

By the Committee on Criminal Justice; and Senator Detert

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1 A bill to be entitled
2 An act relating to expunging and sealing criminal
3 history records; amending s. 943.0515, F.S.; reducing
4 the number of years that the Criminal Justice
5 Information Program must retain certain minor
6 offenders' criminal history records; creating s.
7 943.0584, F.S.; establishing a nonjudicial expunction
8 process within the Department of Law Enforcement for
9 specified criminal history records; specifying types
10 of records eligible for the process; providing
11 exceptions to eligibility; establishing an application
12 process and requiring that specified documentation be
13 submitted; requiring a sworn statement from the
14 petitioner; providing a criminal penalty for perjury
15 on such sworn statement; specifying how the
16 nonjudicial expunction must be processed; providing
17 that an expunction under this section has the same
18 effect as an expunction under s. 943.0585, F.S.;
19 amending s. 943.0585, F.S.; providing jurisdiction of
20 the courts over expunction procedures; specifying
21 types of records that are eligible for court-ordered
22 expunction; providing limitations as to when a court
23 may expunge specified records; requiring specified
24 documentation be submitted to the Department of Law
25 Enforcement when seeking a certificate of eligibility
26 for court-ordered expunction; specifying the
27 documentation that must be submitted to the court with
28 a petition to expunge; requiring a sworn statement
29 from the petitioner; providing a criminal penalty for

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30 perjury on such sworn statements; providing guidelines
31 for the processing of an order to expunge; providing
32 the effect of the order to expunge on the criminal
33 history record; requiring criminal justice agencies to
34 destroy copies of records that have been expunged;
35 specifying exceptions to the confidential and exempt
36 status of an expunged criminal history record;
37 specifying that a right to expunction is not created
38 under this act; amending s. 943.059, F.S.;

39 establishing a nonjudicial process within the
40 Department of Law Enforcement for the sealing of
41 specified records; specifying records that are
42 eligible for the process; providing exceptions to
43 eligibility and limitations on sealing of records;
44 establishing an application process and requiring the
45 submission of specified documentation; requiring a
46 sworn statement from the petitioner; providing a
47 criminal penalty for perjury on such sworn statement;
48 specifying how the nonjudicial sealing must be
49 processed; providing for the effect of a record that
50 has been sealed under this section; amending ss.
51 776.09, 790.23, 943.0582, 948.08, 948.16, 961.06,
52 985.04, 985.045, and 985.345, F.S.; conforming
53 provisions to changes made by the act; providing an
54 effective date.

55
56 Be It Enacted by the Legislature of the State of Florida:

57
58 Section 1. Paragraph (b) of subsection (1) of section

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59 943.0515, Florida Statutes, is amended to read:

60 943.0515 Retention of criminal history records of minors.—

61 (1)

62 (b) If the minor is not classified as a serious or habitual
63 juvenile offender or committed to a juvenile correctional
64 facility or juvenile prison under chapter 985, the program shall
65 retain the minor's criminal history record for 2 ~~5~~ years after
66 the date the minor reaches 19 years of age, at which time the
67 record must ~~shall~~ be expunged unless it meets the criteria of
68 paragraph (2) (a) or paragraph (2) (b).

69 Section 2. Section 943.0584, Florida Statutes, is created
70 to read:

71 943.0584 Nonjudicial expunction of criminal history
72 records.—

73 (1) NONJUDICIAL EXPUNCTION.—Notwithstanding any law dealing
74 generally with the preservation and destruction of public
75 records, the department may adopt a rule pursuant to chapter 120
76 for the nonjudicial expunction of any criminal history record of
77 a minor or an adult described in this section.

78 (2) ELIGIBILITY.—The department must approve the
79 nonjudicial expunction of a criminal history record if:

80 (a) An indictment, information, or other charging document
81 was not filed or issued in the case.

82 (b) An indictment, information, or other charging document
83 was filed or issued in the case, but was subsequently dismissed
84 or nolle prosequi by the state attorney or statewide prosecutor,
85 or was dismissed or discharged by a court of competent
86 jurisdiction; however, a person may not obtain an expunction
87 under this paragraph for a dismissal pursuant to s. 916.145 or

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88 s. 985.19.

89 (c) An information, indictment, or other charging document
90 was not filed or was dismissed by the state attorney, or
91 dismissed by the court, because it was found that the person
92 acted in lawful self-defense pursuant to the provisions related
93 to justifiable use of force in chapter 776.

94 (d) A not guilty verdict was rendered subsequent to a trial
95 or adjudicatory hearing; however, a person may not obtain an
96 expunction under this paragraph for a verdict of not guilty by
97 reason of insanity.

98
99 A person may not obtain a nonjudicial expunction under this
100 subsection unless all charges stemming from the arrest or
101 alleged criminal activity to which the application for
102 expunction pertains were not filed or issued, dismissed, or
103 discharged, or resulted in an acquittal, as provided herein.

104 (3) LIMITATION.—There is no limitation on the number of
105 times that a person may obtain a nonjudicial expunction for a
106 criminal history record described in paragraphs (2) (a)-(d). An
107 applicant seeking to have multiple records expunged may submit a
108 single application to the department for the expunction of all
109 such records. The department must approve the nonjudicial
110 expunction of all eligible records pertaining to the applicant.

