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1                   A bill to be entitled  
2           An act relating to sealing and expunging criminal  
3           history records; providing a short title; amending s.  
4           943.0585, F.S.; authorizing a court to expunge a  
5           criminal history record of a person who had a prior  
6           criminal history record sealed or expunged in certain  
7           circumstances; amending s. 943.059, F.S.; authorizing  
8           a court to seal a criminal history record of a person  
9           who had a prior criminal history record sealed or  
10          expunged in certain circumstances; providing an  
11          effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15           Section 1. This act may be cited as the "Jim King Keep  
16 Florida Working Act."

17           Section 2. Section 943.0585, Florida Statutes, is amended  
18 to read:

19           943.0585 Court-ordered expunction of criminal history  
20 records.—The courts of this state have jurisdiction over their  
21 own procedures, including the maintenance, expunction, and  
22 correction of judicial records containing criminal history  
23 information to the extent such procedures are not inconsistent  
24 with the conditions, responsibilities, and duties established by  
25 this section. Any court of competent jurisdiction may order a  
26 criminal justice agency to expunge the criminal history record  
27 of a minor or an adult who complies with the requirements of  
28 this section. The court shall not order a criminal justice  
29 agency to expunge a criminal history record until the person

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30 seeking to expunge a criminal history record has applied for and  
31 received a certificate of eligibility for expunction pursuant to  
32 subsection (2). A criminal history record that relates to a  
33 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
34 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
35 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
36 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
37 any violation specified as a predicate offense for registration  
38 as a sexual predator pursuant to s. 775.21, without regard to  
39 whether that offense alone is sufficient to require such  
40 registration, or for registration as a sexual offender pursuant  
41 to s. 943.0435, may not be expunged, without regard to whether  
42 adjudication was withheld, if the defendant was found guilty of  
43 or pled guilty or nolo contendere to the offense, or if the  
44 defendant, as a minor, was found to have committed, or pled  
45 guilty or nolo contendere to committing, the offense as a  
46 delinquent act. The court may only order expunction of a  
47 criminal history record pertaining to one arrest or one incident  
48 of alleged criminal activity, except as provided in this  
49 section. The court may, at its sole discretion, order the  
50 expunction of a criminal history record pertaining to more than  
51 one arrest if the additional arrests directly relate to the  
52 original arrest. If the court intends to order the expunction of  
53 records pertaining to such additional arrests, such intent must  
54 be specified in the order. A criminal justice agency may not  
55 expunge any record pertaining to such additional arrests if the  
56 order to expunge does not articulate the intention of the court  
57 to expunge a record pertaining to more than one arrest. This  
58 section does not prevent the court from ordering the expunction

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59 of only a portion of a criminal history record pertaining to one  
60 arrest or one incident of alleged criminal activity.  
61 Notwithstanding any law to the contrary, a criminal justice  
62 agency may comply with laws, court orders, and official requests  
63 of other jurisdictions relating to expunction, correction, or  
64 confidential handling of criminal history records or information  
65 derived therefrom. This section does not confer any right to the  
66 expunction of any criminal history record, and any request for  
67 expunction of a criminal history record may be denied at the  
68 sole discretion of the court.

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

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

74 (b) The petitioner's sworn statement attesting that the  
75 petitioner:

76 1. Has never, prior to the date on which the petition is  
77 filed, been adjudicated guilty of a criminal offense or  
78 comparable ordinance violation, or been adjudicated delinquent  
79 for committing any felony or a misdemeanor specified in s.  
80 943.051(3)(b).

81 2. Has not been adjudicated guilty of, or adjudicated  
82 delinquent for committing, any of the acts stemming from the  
83 arrest or alleged criminal activity to which the petition  
84 pertains.

85 3. Has never secured a prior sealing or expunction, except  
86 as provided in subsection (5) and s. 943.059(5), of a criminal  
87 history record under this section, former s. 893.14, former s.

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88 901.33, or former s. 943.058, or from any jurisdiction outside  
89 the state, unless expunction is sought of a criminal history  
90 record previously sealed for 10 years pursuant to paragraph  
91 (2) (h) and the record is otherwise eligible for expunction.

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

95

96 Any person who knowingly provides false information on such  
97 sworn statement to the court commits a felony of the third  
98 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
99 775.084.

