laws, court orders, and official requests
139 of other jurisdictions relating to expunction, correction, or
140 confidential handling of criminal history records or information
141 derived therefrom. This section does not confer any right to the
142 expunction of any criminal history record, and any request for
143 expunction of a criminal history record may be denied at the
144 sole discretion of the court.

145 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each
146 petition to a court to expunge a criminal history record is
147 complete only when accompanied by:

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

150 (b) The petitioner's sworn statement attesting that the
151 petitioner:

152 1. Has never, prior to the date on which the petition is
153 filed, been adjudicated guilty of a criminal offense or
154 comparable ordinance violation, or been adjudicated delinquent
155 for committing any felony or a misdemeanor specified in s.
156 943.051(3)(b).

157 2. Has not been adjudicated guilty of, or adjudicated



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158 delinquent for committing, any of the acts stemming from the
159 arrest or alleged criminal activity to which the petition
160 pertains.

161 3. Has never secured a prior sealing or expunction of a
162 criminal history record under this section, former s. 893.14,
163 former s. 901.33, or former s. 943.058, or from any jurisdiction
164 outside the state, unless expunction is sought of a criminal
165 history record previously sealed for 10 years pursuant to
166 paragraph (2)(h) and the record is otherwise eligible for
167 expunction.

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

171
172 Any person who knowingly provides false information on such
173 sworn statement to the court commits a felony of the third
174 degree, punishable as provided in s. 775.082, s. 775.083, or s.
175 775.084.

176 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
177 petitioning the court to expunge a criminal history record, a
178 person seeking to expunge a criminal history record shall apply
179 to the department for a certificate of eligibility for
180 expunction. The department shall, by rule adopted pursuant to
181 chapter 120, establish procedures pertaining to the application
182 for and issuance of certificates of eligibility for expunction.
183 A certificate of eligibility for expunction is valid for 12
184 months after the date stamped on the certificate when issued by
185 the department. After that time, the petitioner must reapply to
186 the department for a new certificate of eligibility. Eligibility



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187 for a renewed certification of eligibility must be based on the
188 status of the applicant and the law in effect at the time of the
189 renewal application. The department shall issue a certificate of
190 eligibility for expunction to a person who is the subject of a
191 criminal history record if that person:

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

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

197 2. That an indictment, information, or other charging
198 document, if filed or issued in the case, was dismissed or nolle
199 prosequi by the state attorney or statewide prosecutor, or was
200 dismissed by a court of competent jurisdiction, and that none of
201 the charges related to the arrest or alleged criminal activity
202 to which the petition to expunge pertains resulted in a trial,
203 without regard to whether the outcome of the trial was other
204 than an adjudication of guilt.

205 3. That the criminal history record does not relate to a
206 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
207 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
208 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
209 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
210 any violation specified as a predicate offense for registration
211 as a sexual predator pursuant to s. 775.21, without regard to
212 whether that offense alone is sufficient to require such
213 registration, or for registration as a sexual offender pursuant
214 to s. 943.0435, where the defendant was found guilty of, or pled
215 guilty or nolo contendere to any such offense, or that the



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216 defendant, as a minor, was found to have committed, or pled
217 guilty or nolo contendere to committing, such an offense as a
218 delinquent act, without regard to whether adjudication was
219 withheld.

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

223 (c) Has submitted to the department a certified copy of the
224 disposition of the charge to which the petition to expunge
225 pertains.

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

231 (e) Has not been adjudicated guilty of, or adjudicated
232 delinquent for committing, any of the acts stemming from the
233 arrest or alleged criminal activity to which the petition to
234 expunge pertains.

235 (f) Has never secured a prior sealing or expunction of a
236 criminal history record under this section, former s. 893.14,
237 former s. 901.33, or former s. 943.058, unless expunction is
238 sought of a criminal history record previously sealed for 10
239 years pursuant to paragraph (h) and the record is otherwise
240 eligible for expunction.

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

244 (h) Has previously obtained a court order sealing the



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245 record under this section, former s. 893.14, former s. 901.33,
246 or former s. 943.058 for a minimum of 10 years because
247 adjudication was withheld or because all charges related to the
248 arrest or alleged criminal activity to which the petition to
249 expunge pertains were not dismissed prior to trial, without
250 regard to whether the outcome of the trial was other than an
251 adjudication of guilt. The requirement for the record to have
252 previously been sealed for a minimum of 10 years does not apply
253 when a plea was not entered or all charges related to the arrest
254 or alleged criminal activity to which the petition to expunge
255 pertains were dismissed prior to trial.

