

By the Committees on Budget; Governmental Oversight and Accountability; and Governmental Oversight and Accountability

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1 A bill to be entitled
2 An act relating to state employment; amending s.
3 110.105, F.S.; revising the employment policy of the
4 state system of personnel management; amending s.
5 110.1127, F.S.; revising provisions relating to
6 employee background screening; amending s. 110.119,
7 F.S.; revising provisions relating to administrative
8 leave for a service-connected disability; amending s.
9 110.1225, F.S.; revising provisions relating to agency
10 furloughs; amending s. 110.126, F.S.; revising
11 provisions relating to the authority of the Department
12 of Management Services to administer oaths; amending
13 s. 110.131, F.S.; revising the duties of state
14 agencies with respect to the employment of other-
15 personal-services employees; providing reporting
16 requirements; amending s. 110.1315, F.S.; revising
17 provisions relating to alternative retirement benefits
18 for other-personal-services employees; requiring the
19 Department of Financial Services to provide for,
20 rather than authorizing the Department of Management
21 Services to contract for the implementation of, an
22 alternative retirement income security program;
23 authorizing the Department of Financial Services,
24 rather than the Department of Management Services, to
25 contract with a private vendor to administer the
26 program and to develop a request for proposals and
27 solicit vendors; authorizing the Department of
28 Financial Services to adopt rules; amending s.
29 110.171, F.S.; revising provisions relating to state

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30 employee telecommuting; providing for a telework
31 program; providing program requirements for agencies
32 and employees; amending s. 110.181, F.S.; revising
33 provisions relating to the Florida State Employees'
34 Charitable Campaign; requiring state officers and
35 employees to designate a charitable organization to
36 receive certain charitable contributions; deleting
37 provisions relating to the establishment of local
38 steering committees and the distribution of funds;
39 amending s. 110.2035, F.S.; revising provisions
40 relating to pay additives; amending s. 110.205, F.S.;;
41 deleting a provision that allows career service
42 employees to retain annual leave, sick leave, and
43 compensatory leave credits upon appointment to a
44 selected exempt position; amending s. 110.217, F.S.;;
45 revising provisions relating to a change in an
46 employee's position status; amending s. 110.227, F.S.;;
47 deleting requirements for an agency that removes from
48 a promotional position a career service employee who
49 is serving a probationary period in such position to
50 return such employee to the employee's former position
51 or a comparable position, if such a position is
52 vacant; amending ss. 255.249, 402.3057, 409.1757,
53 413.20, 943.0585, and 943.059, F.S.; conforming
54 provisions and cross-references; providing an
55 effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. Section 110.105, Florida Statutes, is amended to
60 read:

61 110.105 Employment policy of the state.—

62 (1) ~~It is~~ The purpose of this chapter is to establish a
63 system of personnel management. This system shall provide means
64 to recruit, select, train, develop, and maintain an effective
65 and responsible workforce and shall include policies and
66 procedures for employee hiring and advancement, training and
67 career development, position classification, salary
68 administration, benefits, discipline, discharge, employee
69 performance evaluations, affirmative action, and other related
70 activities.

71 (2) It is the policy of the state:

72 (a) That all appointments, terminations, assignments, and
73 maintenance of status, compensation, privileges, and other terms
74 and conditions of employment in state government shall be made
75 without regard to age, sex, race, color, religion, national
76 origin, political affiliation, marital status, or disability,
77 unless handicap, except when a specific sex, age, or physical
78 requirement constitutes a bona fide occupational qualification
79 necessary to proper and efficient administration.

80 (b) To support employees in balancing their personal needs
81 and work responsibilities. This policy is designed to enhance
82 the employee's ability to blend the competing demands of work
83 and personal life and produce a more skilled, accountable, and
84 committed workforce for the system. Provisions may include, but
85 need not be limited to, flexible work schedules, telework, part-
86 time employment, and leaves of absence with or without pay.

87 (3) Except as expressly provided by law, Florida residency

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88 is not required ~~there shall be no Florida residence requirement~~
89 for any person as a condition precedent to employment ~~by the~~
90 ~~state~~; however, preference in hiring may be given to state
91 ~~Florida~~ residents ~~in hiring~~.

92 (4) This chapter contains the requirements ~~and guides~~ for
93 establishing and maintaining a system of personnel management
94 ~~administration~~ on a merit basis. The system of personnel
95 management administration shall be implemented so as to ensure
96 that the permit state agencies participating in the system are
97 ~~to be eligible for to receive~~ federal funds.

98 (5) ~~Nothing in~~ This chapter may not ~~shall~~ be construed
99 ~~either~~ to infringe upon or to supersede the rights guaranteed
100 public employees under chapter 447.

101 Section 2. Section 110.1127, Florida Statutes, is amended
102 to read:

103 110.1127 Employee background screening and investigations
104 ~~security checks~~.-

105 (1) Except as provided in subsection (2), each agency shall
106 designate those positions that, based on the position duties,
107 require background screening. All persons and employees in such
108 positions must undergo employment screening in accordance with
109 chapter 435, using level 1 screening standards, as a condition
110 of employment and continued employment.

111 (2) (a) (1) Each employing agency shall designate those
112 employee positions that, because of the special trust or
113 responsibility or sensitive location, require security
114 background investigations. All persons and employees in such
115 positions must undergo employment screening in accordance with
116 chapter 435, using level 2 screening standards ~~of those~~

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117 ~~positions, require that persons occupying those positions be~~
118 ~~subject to a security background check, including~~
119 ~~fingerprinting, as a condition of employment and continued~~
120 ~~employment.~~

121 ~~(b)(2)(a)~~ All positions within the Division of Treasury of
122 the Department of Financial Services are deemed to be positions
123 of special trust or responsibility. Individuals seeking or
124 holding such positions, ~~and a person~~ may be disqualified for
125 employment ~~in any such position~~ by reason of:

126 1. The conviction or prior conviction of a crime that ~~which~~
127 is reasonably related to the nature of the position sought or
128 held by the individual; or

129 2. The entering of a plea of nolo contendere, or ~~and~~ when a
130 jury verdict of guilty is rendered but adjudication of guilt is
131 withheld, with respect to a crime that ~~which~~ is reasonably
132 related to the nature of the position sought or held by the
133 individual.

