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1 A bill to be entitled
2 An act relating to criminal justice; providing a short
3 title; providing legislative intent; requiring state
4 agencies and regulatory boards to prepare reports that
5 identify and evaluate restrictions on licensing and
6 employment; amending s. 112.011, F.S.; prohibiting
7 state agencies from denying an application for a
8 license, permit, certificate, or employment based on a
9 person's lack of civil rights; providing an exception;
10 amending s. 768.096, F.S.; requiring an employer to
11 review the results of a criminal background
12 investigation; requiring an employer not to place an
13 employee who has a criminal record in a position where
14 conduct similar to the employee's past criminal
15 conduct would be facilitated; requiring an employer to
16 determine that the criminal background investigation
17 does not demonstrate that the employee is unsuitable
18 for the particular work to be performed or the context
19 of the employment in general; amending s. 943.0585,
20 F.S.; clarifying under what circumstances a person may
21 legally deny the existence of an expunged criminal
22 history record; authorizing the disclosure of the
23 contents of an expunged record upon receipt of a
24 written, notarized request from the record subject;
25 requiring clerks of the court to post information
26 relating to procedures to seal or expunge criminal
27 history records on the clerk's website; amending s.
28 943.059, F.S.; clarifying under what circumstances a
29 person may legally deny the existence of a sealed

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30 criminal history record; authorizing a court to seal a
31 criminal history record of a person who had a prior
32 criminal history record sealed or expunged; amending
33 s. 985.441, F.S.; providing that a court may commit a
34 female child adjudicated as delinquent to the
35 department for placement in a mother-infant program
36 designed to serve the needs of the juvenile mothers or
37 expectant juvenile mothers who are committed as
38 delinquents; requiring the department to adopt rules
39 to govern the operation of the mother-infant program;
40 amending s. 985.601, F.S.; requiring that the
41 department adopt rules to ensure the effective
42 delivery of services to children in the care and
43 custody of the department; requiring the department to
44 coordinate its rule-adoption process with the
45 Department of Children and Family Services and the
46 Agency for Persons with Disabilities; amending s.
47 985.03, F.S.; defining the term "ordinary medical care
48 in department facilities and programs"; providing an
49 effective date.

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. This act may be cited as the "Keep Florida
54 Working Act."

55 Section 2. Restrictions on the employment of ex-offenders;
56 legislative intent; state agency reporting requirements.-

57 (1) The Legislature declares that it is the goal of this
58 state to provide to prospective employees a clear statement of

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59 which crimes would disqualify ex-offenders from which
60 occupations. It is the intent of the Legislature to make
61 opportunities for employment available to ex-offenders so that
62 they will be less likely to revert to criminal behavior, insofar
63 as the employment of such persons does not detract from the
64 safety of the public. The Legislature further declares that
65 state agencies should identify all restrictions imposed by the
66 agencies or by boards that regulate professions and occupations
67 on employment and should make an effort to define each
68 restriction as narrowly as possible while continuing to maintain
69 public safety.

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

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

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

81 (c) The identification and evaluation of alternatives to
82 the disqualifying policies to promote the employment of ex-
83 offenders and protect the public.

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

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88 Section 3. Section 112.011, Florida Statutes, is amended to
89 read:

90 112.011 Disqualification from licensing and public
91 employment based on criminal conviction ~~Felons; removal of~~
92 ~~disqualifications for employment, exceptions.-~~

93 (1) (a) Except as provided in s. 775.16, a person may ~~shall~~
94 not be disqualified from employment by the state, any of its
95 agencies or political subdivisions, or any municipality solely
96 because of a prior conviction for a crime. However, a person may
97 be denied employment by the state, any of its agencies or
98 political subdivisions, or any municipality by reason of the
99 prior conviction for a crime if the crime was a felony or first
100 degree misdemeanor and directly related to the position of
101 employment sought.