256 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.—

257 (a) In judicial proceedings under this section, a copy of
258 the completed petition to expunge shall be served upon the
259 appropriate state attorney or the statewide prosecutor and upon
260 the arresting agency; however, it is not necessary to make any
261 agency other than the state a party. The appropriate state
262 attorney or the statewide prosecutor and the arresting agency
263 may respond to the court regarding the completed petition to
264 expunge.

265 (b) If relief is granted by the court, the clerk of the
266 court shall certify copies of the order to the appropriate state
267 attorney or the statewide prosecutor and the arresting agency.
268 The arresting agency is responsible for forwarding the order to
269 any other agency to which the arresting agency disseminated the
270 criminal history record information to which the order pertains.
271 The department shall forward the order to expunge to the Federal
272 Bureau of Investigation. The clerk of the court shall certify a
273 copy of the order to any other agency which the records of the



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274 court reflect has received the criminal history record from the
275 court.

276 (c) For an order to expunge entered by a court prior to
277 July 1, 1992, the department shall notify the appropriate state
278 attorney or statewide prosecutor of an order to expunge which is
279 contrary to law because the person who is the subject of the
280 record has previously been convicted of a crime or comparable
281 ordinance violation or has had a prior criminal history record
282 sealed or expunged. Upon receipt of such notice, the appropriate
283 state attorney or statewide prosecutor shall take action, within
284 60 days, to correct the record and petition the court to void
285 the order to expunge. The department shall seal the record until
286 such time as the order is voided by the court.

287 (d) On or after July 1, 1992, the department or any other
288 criminal justice agency is not required to act on an order to
289 expunge entered by a court when such order does not comply with
290 the requirements of this section. Upon receipt of such an order,
291 the department must notify the issuing court, the appropriate
292 state attorney or statewide prosecutor, the petitioner or the
293 petitioner's attorney, and the arresting agency of the reason
294 for noncompliance. The appropriate state attorney or statewide
295 prosecutor shall take action within 60 days to correct the
296 record and petition the court to void the order. No cause of
297 action, including contempt of court, shall arise against any
298 criminal justice agency for failure to comply with an order to
299 expunge when the petitioner for such order failed to obtain the
300 certificate of eligibility as required by this section or such
301 order does not otherwise comply with the requirements of this
302 section.



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303 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
304 criminal history record of a minor or an adult which is ordered
305 expunged by a court of competent jurisdiction pursuant to this
306 section must be physically destroyed or obliterated by any
307 criminal justice agency having custody of such record; except
308 that any criminal history record in the custody of the
309 department must be retained in all cases. A criminal history
310 record ordered expunged that is retained by the department is
311 confidential and exempt from the provisions of s. 119.07(1) and
312 s. 24(a), Art. I of the State Constitution and not available to
313 any person or entity except upon order of a court of competent
314 jurisdiction. A criminal justice agency may retain a notation
315 indicating compliance with an order to expunge.

316 (a) The person who is the subject of a criminal history
317 record that is expunged under this section or under other
318 provisions of law, including former s. 893.14, former s. 901.33,
319 and former s. 943.058, may lawfully deny or fail to acknowledge
320 the arrests and subsequent dispositions covered by the expunged
321 record, except when the subject of the record:

- 322 1. Is a candidate for employment with a criminal justice
323 agency;
- 324 2. Is a defendant in a criminal prosecution;
- 325 3. Concurrently or subsequently petitions for relief under
326 this section or s. 943.059;
- 327 4. Is a candidate for admission to The Florida Bar;
- 328 5. Is seeking to be employed or licensed by or to contract
329 with the Department of Children and Family Services, the Agency
330 for Health Care Administration, the Agency for Persons with
331 Disabilities, or the Department of Juvenile Justice or to be



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332 employed or used by such contractor or licensee in a sensitive
333 position having direct contact with children, the
334 developmentally disabled, the aged, or the elderly as provided
335 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
336 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),
337 chapter 916, s. 985.644, chapter 400, or chapter 429;

338 6. Is seeking to be employed or licensed by the Department
339 of Education, any district school board, any university
340 laboratory school, any charter school, any private or parochial
341 school, or any local governmental entity that licenses child
342 care facilities; or

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

346 (b) Subject to the exceptions in paragraph (a), a person
347 who has been granted an expunction under this section, former s.
348 893.14, former s. 901.33, or former s. 943.058 may not be held
349 under any provision of law of this state to commit perjury or to
350 be otherwise liable for giving a false statement by reason of
351 such person's failure to recite or acknowledge an expunged
352 criminal history record, including a failure to recite or
353 acknowledge on an employment application.