134 ~~(b) All employees of the division shall be required to~~
135 ~~undergo security background investigations, including~~
136 ~~fingerprinting, as a condition of employment and continued~~
137 ~~employment.~~

138 ~~(c)1.(3)(a)~~ All positions in programs providing care to
139 children, the developmentally disabled, or vulnerable adults for
140 15 hours or more per week; all permanent and temporary employee
141 positions of the central abuse hotline; and all persons working
142 under contract who have access to abuse records are deemed to be
143 persons and positions of special trust or responsibility, ~~and~~
144 ~~require employment screening pursuant to chapter 435, using the~~
145 ~~level 2 standards set forth in that chapter.~~

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146 2.~~(b)~~ The ~~employing~~ agency may grant exemptions from
147 disqualification from working with children, the developmentally
148 disabled, or vulnerable adults as provided in s. 435.07.

149 ~~(c) All persons and employees in such positions of trust or~~
150 ~~responsibility shall be required to undergo security background~~
151 ~~investigations as a condition of employment and continued~~
152 ~~employment. For the purposes of this subsection, security~~
153 ~~background investigations shall be conducted as provided in~~
154 ~~chapter 435, using the level 2 standards for screening set forth~~
155 ~~in that chapter.~~

156 (d) It is a misdemeanor of the first degree, punishable as
157 provided in s. 775.082 or s. 775.083, for any person willfully,
158 knowingly, or intentionally to:

159 1. Fail, by false statement, misrepresentation,
160 impersonation, or other fraudulent means, to disclose in any
161 application for voluntary or paid employment a material fact
162 used in making a determination as to such person's
163 qualifications for a position of special trust;

164 2. Use ~~records~~ information contained in records for
165 purposes other than background screening or investigation for
166 employment, or release such records information to other persons
167 for purposes other than preemployment screening or investigation
168 ~~for employment.~~

169 (e) It is a felony of the third degree, punishable as
170 provided in s. 775.082, s. 775.083, or s. 775.084, for any
171 person willfully, knowingly, or intentionally to use juvenile
172 records information for any purposes other than those specified
173 in this section or to release such information to other persons
174 for purposes other than those specified in this section.

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175 (3)~~(4)~~ Any person who is required to undergo such a
176 security background screening or investigation and who refuses
177 to cooperate in such screening or investigation or refuses to
178 submit fingerprints shall be disqualified for employment in such
179 position or, if employed, shall be dismissed.

180 (4)~~(5)~~ ~~Such~~ Background screening and investigations shall
181 be conducted at the expense of the employing agency. ~~If~~ When
182 fingerprinting is required, the fingerprints ~~of the employee or~~
183 ~~applicant for employment~~ shall be taken by the employing agency,
184 a law enforcement agency, or a vendor as authorized pursuant to
185 s. 435.04, or by an authorized law enforcement officer and
186 submitted to the Department of Law Enforcement for state
187 processing and forwarded by the Department of Law Enforcement
188 ~~forwarding, when requested by the employing agency,~~ to the
189 Federal Bureau of Investigation United States Department of
190 Justice for national processing. The employing agency or vendor
191 shall remit the processing fees required by s. 943.053 to
192 ~~reimburse~~ the Department of Law Enforcement ~~for any costs~~
193 ~~incurred by it in the processing of the fingerprints.~~

194 Section 3. Subsection (1) of section 110.119, Florida
195 Statutes, is amended to read:

196 110.119 Administrative leave for military-service-connected
197 ~~reexamination or treatment with respect to service-connected~~
198 disability.-

199 (1) An ~~Any~~ employee ~~of the state~~ who has been rated by the
200 United States Department of Veterans Affairs or its predecessor
201 to have incurred a military-service-connected ~~service-connected~~
202 disability and has been scheduled by the United States
203 Department of Veterans Affairs to be reexamined or treated for

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204 the disability shall be granted administrative leave for such
205 reexamination or treatment without loss of pay or benefits.

206 However, such ~~In no event shall the~~ paid leave may not under
207 ~~this section~~ exceed 48 hours per ~~6~~ calendar ~~days~~ a year.

208 Section 4. Section 110.1225, Florida Statutes, is amended
209 to read:

210 110.1225 Furloughs.—When a deficit is certified or
211 projected by the Revenue Estimating Conference pursuant to s.
212 216.136(3), in any fund that supports salary and benefit
213 appropriations, the Governor or the Chief Justice of the Supreme
214 Court, as appropriate, Administration Commission may propose a
215 furlough plan for consideration by the Legislative Budget
216 Commission to the Legislature, which must approve or disapprove
217 ~~such plan~~. The plan must identify all affected positions and
218 ensure that all affected employees are subject to the same
219 reduction of hours for the same number of pay periods with a
220 commensurate reduction in pay.

221 Section 5. Section 110.126, Florida Statutes, is amended to
222 read:

223 110.126 Oaths, testimony, records; penalties.—The
224 department may ~~shall have power to~~ administer oaths, subpoena
225 witnesses, and compel the production of books, and papers, or
226 other records, in written or electronic form, relevant ~~pertinent~~
227 to any investigation of personnel practices or hearing
228 authorized by this chapter. Any person who fails ~~shall fail~~ to
229 appear in response to a subpoena or to answer any question or
230 produce any books, ~~or~~ papers, or other records relevant
231 ~~pertinent~~ to ~~any~~ such investigation or hearing or who ~~shall~~
232 knowingly gives ~~give~~ false testimony commits ~~therein shall be~~

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233 ~~guilty of~~ a misdemeanor of the first degree, punishable as
234 provided in s. 775.082 or s. 775.083.

235 Section 6. Section 110.131, Florida Statutes, is amended to
236 read:

237 110.131 Other-personal-services ~~temporary~~ employment.-

238 (1) As used in this section, the term "agency" means any
239 official, officer, commission, board, authority, council,
240 committee, or department of the executive branch of state
241 government and means any officer, court, commission, or other
242 unit of the judicial branch of state government supported in
243 whole or in part by appropriations made by the Legislature.

244 (2) An agency may employ any qualified individual in other-
245 personal-services ~~temporary~~ employment ~~for 1,040 hours within~~
246 ~~any 12-month period.~~ For each other-personal-services employee,
247 the agency shall:

248 (a) Maintain employee records identifying, at a minimum,
249 the person employed, the hire date, the type of other-personal-
250 services employment, and the number of hours worked.

251 (b) Determine the appropriate rate of pay and ensure that
252 all payments are in compliance with the federal Fair Labor
253 Standards Act and state law.