102 (b) Except as provided in s. 775.16, a person ~~whose civil~~
103 ~~rights have been restored shall not be disqualified to practice,~~
104 ~~pursue, or engage in any occupation, trade, vocation,~~
105 ~~profession, or business for which a license, permit, or~~
106 ~~certificate is required to be issued by the state, any of its~~
107 ~~agencies or political subdivisions, or any municipality solely~~
108 ~~because of a prior conviction for a crime. However, a person~~
109 ~~whose civil rights have been restored may be denied a license,~~
110 ~~permit, or certification to pursue, practice, or engage in an~~
111 ~~occupation, trade, vocation, profession, or business by reason~~
112 ~~of the prior conviction for a crime if the crime was a felony or~~
113 ~~first degree misdemeanor~~ relevant to the standards normally
114 associated with, or determined by the regulatory authority to be
115 necessary for the protection of the public or other parties for
116 ~~and directly related to the specific occupation, trade,~~

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117 vocation, profession, or business for which the license, permit,
118 or certificate is sought.

119 (c) Notwithstanding any law to the contrary, a state agency
120 may not deny an application for a license, permit, certificate,
121 or employment based on the applicant's lack of civil rights.
122 However, this paragraph does not apply to applications for a
123 license to carry a concealed weapon or firearm under chapter
124 790.

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

127 (b) This section shall not be applicable to the employment
128 practices of any fire department relating to the hiring of
129 firefighters. An applicant for employment with any fire
130 department who has ~~with~~ a prior felony conviction shall be
131 excluded from employment for a period of 4 years after
132 expiration of sentence or final release by the Parole Commission
133 unless the applicant, prior to the expiration of the 4-year
134 period, has received a full pardon or has had his or her civil
135 rights restored.

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

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

143 Section 4. Section 768.096, Florida Statutes, is amended to
144 read:

145 768.096 Employer presumption against negligent hiring.—

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146 (1) In a civil action for the death of, or injury or damage
147 to, a third person caused by the intentional tort of an
148 employee, such employee's employer is presumed not to have been
149 negligent in hiring such employee if, before hiring the
150 employee, the employer conducted a background investigation of
151 the prospective employee and the investigation did not reveal
152 any information that reasonably demonstrated the unsuitability
153 of the prospective employee for the particular work to be
154 performed or for the context of the employment in general. A
155 background investigation under this section must include:

156 (a) Obtaining a criminal background investigation on the
157 prospective employee under subsection (2);

158 (b) Making a reasonable effort to contact references and
159 former employers of the prospective employee concerning the
160 suitability of the prospective employee for employment;

161 (c) Requiring the prospective employee to complete a job
162 application form that includes questions concerning whether he
163 or she has ever been convicted of a crime, including details
164 concerning the type of crime, the date of conviction and the
165 penalty imposed, and whether the prospective employee has ever
166 been a defendant in a civil action for intentional tort,
167 including the nature of the intentional tort and the disposition
168 of the action;

169 (d) Obtaining, with written authorization from the
170 prospective employee, a check of the driver's license record of
171 the prospective employee if such a check is relevant to the work
172 the employee will be performing and if the record can reasonably
173 be obtained; and ~~or~~

174 (e) Interviewing the prospective employee.

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175 (2) To satisfy the criminal-background-investigation
176 requirement of this section, an employer must request and obtain
177 from the Department of Law Enforcement a check of the
178 information as reported and reflected in the Florida Crime
179 Information Center system as of the date of the request. The
180 employer must review and consider the results of the criminal
181 background investigation and, if the prospective employee has
182 engaged in past criminal conduct, ensure that the employee will
183 not be assigned to particular work that would place the employee
184 in a position where conduct that is similar to the employee's
185 past criminal conduct is facilitated and determine that,
186 notwithstanding the past criminal conduct of the employee, any
187 information revealed by the investigation did not otherwise
188 demonstrate the unsuitability of the employee for the particular
189 work to be performed or context of the employment in general.

190 (3) The election by an employer not to conduct the
191 investigation specified in subsection (1) does not raise any
192 presumption that the employer failed to use reasonable care in
193 hiring an employee.

194 Section 5. Section 943.0585, Florida Statutes, is amended
195 to read:

196 943.0585 Court-ordered expunction of criminal history
197 records.—The courts of this state have jurisdiction over their
198 own procedures, including the maintenance, expunction, and
199 correction of judicial records containing criminal history
200 information to the extent such procedures are not inconsistent
201 with the conditions, responsibilities, and duties established by
202 this section. Any court of competent jurisdiction may order a
203 criminal justice agency to expunge the criminal history record

