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LEGISLATIVE ACTION

Senate

House

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04/26/2010 04:00 PM

Senator Wilson moved the following:

Senate Amendment (with title amendment)

Delete lines 37 - 730

and insert:

Section 1. Section 943.0585, Florida Statutes, is amended to read:

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



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14 criminal justice agency to expunge the criminal history record
15 of a minor or an adult who complies with the requirements of
16 this section. The court shall not order a criminal justice
17 agency to expunge a criminal history record until the person
18 seeking to expunge a criminal history record has applied for and
19 received a certificate of eligibility for expunction pursuant to
20 subsection (2). A criminal history record that relates to a
21 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
22 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
23 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
24 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
25 any violation specified as a predicate offense for registration
26 as a sexual predator pursuant to s. 775.21, without regard to
27 whether that offense alone is sufficient to require such
28 registration, or for registration as a sexual offender pursuant
29 to s. 943.0435, may not be expunged, without regard to whether
30 adjudication was withheld, if the defendant was found guilty of
31 or pled guilty or nolo contendere to the offense, or if the
32 defendant, as a minor, was found to have committed, or pled
33 guilty or nolo contendere to committing, the offense as a
34 delinquent act. The court may only order expunction of a
35 criminal history record pertaining to one arrest or one incident
36 of alleged criminal activity, except as provided in this
37 section. The court may, at its sole discretion, order the
38 expunction of a criminal history record pertaining to more than
39 one arrest if the additional arrests directly relate to the
40 original arrest. If the court intends to order the expunction of
41 records pertaining to such additional arrests, such intent must
42 be specified in the order. A criminal justice agency may not



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43 expunge any record pertaining to such additional arrests if the
44 order to expunge does not articulate the intention of the court
45 to expunge a record pertaining to more than one arrest. This
46 section does not prevent the court from ordering the expunction
47 of only a portion of a criminal history record pertaining to one
48 arrest or one incident of alleged criminal activity.

49 Notwithstanding any law to the contrary, a criminal justice
50 agency may comply with laws, court orders, and official requests
51 of other jurisdictions relating to expunction, correction, or
52 confidential handling of criminal history records or information
53 derived therefrom. This section does not confer any right to the
54 expunction of any criminal history record, and any request for
55 expunction of a criminal history record may be denied at the
56 sole discretion of the court.

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

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

62 (b) The petitioner's sworn statement attesting that the
63 petitioner:

64 1. Has never, prior to the date on which the petition is
65 filed, been adjudicated guilty of a criminal offense or
66 comparable ordinance violation, or been adjudicated delinquent
67 for committing any felony or a misdemeanor specified in s.
68 943.051(3)(b).

69 2. Has not been adjudicated guilty of, or adjudicated
70 delinquent for committing, any of the acts stemming from the
71 arrest or alleged criminal activity to which the petition



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72 pertains.

73 3. Has never secured a prior sealing or expunction, except
74 as provided in subsection (5) and s. 943.059(5), of a criminal
75 history record under this section, former s. 893.14, former s.
76 901.33, or former s. 943.058, or from any jurisdiction outside
77 the state, unless expunction is sought of a criminal history
78 record previously sealed for 10 years pursuant to paragraph
79 (2) (h) and the record is otherwise eligible for expunction.

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

83
84 Any person who knowingly provides false information on such
85 sworn statement to the court commits a felony of the third
86 degree, punishable as provided in s. 775.082, s. 775.083, or s.
87 775.084.

88 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
89 petitioning the court to expunge a criminal history record, a
90 person seeking to expunge a criminal history record shall apply
91 to the department for a certificate of eligibility for
92 expunction. The department shall, by rule adopted pursuant to
93 chapter 120, establish procedures pertaining to the application
94 for and issuance of certificates of eligibility for expunction.
95 A certificate of eligibility for expunction is valid for 12
96 months after the date stamped on the certificate when issued by
97 the department. After that time, the petitioner must reapply to
98 the department for a new certificate of eligibility. Eligibility
99 for a renewed certification of eligibility must be based on the
100 status of the applicant and the law in effect at the time of the



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101 renewal application. The department shall issue a certificate of
102 eligibility for expunction to a person who is the subject of a
103 criminal history record if that person:

104 (a) Has obtained, and submitted to the department, a
105 written, certified statement from the appropriate clerk of court
106 ~~state attorney or statewide prosecutor~~ which indicates:

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

109 2. That an indictment, information, or other charging
110 document, if filed or issued in the case, was dismissed or nolle
111 prosequi by the state attorney or statewide prosecutor, or was
112 dismissed by a court of competent jurisdiction, and that none of
113 the charges related to the arrest or alleged criminal activity
114 to which the petition to expunge pertains resulted in a trial,
115 without regard to whether the outcome of the trial was other
116 than an adjudication of guilt.