111 (4) APPLICATION FOR NONJUDICIAL EXPUNCTION.—An adult or, in
112 the case of a minor child, his or her parent or legal guardian,
113 who is seeking to expunge a criminal history record under this
114 section shall apply to the department in the manner prescribed
115 by rule. Such applications must be accompanied by:

116 (a)1. For the expunction of a record described in

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117 subsection (2), other than a record described in paragraph
118 (2)(c), a written, certified statement from the appropriate
119 state attorney or the statewide prosecutor which indicates that
120 the criminal history record sought to be expunged is eligible
121 under this section.

122 2. For the expunction of a record described in paragraph
123 (2)(c), a written, certified statement from the appropriate
124 state attorney or the statewide prosecutor which indicates that
125 an information, indictment, or other charging document was not
126 filed or was dismissed by the state attorney or the court
127 because it was found that the person acted in lawful self-
128 defense pursuant to the provisions related to justifiable use of
129 force in chapter 776.

130 (b) A processing fee of \$75, payable to the department, for
131 placement in the Department of Law Enforcement Operating Trust
132 Fund, unless such fee is waived by the executive director.

133 (c) A certified copy of the disposition of the charge to
134 which the application to expunge pertains.

135 (d) A full set of fingerprints of the applicant, taken by a
136 law enforcement agency, for purposes of identity verification.

137 (5) PROCESSING OF A NONJUDICIAL EXPUNCTION.—If the
138 department approves an application for nonjudicial expunction, a
139 certified copy of the form approving the nonjudicial expunction
140 shall be forwarded to the appropriate state attorney or the
141 statewide prosecutor, the arresting agency, and the clerk of the
142 court. The arresting agency is responsible for forwarding the
143 form approving the nonjudicial expunction to any other agency to
144 which the arresting agency disseminated the pertinent criminal
145 history record information. The department shall forward the

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146 form approving the nonjudicial expunction to the Federal Bureau
147 of Investigation. The clerk of the court shall forward a copy of
148 the form to any other agency that the records of the court
149 reflect received the criminal history record from the court.

150 (6) EFFECT OF NONJUDICIAL EXPUNCTION.—A confidential and
151 exempt criminal history record expunged under this section has
152 the same effect, and such record may be disclosed by the
153 department in the same manner, as a record expunged under s.
154 943.0585.

155 (7) STATUTORY REFERENCES.—Any reference to any other
156 chapter, section, or subdivision of the Florida Statutes in this
157 section constitutes a general reference under the doctrine of
158 incorporation by reference.

159 Section 3. Section 943.0585, Florida Statutes, is amended
160 to read:

161 (Substantial rewording of section. See
162 s. 943.0585, F.S., for present text.)

163 943.0585 Court-ordered expunction of criminal history
164 records.—

165 (1) JURISDICTION.—The courts of this state have
166 jurisdiction over their own procedures, including the
167 maintenance, expunction, and correction of judicial records
168 containing criminal history information to the extent that such
169 procedures are not inconsistent with the conditions,
170 responsibilities, and duties established by this section. A
171 court of competent jurisdiction may order a criminal justice
172 agency to expunge the criminal history record of a minor or an
173 adult who complies with the requirements of this section.

174 (2) ELIGIBILITY.—

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175 (a)1. Except as provided in paragraph (b), a court may
176 order the expunction of a criminal history record if the person
177 was found guilty of or found to have committed, or pled guilty
178 or pled nolo contendere to, an offense; and

179 2. None of the charges stemming from the arrest or alleged
180 criminal activity to which the petition to expunge pertains
181 resulted in an adjudication of guilt or delinquency.

182 (b) A court may not order the expunction of a criminal
183 history record if:

184 1. The person has, at any time before the date on which the
185 application for a certificate of eligibility is filed, been
186 adjudicated guilty for a felony offense or adjudicated
187 delinquent for an offense that would be a felony if committed by
188 an adult before applying for a certificate of eligibility; or

189 2. The record relates to a serious offense in which the
190 person was found guilty of or adjudicated delinquent of, or pled
191 guilty or pled nolo contendere to, the offense, regardless of
192 whether adjudication was withheld. For purposes of this
193 subparagraph, the term "serious offense" means a violation of s.
194 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
195 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
196 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
197 s. 916.1075, a violation enumerated in s. 907.041, or any
198 violation specified as a predicate offense for registration as a
199 sexual predator pursuant to s. 775.21, without regard to whether
200 that offense, alone, is sufficient to require such registration,
201 or for registration as a sexual offender pursuant to s.
202 943.0435.

203 (3) LIMITATIONS.—A court may order the expunction of only

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204 one criminal history record described in paragraph (2) (a). A
205 person seeking an expunction under this section is not barred
206 from relief if the same criminal history record has previously
207 been approved for a nonjudicial sealing pursuant to s. 943.059.
208 The record expunged must pertain to one arrest or one incident
209 of alleged criminal activity. However, the court may, at its
210 sole discretion, order the expunction of a criminal history
211 record pertaining to more than one arrest or one incident of
212 alleged criminal activity if the additional arrests directly
213 relate to the original arrest. If the court intends to order the
214 expunction of records pertaining to such additional arrests,
215 such intent must be specified in the order. A criminal justice
216 agency may not expunge a record pertaining to such additional
217 arrests if the order to expunge does not articulate the
218 intention of the court to expunge a record pertaining to more
219 than one arrest. This subsection does not prevent the court from
220 ordering the expunction of only a portion of a criminal history
221 record pertaining to one arrest.