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204 of a minor or an adult who complies with the requirements of
205 this section. The court shall not order a criminal justice
206 agency to expunge a criminal history record until the person
207 seeking to expunge a criminal history record has applied for and
208 received a certificate of eligibility for expunction pursuant to
209 subsection (2). A criminal history record that relates to a
210 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
211 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
212 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
213 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
214 any violation specified as a predicate offense for registration
215 as a sexual predator pursuant to s. 775.21, without regard to
216 whether that offense alone is sufficient to require such
217 registration, or for registration as a sexual offender pursuant
218 to s. 943.0435, may not be expunged, without regard to whether
219 adjudication was withheld, if the defendant was found guilty of
220 or pled guilty or nolo contendere to the offense, or if the
221 defendant, as a minor, was found to have committed, or pled
222 guilty or nolo contendere to committing, the offense as a
223 delinquent act. The court may only order expunction of a
224 criminal history record pertaining to one arrest or one incident
225 of alleged criminal activity, except as provided in this
226 section. The court may, at its sole discretion, order the
227 expunction of a criminal history record pertaining to more than
228 one arrest if the additional arrests directly relate to the
229 original arrest. If the court intends to order the expunction of
230 records pertaining to such additional arrests, such intent must
231 be specified in the order. A criminal justice agency may not
232 expunge any record pertaining to such additional arrests if the

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233 order to expunge does not articulate the intention of the court
234 to expunge a record pertaining to more than one arrest. This
235 section does not prevent the court from ordering the expunction
236 of only a portion of a criminal history record pertaining to one
237 arrest or one incident of alleged criminal activity.

238 Notwithstanding any law to the contrary, a criminal justice
239 agency may comply with laws, court orders, and official requests
240 of other jurisdictions relating to expunction, correction, or
241 confidential handling of criminal history records or information
242 derived therefrom. This section does not confer any right to the
243 expunction of any criminal history record, and any request for
244 expunction of a criminal history record may be denied at the
245 sole discretion of the court.

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

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

251 (b) The petitioner's sworn statement attesting that the
252 petitioner:

253 1. Has never, prior to the date on which the petition is
254 filed, been adjudicated guilty of a criminal offense or
255 comparable ordinance violation, or been adjudicated delinquent
256 for committing any felony or a misdemeanor specified in s.
257 943.051(3)(b).

258 2. Has not been adjudicated guilty of, or adjudicated
259 delinquent for committing, any of the acts stemming from the
260 arrest or alleged criminal activity to which the petition
261 pertains.

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262 3. Has never secured a prior sealing or expunction of a
263 criminal history record under this section, former s. 893.14,
264 former s. 901.33, or former s. 943.058, or from any jurisdiction
265 outside the state, unless expunction is sought of a criminal
266 history record previously sealed for 10 years pursuant to
267 paragraph (2)(h) and the record is otherwise eligible for
268 expunction.

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

272
273 Any person who knowingly provides false information on such
274 sworn statement to the court commits a felony of the third
275 degree, punishable as provided in s. 775.082, s. 775.083, or s.
276 775.084.

277 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
278 petitioning the court to expunge a criminal history record, a
279 person seeking to expunge a criminal history record shall apply
280 to the department for a certificate of eligibility for
281 expunction. The department shall, by rule adopted pursuant to
282 chapter 120, establish procedures pertaining to the application
283 for and issuance of certificates of eligibility for expunction.
284 A certificate of eligibility for expunction is valid for 12
285 months after the date stamped on the certificate when issued by
286 the department. After that time, the petitioner must reapply to
287 the department for a new certificate of eligibility. Eligibility
288 for a renewed certification of eligibility must be based on the
289 status of the applicant and the law in effect at the time of the
290 renewal application. The department shall issue a certificate of

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291 eligibility for expunction to a person who is the subject of a
292 criminal history record if that person:

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

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

298 2. That an indictment, information, or other charging
299 document, if filed or issued in the case, was dismissed or nolle
300 prosequi by the state attorney or statewide prosecutor, or was
301 dismissed by a court of competent jurisdiction, and that none of
302 the charges related to the arrest or alleged criminal activity
303 to which the petition to expunge pertains resulted in a trial,
304 without regard to whether the outcome of the trial was other
305 than an adjudication of guilt.

306 3. That the criminal history record does not relate to a
307 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
308 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
309 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
310 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
311 any violation specified as a predicate offense for registration
312 as a sexual predator pursuant to s. 775.21, without regard to
313 whether that offense alone is sufficient to require such
314 registration, or for registration as a sexual offender pursuant
315 to s. 943.0435, where the defendant was found guilty of, or pled
316 guilty or nolo contendere to any such offense, or that the
317 defendant, as a minor, was found to have committed, or pled
318 guilty or nolo contendere to committing, such an offense as a
319 delinquent act, without regard to whether adjudication was

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320 withheld.