254 (c) Review, determine, and document by June 30 of each year
255 whether the continuation of each other-personal-services
256 employment position is necessary to the mission of the agency.
257 This review process ~~An extension beyond a total of 1,040 hours~~
258 ~~within an agency for any individual requires a recommendation by~~
259 ~~the agency head and approval by the Executive Office of the~~
260 ~~Governor. Approval of extensions shall be made in accordance~~
261 ~~with criteria established by the department. Each agency shall~~

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262 ~~maintain employee information as specified by the department~~
263 ~~regarding each extension of other-personal-services temporary~~
264 ~~employment. The time limitation established by this subsection~~
265 does not apply to board members; consultants; seasonal
266 employees; institutional clients employed as part of their
267 rehabilitation; bona fide, degree-seeking students in accredited
268 secondary or postsecondary educational programs; employees hired
269 to deal with an emergency situation that affects the public
270 health, safety, or welfare; or employees hired for a project
271 that is identified by a specific appropriation or time-limited
272 grant.

273 (3) Unless specifically provided by law, other-personal-
274 services employees are not eligible for any form of paid leave,
275 paid holidays, a paid personal day, participation in state group
276 insurance or retirement benefits, or any other state employee
277 benefit. Other-personal-services employees may be included in
278 that part of an agency's recognition and reward program that
279 recognizes and rewards employees who submit innovative ideas
280 that increase productivity, eliminate or reduce state
281 expenditures, improve operations, or generate additional revenue
282 or who meet or exceed the agency's established criteria for a
283 project or goal.

284 (4) Beginning August 15, 2012, and each August 15
285 thereafter, each agency employing an individual in other-
286 personal-services employment shall submit a report to the
287 Executive Office of the Governor and to the chairs of the
288 legislative appropriations committees containing the following
289 information for the previous fiscal year ending June 30, 2012,
290 and each June 30 thereafter:

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291 (a) The total number of individuals serving in other-
292 personal-services employment.

293 (b) The type of employment, average pay, and total number
294 of hours worked for each individual serving in other-personal-
295 services employment.

296 ~~(3) The department shall adopt rules providing that other-~~
297 ~~personal-services temporary employment in an employer-employee~~
298 ~~relationship shall be used for short-term tasks. Such rules~~
299 ~~shall specify the employment categories, terms, conditions, rate~~
300 ~~of pay, and frequency of other personal-services temporary~~
301 ~~employment and the duration for which such employment may last;~~
302 ~~specify criteria for approving extensions beyond the time~~
303 ~~limitation provided in subsection (2); and prescribe~~
304 ~~recordkeeping and reporting requirements for other personal-~~
305 ~~services employment.~~

306 ~~(4) The department shall prepare written material~~
307 ~~explaining the terms and conditions of other personal-services~~
308 ~~employment and shall provide master copies to each agency. Each~~
309 ~~agency shall provide each of its applicants for such employment~~
310 ~~with a copy thereof at the time of application and shall discuss~~
311 ~~the information contained thereon with each applicant at the~~
312 ~~time of interview or employment commencement, whichever occurs~~
313 ~~sooner.~~

314 ~~(5) The department shall maintain information relating to~~
315 ~~other personal-services employment for each agency. Such~~
316 ~~information shall include:~~

317 ~~(a) The total amount of compensation for other personal-~~
318 ~~services personnel, by employment category, for the preceding~~
319 ~~fiscal year.~~

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320 ~~(b) The name, social security number, employment category,~~
321 ~~employment commencement date, and number of hours worked for~~
322 ~~each individual whose initial other personal services temporary~~
323 ~~employment began before the start of the preceding fiscal year~~
324 ~~and who was still employed as an other personal services~~
325 ~~temporary employee at the end of the preceding fiscal year.~~

326 ~~(6) (a) The provisions of subsections (2), (3), and (4) do~~
327 ~~not apply to any employee for whom the Board of Governors of the~~
328 ~~State University System, or the board's designee, or the Board~~
329 ~~of Trustees of the Florida School for the Deaf and the Blind is~~
330 ~~the employer as defined in s. 447.203(2); except that, for~~
331 ~~purposes of subsection (5), the Board of Trustees of the Florida~~
332 ~~School for the Deaf and the Blind shall comply with the~~
333 ~~recordkeeping and reporting requirements adopted by the~~
334 ~~department pursuant to subsection (3) with respect to those~~
335 ~~other personal services employees exempted by this subsection.~~

336 ~~(b) The provisions of subsections (2), (3), and (4) do not~~
337 ~~apply to any employee of the Division of Blind Services Library~~
338 ~~for the Blind and Physically Handicapped for whom the Division~~
339 ~~of Blind Services is the employer as defined in s. 447.203(2);~~
340 ~~except that, for purposes of subsection (5), the Division of~~
341 ~~Blind Services shall comply with the recordkeeping and reporting~~
342 ~~requirements adopted by the department pursuant to subsection~~
343 ~~(3) with respect to those other personal services employees~~
344 ~~exempted by this subsection.~~

345 ~~(c) Notwithstanding the provisions of this section, the~~
346 ~~agency head or his or her designee may extend the other-~~
347 ~~personal services employment of a health care practitioner~~
348 ~~licensed pursuant to chapter 458, chapter 459, chapter 460,~~

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349 ~~chapter 461, chapter 463, part I of chapter 464, chapter 466,~~
350 ~~chapter 468, chapter 483, chapter 486, or chapter 490 beyond~~
351 ~~2,080 hours and may employ such practitioner on an hourly or~~
352 ~~other basis.~~

353 ~~(7) The Department of Management Services shall annually~~
354 ~~assess agencies for the regulation of other personal services on~~
355 ~~a pro rata share basis not to exceed an amount as provided in~~
356 ~~the General Appropriations Act.~~

357 Section 7. Section 110.1315, Florida Statutes, is amended
358 to read:

359 110.1315 Alternative retirement benefits; other-personal-
360 services employees.—

361 (1) Upon review and ~~recommendation of the department and~~
362 approval ~~by~~ of the Executive Office of the Governor, the
363 Department of Financial Services shall provide ~~may contract for~~
364 ~~the implementation of~~ an alternative retirement income security
365 program for eligible temporary and seasonal employees of the
366 state who are compensated from appropriations for other personal
367 services. The Department of Financial Services may contract with
368 ~~may provide for~~ a private vendor or vendors to administer the
369 program under a defined-contribution plan under ss. 401(a) and
370 403(b) or s. 457 of the Internal Revenue Code, and the program
371 must provide retirement benefits as required under s.
372 3121(b)(7)(F) of the Internal Revenue Code. The Department of
373 Financial Services may develop a request for proposals and
374 solicit qualified vendors to compete for the award of the
375 contract. A vendor shall be selected on the basis of the plan
376 that best serves the interest of the participating employees and
377 the state. The proposal must comply with all necessary federal

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378 and state laws and rules.

379 (2) The Department of Financial Services may adopt rules
380 necessary to administer this section.