222 (4) CERTIFICATE OF ELIGIBILITY.-

223 (a) A person seeking to expunge a criminal history record
224 under this section shall apply to the department for a
225 certificate of eligibility for expunction before petitioning the
226 court for expunction. The department shall issue a certificate
227 of eligibility for expunction to a person who is the subject of
228 a criminal history record if that person:

229 1. Has obtained and submitted to the department a written,
230 certified statement from the appropriate state attorney or the
231 statewide prosecutor which indicates that the criminal history
232 record is eligible for expunction under subsection (2).

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233 2. Remits a \$75 processing fee to the department, for
234 placement in the Department of Law Enforcement Operating Trust
235 Fund, unless such fee is waived by the executive director.

236 3. Has submitted to the department a certified copy of the
237 disposition of the charge to which the petition to expunge
238 pertains.

239 4. Has never secured a prior sealing or expunction of a
240 criminal history record under this section, s. 943.059, former
241 s. 893.14, former s. 901.33, or former s. 943.058, unless
242 expunction is sought of a criminal history record that had been
243 previously sealed under former paragraph (2)(h) and the record
244 is otherwise eligible for expunction.

245 5. Is no longer under court supervision applicable to the
246 disposition of the arrest or alleged criminal activity to which
247 the petition to expunge pertains.

248 6. Has not been arrested for or charged with a criminal
249 offense in any jurisdiction of the state or within the United
250 States from the date the person completed all sentences of
251 imprisonment or supervisory sanctions imposed by the court for
252 the offense to which the petition to expunge pertains to the
253 date of the application for the certificate of eligibility,
254 which period of time must be at least 1 year.

255 7. Has submitted a full set of fingerprints taken by a law
256 enforcement agency for purposes of identity verification.

257 (b) A certificate of eligibility for expunction is valid
258 for 12 months after the date that the certificate is issued by
259 the department. After that time, the petitioner must reapply to
260 the department for a new certificate of eligibility. Eligibility
261 for a renewed certification of eligibility must be based on the

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262 status of the applicant and the law in effect at the time of the
263 renewal application.

264 (c) The department shall, by rule adopted pursuant to
265 chapter 120, establish procedures pertaining to the application
266 for and issuance of certificates of eligibility for expunction.

267 (5) PETITION.—

268 (a) The court may not order a criminal justice agency to
269 expunge a criminal history record under this section until the
270 person seeking to expunge the record has applied for and
271 received a certificate of eligibility for expunction pursuant to
272 subsection (4). A petition to a court to expunge a criminal
273 history record is complete only when accompanied by:

274 1. A valid certificate of eligibility for expunction issued
275 by the department pursuant to subsection (4).

276 2. The petitioner's sworn statement attesting that:

277 a. The criminal history record sought to be expunged is
278 eligible under subsection (2).

279 b. The petitioner is eligible for the expunction under
280 subsection (3).

281 c. The petitioner has not been arrested for or charged with
282 a criminal offense in any jurisdiction of the state or within
283 the United States from the date that the person completed all
284 sentences of imprisonment or supervisory sanctions imposed by
285 the court for the offense to which the petition to expunge
286 pertains to the date of the application for the certificate of
287 eligibility, which period of time must be at least 1 year.

288 (b) A person who knowingly provides false information on
289 the sworn statement required by subparagraph (a)2. commits a
290 felony of the third degree, punishable as provided in s.

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291 775.082, s. 775.083, or s. 775.084.

292 (6) PROCESSING.—

293 (a) In judicial proceedings under this section, a copy of
294 the completed petition to expunge shall be served upon the
295 appropriate state attorney or the statewide prosecutor, and the
296 arresting agency; however, it is not necessary to make any
297 agency other than the state a party. The appropriate state
298 attorney or the statewide prosecutor, and the arresting agency
299 may respond to the court regarding the completed petition to
300 expunge.

301 (b) If relief is granted by the court, the clerk of the
302 court shall certify copies of the order to the appropriate state
303 attorney or the statewide prosecutor, and the arresting agency.
304 The arresting agency is responsible for forwarding the order to
305 any other agency to which the arresting agency disseminated the
306 criminal history record information to which the order pertains.
307 The department shall forward the order to expunge to the Federal
308 Bureau of Investigation. The clerk of the court shall certify a
309 copy of the order to any other agency which the records of the
310 court reflect has received the criminal history record from the
311 court.

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

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320 days after receiving the order to correct the record and
321 petition the court to void the order. A cause of action,
322 including contempt of court, does not arise against a criminal
323 justice agency for failure to comply with an order to expunge if
324 the petitioner failed to obtain the certificate of eligibility
325 as required by this section or the order does not otherwise
326 comply with this section.

327 (7) EFFECT OF EXPUNCTION.—

328 (a) Any criminal history record of a minor or an adult
329 which is ordered expunged by a court of competent jurisdiction
330 pursuant to this section must be physically destroyed or
331 obliterated by any criminal justice agency having custody of the
332 record; however, any criminal history record in the custody of
333 the department must be retained in all cases.