117 3. That the criminal history record does not relate to a
118 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
119 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
120 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
121 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
122 any violation specified as a predicate offense for registration
123 as a sexual predator pursuant to s. 775.21, without regard to
124 whether that offense alone is sufficient to require such
125 registration, or for registration as a sexual offender pursuant
126 to s. 943.0435, where the defendant was found guilty of, or pled
127 guilty or nolo contendere to any such offense, or that the
128 defendant, as a minor, was found to have committed, or pled
129 guilty or nolo contendere to committing, such an offense as a



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130 delinquent act, without regard to whether adjudication was
131 withheld.

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

135 (c) Has submitted to the department a certified copy of the
136 disposition of the charge to which the petition to expunge
137 pertains.

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

143 (e) Has not been adjudicated guilty of, or adjudicated
144 delinquent for committing, any of the acts stemming from the
145 arrest or alleged criminal activity to which the petition to
146 expunge pertains.

147 (f) Has never secured a prior sealing or expunction, except
148 as provided in subsection (5) and s. 943.059(5), of a criminal
149 history record under this section, former s. 893.14, former s.
150 901.33, or former s. 943.058, unless expunction is sought of a
151 criminal history record previously sealed for 10 years pursuant
152 to paragraph (h) and the record is otherwise eligible for
153 expunction.

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

157 (h) Has previously obtained a court order sealing the
158 record under this section, former s. 893.14, former s. 901.33,



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159 or former s. 943.058 for a minimum of 10 years because
160 adjudication was withheld or because all charges related to the
161 arrest or alleged criminal activity to which the petition to
162 expunge pertains were not dismissed prior to trial, without
163 regard to whether the outcome of the trial was other than an
164 adjudication of guilt. The requirement for the record to have
165 previously been sealed for a minimum of 10 years does not apply
166 when a plea was not entered or all charges related to the arrest
167 or alleged criminal activity to which the petition to expunge
168 pertains were dismissed prior to trial.

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

170 (a) In judicial proceedings under this section, a copy of
171 the completed petition to expunge shall be served upon the
172 appropriate state attorney or the statewide prosecutor and upon
173 the arresting agency; however, it is not necessary to make any
174 agency other than the state a party. The appropriate state
175 attorney or the statewide prosecutor and the arresting agency
176 may respond to the court regarding the completed petition to
177 expunge.

178 (b) If relief is granted by the court, the clerk of the
179 court shall certify copies of the order to the appropriate state
180 attorney or the statewide prosecutor and the arresting agency.
181 The arresting agency is responsible for forwarding the order to
182 any other agency to which the arresting agency disseminated the
183 criminal history record information to which the order pertains.
184 The department shall forward the order to expunge to the Federal
185 Bureau of Investigation. The clerk of the court shall certify a
186 copy of the order to any other agency which the records of the
187 court reflect has received the criminal history record from the



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188 court.

189 (c) For an order to expunge entered by a court prior to
190 July 1, 1992, the department shall notify the appropriate state
191 attorney or statewide prosecutor of an order to expunge which is
192 contrary to law because the person who is the subject of the
193 record has previously been convicted of a crime or comparable
194 ordinance violation or has had a prior criminal history record
195 sealed or expunged, except as provided in subsection (5) and s.
196 943.059(5). Upon receipt of such notice, the appropriate state
197 attorney or statewide prosecutor shall take action, within 60
198 days, to correct the record and petition the court to void the
199 order to expunge. The department shall seal the record until
200 such time as the order is voided by the court.

201 (d) On or after July 1, 1992, the department or any other
202 criminal justice agency is not required to act on an order to
203 expunge entered by a court when such order does not comply with
204 the requirements of this section. Upon receipt of such an order,
205 the department must notify the issuing court, the appropriate
206 state attorney or statewide prosecutor, the petitioner or the
207 petitioner's attorney, and the arresting agency of the reason
208 for noncompliance. The appropriate state attorney or statewide
209 prosecutor shall take action within 60 days to correct the
210 record and petition the court to void the order. No cause of
211 action, including contempt of court, shall arise against any
212 criminal justice agency for failure to comply with an order to
213 expunge when the petitioner for such order failed to obtain the
214 certificate of eligibility as required by this section or such
215 order does not otherwise comply with the requirements of this
216 section.



