

By the Committee on Criminal Justice; and Senators Smith, Lynn,  
and Dockery

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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 for ex-offenders; amending s. 112.011,  
7 F.S.; prohibiting state agencies from denying an  
8 application for a license, permit, certificate, or  
9 employment based on a person's lack of civil rights;  
10 providing an exception; amending s. 943.0585, F.S.;  
11 clarifying under what circumstances a person may  
12 legally deny the existence of an expunged criminal  
13 history record; authorizing the disclosure of the  
14 contents of an expunged record upon receipt of a  
15 written, notarized request from the record subject;  
16 requiring clerks of the court to post information  
17 relating to procedures to seal or expunge criminal  
18 history records on the clerk's website; amending s.  
19 943.059, F.S.; clarifying under what circumstances a  
20 person may legally deny the existence of a sealed  
21 criminal history record; authorizing a court to seal a  
22 criminal history record of a person who had a prior  
23 criminal history record sealed or expunged; providing  
24 an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28 Section 1. This act may be cited as the "Jim King Keep  
29 Florida Working Act."

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

32           (1) The Legislature declares that a goal of this state is  
33 to clearly identify the occupations from which ex-offenders are  
34 disqualified based on their specific offenses. The Legislature  
35 intends to make employment opportunities available to ex-  
36 offenders in a manner that encourages them to become productive  
37 members of society and preserves the safety of the public. To  
38 this end, all state agencies shall identify all restrictions on  
39 employment imposed by the agencies or by boards that regulate  
40 professions and occupations and attempt to define each  
41 restriction as narrowly as possible while continuing to maintain  
42 public safety.

43           (2) Each state agency, including, but not limited to,  
44 professional and occupational regulatory boards, shall, by  
45 December 31, 2011, and every 8 years thereafter, submit to the  
46 Governor, the President of the Senate, and the Speaker of the  
47 House of Representatives a report that includes:

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

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

54           (c) The identification and evaluation of alternatives to  
55 the disqualifying policies which promote the employment of ex-  
56 offenders and protect the public.

57           (d) An evaluation of whether the disqualifying polices are  
58 too broad and whether crimes or acts of moral turpitude that

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59 disqualify a person from licensure should be more specifically  
60 or narrowly identified.

61 Section 3. Section 112.011, Florida Statutes, is amended to  
62 read:

63 112.011 Disqualification from licensing and public  
64 employment based on criminal conviction ~~Felons; removal of~~  
65 ~~disqualifications for employment, exceptions.-~~

66 (1) (a) Except as provided in s. 775.16, a person may ~~shall~~  
67 not be disqualified from employment by the state, any of its  
68 agencies or political subdivisions, or any municipality solely  
69 because of a prior conviction for a crime. However, a person may  
70 be denied employment by the state, any of its agencies or  
71 political subdivisions, or any municipality by reason of the  
72 prior conviction for a crime if the crime was a felony or first  
73 degree misdemeanor and directly related to the position of  
74 employment sought.

75 (b) Except as provided in s. 775.16, a person ~~whose civil~~  
76 ~~rights have been restored shall not be disqualified to practice,~~  
77 ~~pursue, or engage in any occupation, trade, vocation,~~  
78 ~~profession, or business for which a license, permit, or~~  
79 ~~certificate is required to be issued by the state, any of its~~  
80 ~~agencies or political subdivisions, or any municipality solely~~  
81 ~~because of a prior conviction for a crime. However, a person~~  
82 ~~whose civil rights have been restored may be denied a license,~~  
83 ~~permit, or certification to pursue, practice, or engage in an~~  
84 ~~occupation, trade, vocation, profession, or business by reason~~  
85 ~~of the prior conviction for a crime if the crime was a felony or~~  
86 first-degree first degree misdemeanor that is relevant to the  
87 standards normally associated with, or determined by the

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88 regulatory authority to be necessary for the protection of the  
89 public or other parties for, and directly related to the  
90 specific occupation, trade, vocation, profession, or business  
91 for which the license, permit, or certificate is sought.

92 (c) Notwithstanding any law to the contrary, a state agency  
93 may not deny an application for a license, permit, certificate,  
94 or employment based on the applicant's lack of civil rights.  
95 However, this paragraph does not apply to applications for a  
96 license to carry a concealed weapon or firearm under chapter  
97 790.