334 (b) The person who is the subject of a criminal history
335 record that is expunged under this section or under other
336 provisions of law, including s. 943.0584, former s. 893.14,
337 former s. 901.33, and former s. 943.058, may lawfully deny or
338 fail to acknowledge the arrests covered by the expunged record,
339 unless the subject of the record:

340 1. Is a candidate for employment with a criminal justice
341 agency;

342 2. Is a defendant in a criminal prosecution;

343 3. Concurrently or subsequently seeks relief under this
344 section, s. 943.0583, or s. 943.059;

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

346 5. Is seeking to be employed or licensed by or to contract
347 with the Department of Children and Families, the Division of
348 Vocational Rehabilitation within the Department of Education,

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349 the Agency for Health Care Administration, the Agency for
350 Persons with Disabilities, the Department of Health, the
351 Department of Elderly Affairs, or the Department of Juvenile
352 Justice, or to be employed or used by such contractor or
353 licensee in a sensitive position having direct contact with
354 children, the disabled, or the elderly;

355 6. Is seeking to be employed or licensed by the Department
356 of Education, any district school board, any university
357 laboratory school, any charter school, any private or parochial
358 school, or any local governmental entity that licenses child
359 care facilities;

360 7. Is seeking to be licensed by the Division of Insurance
361 Agent and Agency Services within the Department of Financial
362 Services; or

363 8. Is seeking to be appointed as a guardian pursuant to s.
364 744.3125.

365 (c) Subject to the exceptions in paragraph (b), a person
366 who has been granted an expunction under this section, s.
367 943.0584, former s. 893.14, former s. 901.33, or former s.
368 943.058 may not be held under any law of this state for
369 committing perjury or to be otherwise liable for giving a false
370 statement by reason of such person's failure to recite or
371 acknowledge an expunged criminal history record.

372 (d) Notwithstanding any law to the contrary, a criminal
373 justice agency may comply with laws, court orders, and official
374 requests of other jurisdictions relating to expunction,
375 correction, or confidential handling of criminal history records
376 or information derived therefrom.

377 (8) STATUTORY REFERENCES.—Any reference to any other

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378 chapter, section, or subdivision of the Florida Statutes in this
379 section constitutes a general reference under the doctrine of
380 incorporation by reference.

381 (9) NO RIGHT TO EXPUNCTION.—This section does not confer a
382 right to the expunction of a criminal history record, and a
383 request for expunction of a criminal history record may be
384 denied at the sole discretion of the court.

385 Section 4. Section 943.059, Florida Statutes, is amended to
386 read:

387 (Substantial rewording of section. See
388 s. 943.059, F.S., for present text.)

389 943.059 Nonjudicial sealing of criminal history records.—

390 (1) NONJUDICIAL SEALING.—Notwithstanding any law dealing
391 generally with the preservation and destruction of public
392 records, the department may adopt a rule pursuant to chapter 120
393 for the nonjudicial sealing of any criminal history record of a
394 minor or an adult described in this section.

395 (2) ELIGIBILITY.—

396 (a) Except as provided in paragraph (b), the department
397 must approve the nonjudicial sealing of a criminal history
398 record if:

399 1.a. The person was found guilty of, found to have
400 committed, pled guilty to, or pled nolo contendere to an
401 offense;

402 b. None of the charges stemming from the arrest or alleged
403 criminal activity to which the application for nonjudicial
404 sealing pertains resulted in an adjudication of guilt or
405 delinquency; or

406 2. The person was adjudicated guilty or adjudicated

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407 delinquent for a nonviolent misdemeanor. For purposes of this
408 subparagraph, the term "nonviolent misdemeanor" means a
409 misdemeanor violation of:

410 a. Section 562.11(2), s. 562.111, s. 806.101, s. 806.13, s.
411 810.08, s. 810.09, s. 810.10, s. 810.11, s. 810.115, s. 810.13,
412 s. 812.014(3) (a), s. 823.01, s. 823.02, s. 856.011, s. 856.015,
413 s. 870.02, s. 893.13(3), s. 893.13(6) (b), or s. 893.147(1), in
414 which the petitioner was adjudicated guilty or adjudicated
415 delinquent; or

416 b. An offense found in chapters 316-324 for which the
417 petitioner was adjudicated guilty or adjudicated delinquent,
418 unless the violation of such offense directly caused serious
419 bodily injury or death to a person.

420 (b) A criminal history record may not be approved for a
421 nonjudicial sealing pursuant to this section if:

422 1. The person seeking the sealing has, at any time before
423 the date on which the application for nonjudicial sealing is
424 filed, been adjudicated guilty for a felony offense or
425 adjudicated delinquent for an offense which would be a felony if
426 committed by an adult; or

427 2. The record relates to a serious offense in which the
428 person was found guilty of or adjudicated delinquent of, or pled
429 guilty or pled nolo contendere to the offense, regardless of
430 whether adjudication was withheld. For purposes of this
431 subparagraph, the term "serious offense" means a violation of s.
432 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
433 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
434 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
435 s. 916.1075, a violation enumerated in s. 907.041, or any

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436 violation specified as a predicate offense for registration as a
437 sexual predator pursuant to s. 775.21, without regard to whether
438 that offense, alone, is sufficient to require such registration,
439 or for registration as a sexual offender pursuant to s.
440 943.0435.