100 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to  
101 petitioning the court to expunge a criminal history record, a  
102 person seeking to expunge a criminal history record shall apply  
103 to the department for a certificate of eligibility for  
104 expunction. The department shall, by rule adopted pursuant to  
105 chapter 120, establish procedures pertaining to the application  
106 for and issuance of certificates of eligibility for expunction.  
107 A certificate of eligibility for expunction is valid for 12  
108 months after the date stamped on the certificate when issued by  
109 the department. After that time, the petitioner must reapply to  
110 the department for a new certificate of eligibility. Eligibility  
111 for a renewed certification of eligibility must be based on the  
112 status of the applicant and the law in effect at the time of the  
113 renewal application. The department shall issue a certificate of  
114 eligibility for expunction to a person who is the subject of a  
115 criminal history record if that person:

116 (a) Has obtained, and submitted to the department, a

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117 written, certified statement from the appropriate clerk of court  
118 ~~state attorney or statewide prosecutor~~ which indicates:

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

121 2. That an indictment, information, or other charging  
122 document, if filed or issued in the case, was dismissed or nolle  
123 prosequi by the state attorney or statewide prosecutor, or was  
124 dismissed by a court of competent jurisdiction, and that none of  
125 the charges related to the arrest or alleged criminal activity  
126 to which the petition to expunge pertains resulted in a trial,  
127 without regard to whether the outcome of the trial was other  
128 than an adjudication of guilt.

129 3. That the criminal history record does not relate to a  
130 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
131 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
132 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
133 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
134 any violation specified as a predicate offense for registration  
135 as a sexual predator pursuant to s. 775.21, without regard to  
136 whether that offense alone is sufficient to require such  
137 registration, or for registration as a sexual offender pursuant  
138 to s. 943.0435, where the defendant was found guilty of, or pled  
139 guilty or nolo contendere to any such offense, or that the  
140 defendant, as a minor, was found to have committed, or pled  
141 guilty or nolo contendere to committing, such an offense as a  
142 delinquent act, without regard to whether adjudication was  
143 withheld.

144 (b) Remits a \$75 processing fee to the department for  
145 placement in the Department of Law Enforcement Operating Trust

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146 Fund, unless such fee is waived by the executive director.

147 (c) Has submitted to the department a certified copy of the  
148 disposition of the charge to which the petition to expunge  
149 pertains.

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

155 (e) Has not been adjudicated guilty of, or adjudicated  
156 delinquent for committing, any of the acts stemming from the  
157 arrest or alleged criminal activity to which the petition to  
158 expunge pertains.

159 (f) Has never secured a prior sealing or expunction, except  
160 as provided in subsection (5) and s. 943.059(5), of a criminal  
161 history record under this section, former s. 893.14, former s.  
162 901.33, or former s. 943.058, unless expunction is sought of a  
163 criminal history record previously sealed for 10 years pursuant  
164 to paragraph (h) and the record is otherwise eligible for  
165 expunction.

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

169 (h) Has previously obtained a court order sealing the  
170 record under this section, former s. 893.14, former s. 901.33,  
171 or former s. 943.058 for a minimum of 10 years because  
172 adjudication was withheld or because all charges related to the  
173 arrest or alleged criminal activity to which the petition to  
174 expunge pertains were not dismissed prior to trial, without

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175 regard to whether the outcome of the trial was other than an  
176 adjudication of guilt. The requirement for the record to have  
177 previously been sealed for a minimum of 10 years does not apply  
178 when a plea was not entered or all charges related to the arrest  
179 or alleged criminal activity to which the petition to expunge  
180 pertains were dismissed prior to trial.

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

182 (a) In judicial proceedings under this section, a copy of  
183 the completed petition to expunge shall be served upon the  
184 appropriate state attorney or the statewide prosecutor and upon  
185 the arresting agency; however, it is not necessary to make any  
186 agency other than the state a party. The appropriate state  
187 attorney or the statewide prosecutor and the arresting agency  
188 may respond to the court regarding the completed petition to  
189 expunge.

190 (b) If relief is granted by the court, the clerk of the  
191 court shall certify copies of the order to the appropriate state  
192 attorney or the statewide prosecutor and the arresting agency.  
193 The arresting agency is responsible for forwarding the order to  
194 any other agency to which the arresting agency disseminated the  
195 criminal history record information to which the order pertains.  
196 The department shall forward the order to expunge to the Federal  
197 Bureau of Investigation. The clerk of the court shall certify a  
198 copy of the order to any other agency which the records of the  
199 court reflect has received the criminal history record from the  
200 court.

