

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

26 | criminal penalty for perjury on such sworn statement;
27 | providing guidelines for the processing of an order to
28 | expunge; providing the effect of the order to expunge
29 | on the criminal history record; specifying exceptions
30 | to the confidential and exempt status of an expunged
31 | criminal history record; requiring criminal justice
32 | agencies to destroy copies of records that have been
33 | expunged; specifying that no right to expunction is
34 | created; amending s. 943.059, F.S.; establishing a
35 | nonjudicial process within the Department of Law
36 | Enforcement for sealing of specified records;
37 | specifying records that are eligible for the process;
38 | providing exceptions to eligibility; establishing an
39 | application process and requiring specified
40 | documentation be submitted; requiring a sworn
41 | statement from petitioner; providing a criminal
42 | penalty for perjury on such sworn statement;
43 | specifying how the nonjudicial sealing must be
44 | processed; providing for the effect of a record that
45 | has been sealed under this section; amending ss.
46 | 776.09, 790.23, 943.0582, 948.08, 948.16, 961.06,
47 | 985.04, 985.045, and 985.345, F.S.; conforming
48 | provisions to changes made by the act; providing an
49 | appropriation; providing an effective date.

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51 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 943.0584, Florida Statutes, is created to read:

943.0584 Nonjudicial expunction of criminal history records.—

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

(2) ELIGIBILITY.—

(a) The department must approve the nonjudicial expunction of a criminal history record where:

1. An indictment, information, or other charging document was not filed or issued in the case.

2.a. Except as provided in sub-subparagraph b., an indictment, information, or other charging document was filed or issued in the case, but was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed or discharged by a court of competent jurisdiction.

b. A person may not obtain an expunction under this paragraph for a dismissal pursuant to s. 916.145 or s. 985.19.

3. An information, indictment, or other charging document was not filed or was dismissed by the state attorney, or

76 dismissed by the court, because it was found that the person
77 acted in lawful self-defense pursuant to the provisions related
78 to justifiable use of force in chapter 776.

79 4.a. Except as provided in sub-subparagraph b., a not
80 guilty verdict was rendered subsequent to a trial or
81 adjudicatory hearing.

82 b. A person may not obtain an expunction under this
83 paragraph for a verdict of not guilty by reason of insanity.

84 (b) A person may not obtain a nonjudicial expunction under
85 this section unless all charges stemming from the arrest or
86 alleged criminal activity to which the application for
87 expunction pertains were not filed or issued, dismissed, or
88 discharged, or resulted in an acquittal, as provided herein.

89 (3) LIMITATIONS.—There is no limitation on the number of
90 times that a person may obtain a nonjudicial expunction for a
91 criminal history record described in paragraph (2) (a). An
92 applicant seeking to have multiple records expunged need only
93 submit one application to the department under this section. The
94 department must approve the nonjudicial expunction of all
95 records pertaining to the applicant which are eligible for
96 expunction under this section.

97 (4) APPLICATION FOR NONJUDICIAL EXPUNCTION.—An adult or,
98 in the case of a minor child, the parent or legal guardian of
99 the minor child, seeking to expunge a criminal history record
100 under this section shall apply to the department in the manner

101 prescribed by rule. An application for a nonjudicial expunction
102 shall include:

103 (a)1. A written, certified statement from the appropriate
104 state attorney or statewide prosecutor which indicates that the
105 criminal history record sought to be expunged is eligible under
106 this section; or

107 2. For expunction of a record described in subparagraph
108 (2)(a)3., a written, certified statement from the appropriate
109 state attorney or statewide prosecutor which states that an
110 information, indictment, or other charging document was not
111 filed or was dismissed by the state attorney, or dismissed by
112 the court, because it was found that the person acted in lawful
113 self-defense pursuant to the provisions related to justifiable
114 use of force in chapter 776.

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

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

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

122 (5) PROCESSING OF A NONJUDICIAL EXPUNCTION.—If the
123 department approves an application for nonjudicial expunction, a
124 certified copy of the form approving the nonjudicial expunction
125 shall be forwarded to the appropriate state attorney or the

126 statewide prosecutor, the arresting agency, and the clerk of the
127 court. The arresting agency is responsible for forwarding the
128 form approving the nonjudicial expunction to any other agency to
129 which the arresting agency disseminated the criminal history
130 record information to which the form pertains. The department
131 shall forward the form approving the nonjudicial expunction to
132 the Federal Bureau of Investigation. The clerk of the court
133 shall forward a copy of the form to any other agency that the
134 records of the court reflect has received the criminal history
135 record from the court.