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

324 (c) Has submitted to the department a certified copy of the
325 disposition of the charge to which the petition to expunge
326 pertains.

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

332 (e) Has not been adjudicated guilty of, or adjudicated
333 delinquent for committing, any of the acts stemming from the
334 arrest or alleged criminal activity to which the petition to
335 expunge pertains.

336 (f) Has never secured a prior sealing or expunction of a
337 criminal history record under this section, former s. 893.14,
338 former s. 901.33, or former s. 943.058, unless expunction is
339 sought of a criminal history record previously sealed for 10
340 years pursuant to paragraph (h) and the record is otherwise
341 eligible for expunction.

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

345 (h) Has previously obtained a court order sealing the
346 record under this section, former s. 893.14, former s. 901.33,
347 or former s. 943.058 for a minimum of 10 years because
348 adjudication was withheld or because all charges related to the

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349 arrest or alleged criminal activity to which the petition to
350 expunge pertains were not dismissed prior to trial, without
351 regard to whether the outcome of the trial was other than an
352 adjudication of guilt. The requirement for the record to have
353 previously been sealed for a minimum of 10 years does not apply
354 when a plea was not entered or all charges related to the arrest
355 or alleged criminal activity to which the petition to expunge
356 pertains were dismissed prior to trial.

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

358 (a) In judicial proceedings under this section, a copy of
359 the completed petition to expunge shall be served upon the
360 appropriate state attorney or the statewide prosecutor and upon
361 the arresting agency; however, it is not necessary to make any
362 agency other than the state a party. The appropriate state
363 attorney or the statewide prosecutor and the arresting agency
364 may respond to the court regarding the completed petition to
365 expunge.

366 (b) If relief is granted by the court, the clerk of the
367 court shall certify copies of the order to the appropriate state
368 attorney or the statewide prosecutor and the arresting agency.
369 The arresting agency is responsible for forwarding the order to
370 any other agency to which the arresting agency disseminated the
371 criminal history record information to which the order pertains.
372 The department shall forward the order to expunge to the Federal
373 Bureau of Investigation. The clerk of the court shall certify a
374 copy of the order to any other agency which the records of the
375 court reflect has received the criminal history record from the
376 court.

377 (c) For an order to expunge entered by a court prior to

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378 July 1, 1992, the department shall notify the appropriate state
379 attorney or statewide prosecutor of an order to expunge which is
380 contrary to law because the person who is the subject of the
381 record has previously been convicted of a crime or comparable
382 ordinance violation or has had a prior criminal history record
383 sealed or expunged. Upon receipt of such notice, the appropriate
384 state attorney or statewide prosecutor shall take action, within
385 60 days, to correct the record and petition the court to void
386 the order to expunge. The department shall seal the record until
387 such time as the order is voided by the court.

388 (d) On or after July 1, 1992, the department or any other
389 criminal justice agency is not required to act on an order to
390 expunge entered by a court when such order does not comply with
391 the requirements of this section. Upon receipt of such an order,
392 the department must notify the issuing court, the appropriate
393 state attorney or statewide prosecutor, the petitioner or the
394 petitioner's attorney, and the arresting agency of the reason
395 for noncompliance. The appropriate state attorney or statewide
396 prosecutor shall take action within 60 days to correct the
397 record and petition the court to void the order. No cause of
398 action, including contempt of court, shall arise against any
399 criminal justice agency for failure to comply with an order to
400 expunge when the petitioner for such order failed to obtain the
401 certificate of eligibility as required by this section or such
402 order does not otherwise comply with the requirements of this
403 section.

404 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
405 criminal history record of a minor or an adult which is ordered
406 expunged by a court of competent jurisdiction pursuant to this

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407 section must be physically destroyed or obliterated by any
408 criminal justice agency having custody of such record; except
409 that any criminal history record in the custody of the
410 department must be retained in all cases. A criminal history
411 record ordered expunged that is retained by the department is
412 confidential and exempt from the provisions of s. 119.07(1) and
413 s. 24(a), Art. I of the State Constitution and not available to
414 any person or entity except upon order of a court of competent
415 jurisdiction. A criminal justice agency may retain a notation
416 indicating compliance with an order to expunge.