201 (c) For an order to expunge entered by a court prior to  
202 July 1, 1992, the department shall notify the appropriate state  
203 attorney or statewide prosecutor of an order to expunge which is

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204 contrary to law because the person who is the subject of the  
205 record has previously been convicted of a crime or comparable  
206 ordinance violation or has had a prior criminal history record  
207 sealed or expunged, except as provided in subsection (5) and s.  
208 943.059(5). Upon receipt of such notice, the appropriate state  
209 attorney or statewide prosecutor shall take action, within 60  
210 days, to correct the record and petition the court to void the  
211 order to expunge. The department shall seal the record until  
212 such time as the order is voided by the court.

213 (d) On or after July 1, 1992, the department or any other  
214 criminal justice agency is not required to act on an order to  
215 expunge entered by a court when such order does not comply with  
216 the requirements of this section. Upon receipt of such an order,  
217 the department must notify the issuing court, the appropriate  
218 state attorney or statewide prosecutor, the petitioner or the  
219 petitioner's attorney, and the arresting agency of the reason  
220 for noncompliance. The appropriate state attorney or statewide  
221 prosecutor shall take action within 60 days to correct the  
222 record and petition the court to void the order. No cause of  
223 action, including contempt of court, shall arise against any  
224 criminal justice agency for failure to comply with an order to  
225 expunge when the petitioner for such order failed to obtain the  
226 certificate of eligibility as required by this section or such  
227 order does not otherwise comply with the requirements of this  
228 section.

229 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any  
230 criminal history record of a minor or an adult which is ordered  
231 expunged by a court of competent jurisdiction pursuant to this  
232 section must be physically destroyed or obliterated by any



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233 criminal justice agency having custody of such record; except  
234 that any criminal history record in the custody of the  
235 department must be retained in all cases. A criminal history  
236 record ordered expunged that is retained by the department is  
237 confidential and exempt from the provisions of s. 119.07(1) and  
238 s. 24(a), Art. I of the State Constitution and not available to  
239 any person or entity except upon order of a court of competent  
240 jurisdiction. A criminal justice agency may retain a notation  
241 indicating compliance with an order to expunge.

242 (a) The person who is the subject of a criminal history  
243 record that is expunged under this section or under other  
244 provisions of law, including former s. 893.14, former s. 901.33,  
245 and former s. 943.058, may lawfully deny or fail to acknowledge  
246 the arrests covered by the expunged record, except when the  
247 subject of the record:

- 248 1. Is a candidate for employment with a criminal justice  
249 agency;
- 250 2. Is a defendant in a criminal prosecution;
- 251 3. Concurrently or subsequently petitions for relief under  
252 this section or s. 943.059;
- 253 4. Is a candidate for admission to The Florida Bar;
- 254 5. Is seeking to be employed or licensed by or to contract  
255 with the Department of Children and Family Services, the Agency  
256 for Health Care Administration, the Agency for Persons with  
257 Disabilities, or the Department of Juvenile Justice or to be  
258 employed or used by such contractor or licensee in a sensitive  
259 position having direct contact with children, the  
260 developmentally disabled, the aged, or the elderly as provided  
261 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.

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262 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),  
263 chapter 916, s. 985.644, chapter 400, or chapter 429;

264 6. Is seeking to be employed or licensed by the Department  
265 of Education, any district school board, any university  
266 laboratory school, any charter school, any private or parochial  
267 school, or any local governmental entity that licenses child  
268 care facilities; or

269 7. Is seeking authorization from a seaport listed in s.  
270 311.09 for employment within or access to one or more of such  
271 seaports pursuant to s. 311.12.

272 (b) Subject to the exceptions in paragraph (a), a person  
273 who has been granted an expunction under this section, former s.  
274 893.14, former s. 901.33, or former s. 943.058 may not be held  
275 under any provision of law of this state to commit perjury or to  
276 be otherwise liable for giving a false statement by reason of  
277 such person's failure to recite or acknowledge an expunged  
278 criminal history record.

279 (c) Information relating to the existence of an expunged  
280 criminal history record which is provided in accordance with  
281 paragraph (a) is confidential and exempt from the provisions of  
282 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
283 except that the department shall disclose the existence of a  
284 criminal history record ordered expunged to the entities set  
285 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their  
286 respective licensing, access authorization, and employment  
287 purposes, and to criminal justice agencies for their respective  
288 criminal justice purposes. It is unlawful for any employee of an  
289 entity set forth in subparagraph (a)1., subparagraph (a)4.,  
290 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to

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291 disclose information relating to the existence of an expunged  
292 criminal history record of a person seeking employment, access  
293 authorization, or licensure with such entity or contractor,  
294 except to the person to whom the criminal history record relates  
295 or to persons having direct responsibility for employment,  
296 access authorization, or licensure decisions. Any person who  
297 violates this paragraph commits a misdemeanor of the first  
298 degree, punishable as provided in s. 775.082 or s. 775.083.

