

By Senator Rodriguez

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1                                   A bill to be entitled  
2       An act relating to determining bail; amending s.  
3       903.046, F.S.; specifying the purpose of a bail  
4       determination; creating a presumption for the release  
5       of arrested individuals while they await trial;  
6       requiring the release of individuals on their own  
7       recognizance if they do not pose a substantial risk of  
8       flight or harm to the community; authorizing a court  
9       to impose reasonable nonmonetary bail conditions for  
10      pretrial release; requiring a court to consider  
11      certain factors and follow specific guidelines when  
12      determining whether to release a defendant on  
13      nonmonetary conditions; amending s. 907.041, F.S.;  
14      revising legislative intent; deleting provisions  
15      relating to a prohibition of release on nonmonetary  
16      conditions under certain supervision; prohibiting a  
17      court from granting pretrial release for a person  
18      charged with a dangerous crime under certain  
19      circumstances; revising the list of offenses that are  
20      defined as dangerous crimes; deleting provisions  
21      relating to certain offenses committed by a defendant  
22      for which a court is authorized to order pretrial  
23      detention after a court's review; specifying that a  
24      state attorney must show the need for pretrial  
25      detention by a certain standard of evidence; requiring  
26      a court to make certain written findings and  
27      conclusions in a pretrial detention order; deleting a  
28      provision relating to a legislative finding; deleting  
29      a provision requiring a court to order pretrial

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30 detention under certain circumstances if the court  
31 makes certain findings; amending s. 790.065, F.S.;  
32 conforming a cross-reference; reenacting ss. 943.0585  
33 and 943.059, F.S., relating to court-ordered  
34 expunction of criminal history records and court-  
35 ordered sealing of criminal history records,  
36 respectively, to incorporate the amendment made to s.  
37 907.041, F.S., in references thereto; providing an  
38 effective date.

39  
40 Be It Enacted by the Legislature of the State of Florida:

41  
42 Section 1. Section 903.046, Florida Statutes, is amended to  
43 read:

44 903.046 Nonmonetary bail determinations and pretrial  
45 release ~~Purpose of and criteria for bail determination.~~

46 (1) The purpose of a nonmonetary bail determination in  
47 criminal proceedings is to ensure the appearance of the criminal  
48 defendant at subsequent proceedings and to protect the community  
49 against the risk of danger from the criminal defendant.

50 (2) An individual is presumed innocent until proven guilty,  
51 and thus, there is a presumption that an individual arrested for  
52 allegedly committing a crime will be released while he or she  
53 awaits trial.

54 (3) An individual who does not pose a substantial risk of  
55 flight or harm to the community must be released on his or her  
56 own recognizance.

57 (4) Additionally, a court may impose only reasonable  
58 nonmonetary bail conditions on a defendant's pretrial release,

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59 as monetary bail creates a system where indigent persons are  
60 confined to jail simply because they cannot afford bail and  
61 wealthier individuals are able to remain in the community simply  
62 because they have access to sufficient funds. The right to be  
63 free from confinement should not be determined based on an  
64 individual's financial ability to post bail ~~The purpose of a~~  
65 ~~bail determination in criminal proceedings is to ensure the~~  
66 ~~appearance of the criminal defendant at subsequent proceedings~~  
67 ~~and to protect the community against unreasonable danger from~~  
68 ~~the criminal defendant.~~

69 (5) ~~(2)~~ When determining whether to release a defendant on  
70 nonmonetary bail or other conditions, and what ~~that bail or~~  
71 those conditions may be, the court shall ~~consider~~:

72 (a) Consider the nature and circumstances of the offense  
73 charged.

74 (b) Consider the weight of the evidence against the  
75 defendant.

76 (c) Consider the defendant's family ties, length of  
77 residence in the community, employment history, financial  
78 resources, and mental condition.