441 (3) LIMITATIONS.—The department may approve the sealing of
442 only one criminal history record described in paragraph (2) (a).
443 Each record sealed must pertain to one arrest or one incident of
444 alleged criminal activity. However, if the department receives
445 supporting documentation as described in paragraph (4) (b)
446 stating that additional arrests are directly related to the
447 arrest sought to be expunged, the department must approve the
448 sealing of a criminal history record pertaining to the
449 additional arrests. If the department approves the sealing of
450 records pertaining to such additional arrests, such intent must
451 be specified in the approval form. A criminal justice agency may
452 not seal any record pertaining to such additional arrests if the
453 department has not approved sealing records pertaining to more
454 than one arrest.

455 (4) APPLICATION.—An adult or, in the case of a minor child,
456 his or her parent or legal guardian, who is seeking to seal a
457 criminal history record under this section shall apply to the
458 department in the manner prescribed by rule. An application for
459 nonjudicial sealing shall be accompanied by:

460 (a) A written, certified statement from the appropriate
461 state attorney or the statewide prosecutor which indicates that
462 the criminal history record sought to be sealed is eligible
463 under subsection (2).

464 (b) A written, certified statement from the appropriate

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465 state attorney or the statewide prosecutor that indicates that
466 any additional arrests the applicant seeks to seal are directly
467 related to the original arrest, if applicable. If the state
468 attorney or statewide prosecutor does not confirm that the
469 additional arrests are directly related, the person applying for
470 the sealing has the right to appeal this decision to the circuit
471 court.

472 (c) A processing fee of \$75 to the department, for
473 placement in the Department of Law Enforcement Operating Trust
474 Fund, unless the fee is waived by the executive director.

475 (d) A certified copy of the disposition of the charge to
476 which the application to seal pertains.

477 (e) A full set of fingerprints of the applicant, taken by a
478 law enforcement agency, for purposes of identity verification.

479 (f) A sworn, written statement from the person seeking the
480 sealing that he or she:

481 1. Is no longer under court supervision applicable to the
482 disposition of the arrest or alleged criminal activity to which
483 the application to seal pertains.

484 2. Has never secured a prior sealing or expunction of a
485 criminal history record under this section, s. 943.0585, former
486 s. 893.14, former 901.33, or former 943.058.

487 3. Has not been arrested for or charged with a criminal
488 offense in any jurisdiction of the state or within the United
489 States from the date the person completed all sentences of
490 imprisonment or supervisory sanctions imposed by the court for
491 the offense to which the application for nonjudicial sealing
492 pertains to the date of the application for the nonjudicial
493 sealing, which period of time must be at least 1 year.

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494 (g) A person who knowingly provides false information on
495 the sworn statement required by paragraph (f) commits a felony
496 of the third degree, punishable as provided in s. 775.082, s.
497 775.083, or s. 775.084.

498 (5) PROCESSING.—

499 (a) If the department approves an application for a
500 nonjudicial sealing, a certified copy of the form approving the
501 nonjudicial sealing shall be forwarded to the appropriate state
502 attorney or the statewide prosecutor, the arresting agency, and
503 the clerk of the court. The arresting agency is responsible for
504 forwarding the form approving the nonjudicial sealing to any
505 other agency to which the arresting agency disseminated the
506 pertinent criminal history record information. The department
507 shall forward the form approving the nonjudicial sealing to the
508 Federal Bureau of Investigation. The clerk of the court shall
509 forward a copy of the form to any other agency that the records
510 of the court reflect received the criminal history record from
511 the court.

512 (b) The nonjudicial sealing of a criminal history record
513 pursuant to this section does not require that such record be
514 surrendered to the court, and the record must continue to be
515 maintained by the department and other criminal justice
516 agencies.

517 (6) EFFECT OF SEALING.—

518 (a) The person who is the subject of a criminal history
519 record that is sealed under this section or under other
520 provisions of law, including former s. 893.14, former s. 901.33,
521 and former s. 943.058, may lawfully deny or fail to acknowledge
522 the arrests covered by the sealed record, unless the subject of

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523 the record:

524 1. Is a candidate for employment with a criminal justice
525 agency;

526 2. Is a defendant in a criminal prosecution;

527 3. Concurrently or subsequently seeks relief under this
528 section, s. 943.0583, s. 943.0584, or s. 943.0585;

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

530 5. Is seeking to be employed or licensed by or to contract
531 with the Department of Children and Families, the Division of
532 Vocational Rehabilitation within the Department of Education,
533 the Agency for Health Care Administration, the Agency for
534 Persons with Disabilities, the Department of Health, the
535 Department of Elderly Affairs, or the Department of Juvenile
536 Justice, or to be employed or used by such contractor or
537 licensee in a sensitive position having direct contact with
538 children, the disabled, or the elderly;

539 6. Is seeking to be employed or licensed by the Department
540 of Education, any district school board, any university
541 laboratory school, any charter school, any private or parochial
542 school, or any local governmental entity that licenses child
543 care facilities;

544 7. Is attempting to purchase a firearm from a licensed
545 importer, licensed manufacturer, or licensed dealer and is
546 subject to a criminal history check under state or federal law;

547 8. Is seeking to be licensed by the Division of Insurance
548 Agent and Agency Services within the Department of Financial
549 Services;

550 9. Is seeking to be appointed as a guardian pursuant to s.
551 744.3125; or

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552 10. Is seeking to be licensed by the Bureau of License
553 Issuance of the Division of Licensing within the Department of
554 Agriculture and Consumer Services to carry a concealed weapon or
555 concealed firearm. This subparagraph applies only in the
556 determination of an applicant's eligibility under s. 790.06.