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217 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
218 criminal history record of a minor or an adult which is ordered
219 expunged by a court of competent jurisdiction pursuant to this
220 section must be physically destroyed or obliterated by any
221 criminal justice agency having custody of such record; except
222 that any criminal history record in the custody of the
223 department must be retained in all cases. A criminal history
224 record ordered expunged that is retained by the department is
225 confidential and exempt from the provisions of s. 119.07(1) and
226 s. 24(a), Art. I of the State Constitution and not available to
227 any person or entity except upon order of a court of competent
228 jurisdiction. A criminal justice agency may retain a notation
229 indicating compliance with an order to expunge.

230 (a) The person who is the subject of a criminal history
231 record that is expunged under this section or under other
232 provisions of law, including former s. 893.14, former s. 901.33,
233 and former s. 943.058, may lawfully deny or fail to acknowledge
234 the arrests covered by the expunged record, except when the
235 subject of the record:

- 236 1. Is a candidate for employment with a criminal justice
237 agency;
- 238 2. Is a defendant in a criminal prosecution;
- 239 3. Concurrently or subsequently petitions for relief under
240 this section or s. 943.059;
- 241 4. Is a candidate for admission to The Florida Bar;
- 242 5. Is seeking to be employed or licensed by or to contract
243 with the Department of Children and Family Services, the Agency
244 for Health Care Administration, the Agency for Persons with
245 Disabilities, or the Department of Juvenile Justice or to be



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246 employed or used by such contractor or licensee in a sensitive
247 position having direct contact with children, the
248 developmentally disabled, the aged, or the elderly as provided
249 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
250 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),
251 chapter 916, s. 985.644, chapter 400, or chapter 429;

252 6. Is seeking to be employed or licensed by the Department
253 of Education, any district school board, any university
254 laboratory school, any charter school, any private or parochial
255 school, or any local governmental entity that licenses child
256 care facilities; or

257 7. Is seeking authorization from a seaport listed in s.
258 311.09 for employment within or access to one or more of such
259 seaports pursuant to s. 311.12.

260 (b) Subject to the exceptions in paragraph (a), a person
261 who has been granted an expunction under this section, former s.
262 893.14, former s. 901.33, or former s. 943.058 may not be held
263 under any provision of law of this state to commit perjury or to
264 be otherwise liable for giving a false statement by reason of
265 such person's failure to recite or acknowledge an expunged
266 criminal history record.

267 (c) Information relating to the existence of an expunged
268 criminal history record which is provided in accordance with
269 paragraph (a) is confidential and exempt from the provisions of
270 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
271 except that the department shall disclose the existence of a
272 criminal history record ordered expunged to the entities set
273 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their
274 respective licensing, access authorization, and employment



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275 purposes, and to criminal justice agencies for their respective
276 criminal justice purposes. It is unlawful for any employee of an
277 entity set forth in subparagraph (a)1., subparagraph (a)4.,
278 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to
279 disclose information relating to the existence of an expunged
280 criminal history record of a person seeking employment, access
281 authorization, or licensure with such entity or contractor,
282 except to the person to whom the criminal history record relates
283 or to persons having direct responsibility for employment,
284 access authorization, or licensure decisions. Any person who
285 violates this paragraph commits a misdemeanor of the first
286 degree, punishable as provided in s. 775.082 or s. 775.083.

287 (5) EXPUNCTION OF CRIMINAL HISTORY RECORD AFTER PRIOR
288 SEALING OR EXPUNCTION.—

289 (a) A court may expunge a person's criminal history record
290 after a prior criminal history record has been sealed or
291 expunged only if the person obtains a certificate from the
292 department to expunge the criminal history record. The
293 department shall issue the certificate for a second expunction
294 only if:

295 1. The person has had only one prior expunction of his or
296 her criminal history record under this section or one prior
297 expunction following the sealing of the same arrest or alleged
298 criminal activity that was expunged;

299 2. The person has not been arrested in this state during
300 the 10-year period prior to the date on which the application
301 for the certificate is filed; and

302 3. The person has not previously sealed or expunged a
303 criminal history record that involved the same offense to which



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304 the petition to expunge pertains.