79 (d) Consider the defendant's past and present conduct,  
80 including any record of convictions, previous flight to avoid  
81 prosecution, or failure to appear at court proceedings. ~~However,~~  
82 ~~any defendant who had failed to appear on the day of any~~  
83 ~~required court proceeding in the case at issue, but who had~~  
84 ~~later voluntarily appeared or surrendered, shall not be eligible~~  
85 ~~for a recognizance bond; and any defendant who failed to appear~~  
86 ~~on the day of any required court proceeding in the case at issue~~  
87 ~~and who was later arrested shall not be eligible for a~~

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88 ~~recognizance bond or for any form of bond which does not require~~  
89 ~~a monetary undertaking or commitment equal to or greater than~~  
90 ~~\$2,000 or twice the value of the monetary commitment or~~  
91 ~~undertaking of the original bond, whichever is greater.~~

92 Notwithstanding anything in this section, the court has  
93 discretion in determining conditions of release if the defendant  
94 proves that circumstances beyond his or her control ~~for~~ resulted  
95 in the failure to appear. ~~This section may not be construed as~~  
96 ~~imposing additional duties or obligations on a governmental~~  
97 ~~entity related to monetary bonds.~~

98 (e) Consider the nature and probability of danger which the  
99 defendant's release poses to the community.

100 (f) ~~The source of funds used to post bail or procure an~~  
101 ~~appearance bond, particularly whether the proffered funds, real~~  
102 ~~property, property, or any proposed collateral or bond premium~~  
103 ~~may be linked to or derived from the crime alleged to have been~~  
104 ~~committed or from any other criminal or illicit activities. The~~  
105 ~~burden of establishing the noninvolvement in or nonderivation~~  
106 ~~from criminal or other illicit activity of such proffered funds,~~  
107 ~~real property, property, or any proposed collateral or bond~~  
108 ~~premium falls upon the defendant or other person proffering them~~  
109 ~~to obtain the defendant's release.~~

110 ~~(g)~~ Consider whether the defendant is already on release  
111 pending resolution of another criminal proceeding or on  
112 probation, parole, or other release pending completion of a  
113 sentence.

114 ~~(h) The street value of any drug or controlled substance~~  
115 ~~connected to or involved in the criminal charge. It is the~~  
116 ~~finding and intent of the Legislature that crimes involving~~

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117 ~~drugs and other controlled substances are of serious social~~  
118 ~~concern, that the flight of defendants to avoid prosecution is~~  
119 ~~of similar serious social concern, and that frequently such~~  
120 ~~defendants are able to post monetary bail using the proceeds of~~  
121 ~~their unlawful enterprises to defeat the social utility of~~  
122 ~~pretrial bail. Therefore, the courts should carefully consider~~  
123 ~~the utility and necessity of substantial bail in relation to the~~  
124 ~~street value of the drugs or controlled substances involved.~~

125 (g)~~(i)~~ Consider the nature and probability of intimidation  
126 and danger to victims.

127 (h)~~(j)~~ Consider whether there is probable cause to believe  
128 that the defendant committed a new crime while on pretrial  
129 release.

130 (i)~~(k)~~ Consider any other facts that the court considers  
131 relevant.

132 (j)~~(l)~~ Consider whether the crime charged is a violation of  
133 chapter 874 or alleged to be subject to enhanced punishment  
134 under chapter 874 or reclassification under s. 843.22. If any  
135 such violation is charged against a defendant or if the  
136 defendant is charged with a crime that is alleged to be subject  
137 to such enhancement or reclassification, he or she is not  
138 eligible for release on bail or surety bond until the first  
139 appearance on the case in order to ensure the full participation  
140 of the prosecutor and the protection of the public.

141 (k)~~(m)~~ Consider whether the defendant, other than a  
142 defendant whose only criminal charge is a misdemeanor offense  
143 under chapter 316, is required to register as a sexual offender  
144 under s. 943.0435 or a sexual predator under s. 775.21; and, if  
145 so, he or she is not eligible for release on bail or surety bond

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146 until the first appearance on the case in order to ensure the  
147 full participation of the prosecutor and the protection of the  
148 public.

149 (1) Impose the least restrictive conditions or combination  
150 of conditions necessary to reasonably assure the appearance of  
151 the accused, the safety of any person or the community, and the  
152 integrity of judicial proceedings.