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

100 (b) This section does ~~shall~~ not apply ~~be applicable~~ to the  
101 employment practices of any fire department relating to the  
102 hiring of firefighters. An applicant for employment with any  
103 fire department who has ~~with~~ a prior felony conviction shall be  
104 excluded from employment for a period of 4 years after  
105 expiration of sentence or final release by the Parole Commission  
106 unless the applicant, before ~~prior to~~ the expiration of the 4-  
107 year period, has received a full pardon or has had his or her  
108 civil rights restored.

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

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

116 Section 4. Section 943.0585, Florida Statutes, is amended

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117 to read:

118 943.0585 Court-ordered expunction of criminal history  
119 records.—The courts of this state have jurisdiction over their  
120 own procedures, including the maintenance, expunction, and  
121 correction of judicial records containing criminal history  
122 information to the extent such procedures are not inconsistent  
123 with the conditions, responsibilities, and duties established by  
124 this section. Any court of competent jurisdiction may order a  
125 criminal justice agency to expunge the criminal history record  
126 of a minor or an adult who complies with the requirements of  
127 this section. The court may ~~shall~~ not order a criminal justice  
128 agency to expunge a criminal history record until the person  
129 seeking to expunge a criminal history record has applied for and  
130 received a certificate of eligibility for expunction pursuant to  
131 subsection (2). A criminal history record that relates to a  
132 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
133 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
134 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
135 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
136 any violation specified as a predicate offense for registration  
137 as a sexual predator pursuant to s. 775.21, without regard to  
138 whether that offense alone is sufficient to require such  
139 registration, or for registration as a sexual offender pursuant  
140 to s. 943.0435, may not be expunged, without regard to whether  
141 adjudication was withheld, if the defendant was found guilty of  
142 or pled guilty or nolo contendere to the offense, or if the  
143 defendant, as a minor, was found to have committed, or pled  
144 guilty or nolo contendere to committing, the offense as a  
145 delinquent act. The court may only order expunction of a

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146 criminal history record pertaining to one arrest or one incident  
147 of alleged criminal activity, except as provided in this  
148 section. The court may, at its sole discretion, order the  
149 expunction of a criminal history record pertaining to more than  
150 one arrest if the additional arrests directly relate to the  
151 original arrest. If the court intends to order the expunction of  
152 records pertaining to such additional arrests, such intent must  
153 be specified in the order. A criminal justice agency may not  
154 expunge any record pertaining to such additional arrests if the  
155 order to expunge does not articulate the intention of the court  
156 to expunge a record pertaining to more than one arrest. This  
157 section does not prevent the court from ordering the expunction  
158 of only a portion of a criminal history record pertaining to one  
159 arrest or one incident of alleged criminal activity.

160 Notwithstanding any law to the contrary, a criminal justice  
161 agency may comply with laws, court orders, and official requests  
162 of other jurisdictions relating to expunction, correction, or  
163 confidential handling of criminal history records or information  
164 derived therefrom. This section does not confer any right to the  
165 expunction of any criminal history record, and any request for  
166 expunction of a criminal history record may be denied at the  
167 sole discretion of the court.

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

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

173 (b) The petitioner's sworn statement attesting that the  
174 petitioner:

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175           1. Has never, before ~~prior to~~ the date on which the  
176 petition is filed, been adjudicated guilty of a criminal offense  
177 or comparable ordinance violation, or been adjudicated  
178 delinquent for committing any felony or a misdemeanor specified  
179 in s. 943.051(3)(b).

180           2. Has not been adjudicated guilty of, or adjudicated  
181 delinquent for committing, any of the acts stemming from the  
182 arrest or alleged criminal activity to which the petition  
183 pertains.

184           3. Has never secured a prior sealing or expunction of a  
185 criminal history record under this section, former s. 893.14,  
186 former s. 901.33, or former s. 943.058, or from any jurisdiction  
187 outside the state, unless expunction is sought of a criminal  
188 history record previously sealed for 10 years pursuant to  
189 paragraph (2)(h) and the record is otherwise eligible for  
190 expunction.

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

194  
195 Any person who knowingly provides false information on such  
196 sworn statement to the court commits a felony of the third  
197 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
198 775.084.