354 (c) Information relating to the existence of an expunged
355 criminal history record which is provided in accordance with
356 paragraph (a) is confidential and exempt from the provisions of
357 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
358 except that the department shall disclose the existence of a
359 criminal history record ordered expunged to the entities set
360 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their



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361 respective licensing, access authorization, and employment
362 purposes, and to criminal justice agencies for their respective
363 criminal justice purposes. It is unlawful for any employee of an
364 entity set forth in subparagraph (a)1., subparagraph (a)4.,
365 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to
366 disclose information relating to the existence of an expunged
367 criminal history record of a person seeking employment, access
368 authorization, or licensure with such entity or contractor,
369 except to the person to whom the criminal history record relates
370 or to persons having direct responsibility for employment,
371 access authorization, or licensure decisions. Any person who
372 violates this paragraph commits a misdemeanor of the first
373 degree, punishable as provided in s. 775.082 or s. 775.083.

374 (d) The department may disclose the contents of an expunged
375 record to the subject of the record upon the receipt of a
376 written, notarized request from the subject of the record.

377 (5) Each website for the office of a clerk of court must
378 include information relating to procedures to seal or expunge
379 criminal history records. This information must include the link
380 to related information on the website of the department.

381 (6)~~(5)~~ STATUTORY REFERENCES.—Any reference to any other
382 chapter, section, or subdivision of the Florida Statutes in this
383 section constitutes a general reference under the doctrine of
384 incorporation by reference.

385 Section 4. Section 943.059, Florida Statutes, is amended to
386 read:

387 943.059 Court-ordered sealing of criminal history records.—
388 The courts of this state shall continue to have jurisdiction
389 over their own procedures, including the maintenance, sealing,



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390 and correction of judicial records containing criminal history
391 information to the extent such procedures are not inconsistent
392 with the conditions, responsibilities, and duties established by
393 this section. Any court of competent jurisdiction may order a
394 criminal justice agency to seal the criminal history record of a
395 minor or an adult who complies with the requirements of this
396 section. The court shall not order a criminal justice agency to
397 seal a criminal history record until the person seeking to seal
398 a criminal history record has applied for and received a
399 certificate of eligibility for sealing pursuant to subsection
400 (2). A criminal history record that relates to a violation of s.
401 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
402 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
403 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
404 916.1075, a violation enumerated in s. 907.041, or any violation
405 specified as a predicate offense for registration as a sexual
406 predator pursuant to s. 775.21, without regard to whether that
407 offense alone is sufficient to require such registration, or for
408 registration as a sexual offender pursuant to s. 943.0435, may
409 not be sealed, without regard to whether adjudication was
410 withheld, if the defendant was found guilty of or pled guilty or
411 nolo contendere to the offense, or if the defendant, as a minor,
412 was found to have committed or pled guilty or nolo contendere to
413 committing the offense as a delinquent act. The court may only
414 order sealing of a criminal history record pertaining to one
415 arrest or one incident of alleged criminal activity, except as
416 provided in this section. The court may, at its sole discretion,
417 order the sealing of a criminal history record pertaining to
418 more than one arrest if the additional arrests directly relate



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419 to the original arrest. If the court intends to order the
420 sealing of records pertaining to such additional arrests, such
421 intent must be specified in the order. A criminal justice agency
422 may not seal any record pertaining to such additional arrests if
423 the order to seal does not articulate the intention of the court
424 to seal records pertaining to more than one arrest. This section
425 does not prevent the court from ordering the sealing of only a
426 portion of a criminal history record pertaining to one arrest or
427 one incident of alleged criminal activity. Notwithstanding any
428 law to the contrary, a criminal justice agency may comply with
429 laws, court orders, and official requests of other jurisdictions
430 relating to sealing, correction, or confidential handling of
431 criminal history records or information derived therefrom. This
432 section does not confer any right to the sealing of any criminal
433 history record, and any request for sealing a criminal history
434 record may be denied at the sole discretion of the court.