153 Section 2. Subsections (1) and (3) and paragraphs (a), (b),  
154 (c), (g), (i), and (l) of subsection (4) of section 907.041,  
155 Florida Statutes, are amended to read:

156 907.041 Pretrial detention and release.—

157 (1) LEGISLATIVE INTENT.—It is the policy of this state that  
158 persons who pose committing serious criminal offenses, posing a  
159 threat to the safety of the community which cannot be  
160 sufficiently mitigated by nonmonetary conditions of release or  
161 the integrity of the judicial process, or failing to appear at  
162 trial be detained upon arrest. In contrast However, persons not  
163 posing a threat to the safety of the community found to meet  
164 specified criteria shall be released until under certain  
165 conditions until proceedings are concluded and adjudication has  
166 been determined. The Legislature finds that this policy of  
167 pretrial detention and release will assure the detention of  
168 those persons posing a threat to society while reducing the  
169 costs for incarceration by releasing, until trial, those persons  
170 not considered a danger to the community who meet certain  
171 criteria. It is the intent of the Legislature that the primary  
172 consideration for detaining an individual is whether the  
173 individual presents a be the protection of the community from  
174 risk of physical harm to persons.

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175 (3) RELEASE ON NONMONETARY CONDITIONS.—

176 ~~(a) It is the intent of the Legislature that individuals~~  
177 ~~arrested for a crime who do not pose a threat to the safety of~~  
178 ~~the community shall be released to create a presumption in favor~~  
179 ~~of release on nonmonetary conditions while they await trial for~~  
180 ~~any person who is granted pretrial release unless such person is~~  
181 ~~charged with a dangerous crime as defined in subsection (4).~~  
182 ~~Such person shall be released on monetary conditions if it is~~  
183 ~~determined that such monetary conditions are necessary to assure~~  
184 ~~the presence of the person at trial or at other proceedings, to~~  
185 ~~protect the community from risk of physical harm to persons, to~~  
186 ~~assure the presence of the accused at trial, or to assure the~~  
187 ~~integrity of the judicial process.~~

188 ~~(b) No person shall be released on nonmonetary conditions~~  
189 ~~under the supervision of a pretrial release service, unless the~~  
190 ~~service certifies to the court that it has investigated or~~  
191 ~~otherwise verified:~~

192 ~~1. The circumstances of the accused's family, employment,~~  
193 ~~financial resources, character, mental condition, and length of~~  
194 ~~residence in the community;~~

195 ~~2. The accused's record of convictions, of appearances at~~  
196 ~~court proceedings, of flight to avoid prosecution, or of failure~~  
197 ~~to appear at court proceedings; and~~

198 ~~3. Other facts necessary to assist the court in its~~  
199 ~~determination of the indigency of the accused and whether she or~~  
200 ~~he should be released under the supervision of the service.~~

201 (4) PRETRIAL DETENTION.—

202 (a) A person charged with a dangerous crime, as defined in  
203 paragraph (b), may not be granted pretrial release at a first

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204 appearance hearing; however, the court may release the accused  
 205 person on electronic monitoring or on recognizance bond if the  
 206 findings on the record of facts and circumstances warrant such a  
 207 release.

208 (b) As used in this subsection, "dangerous crime" means any  
 209 of the following:

210 1. ~~Arson;~~

211 2. Aggravated assault with a deadly weapon;

212 ~~2.3. Aggravated battery;~~

213 ~~4. Illegal use of explosives;~~

214 ~~3.5. Child abuse or aggravated child abuse;~~

215 ~~4.6. Abuse of an elderly person or disabled adult, or~~

216 Aggravated abuse of an elderly person or a disabled adult;

217 ~~5.7. Aircraft piracy;~~

218 ~~6.8. Kidnapping;~~

219 ~~7.9. Homicide;~~

220 ~~8.10. Manslaughter;~~

221 ~~9.11. Sexual battery;~~

222 ~~10.12. Armed robbery;~~

223 ~~11.13. Carjacking;~~

224 ~~12.14. Lewd, lascivious, or indecent assault or act upon or~~  
 225 ~~in presence of a child under the age of 16 years;~~

226 ~~13.15. Sexual activity with a child, who is 12 years of age~~  
 227 ~~or older but less than 18 years of age, by or at solicitation of~~  
 228 ~~a person in familial or custodial authority;~~

229 ~~14.16. Armed burglary of an occupied a dwelling, structure,~~  
 230 ~~or conveyance;~~

231 ~~15.17. Stalking and aggravated stalking;~~

232 ~~16.18. An act of domestic violence as defined in s. 741.28;~~



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233       ~~17.19.~~ Home invasion robbery;  
234       ~~18.20.~~ An act of terrorism as defined in s. 775.30; and  
235       ~~21. Manufacturing any substances in violation of chapter~~  
236       ~~893;~~  
237       ~~22. Attempting or conspiring to commit any such crime; and~~  
238       ~~19.23.~~ Human trafficking.