199           (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Before ~~Prior~~  
200 ~~to~~ petitioning the court to expunge a criminal history record, a  
201 person seeking to expunge a criminal history record must ~~shall~~  
202 apply to the department for a certificate of eligibility for  
203 expunction. The department shall, by rule adopted pursuant to

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204 chapter 120, establish procedures pertaining to the application  
205 for and issuance of certificates of eligibility for expunction.  
206 A certificate of eligibility for expunction is valid for 12  
207 months after the date stamped on the certificate when issued by  
208 the department. After that time, the petitioner must reapply to  
209 the department for a new certificate of eligibility. Eligibility  
210 for a renewed certification of eligibility must be based on the  
211 status of the applicant and the law in effect at the time of the  
212 renewal application. The department shall issue a certificate of  
213 eligibility for expunction to a person who is the subject of a  
214 criminal history record if that person:

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

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

220 2. That an indictment, information, or other charging  
221 document, if filed or issued in the case, was dismissed or nolle  
222 prosequi by the state attorney or statewide prosecutor, or was  
223 dismissed by a court of competent jurisdiction, and that none of  
224 the charges related to the arrest or alleged criminal activity  
225 to which the petition to expunge pertains resulted in a trial,  
226 without regard to whether the outcome of the trial was other  
227 than an adjudication of guilt.

228 3. That the criminal history record does not relate to a  
229 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
230 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
231 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
232 893.135, s. 916.1075, a violation enumerated in s. 907.041, or



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233 any violation specified as a predicate offense for registration  
234 as a sexual predator pursuant to s. 775.21, without regard to  
235 whether that offense alone is sufficient to require such  
236 registration, or for registration as a sexual offender pursuant  
237 to s. 943.0435, where the defendant was found guilty of, or pled  
238 guilty or nolo contendere to any such offense, or that the  
239 defendant, as a minor, was found to have committed, or pled  
240 guilty or nolo contendere to committing, such an offense as a  
241 delinquent act, without regard to whether adjudication was  
242 withheld.

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

246 (c) Has submitted to the department a certified copy of the  
247 disposition of the charge to which the petition to expunge  
248 pertains.

249 (d) Has never, before ~~prior to~~ the date on which the  
250 application for a certificate of eligibility is filed, been  
251 adjudicated guilty of a criminal offense or comparable ordinance  
252 violation, or been adjudicated delinquent for committing any  
253 felony or a misdemeanor specified in s. 943.051(3)(b).

254 (e) Has not been adjudicated guilty of, or adjudicated  
255 delinquent for committing, any of the acts stemming from the  
256 arrest or alleged criminal activity to which the petition to  
257 expunge pertains.

258 (f) Has never secured a prior sealing or expunction of a  
259 criminal history record under this section, former s. 893.14,  
260 former s. 901.33, or former s. 943.058, unless expunction is  
261 sought of a criminal history record previously sealed for 10

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262 years pursuant to paragraph (h) and the record is otherwise  
263 eligible for expunction.

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

267 (h) Has previously obtained a court order sealing the  
268 record under this section, former s. 893.14, former s. 901.33,  
269 or former s. 943.058 for a minimum of 10 years because  
270 adjudication was withheld or because all charges related to the  
271 arrest or alleged criminal activity to which the petition to  
272 expunge pertains were not dismissed before ~~prior to~~ trial,  
273 without regard to whether the outcome of the trial was other  
274 than an adjudication of guilt. The requirement for the record to  
275 have previously been sealed for a minimum of 10 years does not  
276 apply when a plea was not entered or all charges related to the  
277 arrest or alleged criminal activity to which the petition to  
278 expunge pertains were dismissed before ~~prior to~~ trial.

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

280 (a) In judicial proceedings under this section, a copy of  
281 the completed petition to expunge must ~~shall~~ be served upon the  
282 appropriate state attorney or the statewide prosecutor and upon  
283 the arresting agency; however, it is not necessary to make any  
284 agency other than the state a party. The appropriate state  
285 attorney or the statewide prosecutor and the arresting agency  
286 may respond to the court regarding the completed petition to  
287 expunge.

288 (b) If relief is granted by the court, the clerk of the  
289 court shall certify copies of the order to the appropriate state  
290 attorney or the statewide prosecutor and the arresting agency.

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291 The arresting agency is responsible for forwarding the order to  
292 any other agency to which the arresting agency disseminated the  
293 criminal history record information to which the order pertains.  
294 The department shall forward the order to expunge to the Federal  
295 Bureau of Investigation. The clerk of the court shall certify a  
296 copy of the order to any other agency which the records of the  
297 court reflect has received the criminal history record from the  
298 court.