557 (b) Subject to the exceptions in paragraph (a), a person
558 who has been granted a sealing under this section, former s.
559 893.14, former s. 901.33, or former s. 943.058 may not be held
560 under any provision of law of this state to commit perjury or to
561 be otherwise liable for giving a false statement by reason of
562 such person's failure to recite or acknowledge a sealed criminal
563 history record.

564 (c) Notwithstanding any law to the contrary, a criminal
565 justice agency may comply with laws, court orders, and official
566 requests of other jurisdictions relating to sealing, correction,
567 or confidential handling of criminal history records or
568 information derived therefrom.

569 (7) STATUTORY REFERENCES.—Any reference to any other
570 chapter, section, or subdivision of the Florida Statutes in this
571 section constitutes a general reference under the doctrine of
572 incorporation by reference.

573 Section 5. Subsection (3) of section 776.09, Florida
574 Statutes, is amended to read:

575 776.09 Retention of records pertaining to persons found to
576 be acting in lawful self-defense; expunction of criminal history
577 records.—

578 (3) Under either condition described in subsection (1) or
579 subsection (2), the person accused may apply for the nonjudicial
580 expunction of a certificate of eligibility to expunge the

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581 associated criminal history record, pursuant to s.
582 943.0584(2)(c) ~~943.0585(5)~~, notwithstanding the eligibility
583 requirements prescribed in s. 943.0584(2) and (4)(a)2
584 ~~943.0585(1)(b) or (2)~~.

585 Section 6. Subsection (1) of section 790.23, Florida
586 Statutes, is amended to read:

587 790.23 Felons and delinquents; possession of firearms,
588 ammunition, or electric weapons or devices unlawful.—

589 (1) It is unlawful for any person to own or to have in his
590 or her care, custody, possession, or control any firearm,
591 ammunition, or electric weapon or device, or to carry a
592 concealed weapon, including a tear gas gun or chemical weapon or
593 device, if that person has been:

594 (a) Convicted of a felony in the courts of this state;

595 (b)1. Found, in the courts of this state, to have committed
596 a delinquent act that would be a felony if committed by an
597 adult, meets the description of s. 943.0515(1)(a), and such
598 ~~person~~ is under 24 years of age; or

599 2. Found, in the courts of this state, to have committed a
600 delinquent act that would be a felony if committed by an adult,
601 meets the description of s. 943.0515(1)(b), and is under 21
602 years of age;

603 (c) Convicted of or found to have committed a crime against
604 the United States which is designated as a felony;

605 (d)1. Found to have committed a delinquent act in another
606 state, territory, or country that was punishable by imprisonment
607 for a term exceeding 1 year and would be a felony if committed
608 by an adult, meets the description of s. 943.0515(1)(a), and
609 ~~which was punishable by imprisonment for a term exceeding 1 year~~

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610 and ~~such person~~ is under 24 years of age; ~~or~~

611 2. Found to have committed a delinquent act in another
 612 state, territory, or country that was punishable by imprisonment
 613 for a term exceeding 1 year and would be a felony if committed
 614 by an adult, meets the description of s. 943.0515(1)(b), and is
 615 under 21 years of age; or

616 (e) Found guilty of an offense that is a felony in another
 617 state, territory, or country and which was punishable by
 618 imprisonment for a term exceeding 1 year.

619 Section 7. Section 943.0582, Florida Statutes, is amended
 620 to read:

621 943.0582 Prearrest, postarrest, or teen court diversion
 622 program expunction.—

623 (1) Notwithstanding any law dealing generally with the
 624 preservation and destruction of public records, the department
 625 may provide, by rule adopted pursuant to chapter 120, for the
 626 expunction of any nonjudicial record of the arrest of a minor
 627 who has successfully completed a prearrest or postarrest
 628 diversion program for minors as authorized by s. 985.125.

629 (2)(a) As used in this section, the term "expunction" has
 630 the same meaning ascribed in and effect as ss. 943.0584 and s.
 631 943.0585, except that:

632 1. The provisions of s. 943.0585(7)(b) ~~943.0585(4)(a)~~ do
 633 not apply, except that the criminal history record of a person
 634 whose record is expunged pursuant to this section shall be made
 635 available only to criminal justice agencies for the purpose of
 636 determining eligibility for prearrest, postarrest, or teen court
 637 diversion programs; when the record is sought as part of a
 638 criminal investigation; or when the subject of the record is a

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639 candidate for employment with a criminal justice agency. For all
640 other purposes, a person whose record is expunged under this
641 section may lawfully deny or fail to acknowledge the arrest and
642 the charge covered by the expunged record.

643 2. Records maintained by local criminal justice agencies in
644 the county in which the arrest occurred that are eligible for
645 expunction pursuant to this section shall be sealed as the term
646 is used in s. 943.059.