417 (a) The person who is the subject of a criminal history
418 record that is expunged under this section or under other
419 provisions of law, including former s. 893.14, former s. 901.33,
420 and former s. 943.058, may lawfully deny or fail to acknowledge
421 the arrests and subsequent dispositions covered by the expunged
422 record, except when the subject of the record:

- 423 1. Is a candidate for employment with a criminal justice
424 agency;
- 425 2. Is a defendant in a criminal prosecution;
- 426 3. Concurrently or subsequently petitions for relief under
427 this section or s. 943.059;
- 428 4. Is a candidate for admission to The Florida Bar;
- 429 5. Is seeking to be employed or licensed by or to contract
430 with the Department of Children and Family Services, the Agency
431 for Health Care Administration, the Agency for Persons with
432 Disabilities, or the Department of Juvenile Justice or to be
433 employed or used by such contractor or licensee in a sensitive
434 position having direct contact with children, the
435 developmentally disabled, the aged, or the elderly as provided

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436 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
437 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),
438 chapter 916, s. 985.644, chapter 400, or chapter 429;

439 6. Is seeking to be employed or licensed by the Department
440 of Education, any district school board, any university
441 laboratory school, any charter school, any private or parochial
442 school, or any local governmental entity that licenses child
443 care facilities; or

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

447 (b) Subject to the exceptions in paragraph (a), a person
448 who has been granted an expunction under this section, former s.
449 893.14, former s. 901.33, or former s. 943.058 may not be held
450 under any provision of law of this state to commit perjury or to
451 be otherwise liable for giving a false statement by reason of
452 such person's failure to recite or acknowledge an expunged
453 criminal history record, including a failure to recite or
454 acknowledge on an employment application.

455 (c) Information relating to the existence of an expunged
456 criminal history record which is provided in accordance with
457 paragraph (a) is confidential and exempt from the provisions of
458 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
459 except that the department shall disclose the existence of a
460 criminal history record ordered expunged to the entities set
461 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their
462 respective licensing, access authorization, and employment
463 purposes, and to criminal justice agencies for their respective
464 criminal justice purposes. It is unlawful for any employee of an

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465 entity set forth in subparagraph (a)1., subparagraph (a)4.,
466 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to
467 disclose information relating to the existence of an expunged
468 criminal history record of a person seeking employment, access
469 authorization, or licensure with such entity or contractor,
470 except to the person to whom the criminal history record relates
471 or to persons having direct responsibility for employment,
472 access authorization, or licensure decisions. Any person who
473 violates this paragraph commits a misdemeanor of the first
474 degree, punishable as provided in s. 775.082 or s. 775.083.

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

478 (5) INFORMATION.—Each website for the office of a clerk of
479 court must include information relating to procedures to seal or
480 expunge criminal history records. This information must include
481 the link to related information on the website of the
482 department.

483 (6)~~(5)~~ STATUTORY REFERENCES.—Any reference to any other
484 chapter, section, or subdivision of the Florida Statutes in this
485 section constitutes a general reference under the doctrine of
486 incorporation by reference.

487 Section 6. Section 943.059, Florida Statutes, is amended to
488 read:

489 943.059 Court-ordered sealing of criminal history records.—
490 The courts of this state shall continue to have jurisdiction
491 over their own procedures, including the maintenance, sealing,
492 and correction of judicial records containing criminal history
493 information to the extent such procedures are not inconsistent

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494 with the conditions, responsibilities, and duties established by
495 this section. Any court of competent jurisdiction may order a
496 criminal justice agency to seal the criminal history record of a
497 minor or an adult who complies with the requirements of this
498 section. The court shall not order a criminal justice agency to
499 seal a criminal history record until the person seeking to seal
500 a criminal history record has applied for and received a
501 certificate of eligibility for sealing pursuant to subsection
502 (2). A criminal history record that relates to a violation of s.
503 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
504 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
505 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
506 916.1075, a violation enumerated in s. 907.041, or any violation
507 specified as a predicate offense for registration as a sexual
508 predator pursuant to s. 775.21, without regard to whether that
509 offense alone is sufficient to require such registration, or for
510 registration as a sexual offender pursuant to s. 943.0435, may
511 not be sealed, without regard to whether adjudication was
512 withheld, if the defendant was found guilty of or pled guilty or
513 nolo contendere to the offense, or if the defendant, as a minor,
514 was found to have committed or pled guilty or nolo contendere to
515 committing the offense as a delinquent act. The court may only
516 order sealing of a criminal history record pertaining to one
517 arrest or one incident of alleged criminal activity, except as
518 provided in this section. The court may, at its sole discretion,
519 order the sealing of a criminal history record pertaining to
520 more than one arrest if the additional arrests directly relate
521 to the original arrest. If the court intends to order the
522 sealing of records pertaining to such additional arrests, such