299 (c) For an order to expunge entered by a court before ~~prior~~  
300 ~~to~~ July 1, 1992, the department shall notify the appropriate  
301 state attorney or statewide prosecutor of an order to expunge  
302 which is contrary to law because the person who is the subject  
303 of the record has previously been convicted of a crime or  
304 comparable ordinance violation or has had a prior criminal  
305 history record sealed or expunged. Upon receipt of such notice,  
306 the appropriate state attorney or statewide prosecutor shall  
307 take action, within 60 days, to correct the record and petition  
308 the court to void the order to expunge. The department shall  
309 seal the record until such time as the order is voided by the  
310 court.

311 (d) On or after July 1, 1992, the department or any other  
312 criminal justice agency is not required to act on an order to  
313 expunge entered by a court when such order does not comply with  
314 the requirements of this section. Upon receipt of such an order,  
315 the department must notify the issuing court, the appropriate  
316 state attorney or statewide prosecutor, the petitioner or the  
317 petitioner's attorney, and the arresting agency of the reason  
318 for noncompliance. The appropriate state attorney or statewide  
319 prosecutor shall take action within 60 days to correct the

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320 record and petition the court to void the order. A ~~No~~ cause of  
321 action, including contempt of court, does not ~~shall~~ arise  
322 against any criminal justice agency for failure to comply with  
323 an order to expunge if ~~when~~ the petitioner for such order failed  
324 to obtain the certificate of eligibility as required by this  
325 section or such order does not otherwise comply with the  
326 requirements of this section.

327 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any  
328 criminal history record of a minor or an adult which is ordered  
329 expunged by a court of competent jurisdiction pursuant to this  
330 section must be physically destroyed or obliterated by any  
331 criminal justice agency having custody of such record; except  
332 that any criminal history record in the custody of the  
333 department must be retained in all cases. A criminal history  
334 record ordered expunged that is retained by the department is  
335 confidential and exempt from the provisions of s. 119.07(1) and  
336 s. 24(a), Art. I of the State Constitution and not available to  
337 any person or entity except upon order of a court of competent  
338 jurisdiction. A criminal justice agency may retain a notation  
339 indicating compliance with an order to expunge.

340 (a) The person who is the subject of a criminal history  
341 record that is expunged under this section or under other  
342 provisions of law, including former s. 893.14, former s. 901.33,  
343 and former s. 943.058, may lawfully deny or fail to acknowledge  
344 the arrests and subsequent dispositions covered by the expunged  
345 record, except when the subject of the record:

- 346 1. Is a candidate for employment with a criminal justice  
347 agency;
- 348 2. Is a defendant in a criminal prosecution;

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349           3. Concurrently or subsequently petitions for relief under  
350 this section or s. 943.059;

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

352           5. Is seeking to be employed or licensed by or to contract  
353 with the Department of Children and Family Services, the Agency  
354 for Health Care Administration, the Agency for Persons with  
355 Disabilities, or the Department of Juvenile Justice or to be  
356 employed or used by such contractor or licensee in a sensitive  
357 position having direct contact with children, the  
358 developmentally disabled, the aged, or the elderly as provided  
359 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
360 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(5),  
361 chapter 916, s. 985.644, chapter 400, or chapter 429;

362           6. Is seeking to be employed or licensed by the Department  
363 of Education, any district school board, any university  
364 laboratory school, any charter school, any private or parochial  
365 school, or any local governmental entity that licenses child  
366 care facilities; or

367           7. Is seeking authorization from a seaport listed in s.  
368 311.09 for employment within or access to one or more of such  
369 seaports pursuant to s. 311.12.

370           (b) Subject to the exceptions in paragraph (a), a person  
371 who has been granted an expunction under this section, former s.  
372 893.14, former s. 901.33, or former s. 943.058 may not be held  
373 under any provision of law of this state to commit perjury or to  
374 be otherwise liable for giving a false statement by reason of  
375 such person's failure to recite or acknowledge an expunged  
376 criminal history record, including a failure to recite or  
377 acknowledge on an employment application.