647 (b) As used in this section, the term "nonviolent
648 misdemeanor" includes simple assault or battery when prearrest
649 or postarrest diversion expunction is approved in writing by the
650 state attorney for the county in which the arrest occurred.

651 (3) The department shall expunge the nonjudicial arrest
652 record of a minor who has successfully completed a prearrest or
653 postarrest diversion program if that minor:

654 (a) Submits an application for prearrest or postarrest
655 diversion expunction, on a form prescribed by the department,
656 signed by the minor's parent or legal guardian, or by the minor
657 if he or she has reached the age of majority at the time of
658 applying.

659 (b) Submits the application for prearrest or postarrest
660 diversion expunction no later than 12 months after completion of
661 the diversion program.

662 (c) Submits to the department, with the application, an
663 official written statement from the state attorney for the
664 county in which the arrest occurred certifying that he or she
665 has successfully completed that county's prearrest or postarrest
666 diversion program, that his or her participation in the program
667 was based on an arrest for a nonviolent misdemeanor, and that he

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668 or she has not otherwise been charged by the state attorney with
669 or found to have committed any criminal offense or comparable
670 ordinance violation.

671 (d) Participated in a prearrest or postarrest diversion
672 program that expressly authorizes or permits such expunction to
673 occur.

674 (e) Participated in a prearrest or postarrest diversion
675 program based on an arrest for a nonviolent misdemeanor that
676 would not qualify as an act of domestic violence as that term is
677 defined in s. 741.28.

678 (f) Has never, prior to filing the application for
679 expunction, been charged by the state attorney with or been
680 found to have committed any criminal offense or comparable
681 ordinance violation.

682 (4) The department may ~~is authorized to~~ charge a \$75
683 processing fee for each request received for prearrest or
684 postarrest diversion program expunction, for placement in the
685 Department of Law Enforcement Operating Trust Fund, unless such
686 fee is waived by the executive director.

687 (5) Expunction or sealing granted under this section does
688 not prevent the minor who receives such relief from seeking
689 ~~petitioning for~~ the expunction or sealing of a later criminal
690 history record as provided for in ss. 943.0583, 943.0584,
691 943.0585, and 943.059, if the minor is otherwise eligible under
692 those sections.

693 Section 8. Paragraph (b) of subsection (6) and paragraph
694 (b) of subsection (7) of section 948.08, Florida Statutes, are
695 amended to read:

696 948.08 Pretrial intervention program.—

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697 (6)

698 (b) While enrolled in a pretrial intervention program
699 authorized by this subsection, the participant is subject to a
700 coordinated strategy developed by a drug court team under s.
701 397.334(4). The coordinated strategy may include a protocol of
702 sanctions that may be imposed upon the participant for
703 noncompliance with program rules. The protocol of sanctions may
704 include, but is not limited to, placement in a substance abuse
705 treatment program offered by a licensed service provider as
706 defined in s. 397.311 or in a jail-based treatment program or
707 serving a period of incarceration within the time limits
708 established for contempt of court. The coordinated strategy must
709 be provided in writing to the participant before the participant
710 agrees to enter into a pretrial treatment-based drug court
711 program or other pretrial intervention program. Any person whose
712 charges are dismissed after successful completion of the
713 treatment-based drug court program, if otherwise eligible, may
714 have his or her arrest record and plea of nolo contendere to the
715 dismissed charges expunged under s. 943.0584 ~~943.0585~~.

716 (7)

717 (b) While enrolled in a pretrial intervention program
718 authorized by this subsection, the participant shall be subject
719 to a coordinated strategy developed by a veterans' treatment
720 intervention team. The coordinated strategy should be modeled
721 after the therapeutic jurisprudence principles and key
722 components in s. 397.334(4), with treatment specific to the
723 needs of servicemembers and veterans. The coordinated strategy
724 may include a protocol of sanctions that may be imposed upon the
725 participant for noncompliance with program rules. The protocol

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726 of sanctions may include, but need not be limited to, placement
727 in a treatment program offered by a licensed service provider or
728 in a jail-based treatment program or serving a period of
729 incarceration within the time limits established for contempt of
730 court. The coordinated strategy must be provided in writing to
731 the participant before the participant agrees to enter into a
732 pretrial veterans' treatment intervention program or other
733 pretrial intervention program. Any person whose charges are
734 dismissed after successful completion of the pretrial veterans'
735 treatment intervention program, if otherwise eligible, may have
736 his or her arrest record of the dismissed charges expunged under
737 s. 943.0584 ~~943.0585~~.

738 Section 9. Paragraph (b) of subsection (1) and paragraph
739 (b) of subsection (2) of section 948.16, Florida Statutes, are
740 amended to read:

741 948.16 Misdemeanor pretrial substance abuse education and
742 treatment intervention program; misdemeanor pretrial veterans'
743 treatment intervention program.—

744 (1)

745 (b) While enrolled in a pretrial intervention program
746 authorized by this section, the participant is subject to a
747 coordinated strategy developed by a drug court team under s.
748 397.334(4). The coordinated strategy may include a protocol of
749 sanctions that may be imposed upon the participant for
750 noncompliance with program rules. The protocol of sanctions may
751 include, but is not limited to, placement in a substance abuse
752 treatment program offered by a licensed service provider as
753 defined in s. 397.311 or in a jail-based treatment program or
754 serving a period of incarceration within the time limits

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755 established for contempt of court. The coordinated strategy must
756 be provided in writing to the participant before the participant
757 agrees to enter into a pretrial treatment-based drug court
758 program or other pretrial intervention program. Any person whose
759 charges are dismissed after successful completion of the
760 treatment-based drug court program, if otherwise eligible, may
761 have his or her arrest record and plea of nolo contendere to the
762 dismissed charges expunged under s. 943.0584 ~~943.0585~~.