381 Section 8. Section 110.171, Florida Statutes, is amended to
382 read:

383 110.171 State employee telework ~~telecommuting~~ program.—

384 (1) As used in this section, the term:

385 (a) "Agency" means any official, officer, commission,
386 board, authority, council, committee, or department of state
387 government.

388 (b) "Department" means the Department of Management
389 Services.

390 (c) "Telework" ~~"Telecommuting"~~ means a work arrangement
391 that allows a ~~whereby selected state employee employees are~~
392 allowed to conduct all or some of his or her work away from the
393 official worksite during all or a portion of the state
394 employee's established work hours on a regular basis. The term
395 does not include, and a telework agreement is not required for:

396 1. Performance of required work duties away from the
397 official worksite and outside of established work hours on an
398 occasional basis and sporadically working away from the official
399 worksite during all or some portion of the established work
400 hours. These arrangements may be used by an agency to
401 accommodate extenuating circumstances by allowing an employee to
402 maintain productivity away from the official worksite.

403 2. Duties and responsibilities that, by their nature, are
404 performed routinely in the field away from the official worksite
405 ~~perform the normal duties and responsibilities of their~~
406 ~~positions, through the use of computers or telecommunications,~~

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407 ~~at home or another place apart from the employees' usual place~~
408 ~~of work.~~

409 (2) An agency may establish telework as an integral part of
410 the normal business operations of the agency and require that
411 specific work be performed through telework arrangements.
412 Telework may also be used as part of an agency's continuity of
413 operations plan where appropriate. An agency shall provide
414 telework as an optional alternative work arrangement to support
415 employee needs and implement telework arrangements where deemed
416 appropriate.

417 (3) Each agency shall review all established positions and
418 designate those positions that the agency deems appropriate for
419 telework. The agency shall ensure that this information is
420 current and available to its employees and managers. In
421 addition, each agency shall identify all currently participating
422 employees and their respective positions in the human resource
423 information system used by that agency.

424 (4) Agencies that have a telework program shall develop an
425 agency plan that addresses the agency's telework policies and
426 procedures. At a minimum, an agency telework plan must:

427 (a) Establish criteria for evaluating the ability of
428 employees to satisfactorily perform in a telework arrangement.

429 (b) Establish performance standards that ensure that
430 teleworkers maintain satisfactory performance levels.

431 (c) Ensure that teleworkers are subject to the same rules
432 and disciplinary actions as other employees.

433 (d) Establish the reasonable conditions that the agency
434 plans to impose in order to ensure appropriate use and
435 maintenance of any equipment issued by the agency.

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436 (e) Establish a system for monitoring the productivity of
437 teleworkers that ensures that the work output remains at a
438 satisfactory level and that the duties and responsibilities of
439 the position remain suitable for a telework arrangement.

440 (f) Establish the appropriate physical and electronic
441 information security controls to be maintained by a teleworker
442 at the telework site.

443 (g) Prohibit a teleworker from conducting face-to-face
444 state business at his or her residence.

445 (5) At the discretion of the agency, if an employee is
446 approved by the agency to use telework as an optional
447 alternative work arrangement, the agency shall require a written
448 agreement between the teleworker and the agency that specifies
449 the terms and conditions of the telework arrangement and
450 provides for the termination of an employee's participation in
451 the program if the employee's continued participation is not in
452 the best interest of the agency.

453 (6) Agencies that require certain employees to telework as
454 a part of normal business operations shall:

455 (a) Include the requirement to telework and the associated
456 terms and conditions as part of the position description,
457 specifying the minimum amount of telework required.

458 (b) Provide at least 30 calendar days' written notice to
459 affected employees of intent to impose or remove a requirement
460 to telework.

461 (c) Provide at least 15 calendar days' written notice to
462 affected employees of intent to revise the terms and conditions
463 of the current telework arrangement.

464 (d) Provide equipment and supplies to an employee necessary

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465 to carry out job functions from the telework site.

466 (e) Specify the telework requirement in any recruitment
467 activities.

468 (7) Agencies that have a telework program shall establish
469 and track performance measures that support telework program
470 analysis and report data annually to the department in
471 accordance with s. 255.249(3) (d). Such measures must include,
472 but need not be limited to, those that quantify financial
473 impacts associated with changes in office space requirements
474 resulting from the telework program. Agencies operating in
475 office space owned or managed by the department shall consult
476 the department to ensure consistency with the strategic leasing
477 plan required under s. 255.249(3) (b).

478 ~~(2) The department shall:~~

479 ~~(a) Establish and coordinate the state employee~~
480 ~~telecommuting program and administer this section.~~

481 ~~(b) Appoint a statewide telecommuting coordinator to~~
482 ~~provide technical assistance to state agencies and to promote~~
483 ~~telecommuting in state government.~~

484 ~~(c) Identify state employees who are participating in a~~
485 ~~telecommuting program and their job classifications through the~~
486 ~~state personnel payroll information subsystem created under s.~~
487 ~~110.116.~~

488 ~~(3) By September 30, 2009, each state agency shall identify~~
489 ~~and maintain a current listing of the job classifications and~~
490 ~~positions that the agency considers appropriate for~~
491 ~~telecommuting. Agencies that adopt a state employee~~
492 ~~telecommuting program must:~~

493 ~~(a) Give equal consideration to career service and exempt~~

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494 ~~positions in their selection of employees to participate in the~~
495 ~~telecommuting program.~~

496 ~~(b) Provide that an employee's participation in a~~
497 ~~telecommuting program will not adversely affect eligibility for~~
498 ~~advancement or any other employment rights or benefits.~~

499 ~~(c) Provide that participation by an employee in a~~
500 ~~telecommuting program is voluntary, and that the employee may~~
501 ~~elect to cease to participate in a telecommuting program at any~~
502 ~~time.~~

503 ~~(d) Adopt provisions to allow for the termination of an~~
504 ~~employee's participation in the program if the employee's~~
505 ~~continued participation would not be in the best interests of~~
506 ~~the agency.~~

507 ~~(e) Provide that an employee is not currently under a~~
508 ~~performance improvement plan in order to participate in the~~
509 ~~program.~~

510 ~~(f) Ensure that employees participating in the program are~~
511 ~~subject to the same rules regarding attendance, leave,~~
512 ~~performance reviews, and separation action as are other~~
513 ~~employees.~~

514 ~~(g) Establish the reasonable conditions that the agency~~
515 ~~plans to impose in order to ensure the appropriate use and~~
516 ~~maintenance of any equipment or items provided for use at a~~
517 ~~participating employee's home or other place apart from the~~
518 ~~employee's usual place of work, including the installation and~~
519 ~~maintenance of any telephone equipment and ongoing~~
520 ~~communications costs at the telecommuting site which is to be~~
521 ~~used for official use only.~~