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523 intent must be specified in the order. A criminal justice agency
524 may not seal any record pertaining to such additional arrests if
525 the order to seal does not articulate the intention of the court
526 to seal records pertaining to more than one arrest. This section
527 does not prevent the court from ordering the sealing of only a
528 portion of a criminal history record pertaining to one arrest or
529 one incident of alleged criminal activity. Notwithstanding any
530 law to the contrary, a criminal justice agency may comply with
531 laws, court orders, and official requests of other jurisdictions
532 relating to sealing, correction, or confidential handling of
533 criminal history records or information derived therefrom. This
534 section does not confer any right to the sealing of any criminal
535 history record, and any request for sealing a criminal history
536 record may be denied at the sole discretion of the court.

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

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

542 (b) The petitioner's sworn statement attesting that the
543 petitioner:

544 1. Has never, prior to the date on which the petition is
545 filed, been adjudicated guilty of a criminal offense or
546 comparable ordinance violation, or been adjudicated delinquent
547 for committing any felony or a misdemeanor specified in s.
548 943.051(3)(b).

549 2. Has not been adjudicated guilty of or adjudicated
550 delinquent for committing any of the acts stemming from the
551 arrest or alleged criminal activity to which the petition to

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552 seal pertains.

553 3. Has never secured a prior sealing, except as provided in
554 subsection (6), or expunction of a criminal history record under
555 this section, former s. 893.14, former s. 901.33, former s.
556 943.058, or from any jurisdiction outside the state.

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

560

561 Any person who knowingly provides false information on such
562 sworn statement to the court commits a felony of the third
563 degree, punishable as provided in s. 775.082, s. 775.083, or s.
564 775.084.

565 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to
566 petitioning the court to seal a criminal history record, a
567 person seeking to seal a criminal history record shall apply to
568 the department for a certificate of eligibility for sealing. The
569 department shall, by rule adopted pursuant to chapter 120,
570 establish procedures pertaining to the application for and
571 issuance of certificates of eligibility for sealing. A
572 certificate of eligibility for sealing is valid for 12 months
573 after the date stamped on the certificate when issued by the
574 department. After that time, the petitioner must reapply to the
575 department for a new certificate of eligibility. Eligibility for
576 a renewed certification of eligibility must be based on the
577 status of the applicant and the law in effect at the time of the
578 renewal application. The department shall issue a certificate of
579 eligibility for sealing to a person who is the subject of a
580 criminal history record provided that such person:

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581 (a) Has submitted to the department a certified copy of the
582 disposition of the charge to which the petition to seal
583 pertains.

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

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

592 (d) Has not been adjudicated guilty of or adjudicated
593 delinquent for committing any of the acts stemming from the
594 arrest or alleged criminal activity to which the petition to
595 seal pertains.

596 (e) Has never secured a prior sealing, except as provided
597 in subsection (6), or expunction of a criminal history record
598 under this section, former s. 893.14, former s. 901.33, or
599 former s. 943.058.

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

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

604 (a) In judicial proceedings under this section, a copy of
605 the completed petition to seal shall be served upon the
606 appropriate state attorney or the statewide prosecutor and upon
607 the arresting agency; however, it is not necessary to make any
608 agency other than the state a party. The appropriate state
609 attorney or the statewide prosecutor and the arresting agency

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610 may respond to the court regarding the completed petition to
611 seal.

612 (b) If relief is granted by the court, the clerk of the
613 court shall certify copies of the order to the appropriate state
614 attorney or the statewide prosecutor and to the arresting
615 agency. The arresting agency is responsible for forwarding the
616 order to any other agency to which the arresting agency
617 disseminated the criminal history record information to which
618 the order pertains. The department shall forward the order to
619 seal to the Federal Bureau of Investigation. The clerk of the
620 court shall certify a copy of the order to any other agency
621 which the records of the court reflect has received the criminal
622 history record from the court.