299 (5) EXPUNCTION OF CRIMINAL HISTORY RECORD AFTER PRIOR  
300 SEALING OR EXPUNCTION.—

301 (a) A court may expunge a person's criminal history record  
302 after a prior criminal history record has been sealed or  
303 expunged only if the person obtains a certificate from the  
304 department to expunge the criminal history record. The  
305 department shall issue the certificate for a second expunction  
306 only if:

307 1. The person has had only one prior expunction of his or  
308 her criminal history record under this section or one prior  
309 expunction following the sealing of the same arrest or alleged  
310 criminal activity that was expunged;

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

314 3. The person has not previously sealed or expunged a  
315 criminal history record that involved the same offense to which  
316 the petition to expunge pertains.

317 (b) All other provisions and requirements of this section  
318 apply to an application to expunge a second criminal history  
319 record.

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320        (6)~~(5)~~ STATUTORY REFERENCES.—Any reference to any other  
321 chapter, section, or subdivision of the Florida Statutes in this  
322 section constitutes a general reference under the doctrine of  
323 incorporation by reference.

324        Section 3. Section 943.059, Florida Statutes, is amended to  
325 read:

326        943.059 Court-ordered sealing of criminal history records.—  
327 The courts of this state shall continue to have jurisdiction  
328 over their own procedures, including the maintenance, sealing,  
329 and correction of judicial records containing criminal history  
330 information to the extent such procedures are not inconsistent  
331 with the conditions, responsibilities, and duties established by  
332 this section. Any court of competent jurisdiction may order a  
333 criminal justice agency to seal the criminal history record of a  
334 minor or an adult who complies with the requirements of this  
335 section. The court shall not order a criminal justice agency to  
336 seal a criminal history record until the person seeking to seal  
337 a criminal history record has applied for and received a  
338 certificate of eligibility for sealing pursuant to subsection  
339 (2). A criminal history record that relates to a violation of s.  
340 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.  
341 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter  
342 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
343 916.1075, a violation enumerated in s. 907.041, or any violation  
344 specified as a predicate offense for registration as a sexual  
345 predator pursuant to s. 775.21, without regard to whether that  
346 offense alone is sufficient to require such registration, or for  
347 registration as a sexual offender pursuant to s. 943.0435, may  
348 not be sealed, without regard to whether adjudication was

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349 withheld, if the defendant was found guilty of or pled guilty or  
350 nolo contendere to the offense, or if the defendant, as a minor,  
351 was found to have committed or pled guilty or nolo contendere to  
352 committing the offense as a delinquent act. The court may only  
353 order sealing of a criminal history record pertaining to one  
354 arrest or one incident of alleged criminal activity, except as  
355 provided in this section. The court may, at its sole discretion,  
356 order the sealing of a criminal history record pertaining to  
357 more than one arrest if the additional arrests directly relate  
358 to the original arrest. If the court intends to order the  
359 sealing of records pertaining to such additional arrests, such  
360 intent must be specified in the order. A criminal justice agency  
361 may not seal any record pertaining to such additional arrests if  
362 the order to seal does not articulate the intention of the court  
363 to seal records pertaining to more than one arrest. This section  
364 does not prevent the court from ordering the sealing of only a  
365 portion of a criminal history record pertaining to one arrest or  
366 one incident of alleged criminal activity. Notwithstanding any  
367 law to the contrary, a criminal justice agency may comply with  
368 laws, court orders, and official requests of other jurisdictions  
369 relating to sealing, correction, or confidential handling of  
370 criminal history records or information derived therefrom. This  
371 section does not confer any right to the sealing of any criminal  
372 history record, and any request for sealing a criminal history  
373 record may be denied at the sole discretion of the court.

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

377 (a) A valid certificate of eligibility for sealing issued

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378 by the department pursuant to subsection (2).

379 (b) The petitioner's sworn statement attesting that the  
380 petitioner:

381 1. Has never, prior to the date on which the petition is  
382 filed, been adjudicated guilty of a criminal offense or  
383 comparable ordinance violation, or been adjudicated delinquent  
384 for committing any felony or a misdemeanor specified in s.  
385 943.051(3) (b).