239       ~~(b) No person charged with a dangerous crime shall be~~  
240       ~~granted nonmonetary pretrial release at a first appearance~~  
241       ~~hearing; however, the court shall retain the discretion to~~  
242       ~~release an accused on electronic monitoring or on recognizance~~  
243       ~~bond if the findings on the record of facts and circumstances~~  
244       ~~warrant such a release.~~

245       (c) The court may order pretrial detention if it finds a  
246       substantial probability, based on a defendant's past and present  
247       patterns of behavior, the criteria in s. 903.046, and any other  
248       relevant facts, that any of the following circumstances exist:

249           1. The defendant has previously violated conditions of  
250       release and that no further conditions of release are reasonably  
251       likely to assure the defendant's appearance at subsequent  
252       proceedings;

253           2. The defendant, with the intent to obstruct the judicial  
254       process, has threatened, intimidated, or injured any victim,  
255       potential witness, juror, or judicial officer, or has attempted  
256       or conspired to do so, and that no condition of release will  
257       reasonably prevent the obstruction of the judicial process;

258           ~~3. The defendant is charged with trafficking in controlled~~  
259       ~~substances as defined by s. 893.135, that there is a substantial~~  
260       ~~probability that the defendant has committed the offense, and~~  
261       ~~that no conditions of release will reasonably assure the~~

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262 ~~defendant's appearance at subsequent criminal proceedings;~~

263 ~~4. The defendant is charged with DUI manslaughter, as~~  
264 ~~defined by s. 316.193, and that there is a substantial~~  
265 ~~probability that the defendant committed the crime and that the~~  
266 ~~defendant poses a threat of harm to the community; conditions~~  
267 ~~that would support a finding by the court pursuant to this~~  
268 ~~subparagraph that the defendant poses a threat of harm to the~~  
269 ~~community include, but are not limited to, any of the following:~~

270 ~~a. The defendant has previously been convicted of any crime~~  
271 ~~under s. 316.193, or of any crime in any other state or~~  
272 ~~territory of the United States that is substantially similar to~~  
273 ~~any crime under s. 316.193;~~

274 ~~b. The defendant was driving with a suspended driver~~  
275 ~~license when the charged crime was committed; or~~

276 ~~e. The defendant has previously been found guilty of, or~~  
277 ~~has had adjudication of guilt withheld for, driving while the~~  
278 ~~defendant's driver license was suspended or revoked in violation~~  
279 ~~of s. 322.34;~~

280 ~~3.5.~~ The defendant poses the threat of harm to the  
281 community. The court may so conclude, if it finds that the  
282 defendant is presently charged with a dangerous crime as defined  
283 in paragraph (b), that there is a substantial probability that  
284 the defendant committed the ~~such~~ crime, that the factual  
285 circumstances of the crime indicate a disregard for the safety  
286 of the community, and that there are no conditions of release  
287 reasonably sufficient to protect the community from the risk of  
288 physical harm to persons;

289 ~~4.6.~~ The defendant was on probation, parole, or other  
290 release pending completion of sentence or on pretrial release

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291 for a dangerous crime at the time the current offense was  
292 committed;

293 ~~5.7.~~ The defendant has violated one or more conditions of  
294 pretrial release or bond for the offense currently before the  
295 court and the violation, in the discretion of the court,  
296 supports a finding that no conditions of release can reasonably  
297 protect the community from risk of physical harm to persons or  
298 assure the presence of the accused at trial; or

299 ~~6.a.8.a.~~ The defendant has ever been sentenced pursuant to  
300 s. 775.082(9) or s. 775.084 as a prison releasee reoffender,  
301 habitual violent felony offender, three-time violent felony  
302 offender, or violent career criminal, or the state attorney  
303 files a notice seeking that the defendant be sentenced pursuant  
304 to s. 775.082(9) or s. 775.084, as a prison releasee reoffender,  
305 habitual violent felony offender, three-time violent felony  
306 offender, or violent career criminal;

307 b. There is a substantial probability that the defendant  
308 committed the offense; and

309 c. There are no conditions of release that can reasonably  
310 protect the community from risk of physical harm or ensure the  
311 presence of the accused at trial.