522 ~~(h) Prohibit state maintenance of an employee's personal~~

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523 ~~equipment used in telecommuting, including any liability for~~
524 ~~personal equipment and costs for personal utility expenses~~
525 ~~associated with telecommuting.~~

526 ~~(i) Describe the security controls that the agency~~
527 ~~considers appropriate.~~

528 ~~(j) Provide that employees are covered by workers'~~
529 ~~compensation under chapter 440, when performing official duties~~
530 ~~at an alternate worksite, such as the home.~~

531 ~~(k) Prohibit employees engaged in a telecommuting program~~
532 ~~from conducting face-to-face state business at the homesite.~~

533 ~~(l) Require a written agreement that specifies the terms~~
534 ~~and conditions of telecommuting, which includes verification by~~
535 ~~the employee that the home office provides work space that is~~
536 ~~free of safety and fire hazards, together with an agreement~~
537 ~~which holds the state harmless against any and all claims,~~
538 ~~excluding workers' compensation claims, resulting from an~~
539 ~~employee working in the home office, and which must be signed~~
540 ~~and agreed to by the telecommuter and the supervisor.~~

541 ~~(m) Provide measurable financial benefits associated with~~
542 ~~reduced office space requirements, reductions in energy~~
543 ~~consumption, and reductions in associated emissions of~~
544 ~~greenhouse gases resulting from telecommuting. State agencies~~
545 ~~operating in office space owned or managed by the department~~
546 ~~shall consult the facilities program to ensure its consistency~~
547 ~~with the strategic leasing plan required under s. 255.249(3)(b).~~

548 ~~(8)-(4) Agencies that have a telework The telecommuting~~
549 ~~program for each state agency and pertinent supporting documents~~
550 ~~shall post the agency telework plan and any pertinent supporting~~
551 ~~documents be posted on the agency's Internet website to allow~~

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552 access by employees and the public.

553 (9) Agencies may approve other-personal-services employees
554 to participate in telework programs.

555 Section 9. Paragraph (b) of subsection (1) and paragraphs
556 (d) and (e) of subsection (2) of section 110.181, Florida
557 Statutes, are amended to read:

558 110.181 Florida State Employees' Charitable Campaign.—

559 (1) CREATION AND ORGANIZATION OF CAMPAIGN.—

560 (b) State officers' and employees' contributions toward the
561 Florida State Employees' Charitable Campaign must be entirely
562 voluntary. State officers and employees must designate a
563 charitable organization to receive such contributions.

564 (2) SELECTION OF FISCAL AGENTS; COST.—

565 ~~(d) A local steering committee shall be established in each~~
566 ~~fiscal agent area to assist in conducting the campaign and to~~
567 ~~direct the distribution of undesignated funds remaining after~~
568 ~~partial distribution pursuant to paragraph (c). The committee~~
569 ~~shall be composed of state employees selected by the fiscal~~
570 ~~agent from among recommendations provided by interested~~
571 ~~participating organizations, if any, and approved by the~~
572 ~~Statewide Steering Committee.~~

573 ~~(e) Participating charitable organizations that provide~~
574 ~~direct services in a local fiscal agent's area shall receive the~~
575 ~~same percentage of undesignated funds as the percentage of~~
576 ~~designated funds they receive. The undesignated funds remaining~~
577 ~~following allocation to these charitable organizations shall be~~
578 ~~distributed by the local steering committee.~~

579 Section 10. Subsection (6) of section 110.2035, Florida
580 Statutes, is amended, and subsections (7) and (8) are added to

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581 that section, to read:

582 110.2035 Classification and compensation program.—

583 (6) The department shall establish and maintain an
 584 equitable pay plan applicable to all occupations and ~~shall~~ be
 585 responsible for the overall review, coordination, and
 586 administration of the pay plan.

587 (a) The department shall provide for broad, market-based
 588 pay bands for occupations and shall establish guidelines for the
 589 employing agencies to move employees through these pay bands.
 590 The employing agencies may determine the appropriate salary
 591 within the pay bands and guidelines adopted by the department.
 592 Such pay bands, and the assignment of broadband levels to
 593 positions, are ~~shall~~ not ~~constitute~~ rules within the meaning of
 594 s. 120.52.

595 (b) The department, in consultation with the Executive
 596 Office of the Governor and the legislative appropriations
 597 committees, shall conduct wage and salary surveys as necessary
 598 for the purpose of achieving ~~the goal of~~ an equitable,
 599 competitive, market-based pay policy.

600 (7)(e) The department shall establish rules for the
 601 administration of pay additives, by rule, guidelines with
 602 respect to, and shall delegate to the employing agencies, if
 603 where appropriate, the authority to implement pay additives. The
 604 agency shall use pay additives, as appropriate, within the
 605 guidelines established by the department and consistent with
 606 directions contained in the General Appropriations Act.
 607 ~~administer~~

608 (a) The following pay additives are authorized:

609 1. Shift differentials.

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- 610 2. On call ~~On-call fees.~~
611 3. Hazardous duties ~~Hazardous-duty pay.~~
612 4. ~~Salary increase and decrease corrections.~~
613 4.5. Lead-worker duties ~~Lead worker pay.~~
614 5.6. Temporary special duties - general ~~pay.~~
615 6. Temporary special duties - absent coworker.
616 7. Trainer duties ~~Trainer-additive pay.~~
617 8. Competitive area differentials.
618 9. Critical market pay.

619 (b) Each state agency shall include in its annual
620 legislative budget request a proposed written plan for
621 implementing temporary special duties - general pay additives
622 during the next fiscal year. Proposed revisions to an approved
623 plan which become necessary during the fiscal year must be
624 submitted by the agency to the department for review and
625 recommendation to the Executive Office of the Governor. Such
626 revisions may be implemented only after approval by the
627 Executive Office of the Governor. A proposed revision is an
628 action that is subject to s. 216.177.

629 (c) A new competitive area differential or a new critical
630 market pay additive may not be implemented unless the department
631 has reviewed and recommended such action and the Legislature has
632 provided express authority to implement such action. This
633 applies to an increase in the level of competitive area
634 differentials or critical market pay additives, and to the
635 initial establishment and implementation of a competitive area
636 differential or critical market pay additive not in effect as of
637 January 1, 2012.