623 (c) For an order to seal entered by a court prior to July
624 1, 1992, the department shall notify the appropriate state
625 attorney or statewide prosecutor of any order to seal which is
626 contrary to law because the person who is the subject of the
627 record has previously been convicted of a crime or comparable
628 ordinance violation or has had a prior criminal history record
629 sealed, except as provided in subsection (6), or expunged. Upon
630 receipt of such notice, the appropriate state attorney or
631 statewide prosecutor shall take action, within 60 days, to
632 correct the record and petition the court to void the order to
633 seal. The department shall seal the record until such time as
634 the order is voided by the court.

635 (d) On or after July 1, 1992, the department or any other
636 criminal justice agency is not required to act on an order to
637 seal entered by a court when such order does not comply with the
638 requirements of this section. Upon receipt of such an order, the

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639 department must notify the issuing court, the appropriate state
640 attorney or statewide prosecutor, the petitioner or the
641 petitioner's attorney, and the arresting agency of the reason
642 for noncompliance. The appropriate state attorney or statewide
643 prosecutor shall take action within 60 days to correct the
644 record and petition the court to void the order. No cause of
645 action, including contempt of court, shall arise against any
646 criminal justice agency for failure to comply with an order to
647 seal when the petitioner for such order failed to obtain the
648 certificate of eligibility as required by this section or when
649 such order does not comply with the requirements of this
650 section.

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

655 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
656 history record of a minor or an adult which is ordered sealed by
657 a court of competent jurisdiction pursuant to this section is
658 confidential and exempt from the provisions of s. 119.07(1) and
659 s. 24(a), Art. I of the State Constitution and is available only
660 to the person who is the subject of the record, to the subject's
661 attorney, to criminal justice agencies for their respective
662 criminal justice purposes, which include conducting a criminal
663 history background check for approval of firearms purchases or
664 transfers as authorized by state or federal law, to judges in
665 the state courts system for the purpose of assisting them in
666 their case-related decisionmaking responsibilities, as set forth
667 in s. 943.053(5), or to those entities set forth in

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668 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
669 licensing, access authorization, and employment purposes.

670 (a) The subject of a criminal history record sealed under
671 this section or under other provisions of law, including former
672 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
673 deny or fail to acknowledge the arrests and subsequent
674 dispositions covered by the sealed record, except when the
675 subject of the record:

- 676 1. Is a candidate for employment with a criminal justice
677 agency;
- 678 2. Is a defendant in a criminal prosecution;
- 679 3. Concurrently or subsequently petitions for relief under
680 this section or s. 943.0585;
- 681 4. Is a candidate for admission to The Florida Bar;
- 682 5. Is seeking to be employed or licensed by or to contract
683 with the Department of Children and Family Services, the Agency
684 for Health Care Administration, the Agency for Persons with
685 Disabilities, or the Department of Juvenile Justice or to be
686 employed or used by such contractor or licensee in a sensitive
687 position having direct contact with children, the
688 developmentally disabled, the aged, or the elderly as provided
689 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
690 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
691 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;
- 692 6. Is seeking to be employed or licensed by the Department
693 of Education, any district school board, any university
694 laboratory school, any charter school, any private or parochial
695 school, or any local governmental entity that licenses child
696 care facilities;

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697 7. Is attempting to purchase a firearm from a licensed
698 importer, licensed manufacturer, or licensed dealer and is
699 subject to a criminal history background check under state or
700 federal law; or

701 8. Is seeking authorization from a Florida seaport
702 identified in s. 311.09 for employment within or access to one
703 or more of such seaports pursuant to s. 311.12 or s. 311.125.

704 (b) Subject to the exceptions in paragraph (a), a person
705 who has been granted a sealing under this section, former s.
706 893.14, former s. 901.33, or former s. 943.058 may not be held
707 under any provision of law of this state to commit perjury or to
708 be otherwise liable for giving a false statement by reason of
709 such person's failure to recite or acknowledge a sealed criminal
710 history record, including failure to recite or acknowledge on an
711 employment application.