305 (b) All other provisions and requirements of this section
306 apply to an application to expunge a second criminal history
307 record.

308 (6) ~~(5)~~ STATUTORY REFERENCES.—Any reference to any other
309 chapter, section, or subdivision of the Florida Statutes in this
310 section constitutes a general reference under the doctrine of
311 incorporation by reference.

312 Section 2. Section 943.059, Florida Statutes, is amended to
313 read:

314 943.059 Court-ordered sealing of criminal history records.—
315 The courts of this state shall continue to have jurisdiction
316 over their own procedures, including the maintenance, sealing,
317 and correction of judicial records containing criminal history
318 information to the extent such procedures are not inconsistent
319 with the conditions, responsibilities, and duties established by
320 this section. Any court of competent jurisdiction may order a
321 criminal justice agency to seal the criminal history record of a
322 minor or an adult who complies with the requirements of this
323 section. The court shall not order a criminal justice agency to
324 seal a criminal history record until the person seeking to seal
325 a criminal history record has applied for and received a
326 certificate of eligibility for sealing pursuant to subsection
327 (2). A criminal history record that relates to a violation of s.
328 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
329 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
330 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
331 916.1075, a violation enumerated in s. 907.041, or any violation
332 specified as a predicate offense for registration as a sexual



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333 predator pursuant to s. 775.21, without regard to whether that
334 offense alone is sufficient to require such registration, or for
335 registration as a sexual offender pursuant to s. 943.0435, may
336 not be sealed, without regard to whether adjudication was
337 withheld, if the defendant was found guilty of or pled guilty or
338 nolo contendere to the offense, or if the defendant, as a minor,
339 was found to have committed or pled guilty or nolo contendere to
340 committing the offense as a delinquent act. The court may only
341 order sealing of a criminal history record pertaining to one
342 arrest or one incident of alleged criminal activity, except as
343 provided in this section. The court may, at its sole discretion,
344 order the sealing of a criminal history record pertaining to
345 more than one arrest if the additional arrests directly relate
346 to the original arrest. If the court intends to order the
347 sealing of records pertaining to such additional arrests, such
348 intent must be specified in the order. A criminal justice agency
349 may not seal any record pertaining to such additional arrests if
350 the order to seal does not articulate the intention of the court
351 to seal records pertaining to more than one arrest. This section
352 does not prevent the court from ordering the sealing of only a
353 portion of a criminal history record pertaining to one arrest or
354 one incident of alleged criminal activity. Notwithstanding any
355 law to the contrary, a criminal justice agency may comply with
356 laws, court orders, and official requests of other jurisdictions
357 relating to sealing, correction, or confidential handling of
358 criminal history records or information derived therefrom. This
359 section does not confer any right to the sealing of any criminal
360 history record, and any request for sealing a criminal history
361 record may be denied at the sole discretion of the court.



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362 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each
363 petition to a court to seal a criminal history record is
364 complete only when accompanied by:
365 (a) A valid certificate of eligibility for sealing issued
366 by the department pursuant to subsection (2).
367 (b) The petitioner's sworn statement attesting that the
368 petitioner:
369 1. Has never, prior to the date on which the petition is
370 filed, been adjudicated guilty of a criminal offense or
371 comparable ordinance violation, or been adjudicated delinquent
372 for committing any felony or a misdemeanor specified in s.
373 943.051(3)(b).
374 2. Has not been adjudicated guilty of or adjudicated
375 delinquent for committing any of the acts stemming from the
376 arrest or alleged criminal activity to which the petition to
377 seal pertains.
378 3. Has never secured a prior sealing or expunction, except
379 as provided in subsection (5), of a criminal history record
380 under this section, former s. 893.14, former s. 901.33, former
381 s. 943.058, or from any jurisdiction outside the state.
382 4. Is eligible for such a sealing to the best of his or her
383 knowledge or belief and does not have any other petition to seal
384 or any petition to expunge pending before any court.
385
386 Any person who knowingly provides false information on such
387 sworn statement to the court commits a felony of the third
388 degree, punishable as provided in s. 775.082, s. 775.083, or s.
389 775.084.
390 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to