136 (6) EFFECT OF NONJUDICIAL EXPUNCTION.—A confidential and
137 exempt criminal history record expunged under this section shall
138 have the same effect, and such record may be disclosed by the
139 department in the same manner, as a record expunged under s.
140 943.0585.

141 (7) STATUTORY REFERENCES.—Any reference to any other
142 chapter, section, or subdivision of the Florida Statutes in this
143 section constitutes a general reference under the doctrine of
144 incorporation by reference.

145 Section 2. Section 943.0585, Florida Statutes, is amended
146 to read:

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

149 943.0585 Court-ordered expunction of criminal history
150 records.—

151 (1) JURISDICTION.—The courts of this state have
152 jurisdiction over their own procedures, including the
153 maintenance, expunction, and correction of judicial records
154 containing criminal history information to the extent such
155 procedures are not inconsistent with the conditions,
156 responsibilities, and duties established by this section. A
157 court of competent jurisdiction may order a criminal justice
158 agency to expunge the criminal history record of a minor or an
159 adult who complies with the requirements of this section.

160 (2) ELIGIBILITY.—

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

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

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

170 1. The person has, at any time before the date on which
171 the application for a certificate of eligibility is filed, been
172 adjudicated guilty for a felony offense or adjudicated
173 delinquent for an offense that would be a felony if committed by
174 an adult; or

175 2. The record relates to a serious offense in which the

176 person was found guilty of or adjudicated delinquent of, or pled
177 guilty or pled nolo contendere to the offense, regardless of
178 whether adjudication was withheld. For purposes of this
179 subparagraph, the term "serious offense" means a violation of s.
180 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
181 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
182 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
183 s. 916.1075, a violation enumerated in s. 907.041, or any
184 violation specified as a predicate offense for registration as a
185 sexual predator pursuant to s. 775.21, without regard to whether
186 that offense alone is sufficient to require such registration,
187 or for registration as a sexual offender pursuant to s.
188 943.0435.

189 (3) LIMITATIONS.—A court may only order the expunction of
190 one criminal history record described in paragraph (2) (a). A
191 person seeking an expunction under this section is not barred
192 from relief if the same criminal history record has previously
193 been approved for a nonjudicial sealing pursuant to s. 943.059.
194 The record expunged must pertain to one arrest or one incident
195 of alleged criminal activity. However, the court may, at its
196 sole discretion, order the expunction of a criminal history
197 record pertaining to more than one arrest or one incident of
198 alleged criminal activity if the additional arrests directly
199 relate to the original arrest. If the court intends to order the
200 expunction of records pertaining to such additional arrests,

201 such intent must be specified in the order. A criminal justice
202 agency may not expunge a record pertaining to such additional
203 arrests if the order to expunge does not articulate the
204 intention of the court to expunge a record pertaining to more
205 than one arrest. This subsection does not prevent the court from
206 ordering the expunction of only a portion of a criminal history
207 record pertaining to one arrest.

208 (4) CERTIFICATE OF ELIGIBILITY FOR COURT-ORDERED
209 EXPUNCTION.—

210 (a) A person seeking to expunge a criminal history record
211 under this section shall apply to the department for a
212 certificate of eligibility for expunction before petitioning the
213 court for expunction. The department shall issue a certificate
214 of eligibility for expunction to a person who is the subject of
215 a criminal history record if that person:

216 1. Has obtained and submitted to the department a written,
217 certified statement from the appropriate state attorney or
218 statewide prosecutor which indicates that the criminal history
219 record sought to be expunged is eligible under subsection (2).

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

223 3. Has submitted to the department a certified copy of the
224 disposition of the charge to which the petition to expunge
225 pertains.

226 4. Has never secured a prior sealing or expunction of a
227 criminal history record under this section, s. 943.059, former
228 s. 893.14, former 901.33, or former 943.058, unless expunction
229 is sought of a criminal history record that had been previously
230 sealed under former paragraph (2)(h) and the record is otherwise
231 eligible for expunction.

232 5. Is no longer under court supervision applicable to the
233 disposition of the arrest or alleged criminal activity to which
234 the petition to expunge pertains.