712 (c) Information relating to the existence of a sealed
713 criminal record provided in accordance with the provisions of
714 paragraph (a) is confidential and exempt from the provisions of
715 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
716 except that the department shall disclose the sealed criminal
717 history record to the entities set forth in subparagraphs (a)1.,
718 4., 5., 6., and 8. for their respective licensing, access
719 authorization, and employment purposes. It is unlawful for any
720 employee of an entity set forth in subparagraph (a)1.,
721 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or
722 subparagraph (a)8. to disclose information relating to the
723 existence of a sealed criminal history record of a person
724 seeking employment, access authorization, or licensure with such
725 entity or contractor, except to the person to whom the criminal

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726 history record relates or to persons having direct
727 responsibility for employment, access authorization, or
728 licensure decisions. Any person who violates the provisions of
729 this paragraph commits a misdemeanor of the first degree,
730 punishable as provided in s. 775.082 or s. 775.083.

731 (5) STATUTORY REFERENCES.—Any reference to any other
732 chapter, section, or subdivision of the Florida Statutes in this
733 section constitutes a general reference under the doctrine of
734 incorporation by reference.

735 (6) SEALING OF CRIMINAL HISTORY RECORD AFTER PRIOR SEALING
736 OR EXPUNCTION.—A court may seal a person's criminal history
737 record after a prior criminal history record has been sealed or
738 expunged only if the person obtains a certificate from the
739 department to seal the criminal history record. The department
740 shall issue the certificate only if the person has not been
741 arrested during the 5-year period following the date of the
742 court order for the initial expunction or sealing of his or her
743 criminal history record. All other provisions and requirements
744 of this section apply to an application to seal a criminal
745 history record after a prior criminal history record has been
746 sealed or expunged.

747 Section 7. Paragraph (e) is added to subsection (1) of
748 section 985.441, Florida Statutes, to read:

749 985.441 Commitment.—

750 (1) The court that has jurisdiction of an adjudicated
751 delinquent child may, by an order stating the facts upon which a
752 determination of a sanction and rehabilitative program was made
753 at the disposition hearing:

754 (e) Commit the child to the department for placement in a

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755 mother-infant program designed to serve the needs of the
756 juvenile mothers or expectant juvenile mothers who are committed
757 as delinquents. The department's mother-infant program must be
758 licensed as a child care facility in accordance with s. 402.308,
759 and must provide the services and support necessary to enable
760 the committed juvenile mothers to provide for the needs of their
761 infants who, upon agreement of the mother, may accompany them in
762 the program. The department shall adopt rules to govern the
763 operation of such programs.

764 Section 8. Subsection (2) of section 985.601, Florida
765 Statutes, is amended to read:

766 985.601 Administering the juvenile justice continuum.—

767 (2) (a) The department shall develop and implement an
768 appropriate continuum of care that provides individualized,
769 multidisciplinary assessments, objective evaluations of relative
770 risks, and the matching of needs with placements for all
771 children under its care, and that uses a system of case
772 management to facilitate each child being appropriately
773 assessed, provided with services, and placed in a program that
774 meets the child's needs.

775 (b) The department shall adopt rules to ensure the
776 effective delivery of services to children in the department's
777 care and custody. The rules must address the delivery of:

778 1. Ordinary medical care in department facilities and
779 programs;

780 2. Mental health services in department facilities and
781 programs;

782 3. Substance abuse treatment services in department
783 facilities and programs; and

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784 4. Services to children with developmental disabilities in
785 department facilities and programs.

786
787 The department shall coordinate its rulemaking with the
788 Department of Children and Family Services and the Agency for
789 Persons with Disabilities to ensure that the rules adopted under
790 this section do not encroach upon the substantive jurisdiction
791 of those agencies. The department shall include the above-
792 mentioned entities in the rulemaking process, as appropriate.

793 Section 9. Present subsections (39) through (57) of section
794 985.03, Florida Statutes, are renumbered as subsections (40)
795 through (58), respectively, and a new subsection (39) is added
796 to that section, to read:

797 985.03 Definitions.—As used in this chapter, the term:
798 (39) "Ordinary medical care in department facilities and
799 programs" means medical procedures that are administered or
800 performed on a routine basis and include, but are not limited
801 to, inoculations, physical examinations, remedial treatment for
802 minor illnesses and injuries, preventive services, medication
803 management, chronic disease detection and treatment, and other
804 medical procedures that are administered or performed on a
805 routine basis and that do not involve hospitalization, surgery,
806 or use of general anesthesia.

807 Section 10. This act shall take effect July 1, 2009.