312 (g) The state attorney has the burden of showing the need  
313 for pretrial detention by clear and convincing evidence.

314 (i) The pretrial detention order of the court shall be  
315 based solely upon evidence produced at the hearing and shall  
316 contain written findings of fact and conclusions of law to  
317 support it. ~~The order shall be made either in writing or orally~~  
318 ~~on the record.~~ The court shall render its findings within 24  
319 hours after ~~of~~ the pretrial detention hearing.

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320       ~~(1) The Legislature finds that a person who manufactures~~  
321 ~~any substances in violation of chapter 893 poses a threat of~~  
322 ~~harm to the community and that the factual circumstances of such~~  
323 ~~a crime indicate a disregard for the safety of the community.~~  
324 ~~The court shall order pretrial detention if the court finds that~~  
325 ~~there is a substantial probability that a defendant charged with~~  
326 ~~manufacturing any substances in violation of chapter 893~~  
327 ~~committed such a crime and if the court finds that there are no~~  
328 ~~conditions of release reasonably sufficient to protect the~~  
329 ~~community from the risk of physical harm to persons.~~

330       Section 3. Paragraph (c) of subsection (2) of section  
331 790.065, Florida Statutes, is amended to read:

332       790.065 Sale and delivery of firearms.—

333       (2) Upon receipt of a request for a criminal history record  
334 check, the Department of Law Enforcement shall, during the  
335 licensee's call or by return call, forthwith:

336       (c)1. Review any records available to it to determine  
337 whether the potential buyer or transferee has been indicted or  
338 has had an information filed against her or him for an offense  
339 that is a felony under either state or federal law, or, as  
340 mandated by federal law, has had an injunction for protection  
341 against domestic violence entered against the potential buyer or  
342 transferee under s. 741.30, has had an injunction for protection  
343 against repeat violence entered against the potential buyer or  
344 transferee under s. 784.046, or has been arrested for a  
345 dangerous crime as specified in s. 907.041(4)(b) ~~s.~~

346 ~~907.041(4)(a)~~ or for any of the following enumerated offenses:

347       a. Criminal anarchy under ss. 876.01 and 876.02.

348       b. Extortion under s. 836.05.

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- 349 c. Explosives violations under s. 552.22(1) and (2).  
350 d. Controlled substances violations under chapter 893.  
351 e. Resisting an officer with violence under s. 843.01.  
352 f. Weapons and firearms violations under this chapter.  
353 g. Treason under s. 876.32.  
354 h. Assisting self-murder under s. 782.08.  
355 i. Sabotage under s. 876.38.  
356 j. Stalking or aggravated stalking under s. 784.048.

357

358 If the review indicates any such indictment, information, or  
359 arrest, the department shall provide to the licensee a  
360 conditional nonapproval number.

361 2. Within 24 working hours, the department shall determine  
362 the disposition of the indictment, information, or arrest and  
363 inform the licensee as to whether the potential buyer is  
364 prohibited from receiving or possessing a firearm. For purposes  
365 of this paragraph, "working hours" means the hours from 8 a.m.  
366 to 5 p.m. Monday through Friday, excluding legal holidays.

367 3. The office of the clerk of court, at no charge to the  
368 department, shall respond to any department request for data on  
369 the disposition of the indictment, information, or arrest as  
370 soon as possible, but in no event later than 8 working hours.

371 4. The department shall determine as quickly as possible  
372 within the allotted time period whether the potential buyer is  
373 prohibited from receiving or possessing a firearm.

374 5. If the potential buyer is not so prohibited, or if the  
375 department cannot determine the disposition information within  
376 the allotted time period, the department shall provide the  
377 licensee with a conditional approval number.

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378           6. If the buyer is so prohibited, the conditional  
379 nonapproval number shall become a nonapproval number.