235 6. Has not been arrested for or charged with a criminal
236 offense, in any jurisdiction of the state or within the United
237 States, from the date the person completed all sentences of
238 imprisonment or supervisory sanctions imposed by the court for
239 the offense to which the petition to expunge pertains to the
240 date of the application for the certificate of eligibility. This
241 period of time must be no less than 1 year.

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

244 (b) A certificate of eligibility for expunction is valid
245 for 12 months after the date that the certificate is issued by
246 the department. After that time, the petitioner must reapply to
247 the department for a new certificate of eligibility. Eligibility
248 for a renewed certification of eligibility must be based on the
249 status of the applicant and the law in effect at the time of the
250 renewal application.

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

254 (5) PETITION FOR COURT-ORDERED EXPUNCTION.—

255 (a) The court shall not order a criminal justice agency to
256 expunge a criminal history record under this section until the
257 person seeking to expunge the record has applied for and
258 received a certificate of eligibility for expunction pursuant to
259 subsection (4). Each petition to a court to expunge a criminal
260 history record is complete only when accompanied by:

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

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

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

266 b. The petitioner is eligible for the expunction under
267 subsection (3).

268 c. He or she has not been arrested for or charged with a
269 criminal offense, in any jurisdiction of the state or within the
270 United States, during the period from the date that the person
271 completed all sentences of imprisonment or supervisory sanctions
272 imposed by the court for the offense to which the petition to
273 expunge pertains to the date of the application for the
274 certificate of eligibility. This period of time must be no less
275 than 1 year.

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276 (b) A person who knowingly provides false information on
277 the sworn statement required by subparagraph (a)2. commits a
278 felony of the third degree, punishable as provided in s.
279 775.082, s. 775.083, or s. 775.084.

280 (6) PROCESSING OF COURT-ORDERED EXPUNCTION.—

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

289 (b) If relief is granted by the court, the clerk of the
290 court shall certify copies of the order to the appropriate state
291 attorney or the statewide prosecutor and the arresting agency.
292 The arresting agency is responsible for forwarding the order to
293 any other agency to which the arresting agency disseminated the
294 criminal history record information to which the order pertains.
295 The department shall forward the order to expunge to the Federal
296 Bureau of Investigation. The clerk of the court shall certify a
297 copy of the order to any other agency which the records of the
298 court reflect has received the criminal history record from the
299 court.

300 (c) The department or any other criminal justice agency is

301 not required to act on an order to expunge entered by a court
302 when such order does not comply with the requirements of this
303 section. Upon receipt of such an order, the department must
304 notify the issuing court, the appropriate state attorney or
305 statewide prosecutor, the petitioner or the petitioner's
306 attorney, and the arresting agency of the reason for
307 noncompliance. The appropriate state attorney or statewide
308 prosecutor shall take action within 60 days after receiving the
309 order to correct the record and petition the court to void the
310 order. A cause of action, including contempt of court, does not
311 arise against a criminal justice agency for failure to comply
312 with an order to expunge when the petitioner for such order
313 failed to obtain the certificate of eligibility as required by
314 this section or such order does not otherwise comply with the
315 requirements of this section.

316 (7) EFFECT OF EXPUNCTION.—

317 (a) Any criminal history record of a minor or an adult
318 which is ordered expunged by a court of competent jurisdiction
319 pursuant to this section must be physically destroyed or
320 obliterated by any criminal justice agency having custody of
321 such record; except that any criminal history record in the
322 custody of the department must be retained in all cases.

323 (b) The person who is the subject of a criminal history
324 record that is expunged under this section or under other
325 provisions of law, including s. 943.0584, former s. 893.14,

326 former s. 901.33, and former s. 943.058, may lawfully deny or
327 fail to acknowledge the arrests covered by the expunged record,
328 except when the subject of the record:

329 1. Is a candidate for employment with a criminal justice
330 agency;

331 2. Is a defendant in a criminal prosecution;

332 3. Concurrently or subsequently seeks relief under this
333 section, s. 943.0583, or s. 943.059;

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

335 5. Is seeking to be employed or licensed by or to contract
336 with the Department of Children and Families, the Division of
337 Vocational Rehabilitation within the Department of Education,
338 the Agency for Health Care Administration, the Agency for
339 Persons with Disabilities, the Department of Health, the
340 Department of Elderly Affairs, or the Department of Juvenile
341 Justice or to be employed or used by such contractor or licensee
342 in a sensitive position having direct contact with children, the
343 disabled, or the elderly;

344 6. Is seeking to be employed or licensed by the Department
345 of Education, any district school board, any university
346 laboratory school, any charter school, any private or parochial
347 school, or any local governmental entity that licenses child
348 care facilities;

349 7. Is seeking to be licensed by the Division of Insurance
350 Agent and Agency Services within the Department of Financial

351 Services; or

352 8. Is seeking to be appointed as a guardian pursuant to s.
353 744.3125.