763 (2)

764 (b) While enrolled in a pretrial intervention program
765 authorized by this section, the participant shall be subject to
766 a coordinated strategy developed by a veterans' treatment
767 intervention team. The coordinated strategy should be modeled
768 after the therapeutic jurisprudence principles and key
769 components in s. 397.334(4), with treatment specific to the
770 needs of veterans and servicemembers. The coordinated strategy
771 may include a protocol of sanctions that may be imposed upon the
772 participant for noncompliance with program rules. The protocol
773 of sanctions may include, but need not be limited to, placement
774 in a treatment program offered by a licensed service provider or
775 in a jail-based treatment program or serving a period of
776 incarceration within the time limits established for contempt of
777 court. The coordinated strategy must be provided in writing to
778 the participant before the participant agrees to enter into a
779 misdemeanor pretrial veterans' treatment intervention program or
780 other pretrial intervention program. Any person whose charges
781 are dismissed after successful completion of the misdemeanor
782 pretrial veterans' treatment intervention program, if otherwise
783 eligible, may have his or her arrest record of the dismissed

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784 charges expunged under s. 943.0584 ~~943.0585~~.

785 Section 10. Paragraph (e) of subsection (1) of section
786 961.06, Florida Statutes, is amended to read:

787 961.06 Compensation for wrongful incarceration.—

788 (1) Except as otherwise provided in this act and subject to
789 the limitations and procedures prescribed in this section, a
790 person who is found to be entitled to compensation under the
791 provisions of this act is entitled to:

792 (e) Notwithstanding any provision to the contrary in s.
793 943.0583, 943.0584, or s. 943.0585, immediate administrative
794 expunction of the person's criminal record resulting from his or
795 her wrongful arrest, wrongful conviction, and wrongful
796 incarceration. The Department of Legal Affairs and the
797 Department of Law Enforcement shall, upon a determination that a
798 claimant is entitled to compensation, immediately take all
799 action necessary to administratively expunge the claimant's
800 criminal record arising from his or her wrongful arrest,
801 wrongful conviction, and wrongful incarceration. All fees for
802 this process shall be waived.

803

804 The total compensation awarded under paragraphs (a), (c), and
805 (d) may not exceed \$2 million. No further award for attorney
806 ~~attorney's~~ fees, lobbying fees, costs, or other similar expenses
807 shall be made by the state.

808 Section 11. Paragraph (b) of subsection (7) of section
809 985.04, Florida Statutes, is amended to read:

810 985.04 Oaths; records; confidential information.—

811 (7)

812 (b) The destruction of records pertaining to children

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813 committed to or supervised by the department pursuant to a court
814 order, which records are retained until a child reaches the age
815 of 21 ~~24~~ years or until a serious or habitual delinquent child
816 reaches the age of 26 years, shall be subject to chapter 943.

817 Section 12. Subsection (1) of section 985.045, Florida
818 Statutes, is amended to read:

819 985.045 Court records.—

820 (1) The clerk of the court shall make and keep records of
821 all cases brought before it under this chapter. The court shall
822 preserve the records pertaining to a child charged with
823 committing a delinquent act or violation of law until the child
824 reaches 21 ~~24~~ years of age or reaches 26 years of age if he or
825 she is a serious or habitual delinquent child, until 5 years
826 after the last entry was made, or until 3 years after the death
827 of the child, whichever is earlier, and may then destroy them,
828 except that records made of traffic offenses in which there is
829 no allegation of delinquency may be destroyed as soon as this
830 can be reasonably accomplished. The court shall make official
831 records of all petitions and orders filed in a case arising
832 under this chapter and of any other pleadings, certificates,
833 proofs of publication, summonses, warrants, and writs that are
834 filed pursuant to the case.

835 Section 13. Subsection (2) of section 985.345, Florida
836 Statutes, is amended to read:

837 985.345 Delinquency pretrial intervention program.—

838 (2) While enrolled in a delinquency pretrial intervention
839 program authorized by this section, a child is subject to a
840 coordinated strategy developed by a drug court team under s.
841 397.334(4). The coordinated strategy may include a protocol of

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842 sanctions that may be imposed upon the child for noncompliance
843 with program rules. The protocol of sanctions may include, but
844 is not limited to, placement in a substance abuse treatment
845 program offered by a licensed service provider as defined in s.
846 397.311 or serving a period of secure detention under this
847 chapter. The coordinated strategy must be provided in writing to
848 the child before the child agrees to enter the pretrial
849 treatment-based drug court program or other pretrial
850 intervention program. Any child whose charges are dismissed
851 after successful completion of the treatment-based drug court
852 program, if otherwise eligible, may have his or her arrest
853 record and plea of nolo contendere to the dismissed charges
854 expunged under s. 943.0584 ~~943.0585~~.

855 Section 14. This act shall take effect October 1, 2015.