380           7. The department shall continue its attempts to obtain the  
381 disposition information and may retain a record of all approval  
382 numbers granted without sufficient disposition information. If  
383 the department later obtains disposition information which  
384 indicates:

385           a. That the potential buyer is not prohibited from owning a  
386 firearm, it shall treat the record of the transaction in  
387 accordance with this section; or

388           b. That the potential buyer is prohibited from owning a  
389 firearm, it shall immediately revoke the conditional approval  
390 number and notify local law enforcement.

391           8. During the time that disposition of the indictment,  
392 information, or arrest is pending and until the department is  
393 notified by the potential buyer that there has been a final  
394 disposition of the indictment, information, or arrest, the  
395 conditional nonapproval number shall remain in effect.

396           Section 4. For the purpose of incorporating the amendment  
397 made by this act to section 907.041, Florida Statutes, in a  
398 reference thereto, section 943.0585, Florida Statutes, is  
399 reenacted to read:

400           943.0585 Court-ordered expunction of criminal history  
401 records.—The courts of this state have jurisdiction over their  
402 own procedures, including the maintenance, expunction, and  
403 correction of judicial records containing criminal history  
404 information to the extent such procedures are not inconsistent  
405 with the conditions, responsibilities, and duties established by  
406 this section. Any court of competent jurisdiction may order a

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407 criminal justice agency to expunge the criminal history record  
408 of a minor or an adult who complies with the requirements of  
409 this section. The court shall not order a criminal justice  
410 agency to expunge a criminal history record until the person  
411 seeking to expunge a criminal history record has applied for and  
412 received a certificate of eligibility for expunction pursuant to  
413 subsection (2) or subsection (5). A criminal history record that  
414 relates to a violation of s. 393.135, s. 394.4593, s. 787.025,  
415 chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,  
416 s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,  
417 s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in  
418 s. 907.041, or any violation specified as a predicate offense  
419 for registration as a sexual predator pursuant to s. 775.21,  
420 without regard to whether that offense alone is sufficient to  
421 require such registration, or for registration as a sexual  
422 offender pursuant to s. 943.0435, may not be expunged, without  
423 regard to whether adjudication was withheld, if the defendant  
424 was found guilty of or pled guilty or nolo contendere to the  
425 offense, or if the defendant, as a minor, was found to have  
426 committed, or pled guilty or nolo contendere to committing, the  
427 offense as a delinquent act. The court may only order expunction  
428 of a criminal history record pertaining to one arrest or one  
429 incident of alleged criminal activity, except as provided in  
430 this section. The court may, at its sole discretion, order the  
431 expunction of a criminal history record pertaining to more than  
432 one arrest if the additional arrests directly relate to the  
433 original arrest. If the court intends to order the expunction of  
434 records pertaining to such additional arrests, such intent must  
435 be specified in the order. A criminal justice agency may not

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436 expunge any record pertaining to such additional arrests if the  
437 order to expunge does not articulate the intention of the court  
438 to expunge a record pertaining to more than one arrest. This  
439 section does not prevent the court from ordering the expunction  
440 of only a portion of a criminal history record pertaining to one  
441 arrest or one incident of alleged criminal activity.

442 Notwithstanding any law to the contrary, a criminal justice  
443 agency may comply with laws, court orders, and official requests  
444 of other jurisdictions relating to expunction, correction, or  
445 confidential handling of criminal history records or information  
446 derived therefrom. This section does not confer any right to the  
447 expunction of any criminal history record, and any request for  
448 expunction of a criminal history record may be denied at the  
449 sole discretion of the court.

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

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

455 (b) The petitioner's sworn statement attesting that the  
456 petitioner:

457 1. Has never, prior to the date on which the petition is  
458 filed, been adjudicated guilty of a criminal offense or  
459 comparable ordinance violation, or been adjudicated delinquent  
460 for committing any felony or a misdemeanor specified in s.  
461 943.051(3)(b).

462 2. Has not been adjudicated guilty of, or adjudicated  
463 delinquent for committing, any of the acts stemming from the  
464 arrest or alleged criminal activity to which the petition



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465 pertains.