354 (c) Subject to the exceptions in paragraph (b), a person
355 who has been granted an expunction under this section, s.
356 943.0584, former s. 893.14, former s. 901.33, or former s.
357 943.058 may not be held under any law of this state to commit
358 perjury or to be otherwise liable for giving a false statement
359 by reason of such person's failure to recite or acknowledge an
360 expunged criminal history record.

361 (d) Notwithstanding any law to the contrary, a criminal
362 justice agency may comply with laws, court orders, and official
363 requests of other jurisdictions relating to expunction,
364 correction, or confidential handling of criminal history records
365 or information derived therefrom.

366 (8) STATUTORY REFERENCES.—Any reference to any other
367 chapter, section, or subdivision of the Florida Statutes in this
368 section constitutes a general reference under the doctrine of
369 incorporation by reference.

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

374 Section 3. Section 943.059, Florida Statutes, is amended
375 to read:

376 (Substantial rewording of section. See
 377 s. 943.059, F.S., for present text.)
 378 943.059 Nonjudicial sealing of criminal history records.-
 379 (1) NONJUDICIAL SEALING.-Notwithstanding any law dealing
 380 generally with the preservation and destruction of public
 381 records, the department may adopt a rule pursuant to chapter 120
 382 for the nonjudicial sealing of any criminal history record of a
 383 minor or an adult described in this section.
 384 (2) ELIGIBILITY.-
 385 (a) Except as provided in paragraph (b), the department
 386 must approve the nonjudicial sealing of a criminal history
 387 record where:
 388 1.a. The person was found guilty of, found to have
 389 committed, pled guilty to, or pled nolo contendere to an
 390 offense.
 391 b. None of the charges stemming from the arrest or alleged
 392 criminal activity to which the application for nonjudicial
 393 sealing pertains resulted in an adjudication of guilt or
 394 delinquency; or
 395 2. The person was adjudicated guilty or adjudicated
 396 delinquent for a nonviolent misdemeanor. For purposes of this
 397 subparagraph, the term "nonviolent misdemeanor" means a
 398 misdemeanor violation of:
 399 a. Section 562.11(2), s. 562.111, s. 806.101, s. 806.13,
 400 s. 810.08, s. 810.09, s. 810.10, s. 810.11, s. 810.115, s.

401 810.13, s. 812.014(3) (a), s. 823.01, s. 823.02, s. 856.011, s.
402 856.015, s. 870.02, s. 893.13(3), s. 893.13(6) (b), or s.
403 893.147(1), in which the petitioner was adjudicated guilty or
404 adjudicated delinquent; or

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

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

411 1. The person seeking the sealing has, at any time before
412 the date on which the application for nonjudicial sealing is
413 filed, been adjudicated guilty for a felony offense or
414 adjudicated delinquent for an offense which would be a felony if
415 committed by an adult; or

416 2. The record relates to a serious offense in which the
417 person was found guilty of or adjudicated delinquent of, or pled
418 guilty or pled nolo contendere to the offense, regardless of
419 whether adjudication was withheld. For purposes of this
420 subparagraph, the term "serious offense" means a violation of s.
421 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
422 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
423 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
424 s. 916.1075, a violation enumerated in s. 907.041, or any
425 violation specified as a predicate offense for registration as a

426 sexual predator pursuant to s. 775.21, without regard to whether
427 that offense alone is sufficient to require such registration,
428 or for registration as a sexual offender pursuant to s.
429 943.0435.

430 (3) LIMITATIONS.—The department may only approve the
431 sealing of one criminal history record described in paragraph
432 (2) (a). Each record sealed must pertain to one arrest or one
433 incident of alleged criminal activity. However, if the
434 department receives supporting documentation as described in
435 paragraph (4) (b) stating that additional arrests are directly
436 related to the arrest sought to be expunged, the department must
437 approve the sealing of a criminal history record pertaining to
438 the additional arrests. If the department approves the sealing
439 of records pertaining to such additional arrests, such intent
440 must be specified in the approval form. A criminal justice
441 agency may not seal any record pertaining to such additional
442 arrests if the department has not approved sealing records
443 pertaining to more than one arrest.