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391 petitioning the court to seal a criminal history record, a
392 person seeking to seal a criminal history record shall apply to
393 the department for a certificate of eligibility for sealing. The
394 department shall, by rule adopted pursuant to chapter 120,
395 establish procedures pertaining to the application for and
396 issuance of certificates of eligibility for sealing. A
397 certificate of eligibility for sealing is valid for 12 months
398 after the date stamped on the certificate when issued by the
399 department. After that time, the petitioner must reapply to the
400 department for a new certificate of eligibility. Eligibility for
401 a renewed certification of eligibility must be based on the
402 status of the applicant and the law in effect at the time of the
403 renewal application. The department shall issue a certificate of
404 eligibility for sealing to a person who is the subject of a
405 criminal history record provided that such person:

406 (a) Has submitted to the department a certified copy of the
407 disposition of the charge to which the petition to seal
408 pertains.

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

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

417 (d) Has not been adjudicated guilty of or adjudicated
418 delinquent for committing any of the acts stemming from the
419 arrest or alleged criminal activity to which the petition to



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420 seal pertains.

421 (e) Has never secured a prior sealing or expunction, except
422 as provided in subsection (5), of a criminal history record
423 under this section, former s. 893.14, former s. 901.33, or
424 former s. 943.058.

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

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

429 (a) In judicial proceedings under this section, a copy of
430 the completed petition to seal shall be served upon the
431 appropriate state attorney or the statewide prosecutor and upon
432 the arresting agency; however, it is not necessary to make any
433 agency other than the state a party. The appropriate state
434 attorney or the statewide prosecutor and the arresting agency
435 may respond to the court regarding the completed petition to
436 seal.

437 (b) If relief is granted by the court, the clerk of the
438 court shall certify copies of the order to the appropriate state
439 attorney or the statewide prosecutor and to the arresting
440 agency. The arresting agency is responsible for forwarding the
441 order to any other agency to which the arresting agency
442 disseminated the criminal history record information to which
443 the order pertains. The department shall forward the order to
444 seal to the Federal Bureau of Investigation. The clerk of the
445 court shall certify a copy of the order to any other agency
446 which the records of the court reflect has received the criminal
447 history record from the court.

448 (c) For an order to seal entered by a court prior to July



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449 1, 1992, the department shall notify the appropriate state
450 attorney or statewide prosecutor of any order to seal which is
451 contrary to law because the person who is the subject of the
452 record has previously been convicted of a crime or comparable
453 ordinance violation or has had a prior criminal history record
454 sealed or expunged, except as provided in subsection (5). Upon
455 receipt of such notice, the appropriate state attorney or
456 statewide prosecutor shall take action, within 60 days, to
457 correct the record and petition the court to void the order to
458 seal. The department shall seal the record until such time as
459 the order is voided by the court.

460 (d) On or after July 1, 1992, the department or any other
461 criminal justice agency is not required to act on an order to
462 seal entered by a court when such order does not comply with the
463 requirements of this section. Upon receipt of such an order, the
464 department must notify the issuing court, the appropriate state
465 attorney or statewide prosecutor, the petitioner or the
466 petitioner's attorney, and the arresting agency of the reason
467 for noncompliance. The appropriate state attorney or statewide
468 prosecutor shall take action within 60 days to correct the
469 record and petition the court to void the order. No cause of
470 action, including contempt of court, shall arise against any
471 criminal justice agency for failure to comply with an order to
472 seal when the petitioner for such order failed to obtain the
473 certificate of eligibility as required by this section or when
474 such order does not comply with the requirements of this
475 section.

476 (e) An order sealing a criminal history record pursuant to
477 this section does not require that such record be surrendered to



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478 the court, and such record shall continue to be maintained by
479 the department and other criminal justice agencies.

480 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
481 history record of a minor or an adult which is ordered sealed by
482 a court of competent jurisdiction pursuant to this section is
483 confidential and exempt from the provisions of s. 119.07(1) and
484 s. 24(a), Art. I of the State Constitution and is available only
485 to the person who is the subject of the record, to the subject's
486 attorney, to criminal justice agencies for their respective
487 criminal justice purposes, which include conducting a criminal
488 history background check for approval of firearms purchases or
489 transfers as authorized by state or federal law, to judges in
490 the state courts system for the purpose of assisting them in
491 their case-related decisionmaking responsibilities, as set forth
492 in s. 943.053(5), or to those entities set forth in
493 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
494 licensing, access authorization, and employment purposes.