466 3. Has never secured a prior sealing or expunction of a  
467 criminal history record under this section, s. 943.059, former  
468 s. 893.14, former s. 901.33, or former s. 943.058, unless  
469 expunction is sought of a criminal history record previously  
470 sealed for 10 years pursuant to paragraph (2) (h) and the record  
471 is otherwise eligible for expunction.

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

475  
476 Any person who knowingly provides false information on such  
477 sworn statement to the court commits a felony of the third  
478 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
479 775.084.

480 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to  
481 petitioning the court to expunge a criminal history record, a  
482 person seeking to expunge a criminal history record shall apply  
483 to the department for a certificate of eligibility for  
484 expunction. The department shall, by rule adopted pursuant to  
485 chapter 120, establish procedures pertaining to the application  
486 for and issuance of certificates of eligibility for expunction.  
487 A certificate of eligibility for expunction is valid for 12  
488 months after the date stamped on the certificate when issued by  
489 the department. After that time, the petitioner must reapply to  
490 the department for a new certificate of eligibility. Eligibility  
491 for a renewed certification of eligibility must be based on the  
492 status of the applicant and the law in effect at the time of the  
493 renewal application. The department shall issue a certificate of

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494 eligibility for expunction to a person who is the subject of a  
495 criminal history record if that person:

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

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

501 2. That an indictment, information, or other charging  
502 document, if filed or issued in the case, was dismissed or nolle  
503 prosequi by the state attorney or statewide prosecutor, or was  
504 dismissed by a court of competent jurisdiction, and that none of  
505 the charges related to the arrest or alleged criminal activity  
506 to which the petition to expunge pertains resulted in a trial,  
507 without regard to whether the outcome of the trial was other  
508 than an adjudication of guilt.

509 3. That the criminal history record does not relate to a  
510 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
511 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,  
512 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,  
513 s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,  
514 or any violation specified as a predicate offense for  
515 registration as a sexual predator pursuant to s. 775.21, without  
516 regard to whether that offense alone is sufficient to require  
517 such registration, or for registration as a sexual offender  
518 pursuant to s. 943.0435, where the defendant was found guilty  
519 of, or pled guilty or nolo contendere to any such offense, or  
520 that the defendant, as a minor, was found to have committed, or  
521 pled guilty or nolo contendere to committing, such an offense as  
522 a delinquent act, without regard to whether adjudication was

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523 withheld.

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

527 (c) Has submitted to the department a certified copy of the  
528 disposition of the charge to which the petition to expunge  
529 pertains.

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

535 (e) Has not been adjudicated guilty of, or adjudicated  
536 delinquent for committing, any of the acts stemming from the  
537 arrest or alleged criminal activity to which the petition to  
538 expunge pertains.

539 (f) Has never secured a prior sealing or expunction of a  
540 criminal history record under this section, s. 943.059, former  
541 s. 893.14, former s. 901.33, or former s. 943.058, unless  
542 expunction is sought of a criminal history record previously  
543 sealed for 10 years pursuant to paragraph (h) and the record is  
544 otherwise eligible for expunction.

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

548 (h) Has previously obtained a court order sealing the  
549 record under this section, former s. 893.14, former s. 901.33,  
550 or former s. 943.058 for a minimum of 10 years because  
551 adjudication was withheld or because all charges related to the

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552 arrest or alleged criminal activity to which the petition to  
553 expunge pertains were not dismissed prior to trial, without  
554 regard to whether the outcome of the trial was other than an  
555 adjudication of guilt. The requirement for the record to have  
556 previously been sealed for a minimum of 10 years does not apply  
557 when a plea was not entered or all charges related to the arrest  
558 or alleged criminal activity to which the petition to expunge  
559 pertains were dismissed prior to trial.

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

561 (a) In judicial proceedings under this section, a copy of  
562 the completed petition to expunge shall be served upon the  
563 appropriate state attorney or the statewide prosecutor and upon  
564 the arresting agency; however, it is not necessary to make any  
565 agency other than the state a party. The appropriate state  
566 attorney or the statewide prosecutor and the arresting agency  
567 may respond to the court regarding the completed petition to  
568 expunge.