444 (4) APPLICATION FOR NONJUDICIAL SEALING.—An adult or, in
445 the case of a minor child, the parent or legal guardian of the
446 minor child, seeking to seal a criminal history record under
447 this section shall apply to the department in the manner
448 prescribed by rule. An application for nonjudicial sealing shall
449 include a:

450 (a) Written, certified statement from the appropriate

451 state attorney or statewide prosecutor which indicates that the
452 criminal history record sought to be sealed is eligible under
453 subsection (2).

454 (b) Written, certified statement from the appropriate
455 state attorney or statewide prosecutor which indicates any
456 additional arrests the applicant seeks to seal are directly
457 related to the original arrest, if applicable. If the state
458 attorney or statewide prosecutor does not confirm that the
459 additional arrests are directly related, the applicant has the
460 right to appeal this decision to the circuit court.

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

464 (d) Certified copy of the disposition of the charge to
465 which the application to seal pertains.

466 (e) Full set of fingerprints of the applicant taken by a
467 law enforcement agency for purposes of identity verification.

468 (f) Sworn, written statement from the applicant that he or
469 she:

470 1. Is no longer under court supervision applicable to the
471 disposition of the arrest or alleged criminal activity to which
472 the application to seal pertains.

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

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476 3. Has not been arrested for or charged with a criminal
477 offense, in any jurisdiction of the state or within the United
478 States, from the date the person completed all sentences of
479 imprisonment or supervisory sanctions imposed by the court for
480 the offense to which the application for nonjudicial sealing
481 pertains to the date of the application for the nonjudicial
482 sealing. This period of time must be no less than 1 year.

483 (g) A person who knowingly provides false information on
484 the sworn statement required by paragraph (f) commits a felony
485 of the third degree, punishable as provided in s. 775.082, s.
486 775.083, or s. 775.084.

487 (5) PROCESSING OF NONJUDICIAL SEALING.—

488 (a) If the department approves an application for a
489 nonjudicial sealing, a certified copy of the form approving the
490 nonjudicial sealing shall be forwarded to the appropriate state
491 attorney or the statewide prosecutor, the arresting agency, and
492 the clerk of the court. The arresting agency is responsible for
493 forwarding the form approving the nonjudicial sealing to any
494 other agency to which the arresting agency disseminated the
495 criminal history record information to which the form pertains.
496 The department shall forward the form approving the nonjudicial
497 sealing to the Federal Bureau of Investigation. The clerk of the
498 court shall forward a copy of the form to any other agency that
499 the records of the court reflect has received the criminal
500 history record from the court.

501 (b) The nonjudicial sealing of a criminal history record
502 pursuant to this section does not require that such record be
503 surrendered to the court, and such record shall continue to be
504 maintained by the department and other criminal justice
505 agencies.

506 (6) EFFECT OF SEALING.—

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

513 1. Is a candidate for employment with a criminal justice
514 agency;

515 2. Is a defendant in a criminal prosecution;

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

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

519 5. Is seeking to be employed or licensed by or to contract
520 with the Department of Children and Families, the Division of
521 Vocational Rehabilitation within the Department of Education,
522 the Agency for Health Care Administration, the Agency for
523 Persons with Disabilities, the Department of Health, the
524 Department of Elderly Affairs, or the Department of Juvenile
525 Justice or to be employed or used by such contractor or licensee

526 in a sensitive position having direct contact with children, the
527 disabled, or the elderly;

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

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

536 8. Is seeking to be licensed by the Division of Insurance
537 Agent and Agency Services within the Department of Financial
538 Services;

539 9. Is seeking to be appointed as a guardian pursuant to s.
540 744.3125; or

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

546 (b) Subject to the exceptions in paragraph (a), a person
547 who has been granted a sealing under this section, former s.
548 893.14, former s. 901.33, or former s. 943.058 may not be held
549 under any provision of law of this state to commit perjury or to
550 be otherwise liable for giving a false statement by reason of

551 such person's failure to recite or acknowledge a sealed criminal
552 history record.

553 (c) Notwithstanding any law to the contrary, a criminal
554 justice agency may comply with laws, court orders, and official
555 requests of other jurisdictions relating to sealing, correction,
556 or confidential handling of criminal history records or
557 information derived therefrom.

558 (7) STATUTORY REFERENCES.—Any reference to any other
559 chapter, section, or subdivision of the Florida Statutes in this
560 section constitutes a general reference under the doctrine of
561 incorporation by reference.