386 2. Has not been adjudicated guilty of or adjudicated  
387 delinquent for committing any of the acts stemming from the  
388 arrest or alleged criminal activity to which the petition to  
389 seal pertains.

390 3. Has never secured a prior sealing or expunction, except  
391 as provided in subsection (5), of a criminal history record  
392 under this section, former s. 893.14, former s. 901.33, former  
393 s. 943.058, or from any jurisdiction outside the state.

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

397

398 Any person who knowingly provides false information on such  
399 sworn statement to the court commits a felony of the third  
400 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
401 775.084.

402 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to  
403 petitioning the court to seal a criminal history record, a  
404 person seeking to seal a criminal history record shall apply to  
405 the department for a certificate of eligibility for sealing. The  
406 department shall, by rule adopted pursuant to chapter 120,

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407 establish procedures pertaining to the application for and  
408 issuance of certificates of eligibility for sealing. A  
409 certificate of eligibility for sealing is valid for 12 months  
410 after the date stamped on the certificate when issued by the  
411 department. After that time, the petitioner must reapply to the  
412 department for a new certificate of eligibility. Eligibility for  
413 a renewed certification of eligibility must be based on the  
414 status of the applicant and the law in effect at the time of the  
415 renewal application. The department shall issue a certificate of  
416 eligibility for sealing to a person who is the subject of a  
417 criminal history record provided that such person:

418 (a) Has submitted to the department a certified copy of the  
419 disposition of the charge to which the petition to seal  
420 pertains.

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

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

429 (d) Has not been adjudicated guilty of or adjudicated  
430 delinquent for committing any of the acts stemming from the  
431 arrest or alleged criminal activity to which the petition to  
432 seal pertains.

433 (e) Has never secured a prior sealing or expunction, except  
434 as provided in subsection (5), of a criminal history record  
435 under this section, former s. 893.14, former s. 901.33, or

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436 former s. 943.058.

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

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

441 (a) In judicial proceedings under this section, a copy of  
442 the completed petition to seal shall be served upon the  
443 appropriate state attorney or the statewide prosecutor and upon  
444 the arresting agency; however, it is not necessary to make any  
445 agency other than the state a party. The appropriate state  
446 attorney or the statewide prosecutor and the arresting agency  
447 may respond to the court regarding the completed petition to  
448 seal.

449 (b) If relief is granted by the court, the clerk of the  
450 court shall certify copies of the order to the appropriate state  
451 attorney or the statewide prosecutor and to the arresting  
452 agency. The arresting agency is responsible for forwarding the  
453 order to any other agency to which the arresting agency  
454 disseminated the criminal history record information to which  
455 the order pertains. The department shall forward the order to  
456 seal to the Federal Bureau of Investigation. The clerk of the  
457 court shall certify a copy of the order to any other agency  
458 which the records of the court reflect has received the criminal  
459 history record from the court.

460 (c) For an order to seal entered by a court prior to July  
461 1, 1992, the department shall notify the appropriate state  
462 attorney or statewide prosecutor of any order to seal which is  
463 contrary to law because the person who is the subject of the  
464 record has previously been convicted of a crime or comparable



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465 ordinance violation or has had a prior criminal history record  
466 sealed or expunged, except as provided in subsection (5). Upon  
467 receipt of such notice, the appropriate state attorney or  
468 statewide prosecutor shall take action, within 60 days, to  
469 correct the record and petition the court to void the order to  
470 seal. The department shall seal the record until such time as  
471 the order is voided by the court.

472 (d) On or after July 1, 1992, the department or any other  
473 criminal justice agency is not required to act on an order to  
474 seal entered by a court when such order does not comply with the  
475 requirements of this section. Upon receipt of such an order, the  
476 department must notify the issuing court, the appropriate state  
477 attorney or statewide prosecutor, the petitioner or the  
478 petitioner's attorney, and the arresting agency of the reason  
479 for noncompliance. The appropriate state attorney or statewide  
480 prosecutor shall take action within 60 days to correct the  
481 record and petition the court to void the order. No cause of  
482 action, including contempt of court, shall arise against any  
483 criminal justice agency for failure to comply with an order to  
484 seal when the petitioner for such order failed to obtain the  
485 certificate of eligibility as required by this section or when  
486 such order does not comply with the requirements of this  
487 section.