435 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each
436 petition to a court to seal a criminal history record is
437 complete only when accompanied by:

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

440 (b) The petitioner's sworn statement attesting that the
441 petitioner:

442 1. Has never, prior to the date on which the petition is
443 filed, been adjudicated guilty of a criminal offense or
444 comparable ordinance violation, or been adjudicated delinquent
445 for committing any felony or a misdemeanor specified in s.
446 943.051(3)(b).

447 2. Has not been adjudicated guilty of or adjudicated



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448 delinquent for committing any of the acts stemming from the
449 arrest or alleged criminal activity to which the petition to
450 seal pertains.

451 3. Has never secured a prior sealing, except as provided in
452 subsection (6), or expunction of a criminal history record under
453 this section, former s. 893.14, former s. 901.33, former s.
454 943.058, or from any jurisdiction outside the state.

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

458
459 Any person who knowingly provides false information on such
460 sworn statement to the court commits a felony of the third
461 degree, punishable as provided in s. 775.082, s. 775.083, or s.
462 775.084.

463 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to
464 petitioning the court to seal a criminal history record, a
465 person seeking to seal a criminal history record shall apply to
466 the department for a certificate of eligibility for sealing. The
467 department shall, by rule adopted pursuant to chapter 120,
468 establish procedures pertaining to the application for and
469 issuance of certificates of eligibility for sealing. A
470 certificate of eligibility for sealing is valid for 12 months
471 after the date stamped on the certificate when issued by the
472 department. After that time, the petitioner must reapply to the
473 department for a new certificate of eligibility. Eligibility for
474 a renewed certification of eligibility must be based on the
475 status of the applicant and the law in effect at the time of the
476 renewal application. The department shall issue a certificate of



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477 eligibility for sealing to a person who is the subject of a
478 criminal history record provided that such person:

479 (a) Has submitted to the department a certified copy of the
480 disposition of the charge to which the petition to seal
481 pertains.

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

485 (c) Has never, prior to the date on which the application
486 for a certificate of eligibility is filed, been adjudicated
487 guilty of a criminal offense or comparable ordinance violation,
488 or been adjudicated delinquent for committing any felony or a
489 misdemeanor specified in s. 943.051(3)(b).

490 (d) Has not been adjudicated guilty of or adjudicated
491 delinquent for committing any of the acts stemming from the
492 arrest or alleged criminal activity to which the petition to
493 seal pertains.

494 (e) Has never secured a prior sealing, except as provided
495 in subsection (6), or expunction of a criminal history record
496 under this section, former s. 893.14, former s. 901.33, or
497 former s. 943.058.

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

501 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.—

502 (a) In judicial proceedings under this section, a copy of
503 the completed petition to seal shall be served upon the
504 appropriate state attorney or the statewide prosecutor and upon
505 the arresting agency; however, it is not necessary to make any



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506 agency other than the state a party. The appropriate state
507 attorney or the statewide prosecutor and the arresting agency
508 may respond to the court regarding the completed petition to
509 seal.

510 (b) If relief is granted by the court, the clerk of the
511 court shall certify copies of the order to the appropriate state
512 attorney or the statewide prosecutor and to the arresting
513 agency. The arresting agency is responsible for forwarding the
514 order to any other agency to which the arresting agency
515 disseminated the criminal history record information to which
516 the order pertains. The department shall forward the order to
517 seal to the Federal Bureau of Investigation. The clerk of the
518 court shall certify a copy of the order to any other agency
519 which the records of the court reflect has received the criminal
520 history record from the court.

521 (c) For an order to seal entered by a court prior to July
522 1, 1992, the department shall notify the appropriate state
523 attorney or statewide prosecutor of any order to seal which is
524 contrary to law because the person who is the subject of the
525 record has previously been convicted of a crime or comparable
526 ordinance violation or has had a prior criminal history record
527 sealed, except as provided in subsection (6), or expunged. Upon
528 receipt of such notice, the appropriate state attorney or
529 statewide prosecutor shall take action, within 60 days, to
530 correct the record and petition the court to void the order to
531 seal. The department shall seal the record until such time as
532 the order is voided by the court.