562 Section 4. Subsection (3) of section 776.09, Florida
563 Statutes, is amended to read:

564 776.09 Retention of records pertaining to persons found to
565 be acting in lawful self-defense; expunction of criminal history
566 records.—

567 (3) Under either condition described in subsection (1) or
568 subsection (2), the person accused may apply for the nonjudicial
569 expunction of a certificate of eligibility to expunge the
570 associated criminal history record, pursuant to s.
571 943.0584(2)(a)3. ~~943.0585(5)~~, notwithstanding the eligibility
572 requirements prescribed in s. 943.0584(2) and (4)(a)2
573 ~~943.0585(1)(b) or (2)~~.

574 Section 5. Paragraphs (b) and (d) of subsection (1) of
575 section 790.23, Florida Statutes, are amended to read:

576 790.23 Felons and delinquents; possession of firearms,
 577 ammunition, or electric weapons or devices unlawful.—

578 (1) It is unlawful for any person to own or to have in his
 579 or her care, custody, possession, or control any firearm,
 580 ammunition, or electric weapon or device, or to carry a
 581 concealed weapon, including a tear gas gun or chemical weapon or
 582 device, if that person has been:

583 (b)1. Found, in the courts of this state, to have
 584 committed a delinquent act that would be a felony if committed
 585 by an adult, such person meets the description of s.
 586 943.0515(1)(a), and such person is under 24 years of age; or

587 2. Found, in the courts of this state, to have committed a
 588 delinquent act that would be a felony if committed by an adult,
 589 such person meets the description of s. 943.0515(1)(b), and such
 590 person is under 21 years of age;

591 (d)1. Found to have committed a delinquent act in another
 592 state, territory, or country that would be a felony if committed
 593 by an adult and which was punishable by imprisonment for a term
 594 exceeding 1 year, such person meets the description of s.
 595 943.0515(1)(a), and such person is under 24 years of age; ~~or~~

596 2. Found to have committed a delinquent act in another
 597 state, territory, or country that would be a felony if committed
 598 by an adult and which was punishable by imprisonment for a term
 599 exceeding 1 year, such person meets the description of s.
 600 943.0515(1)(b), and such person is under 21 years of age; or

601 Section 6. Section 943.0582, Florida Statutes, is amended
 602 to read:

603 943.0582 Prearrest, postarrest, or teen court diversion
 604 program expunction.—

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

611 (2) (a) As used in this section, the term "expunction" has
 612 the same meaning ascribed in and effect as ss. 943.0584 and s.
 613 943.0585, except that:

614 1. The provisions of s. 943.0585(7)(b) ~~943.0585(4)(a)~~ do
 615 not apply, except that the criminal history record of a person
 616 whose record is expunged pursuant to this section shall be made
 617 available only to criminal justice agencies for the purpose of
 618 determining eligibility for prearrest, postarrest, or teen court
 619 diversion programs; when the record is sought as part of a
 620 criminal investigation; or when the subject of the record is a
 621 candidate for employment with a criminal justice agency. For all
 622 other purposes, a person whose record is expunged under this
 623 section may lawfully deny or fail to acknowledge the arrest and
 624 the charge covered by the expunged record.

625 2. Records maintained by local criminal justice agencies

626 in the county in which the arrest occurred that are eligible for
627 expunction pursuant to this section shall be sealed as the term
628 is used in s. 943.059.

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

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

636 (a) Submits an application for prearrest or postarrest
637 diversion expunction, on a form prescribed by the department,
638 signed by the minor's parent or legal guardian, or by the minor
639 if he or she has reached the age of majority at the time of
640 applying.

641 (b) Submits to the department, with the application, an
642 official written statement from the state attorney for the
643 county in which the arrest occurred certifying that he or she
644 has successfully completed that county's prearrest or postarrest
645 diversion program, that his or her participation in the program
646 was based on an arrest for a nonviolent misdemeanor, and that he
647 or she has not otherwise been charged by the state attorney
648 with, or found to have committed, any criminal offense or
649 comparable ordinance violation.

650 (c) Participated in a prearrest or postarrest diversion

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651 program that expressly authorizes or permits such expunction.

652 (d) Participated in a prearrest or postarrest diversion
653 program based on an arrest for a nonviolent misdemeanor that
654 would not qualify as an act of domestic violence as that term is
655 defined in s. 741.28.