638 (d) An agency may implement shift differential additives,

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639 on-call additives, hazardous duty additives, lead-worker
640 additives, temporary special duty - absent coworker additives,
641 and trainer duty additives as necessary to accomplish the
642 agency's mission and in accordance with department rules,
643 instructions contained in the General Appropriations Act, and
644 applicable collective bargaining agreements.

645 (e) The department shall annually provide to the Executive
646 Office of the Governor and the Legislature a summary report of
647 the pay additives implemented pursuant to this section.

648 (8) An agency may implement salary increase and decrease
649 corrections due to administrative errors.

650
651 ~~The employing agency must use such pay additives as are~~
652 ~~appropriate within the guidelines established by the department~~
653 ~~and consistent with the directions of the Legislature contained~~
654 ~~in the General Appropriations Act. The employing agency shall~~
655 ~~advise the department, the Executive Office of the Governor, and~~
656 ~~the Legislature in writing of the plan for implementing such pay~~
657 ~~additives prior to the implementation date. An agency may not~~
658 ~~implement any pay additive to a cohort of positions sharing job~~
659 ~~classifications or job occupations unless the Legislature has~~
660 ~~specifically authorized such pay additives and such pay~~
661 ~~additives do not conflict with any collective bargaining~~
662 ~~agreement for that specific cohort of positions. Any action by~~
663 ~~an employing agency to implement temporary special duties pay,~~
664 ~~competitive area differentials, or critical market pay may be~~
665 ~~implemented only after the department has reviewed and~~
666 ~~recommended such action; however, an employing agency may use~~
667 ~~temporary special duties pay for up to 3 months without prior~~

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668 ~~review by the department. The department shall annually provide~~
669 ~~to the Executive Office of the Governor and the Legislature a~~
670 ~~summary report of the pay additives implemented pursuant to this~~
671 ~~section.~~

672 Section 11. Subsection (7) of section 110.205, Florida
673 Statutes, is amended to read:

674 110.205 Career service; exemptions.—

675 ~~(7) CARRYING LEAVE FORWARD.—If an employee is transferred~~
676 ~~or otherwise moves from the Career Service System into the~~
677 ~~Selected Exempt Service, all of the employee's unused annual~~
678 ~~leave, unused sick leave, and unused compensatory leave shall~~
679 ~~carry forward with the employee.~~

680 Section 12. Section 110.217, Florida Statutes, is amended
681 to read:

682 110.217 Appointment actions and status ~~Appointments and~~
683 ~~promotion.~~—

684 (1) ~~(a) The department, in consultation with agencies that~~
685 ~~must comply with these rules, shall develop uniform rules~~
686 ~~regarding original appointment, promotion, demotion,~~
687 ~~reassignment, lateral action, separation, and status that which~~
688 ~~must be used by state ~~employing~~ agencies. ~~Such rules must be~~~~
689 ~~approved by the Administration Commission before their adoption~~
690 ~~by the department.~~

691 (2) An employee appointed on probationary status shall
692 attain permanent status in his or her current position upon
693 successful completion of at least a 1-year probationary period.
694 The length of the probationary period may not exceed 18 months.
695 An employee who has not attained permanent status in his or her
696 current position serves at the pleasure of the agency head and

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697 may be dismissed at the discretion of the agency head.

698 (3) If an employee who has received an internal agency
699 promotion from a position in which the employee held permanent
700 status is to be dismissed from the promotional position for
701 failure to meet the established performance standards of the
702 promotional position while in probationary status, the agency,
703 before dismissal, shall return the employee to his or her former
704 position, or to a position with substantially similar duties and
705 responsibilities as the former position, if such a position is
706 vacant. Such determinations by an agency are not appealable, and
707 this subsection does not apply to dismissals for any other
708 reason.

709 ~~(b) Employing agencies may seek exceptions to these uniform~~
710 ~~rules by filing a petition with the Administration Commission.~~
711 ~~The Administration Commission shall approve an exception when~~
712 ~~the exception is necessary to conform to any requirement imposed~~
713 ~~as a condition precedent to receipt of federal funds or to~~
714 ~~permit persons in this state to receive tax benefits under~~
715 ~~federal law, or as required for the most efficient operation of~~
716 ~~the agency as determined by the Administration Commission. The~~
717 ~~reasons for the exception must be published in the Florida~~
718 ~~Administrative Weekly.~~

719 ~~(c) Agency rules that provide exceptions to the uniform~~
720 ~~rules may not be filed with the Department of State unless the~~
721 ~~Administration Commission has approved the exceptions. Each~~
722 ~~agency that adopts rules that provide exceptions to the uniform~~
723 ~~rules or that must comply with statutory requirements that~~
724 ~~conflict with the uniform rules must have a separate chapter~~
725 ~~published in the Florida Administrative Code that delineates~~

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726 clearly the provisions of the agency's rules which provide
727 exceptions or are based upon a conflicting statutory
728 requirement. Each alternative chosen from those authorized by
729 the uniform rules must be specified. Each chapter must be
730 organized in the same manner as the uniform rules.

731 ~~(2) Each employing agency shall have the responsibility for~~
732 ~~the establishment and maintenance of rules and guidelines for~~
733 ~~determining eligibility of applicants for appointment to~~
734 ~~positions in the career service.~~

735 ~~(3) Eligibility shall be based on possession of required~~
736 ~~minimum qualifications for the job class and any required entry-~~
737 ~~level knowledge, skills, and abilities, and any certification~~
738 ~~and licensure required for a particular position.~~

739 ~~(4) The employing agency shall be responsible for~~
740 ~~developing an employee career advancement program which shall~~
741 ~~assure consideration of qualified permanent employees in the~~
742 ~~agency or career service who apply. However, such program shall~~
743 ~~also include provisions to bring persons into the career service~~
744 ~~through open competition. Promotion appointments shall be~~
745 ~~subject to postaudit by the department.~~

746 ~~(5) The department shall adopt any rules necessary to~~
747 ~~implement the provisions of this section. The rules must be~~
748 ~~approved by a majority vote of the Administration Commission~~
749 ~~prior to their adoption by the department.~~

750 Section 13. Subsection (8) of section 110.227, Florida
751 Statutes, is amended to read:

752 110.227 Suspensions, dismissals, reductions in pay,
753 demotions, layoffs, transfers, and grievances.-

754 ~~(8) A career service employee who is serving a probationary~~

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755 ~~period in a position to which he or she has been promoted may be~~
756 ~~removed from that promotional position at any time during the~~
757 ~~probationary period but must be returned to his or her former~~
758 ~~position, or a comparable position, if such a position is~~
759 ~~vacant. If such a position is not available, before dismissal,~~
760 ~~the agency shall make a reasonable effort to retain the employee~~
761 ~~in another vacant position. This subsection does not apply to~~
762 ~~terminations for cause as described in subsection (1), nor does~~
763 ~~it create a right to "bump" an employee from an occupied~~
764 ~~position as described in paragraph (2)(a).~~

765 Section 14. Paragraph (d) of subsection (3) of section
766 255.249, Florida Statutes, is amended to read:

767 255.249 Department of Management Services; responsibility;
768 department rules.-

769 (3)

770 (d) By June 30 of each year, each state agency shall
771 annually provide to the department all information regarding
772 agency programs affecting the need for or use of space by that
773 agency, reviews of lease-expiration schedules for each
774 geographic area, active and planned full-time equivalent data,
775 business case analyses related to consolidation plans by an
776 agency, a telework ~~telecommuting~~ program, and current occupancy
777 and relocation costs, inclusive of furnishings, fixtures and
778 equipment, data, and communications.