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378 (c) Information relating to the existence of an expunged  
379 criminal history record which is provided in accordance with  
380 paragraph (a) is confidential and exempt from the provisions of  
381 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
382 except that the department shall disclose the existence of a  
383 criminal history record ordered expunged to the entities set  
384 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their  
385 respective licensing, access authorization, and employment  
386 purposes, and to criminal justice agencies for their respective  
387 criminal justice purposes. It is unlawful for any employee of an  
388 entity set forth in subparagraph (a)1., subparagraph (a)4.,  
389 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to  
390 disclose information relating to the existence of an expunged  
391 criminal history record of a person seeking employment, access  
392 authorization, or licensure with such entity or contractor,  
393 except to the person to whom the criminal history record relates  
394 or to persons having direct responsibility for employment,  
395 access authorization, or licensure decisions. Any person who  
396 violates this paragraph commits a misdemeanor of the first  
397 degree, punishable as provided in s. 775.082 or s. 775.083.

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

401 (5) INFORMATION.—Each website for the office of a clerk of  
402 court must include information relating to procedures to seal or  
403 expunge criminal history records. This information must include  
404 the link to related information on the website of the  
405 department.

406 (6) ~~(5)~~ STATUTORY REFERENCES.—Any reference to any other

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407 chapter, section, or subdivision of the Florida Statutes in this  
408 section constitutes a general reference under the doctrine of  
409 incorporation by reference.

410 Section 5. Section 943.059, Florida Statutes, is amended to  
411 read:

412 943.059 Court-ordered sealing of criminal history records.—  
413 The courts of this state shall continue to have jurisdiction  
414 over their own procedures, including the maintenance, sealing,  
415 and correction of judicial records containing criminal history  
416 information to the extent such procedures are not inconsistent  
417 with the conditions, responsibilities, and duties established by  
418 this section. Any court of competent jurisdiction may order a  
419 criminal justice agency to seal the criminal history record of a  
420 minor or an adult who complies with the requirements of this  
421 section. The court may ~~shall~~ not order a criminal justice agency  
422 to seal a criminal history record until the person seeking to  
423 seal a criminal history record has applied for and received a  
424 certificate of eligibility for sealing pursuant to subsection  
425 (2). A criminal history record that relates to a violation of s.  
426 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.  
427 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter  
428 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
429 916.1075, a violation enumerated in s. 907.041, or any violation  
430 specified as a predicate offense for registration as a sexual  
431 predator pursuant to s. 775.21, without regard to whether that  
432 offense alone is sufficient to require such registration, or for  
433 registration as a sexual offender pursuant to s. 943.0435, may  
434 not be sealed, without regard to whether adjudication was  
435 withheld, if the defendant was found guilty of or pled guilty or

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436 nolo contendere to the offense, or if the defendant, as a minor,  
437 was found to have committed or pled guilty or nolo contendere to  
438 committing the offense as a delinquent act. The court may only  
439 order sealing of a criminal history record pertaining to one  
440 arrest or one incident of alleged criminal activity, except as  
441 provided in this section. The court may, at its sole discretion,  
442 order the sealing of a criminal history record pertaining to  
443 more than one arrest if the additional arrests directly relate  
444 to the original arrest. If the court intends to order the  
445 sealing of records pertaining to such additional arrests, such  
446 intent must be specified in the order. A criminal justice agency  
447 may not seal any record pertaining to such additional arrests if  
448 the order to seal does not articulate the intention of the court  
449 to seal records pertaining to more than one arrest. This section  
450 does not prevent the court from ordering the sealing of only a  
451 portion of a criminal history record pertaining to one arrest or  
452 one incident of alleged criminal activity. Notwithstanding any  
453 law to the contrary, a criminal justice agency may comply with  
454 laws, court orders, and official requests of other jurisdictions  
455 relating to sealing, correction, or confidential handling of  
456 criminal history records or information derived therefrom. This  
457 section does not confer any right to the sealing of any criminal  
458 history record, and any request for sealing a criminal history  
459 record may be denied at the sole discretion of the court.

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

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



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465 (b) The petitioner's sworn statement attesting that the  
466 petitioner:

467 1. Has never, before ~~prior to~~ the date on which the  
468 petition is filed, been adjudicated guilty of a criminal offense  
469 or comparable ordinance violation, or been adjudicated  
470 delinquent for committing any felony or a misdemeanor specified  
471 in s. 943.051(3)(b).

472 2. Has not been adjudicated guilty of or adjudicated  
473 delinquent for committing any of the acts stemming from the  
474 arrest or alleged criminal activity to which the petition to  
475 seal pertains.

476 3. Has never secured a prior sealing, except as provided in  
477 subsection (6), or expunction of a criminal history record under  
478 this section, former s. 893.14, former s. 901.33, former s.  
479 943.058, or from any jurisdiction outside the state.