656 (e) Has never been, before filing the application for
657 expunction, charged by the state attorney with, or found to have
658 committed, any criminal offense or comparable ordinance
659 violation.

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

665 (5) Expunction or sealing granted under this section does
666 not prevent the minor who receives such relief from seeking
667 ~~petitioning for~~ the expunction or sealing of a later criminal
668 history record as provided for in ss. 943.0583, 943.0584,
669 943.0585, and 943.059, if the minor is otherwise eligible under
670 those sections.

671 Section 7. Paragraph (b) of subsection (6) and paragraph
672 (b) of subsection (7) of section 948.08, Florida Statutes, are
673 amended to read:

674 948.08 Pretrial intervention program.—

675 (6)

676 (b) While enrolled in a pretrial intervention program
677 authorized by this subsection, the participant is subject to a
678 coordinated strategy developed by a drug court team under s.
679 397.334(4). The coordinated strategy may include a protocol of
680 sanctions that may be imposed upon the participant for
681 noncompliance with program rules. The protocol of sanctions may
682 include, but is not limited to, placement in a substance abuse
683 treatment program offered by a licensed service provider as
684 defined in s. 397.311 or in a jail-based treatment program or
685 serving a period of incarceration within the time limits
686 established for contempt of court. The coordinated strategy must
687 be provided in writing to the participant before the participant
688 agrees to enter into a pretrial treatment-based drug court
689 program or other pretrial intervention program. Any person whose
690 charges are dismissed after successful completion of the
691 treatment-based drug court program, if otherwise eligible, may
692 have his or her arrest record and plea of nolo contendere to the
693 dismissed charges expunged under s. 943.0584 ~~943.0585~~.

694 (7)

695 (b) While enrolled in a pretrial intervention program
696 authorized by this subsection, the participant shall be subject
697 to a coordinated strategy developed by a veterans' treatment
698 intervention team. The coordinated strategy should be modeled
699 after the therapeutic jurisprudence principles and key
700 components in s. 397.334(4), with treatment specific to the

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701 needs of servicemembers and veterans. The coordinated strategy
702 may include a protocol of sanctions that may be imposed upon the
703 participant for noncompliance with program rules. The protocol
704 of sanctions may include, but need not be limited to, placement
705 in a treatment program offered by a licensed service provider or
706 in a jail-based treatment program or serving a period of
707 incarceration within the time limits established for contempt of
708 court. The coordinated strategy must be provided in writing to
709 the participant before the participant agrees to enter into a
710 pretrial veterans' treatment intervention program or other
711 pretrial intervention program. Any person whose charges are
712 dismissed after successful completion of the pretrial veterans'
713 treatment intervention program, if otherwise eligible, may have
714 his or her arrest record of the dismissed charges expunged under
715 s. 943.0584 ~~943.0585~~.

716 Section 8. Paragraph (b) of subsection (1) and paragraph
717 (b) of subsection (2) of section 948.16, Florida Statutes, are
718 amended to read:

719 948.16 Misdemeanor pretrial substance abuse education and
720 treatment intervention program; misdemeanor pretrial veterans'
721 treatment intervention program; misdemeanor pretrial mental
722 health court program.—

723 (1)

724 (b) While enrolled in a pretrial intervention program
725 authorized by this section, the participant is subject to a

726 coordinated strategy developed by a drug court team under s.
 727 397.334(4). The coordinated strategy may include a protocol of
 728 sanctions that may be imposed upon the participant for
 729 noncompliance with program rules. The protocol of sanctions may
 730 include, but is not limited to, placement in a substance abuse
 731 treatment program offered by a licensed service provider as
 732 defined in s. 397.311 or in a jail-based treatment program or
 733 serving a period of incarceration within the time limits
 734 established for contempt of court. The coordinated strategy must
 735 be provided in writing to the participant before the participant
 736 agrees to enter into a pretrial treatment-based drug court
 737 program or other pretrial intervention program. Any person whose
 738 charges are dismissed after successful completion of the
 739 treatment-based drug court program, if otherwise eligible, may
 740 have his or her arrest record and plea of nolo contendere to the
 741 dismissed charges expunged under s. 943.0584 ~~943.0585~~.