779 Section 15. Section 402.3057, Florida Statutes, is amended
780 to read:

781 402.3057 Persons not required to be refingerprinted or
782 rescreened.-~~Notwithstanding any other provision of law to the~~
783 ~~contrary notwithstanding,~~ human resource personnel who have been

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784 fingerprinted or screened pursuant to chapters 393, 394, 397,
785 402, and 409, and teachers and noninstructional personnel who
786 have been fingerprinted pursuant to chapter 1012, who have not
787 been unemployed for more than 90 days thereafter, and who under
788 the penalty of perjury attest to the completion of such
789 fingerprinting or screening and to compliance with the
790 provisions of this section and the standards for good moral
791 character as contained in ~~such provisions as~~ ss. 110.1127(2)(c)
792 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and
793 409.175(6), may ~~shall~~ not be required to be refingerprinted or
794 rescreened in order to comply with any caretaker screening or
795 fingerprinting requirements.

796 Section 16. Section 409.1757, Florida Statutes, is amended
797 to read:

798 409.1757 Persons not required to be refingerprinted or
799 rescreened. Notwithstanding any other provision of law to the
800 ~~contrary notwithstanding~~, human resource personnel who have been
801 fingerprinted or screened pursuant to chapters 393, 394, 397,
802 402, and this chapter, and teachers who have been fingerprinted
803 pursuant to chapter 1012, who have not been unemployed for more
804 than 90 days thereafter, and who under the penalty of perjury
805 attest to the completion of such fingerprinting or screening and
806 to compliance with the provisions of this section and the
807 standards for good moral character as contained in such
808 provisions as ss. 110.1127(2)(c) ~~110.1127(3)~~, 393.0655(1),
809 394.457(6), 397.451, 402.305(2), and 409.175(6), may ~~shall~~ not
810 ~~be~~ required to be refingerprinted or rescreened in order to
811 comply with any caretaker screening or fingerprinting
812 requirements.

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813 Section 17. Subsection (9) of section 413.20, Florida
814 Statutes, is amended to read:

815 413.20 Definitions.—As used in this part, the term:

816 (9) "Employment outcome" means, with respect to an
817 individual, entering or retaining full-time or, if appropriate,
818 part-time competitive employment in the integrated labor market
819 to the greatest extent practicable, supported employment, or any
820 other type of employment, including self-employment, telework
821 ~~telecommuting~~, or business ownership, that is consistent with an
822 individual's strengths, resources, priorities, concerns,
823 abilities, capabilities, interests, and informed choice.

824 Section 18. Paragraph (a) of subsection (4) of section
825 943.0585, Florida Statutes, is amended to read:

826 943.0585 Court-ordered expunction of criminal history
827 records.—The courts of this state have jurisdiction over their
828 own procedures, including the maintenance, expunction, and
829 correction of judicial records containing criminal history
830 information to the extent such procedures are not inconsistent
831 with the conditions, responsibilities, and duties established by
832 this section. Any court of competent jurisdiction may order a
833 criminal justice agency to expunge the criminal history record
834 of a minor or an adult who complies with the requirements of
835 this section. The court shall not order a criminal justice
836 agency to expunge a criminal history record until the person
837 seeking to expunge a criminal history record has applied for and
838 received a certificate of eligibility for expunction pursuant to
839 subsection (2). A criminal history record that relates to a
840 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
841 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.

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842 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
843 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
844 any violation specified as a predicate offense for registration
845 as a sexual predator pursuant to s. 775.21, without regard to
846 whether that offense alone is sufficient to require such
847 registration, or for registration as a sexual offender pursuant
848 to s. 943.0435, may not be expunged, without regard to whether
849 adjudication was withheld, if the defendant was found guilty of
850 or pled guilty or nolo contendere to the offense, or if the
851 defendant, as a minor, was found to have committed, or pled
852 guilty or nolo contendere to committing, the offense as a
853 delinquent act. The court may only order expunction of a
854 criminal history record pertaining to one arrest or one incident
855 of alleged criminal activity, except as provided in this
856 section. The court may, at its sole discretion, order the
857 expunction of a criminal history record pertaining to more than
858 one arrest if the additional arrests directly relate to the
859 original arrest. If the court intends to order the expunction of
860 records pertaining to such additional arrests, such intent must
861 be specified in the order. A criminal justice agency may not
862 expunge any record pertaining to such additional arrests if the
863 order to expunge does not articulate the intention of the court
864 to expunge a record pertaining to more than one arrest. This
865 section does not prevent the court from ordering the expunction
866 of only a portion of a criminal history record pertaining to one
867 arrest or one incident of alleged criminal activity.
868 Notwithstanding any law to the contrary, a criminal justice
869 agency may comply with laws, court orders, and official requests
870 of other jurisdictions relating to expunction, correction, or

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871 confidential handling of criminal history records or information
872 derived therefrom. This section does not confer any right to the
873 expunction of any criminal history record, and any request for
874 expunction of a criminal history record may be denied at the
875 sole discretion of the court.

876 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
877 criminal history record of a minor or an adult which is ordered
878 expunged by a court of competent jurisdiction pursuant to this
879 section must be physically destroyed or obliterated by any
880 criminal justice agency having custody of such record; except
881 that any criminal history record in the custody of the
882 department must be retained in all cases. A criminal history
883 record ordered expunged that is retained by the department is
884 confidential and exempt from the provisions of s. 119.07(1) and
885 s. 24(a), Art. I of the State Constitution and not available to
886 any person or entity except upon order of a court of competent
887 jurisdiction. A criminal justice agency may retain a notation
888 indicating compliance with an order to expunge.