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

483  
484 Any person who knowingly provides false information on such  
485 sworn statement to the court commits a felony of the third  
486 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
487 775.084.

488 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING. ~~Before~~ Prior to  
489 petitioning the court to seal a criminal history record, a  
490 person seeking to seal a criminal history record shall apply to  
491 the department for a certificate of eligibility for sealing. The  
492 department shall, by rule adopted pursuant to chapter 120,  
493 establish procedures pertaining to the application for and

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494 issuance of certificates of eligibility for sealing. A  
495 certificate of eligibility for sealing is valid for 12 months  
496 after the date stamped on the certificate when issued by the  
497 department. After that time, the petitioner must reapply to the  
498 department for a new certificate of eligibility. Eligibility for  
499 a renewed certification of eligibility must be based on the  
500 status of the applicant and the law in effect at the time of the  
501 renewal application. The department shall issue a certificate of  
502 eligibility for sealing to a person who is the subject of a  
503 criminal history record provided that such person:

504 (a) Has submitted to the department a certified copy of the  
505 disposition of the charge to which the petition to seal  
506 pertains.

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

510 (c) Has never, before ~~prior to~~ the date on which the  
511 application for a certificate of eligibility is filed, been  
512 adjudicated guilty of a criminal offense or comparable ordinance  
513 violation, or been adjudicated delinquent for committing any  
514 felony or a misdemeanor specified in s. 943.051(3)(b).

515 (d) Has not been adjudicated guilty of or adjudicated  
516 delinquent for committing any of the acts stemming from the  
517 arrest or alleged criminal activity to which the petition to  
518 seal pertains.

519 (e) Has never secured a prior sealing, except as provided  
520 in subsection (6), or expunction of a criminal history record  
521 under this section, former s. 893.14, former s. 901.33, or  
522 former s. 943.058.

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

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

527 (a) In judicial proceedings under this section, a copy of  
528 the completed petition to seal shall be served upon the  
529 appropriate state attorney or the statewide prosecutor and upon  
530 the arresting agency; however, it is not necessary to make any  
531 agency other than the state a party. The appropriate state  
532 attorney or the statewide prosecutor and the arresting agency  
533 may respond to the court regarding the completed petition to  
534 seal.

535 (b) If relief is granted by the court, the clerk of the  
536 court shall certify copies of the order to the appropriate state  
537 attorney or the statewide prosecutor and to the arresting  
538 agency. The arresting agency is responsible for forwarding the  
539 order to any other agency to which the arresting agency  
540 disseminated the criminal history record information to which  
541 the order pertains. The department shall forward the order to  
542 seal to the Federal Bureau of Investigation. The clerk of the  
543 court shall certify a copy of the order to any other agency  
544 which the records of the court reflect has received the criminal  
545 history record from the court.

546 (c) For an order to seal entered by a court before ~~prior to~~  
547 July 1, 1992, the department shall notify the appropriate state  
548 attorney or statewide prosecutor of any order to seal which is  
549 contrary to law because the person who is the subject of the  
550 record has previously been convicted of a crime or comparable  
551 ordinance violation or has had a prior criminal history record

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552 sealed, except as provided in subsection (6), or expunged. Upon  
553 receipt of such notice, the appropriate state attorney or  
554 statewide prosecutor shall take action, within 60 days, to  
555 correct the record and petition the court to void the order to  
556 seal. The department shall seal the record until such time as  
557 the order is voided by the court.

558 (d) On or after July 1, 1992, the department or any other  
559 criminal justice agency is not required to act on an order to  
560 seal entered by a court if ~~when~~ such order does not comply with  
561 the requirements of this section. Upon receipt of such an order,  
562 the department must notify the issuing court, the appropriate  
563 state attorney or statewide prosecutor, the petitioner or the  
564 petitioner's attorney, and the arresting agency of the reason  
565 for noncompliance. The appropriate state attorney or statewide  
566 prosecutor shall take action within 60 days to correct the  
567 record and petition the court to void the order. A ~~No~~ cause of  
568 action, including contempt of court, does not ~~shall~~ arise  
569 against any criminal justice agency for failure to comply with  
570 an order to seal if ~~when~~ the petitioner for such order failed to  
571 obtain the certificate of eligibility as required by this  
572 section or if ~~when~~ such order does not comply with the  
573 requirements of this section.