495 (a) The subject of a criminal history record sealed under
496 this section or under other provisions of law, including former
497 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
498 deny or fail to acknowledge the arrests covered by the sealed
499 record, except when the subject of the record:

- 500 1. Is a candidate for employment with a criminal justice
501 agency;
- 502 2. Is a defendant in a criminal prosecution;
- 503 3. Concurrently or subsequently petitions for relief under
504 this section or s. 943.0585;
- 505 4. Is a candidate for admission to The Florida Bar;
- 506 5. Is seeking to be employed or licensed by or to contract



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507 with the Department of Children and Family Services, the Agency
508 for Health Care Administration, the Agency for Persons with
509 Disabilities, or the Department of Juvenile Justice or to be
510 employed or used by such contractor or licensee in a sensitive
511 position having direct contact with children, the
512 developmentally disabled, the aged, or the elderly as provided
513 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
514 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
515 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;

516 6. Is seeking to be employed or licensed by the Department
517 of Education, any district school board, any university
518 laboratory school, any charter school, any private or parochial
519 school, or any local governmental entity that licenses child
520 care facilities;

521 7. Is attempting to purchase a firearm from a licensed
522 importer, licensed manufacturer, or licensed dealer and is
523 subject to a criminal history check under state or federal law;
524 or

525 8. Is seeking authorization from a Florida seaport
526 identified in s. 311.09 for employment within or access to one
527 or more of such seaports pursuant to s. 311.12.

528 (b) Subject to the exceptions in paragraph (a), a person
529 who has been granted a sealing under this section, former s.
530 893.14, former s. 901.33, or former s. 943.058 may not be held
531 under any provision of law of this state to commit perjury or to
532 be otherwise liable for giving a false statement by reason of
533 such person's failure to recite or acknowledge a sealed criminal
534 history record.

535 (c) Information relating to the existence of a sealed



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536 criminal record provided in accordance with the provisions of
537 paragraph (a) is confidential and exempt from the provisions of
538 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
539 except that the department shall disclose the sealed criminal
540 history record to the entities set forth in subparagraphs (a)1.,
541 4., 5., 6., and 8. for their respective licensing, access
542 authorization, and employment purposes. It is unlawful for any
543 employee of an entity set forth in subparagraph (a)1.,
544 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or
545 subparagraph (a)8. to disclose information relating to the
546 existence of a sealed criminal history record of a person
547 seeking employment, access authorization, or licensure with such
548 entity or contractor, except to the person to whom the criminal
549 history record relates or to persons having direct
550 responsibility for employment, access authorization, or
551 licensure decisions. Any person who violates the provisions of
552 this paragraph commits a misdemeanor of the first degree,
553 punishable as provided in s. 775.082 or s. 775.083.

554 (5) SEALING OF CRIMINAL HISTORY RECORD AFTER PRIOR SEALING
555 OR EXPUNCTION.—

556 (a) A court may seal a person's criminal history record
557 after a prior criminal history record has been sealed or
558 expunged only if the person obtains a certificate from the
559 department to seal the criminal history record. The department
560 shall issue the certificate for a second sealing only if:

561 1. The person has had only one prior expunction or sealing
562 of his or her criminal history record under s. 943.0585 or this
563 section or one prior expunction following the sealing of the
564 same arrest or alleged criminal activity that was expunged;



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565 2. The person has not been arrested in this state during
566 the 5-year period prior to the date on which the application for
567 the certificate is filed; and

568 3. The person has not previously sealed or expunged a
569 criminal history record that involved the same offense to which
570 the petition to seal pertains.

571 (b) All other provisions and requirements of this section
572 apply to an application to seal a second criminal history
573 record.

574 (6)~~(5)~~ STATUTORY REFERENCES.—Any reference to any other
575 chapter, section, or subdivision of the Florida Statutes in this
576 section constitutes a general reference under the doctrine of
577 incorporation by reference.

578 Section 3. This act shall take effect July 1, 2010.

579
580 ===== T I T L E A M E N D M E N T =====

581 And the title is amended as follows:

582
583 Delete lines 2 - 33

584 and insert:

585
586 An act relating to sealing and expunging criminal
587 history records; amending s. 943.0585, F.S.;
588 authorizing a court to expunge a criminal history
589 record of a person who had a prior criminal history
590 record sealed or expunged in certain circumstances;
591 amending s. 943.059, F.S.; authorizing a court to seal
592 a criminal history record of a person who had a prior
593 criminal history record sealed or expunged in certain



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594

circumstances; providing an effective date.