533 (d) On or after July 1, 1992, the department or any other
534 criminal justice agency is not required to act on an order to



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535 seal entered by a court when such order does not comply with the
536 requirements of this section. Upon receipt of such an order, the
537 department must notify the issuing court, the appropriate state
538 attorney or statewide prosecutor, the petitioner or the
539 petitioner's attorney, and the arresting agency of the reason
540 for noncompliance. The appropriate state attorney or statewide
541 prosecutor shall take action within 60 days to correct the
542 record and petition the court to void the order. No cause of
543 action, including contempt of court, shall arise against any
544 criminal justice agency for failure to comply with an order to
545 seal when the petitioner for such order failed to obtain the
546 certificate of eligibility as required by this section or when
547 such order does not comply with the requirements of this
548 section.

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

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



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564 their case-related decisionmaking responsibilities, as set forth
565 in s. 943.053(5), or to those entities set forth in
566 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
567 licensing, access authorization, and employment purposes.

568 (a) The subject of a criminal history record sealed under
569 this section or under other provisions of law, including former
570 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
571 deny or fail to acknowledge the arrests and subsequent
572 dispositions covered by the sealed record, except when the
573 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
592 laboratory school, any charter school, any private or parochial



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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 (b) Subject to the exceptions in paragraph (a), a person
603 who has been granted a sealing under this section, former s.
604 893.14, former s. 901.33, or former s. 943.058 may not be held
605 under any provision of law of this state to commit perjury or to
606 be otherwise liable for giving a false statement by reason of
607 such person's failure to recite or acknowledge a sealed criminal
608 history record, including failure to recite or acknowledge on an
609 employment application.

610 (c) Information relating to the existence of a sealed
611 criminal record provided in accordance with the provisions of
612 paragraph (a) is confidential and exempt from the provisions of
613 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
614 except that the department shall disclose the sealed criminal
615 history record to the entities set forth in subparagraphs (a)1.,
616 4., 5., 6., and 8. for their respective licensing, access
617 authorization, and employment purposes. It is unlawful for any
618 employee of an entity set forth in subparagraph (a)1.,
619 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or
620 subparagraph (a)8. to disclose information relating to the
621 existence of a sealed criminal history record of a person



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622 seeking employment, access authorization, or licensure with such
623 entity or contractor, except to the person to whom the criminal
624 history record relates or to persons having direct
625 responsibility for employment, access authorization, or
626 licensure decisions. Any person who violates the provisions of
627 this paragraph commits a misdemeanor of the first degree,
628 punishable as provided in s. 775.082 or s. 775.083.

629 (5) STATUTORY REFERENCES.—Any reference to any other
630 chapter, section, or subdivision of the Florida Statutes in this
631 section constitutes a general reference under the doctrine of
632 incorporation by reference.

633 (6) SEALING OF CRIMINAL HISTORY RECORD AFTER PRIOR SEALING
634 OR EXPUNCTION.—A court may seal a person's criminal history
635 record after a prior criminal history record has been sealed or
636 expunged only if the person obtains a certificate from the
637 department to seal the criminal history record. The department
638 shall issue the certificate only if the person has not been
639 arrested during the 5-year period following the date of the
640 court order for the initial expunction or sealing of his or her
641 criminal history record. All other provisions and requirements
642 of this section apply to an application to seal a criminal
643 history record after a prior criminal history record has been
644 sealed or expunged.

645 Section 5. This act shall take effect July 1, 2009.

646
647 ===== T I T L E A M E N D M E N T =====

648 And the title is amended as follows:

649 Delete everything before the enacting clause
650 and insert:



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651 A bill to be entitled
652 An act relating to criminal justice; providing legislative
653 intent; requiring state agencies and regulatory boards to
654 prepare reports that identify and evaluate restrictions on
655 licensing and employment; amending s. 112.011, F.S.; prohibiting
656 state agencies from denying an application for a license,
657 permit, certificate, or employment based on a person's lack of
658 civil rights; providing an exception; amending s. 943.0585,
659 F.S.; clarifying under what circumstances a person may legally
660 deny the existence of an expunged criminal history record;
661 authorizing the disclosure of the contents of an expunged record
662 upon receipt of a written, notarized request from the record
663 subject; requiring clerks of the court to post information
664 relating to procedures to seal or expunge criminal history
665 records on the clerk's website; amending s. 943.059, F.S.;
666 clarifying under what circumstances a person may legally deny
667 the existence of a sealed criminal history record; authorizing a
668 court to seal a criminal history record of a person who had a
669 prior criminal history record sealed or expunged; providing an
670 effective date.