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

578 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal  
579 history record of a minor or an adult which is ordered sealed by  
580 a court of competent jurisdiction pursuant to this section is

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581 confidential and exempt from the provisions of s. 119.07(1) and  
582 s. 24(a), Art. I of the State Constitution and is available only  
583 to the person who is the subject of the record, to the subject's  
584 attorney, to criminal justice agencies for their respective  
585 criminal justice purposes, which include conducting a criminal  
586 history background check for approval of firearms purchases or  
587 transfers as authorized by state or federal law, to judges in  
588 the state courts system for the purpose of assisting them in  
589 their case-related decisionmaking responsibilities, as set forth  
590 in s. 943.053(5), or to those entities set forth in  
591 subparagraphs (a)1., 4., 5., 6., and 8. for their respective  
592 licensing, access authorization, and employment purposes.

593 (a) The subject of a criminal history record sealed under  
594 this section or under other provisions of law, including former  
595 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
596 deny or fail to acknowledge the arrests and subsequent  
597 dispositions covered by the sealed record, except when the  
598 subject of the record:

- 599 1. Is a candidate for employment with a criminal justice  
600 agency;
- 601 2. Is a defendant in a criminal prosecution;
- 602 3. Concurrently or subsequently petitions for relief under  
603 this section or s. 943.0585;
- 604 4. Is a candidate for admission to The Florida Bar;
- 605 5. Is seeking to be employed or licensed by or to contract  
606 with the Department of Children and Family Services, the Agency  
607 for Health Care Administration, the Agency for Persons with  
608 Disabilities, or the Department of Juvenile Justice or to be  
609 employed or used by such contractor or licensee in a sensitive

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610 position having direct contact with children, the  
611 developmentally disabled, the aged, or the elderly as provided  
612 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
613 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(5), s.  
614 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;

615 6. Is seeking to be employed or licensed by the Department  
616 of Education, any district school board, any university  
617 laboratory school, any charter school, any private or parochial  
618 school, or any local governmental entity that licenses child  
619 care facilities;

620 7. Is attempting to purchase a firearm from a licensed  
621 importer, licensed manufacturer, or licensed dealer and is  
622 subject to a criminal history check under state or federal law;  
623 or

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

627 (b) Subject to the exceptions in paragraph (a), a person  
628 who has been granted a sealing under this section, former s.  
629 893.14, former s. 901.33, or former s. 943.058 may not be held  
630 under any provision of law of this state to commit perjury or to  
631 be otherwise liable for giving a false statement by reason of  
632 such person's failure to recite or acknowledge a sealed criminal  
633 history record, including failure to recite or acknowledge on an  
634 employment application.

635 (c) Information relating to the existence of a sealed  
636 criminal record provided in accordance with the provisions of  
637 paragraph (a) is confidential and exempt from the provisions of  
638 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,

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639 except that the department shall disclose the sealed criminal  
640 history record to the entities set forth in subparagraphs (a)1.,  
641 4., 5., 6., and 8. for their respective licensing, access  
642 authorization, and employment purposes. It is unlawful for any  
643 employee of an entity set forth in subparagraph (a)1.,  
644 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or  
645 subparagraph (a)8. to disclose information relating to the  
646 existence of a sealed criminal history record of a person  
647 seeking employment, access authorization, or licensure with such  
648 entity or contractor, except to the person to whom the criminal  
649 history record relates or to persons having direct  
650 responsibility for employment, access authorization, or  
651 licensure decisions. Any person who violates the provisions of  
652 this paragraph commits a misdemeanor of the first degree,  
653 punishable as provided in s. 775.082 or s. 775.083.

654 (5) STATUTORY REFERENCES.—Any reference to any other  
655 chapter, section, or subdivision of the Florida Statutes in this  
656 section constitutes a general reference under the doctrine of  
657 incorporation by reference.

658 (6) SEALING OF CRIMINAL HISTORY RECORD AFTER PRIOR SEALING  
659 OR EXPUNCTION.—A court may seal a person's criminal history  
660 record after a prior criminal history record has been sealed or  
661 expunged only if the person obtains a certificate from the  
662 department to seal the criminal history record. The department  
663 shall issue the certificate only if the person has not been  
664 arrested during the 5-year period following the date of the  
665 court order for the initial expunction or sealing of his or her  
666 criminal history record. All other provisions and requirements  
667 of this section apply to an application to seal a criminal

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668 history record after a prior criminal history record has been  
669 sealed or expunged.

670 Section 6. This act shall take effect July 1, 2011.