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

492 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal  
493 history record of a minor or an adult which is ordered sealed by

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494 a court of competent jurisdiction pursuant to this section is  
495 confidential and exempt from the provisions of s. 119.07(1) and  
496 s. 24(a), Art. I of the State Constitution and is available only  
497 to the person who is the subject of the record, to the subject's  
498 attorney, to criminal justice agencies for their respective  
499 criminal justice purposes, which include conducting a criminal  
500 history background check for approval of firearms purchases or  
501 transfers as authorized by state or federal law, to judges in  
502 the state courts system for the purpose of assisting them in  
503 their case-related decisionmaking responsibilities, as set forth  
504 in s. 943.053(5), or to those entities set forth in  
505 subparagraphs (a)1., 4., 5., 6., and 8. for their respective  
506 licensing, access authorization, and employment purposes.

507 (a) The subject of a criminal history record sealed under  
508 this section or under other provisions of law, including former  
509 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
510 deny or fail to acknowledge the arrests covered by the sealed  
511 record, except when the subject of the record:

- 512 1. Is a candidate for employment with a criminal justice  
513 agency;
- 514 2. Is a defendant in a criminal prosecution;
- 515 3. Concurrently or subsequently petitions for relief under  
516 this section or s. 943.0585;
- 517 4. Is a candidate for admission to The Florida Bar;
- 518 5. Is seeking to be employed or licensed by or to contract  
519 with the Department of Children and Family Services, the Agency  
520 for Health Care Administration, the Agency for Persons with  
521 Disabilities, or the Department of Juvenile Justice or to be  
522 employed or used by such contractor or licensee in a sensitive

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523 position having direct contact with children, the  
524 developmentally disabled, the aged, or the elderly as provided  
525 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
526 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
527 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;

528 6. Is seeking to be employed or licensed by the Department  
529 of Education, any district school board, any university  
530 laboratory school, any charter school, any private or parochial  
531 school, or any local governmental entity that licenses child  
532 care facilities;

533 7. Is attempting to purchase a firearm from a licensed  
534 importer, licensed manufacturer, or licensed dealer and is  
535 subject to a criminal history check under state or federal law;  
536 or

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

540 (b) Subject to the exceptions in paragraph (a), a person  
541 who has been granted a sealing under this section, former s.  
542 893.14, former s. 901.33, or former s. 943.058 may not be held  
543 under any provision of law of this state to commit perjury or to  
544 be otherwise liable for giving a false statement by reason of  
545 such person's failure to recite or acknowledge a sealed criminal  
546 history record.

547 (c) Information relating to the existence of a sealed  
548 criminal record provided in accordance with the provisions of  
549 paragraph (a) is confidential and exempt from the provisions of  
550 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
551 except that the department shall disclose the sealed criminal

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552 history record to the entities set forth in subparagraphs (a)1.,  
553 4., 5., 6., and 8. for their respective licensing, access  
554 authorization, and employment purposes. It is unlawful for any  
555 employee of an entity set forth in subparagraph (a)1.,  
556 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or  
557 subparagraph (a)8. to disclose information relating to the  
558 existence of a sealed criminal history record of a person  
559 seeking employment, access authorization, or licensure with such  
560 entity or contractor, except to the person to whom the criminal  
561 history record relates or to persons having direct  
562 responsibility for employment, access authorization, or  
563 licensure decisions. Any person who violates the provisions of  
564 this paragraph commits a misdemeanor of the first degree,  
565 punishable as provided in s. 775.082 or s. 775.083.

566 (5) SEALING OF CRIMINAL HISTORY RECORD AFTER PRIOR SEALING  
567 OR EXPUNCTION.—

568 (a) A court may seal a person's criminal history record  
569 after a prior criminal history record has been sealed or  
570 expunged only if the person obtains a certificate from the  
571 department to seal the criminal history record. The department  
572 shall issue the certificate for a second sealing only if:

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

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

580 3. The person has not previously sealed or expunged a

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581 criminal history record that involved the same offense to which  
582 the petition to seal pertains.

583 (b) All other provisions and requirements of this section  
584 apply to an application to seal a second criminal history  
585 record.

586 (6)~~(5)~~ STATUTORY REFERENCES.—Any reference to any other  
587 chapter, section, or subdivision of the Florida Statutes in this  
588 section constitutes a general reference under the doctrine of  
589 incorporation by reference.

590 Section 4. This act shall take effect July 1, 2010.