889 (a) The person who is the subject of a criminal history
890 record that is expunged under this section or under other
891 provisions of law, including former s. 893.14, former s. 901.33,
892 and former s. 943.058, may lawfully deny or fail to acknowledge
893 the arrests covered by the expunged record, unless ~~except when~~
894 the subject of the record:

- 895 1. Is a candidate for employment with a criminal justice
896 agency;
- 897 2. Is a defendant in a criminal prosecution;
- 898 3. Concurrently or subsequently petitions for relief under
899 this section or s. 943.059;

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- 900 4. Is a candidate for admission to The Florida Bar;
- 901 5. Is seeking to be employed or licensed by or to contract
- 902 with the Department of Children and Family Services, the Agency
- 903 for Health Care Administration, the Agency for Persons with
- 904 Disabilities, or the Department of Juvenile Justice or to be
- 905 employed or used by such contractor or licensee in a sensitive
- 906 position having direct contact with children, the
- 907 developmentally disabled, the aged, or the elderly as provided
- 908 in s. 110.1127(2)(c) ~~110.1127(3)~~, s. 393.063, s. 394.4572(1), s.
- 909 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
- 910 415.102(5), chapter 916, s. 985.644, chapter 400, or chapter
- 911 429;
- 912 6. Is seeking to be employed or licensed by the Department
- 913 of Education, any district school board, any university
- 914 laboratory school, any charter school, any private or parochial
- 915 school, or any local governmental entity that licenses child
- 916 care facilities; or
- 917 7. Is seeking authorization from a seaport listed in s.
- 918 311.09 for employment within or access to one or more of such
- 919 seaports pursuant to s. 311.12.

920 Section 19. Paragraph (a) of subsection (4) of section

921 943.059, Florida Statutes, is amended to read:

922 943.059 Court-ordered sealing of criminal history records.—

923 The courts of this state shall continue to have jurisdiction

924 over their own procedures, including the maintenance, sealing,

925 and correction of judicial records containing criminal history

926 information to the extent such procedures are not inconsistent

927 with the conditions, responsibilities, and duties established by

928 this section. Any court of competent jurisdiction may order a

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929 criminal justice agency to seal the criminal history record of a
930 minor or an adult who complies with the requirements of this
931 section. The court shall not order a criminal justice agency to
932 seal a criminal history record until the person seeking to seal
933 a criminal history record has applied for and received a
934 certificate of eligibility for sealing pursuant to subsection
935 (2). A criminal history record that relates to a violation of s.
936 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
937 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
938 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
939 916.1075, a violation enumerated in s. 907.041, or any violation
940 specified as a predicate offense for registration as a sexual
941 predator pursuant to s. 775.21, without regard to whether that
942 offense alone is sufficient to require such registration, or for
943 registration as a sexual offender pursuant to s. 943.0435, may
944 not be sealed, without regard to whether adjudication was
945 withheld, if the defendant was found guilty of or pled guilty or
946 nolo contendere to the offense, or if the defendant, as a minor,
947 was found to have committed or pled guilty or nolo contendere to
948 committing the offense as a delinquent act. The court may only
949 order sealing of a criminal history record pertaining to one
950 arrest or one incident of alleged criminal activity, except as
951 provided in this section. The court may, at its sole discretion,
952 order the sealing of a criminal history record pertaining to
953 more than one arrest if the additional arrests directly relate
954 to the original arrest. If the court intends to order the
955 sealing of records pertaining to such additional arrests, such
956 intent must be specified in the order. A criminal justice agency
957 may not seal any record pertaining to such additional arrests if

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958 the order to seal does not articulate the intention of the court
959 to seal records pertaining to more than one arrest. This section
960 does not prevent the court from ordering the sealing of only a
961 portion of a criminal history record pertaining to one arrest or
962 one incident of alleged criminal activity. Notwithstanding any
963 law to the contrary, a criminal justice agency may comply with
964 laws, court orders, and official requests of other jurisdictions
965 relating to sealing, correction, or confidential handling of
966 criminal history records or information derived therefrom. This
967 section does not confer any right to the sealing of any criminal
968 history record, and any request for sealing a criminal history
969 record may be denied at the sole discretion of the court.

970 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
971 history record of a minor or an adult which is ordered sealed by
972 a court of competent jurisdiction pursuant to this section is
973 confidential and exempt from the provisions of s. 119.07(1) and
974 s. 24(a), Art. I of the State Constitution and is available only
975 to the person who is the subject of the record, to the subject's
976 attorney, to criminal justice agencies for their respective
977 criminal justice purposes, which include conducting a criminal
978 history background check for approval of firearms purchases or
979 transfers as authorized by state or federal law, to judges in
980 the state courts system for the purpose of assisting them in
981 their case-related decisionmaking responsibilities, as set forth
982 in s. 943.053(5), or to those entities set forth in
983 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
984 licensing, access authorization, and employment purposes.

985 (a) The subject of a criminal history record sealed under
986 this section or under other provisions of law, including former

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987 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
988 deny or fail to acknowledge the arrests covered by the sealed
989 record, unless ~~except when~~ the subject of the record:

- 990 1. Is a candidate for employment with a criminal justice
991 agency;
- 992 2. Is a defendant in a criminal prosecution;
- 993 3. Concurrently or subsequently petitions for relief under
994 this section or s. 943.0585;
- 995 4. Is a candidate for admission to The Florida Bar;
- 996 5. Is seeking to be employed or licensed by or to contract
997 with the Department of Children and Family Services, the Agency
998 for Health Care Administration, the Agency for Persons with
999 Disabilities, or the Department of Juvenile Justice or to be
1000 employed or used by such contractor or licensee in a sensitive
1001 position having direct contact with children, the
1002 developmentally disabled, the aged, or the elderly as provided
1003 in s. 110.1127(2)(c) ~~110.1127(3)~~, s. 393.063, s. 394.4572(1), s.
1004 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
1005 415.102(5), s. 415.103, chapter 916, s. 985.644, chapter 400, or
1006 chapter 429;
- 1007 6. Is seeking to be employed or licensed by the Department
1008 of Education, any district school board, any university
1009 laboratory school, any charter school, any private or parochial
1010 school, or any local governmental entity that licenses child
1011 care facilities;
- 1012 7. Is attempting to purchase a firearm from a licensed
1013 importer, licensed manufacturer, or licensed dealer and is
1014 subject to a criminal history check under state or federal law;
1015 or

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1016 8. Is seeking authorization from a Florida seaport
1017 identified in s. 311.09 for employment within or access to one
1018 or more of such seaports pursuant to s. 311.12.

1019 Section 20. This act shall take effect July 1, 2012.