742 (2)

743 (b) While enrolled in a pretrial intervention program
 744 authorized by this section, the participant shall be subject to
 745 a coordinated strategy developed by a veterans' treatment
 746 intervention team. The coordinated strategy should be modeled
 747 after the therapeutic jurisprudence principles and key
 748 components in s. 397.334(4), with treatment specific to the
 749 needs of veterans and servicemembers. The coordinated strategy
 750 may include a protocol of sanctions that may be imposed upon the

751 participant for noncompliance with program rules. The protocol
 752 of sanctions may include, but need not be limited to, placement
 753 in a treatment program offered by a licensed service provider or
 754 in a jail-based treatment program or serving a period of
 755 incarceration within the time limits established for contempt of
 756 court. The coordinated strategy must be provided in writing to
 757 the participant before the participant agrees to enter into a
 758 misdemeanor pretrial veterans' treatment intervention program or
 759 other pretrial intervention program. Any person whose charges
 760 are dismissed after successful completion of the misdemeanor
 761 pretrial veterans' treatment intervention program, if otherwise
 762 eligible, may have his or her arrest record of the dismissed
 763 charges expunged under s. 943.0584 ~~943.0585~~.

764 Section 9. Paragraph (e) of subsection (1) of section
 765 961.06, Florida Statutes, is amended to read:

766 961.06 Compensation for wrongful incarceration.—

767 (1) Except as otherwise provided in this act and subject
 768 to the limitations and procedures prescribed in this section, a
 769 person who is found to be entitled to compensation under the
 770 provisions of this act is entitled to:

771 (e) Notwithstanding any provision to the contrary in s.
 772 943.0583, s. 943.0584, or s. 943.0585, immediate administrative
 773 expunction of the person's criminal record resulting from his or
 774 her wrongful arrest, wrongful conviction, and wrongful
 775 incarceration. The Department of Legal Affairs and the

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776 Department of Law Enforcement shall, upon a determination that a
777 claimant is entitled to compensation, immediately take all
778 action necessary to administratively expunge the claimant's
779 criminal record arising from his or her wrongful arrest,
780 wrongful conviction, and wrongful incarceration. All fees for
781 this process shall be waived.

782

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

787 Section 10. Paragraph (b) of subsection (7) of section
788 985.04, Florida Statutes, is amended to read:

789 985.04 Oaths; records; confidential information.—

790 (7)

791 (b) The destruction of records pertaining to children
792 committed to or supervised by the department pursuant to a court
793 order, which records are retained until a child reaches the age
794 of 21 24 years or until a serious or habitual delinquent child
795 reaches the age of 26 years, shall be subject to chapter 943.

796 Section 11. Subsection (1) of section 985.045, Florida
797 Statutes, is amended to read:

798 985.045 Court records.—

799 (1) The clerk of the court shall make and keep records of
800 all cases brought before it under this chapter. The court shall

801 preserve the records pertaining to a child charged with
802 committing a delinquent act or violation of law until the child
803 reaches 21 ~~24~~ years of age or reaches 26 years of age if he or
804 she is a serious or habitual delinquent child, until 5 years
805 after the last entry was made, or until 3 years after the death
806 of the child, whichever is earlier, and may then destroy them,
807 except that records made of traffic offenses in which there is
808 no allegation of delinquency may be destroyed as soon as this
809 can be reasonably accomplished. The court shall make official
810 records of all petitions and orders filed in a case arising
811 under this chapter and of any other pleadings, certificates,
812 proofs of publication, summonses, warrants, and writs that are
813 filed pursuant to the case.

814 Section 12. Paragraph (c) of subsection (2) of section
815 985.345, Florida Statutes, is amended to read:

816 985.345 Delinquency pretrial intervention programs.—

817 (2)

818 (c) A child whose charges are dismissed after successful
819 completion of the delinquency pretrial mental health court
820 intervention program, if otherwise eligible, may have his or her
821 criminal history record for such charges expunged under s.
822 943.0584 ~~943.0585~~.

823 Section 13. For the 2017-2018 fiscal year, the sum of
824 \$500,000 in recurring funds is appropriated from the Operating
825 Trust Fund of the Department of Law Enforcement from revenues

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826 | received pursuant to ss. 943.0584 and 943.0585, Florida
827 | Statutes, to the Department of Law Enforcement to provide for
828 | the sealing and expunction of criminal history records pursuant
829 | to this act. The Department of Law Enforcement may submit budget
830 | amendments pursuant to chapter 216, Florida Statutes, requesting
831 | an increase in budget authority based on workload increases
832 | resulting from this act.

833 | Section 14. This act shall take effect October 1, 2017.