569 (b) If relief is granted by the court, the clerk of the  
570 court shall certify copies of the order to the appropriate state  
571 attorney or the statewide prosecutor and the arresting agency.  
572 The arresting agency is responsible for forwarding the order to  
573 any other agency to which the arresting agency disseminated the  
574 criminal history record information to which the order pertains.  
575 The department shall forward the order to expunge to the Federal  
576 Bureau of Investigation. The clerk of the court shall certify a  
577 copy of the order to any other agency which the records of the  
578 court reflect has received the criminal history record from the  
579 court.

580 (c) For an order to expunge entered by a court prior to

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581 July 1, 1992, the department shall notify the appropriate state  
582 attorney or statewide prosecutor of an order to expunge which is  
583 contrary to law because the person who is the subject of the  
584 record has previously been convicted of a crime or comparable  
585 ordinance violation or has had a prior criminal history record  
586 sealed or expunged. Upon receipt of such notice, the appropriate  
587 state attorney or statewide prosecutor shall take action, within  
588 60 days, to correct the record and petition the court to void  
589 the order to expunge. The department shall seal the record until  
590 such time as the order is voided by the court.

591 (d) On or after July 1, 1992, the department or any other  
592 criminal justice agency is not required to act on an order to  
593 expunge entered by a court when such order does not comply with  
594 the requirements of this section. Upon receipt of such an order,  
595 the department must notify the issuing court, the appropriate  
596 state attorney or statewide prosecutor, the petitioner or the  
597 petitioner's attorney, and the arresting agency of the reason  
598 for noncompliance. The appropriate state attorney or statewide  
599 prosecutor shall take action within 60 days to correct the  
600 record and petition the court to void the order. No cause of  
601 action, including contempt of court, shall arise against any  
602 criminal justice agency for failure to comply with an order to  
603 expunge when the petitioner for such order failed to obtain the  
604 certificate of eligibility as required by this section or such  
605 order does not otherwise comply with the requirements of this  
606 section.

607 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any  
608 criminal history record of a minor or an adult which is ordered  
609 expunged by a court of competent jurisdiction pursuant to this

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610 section must be physically destroyed or obliterated by any  
611 criminal justice agency having custody of such record; except  
612 that any criminal history record in the custody of the  
613 department must be retained in all cases. A criminal history  
614 record ordered expunged that is retained by the department is  
615 confidential and exempt from the provisions of s. 119.07(1) and  
616 s. 24(a), Art. I of the State Constitution and not available to  
617 any person or entity except upon order of a court of competent  
618 jurisdiction. A criminal justice agency may retain a notation  
619 indicating compliance with an order to expunge.

620 (a) The person who is the subject of a criminal history  
621 record that is expunged under this section or under other  
622 provisions of law, including former s. 893.14, former s. 901.33,  
623 and former s. 943.058, may lawfully deny or fail to acknowledge  
624 the arrests covered by the expunged record, except when the  
625 subject of the record:

- 626 1. Is a candidate for employment with a criminal justice  
627 agency;
- 628 2. Is a defendant in a criminal prosecution;
- 629 3. Concurrently or subsequently petitions for relief under  
630 this section, s. 943.0583, or s. 943.059;
- 631 4. Is a candidate for admission to The Florida Bar;
- 632 5. Is seeking to be employed or licensed by or to contract  
633 with the Department of Children and Families, the Division of  
634 Vocational Rehabilitation within the Department of Education,  
635 the Agency for Health Care Administration, the Agency for  
636 Persons with Disabilities, the Department of Health, the  
637 Department of Elderly Affairs, or the Department of Juvenile  
638 Justice or to be employed or used by such contractor or licensee

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639 in a sensitive position having direct contact with children, the  
640 disabled, or the elderly;

641 6. Is seeking to be employed or licensed by the Department  
642 of Education, any district school board, any university  
643 laboratory school, any charter school, any private or parochial  
644 school, or any local governmental entity that licenses child  
645 care facilities;

646 7. Is seeking to be licensed by the Division of Insurance  
647 Agent and Agency Services within the Department of Financial  
648 Services; or

649 8. Is seeking to be appointed as a guardian pursuant to s.  
650 744.3125.

651 (b) Subject to the exceptions in paragraph (a), a person  
652 who has been granted an expunction under this section, former s.  
653 893.14, former s. 901.33, or former s. 943.058 may not be held  
654 under any provision of law of this state to commit perjury or to  
655 be otherwise liable for giving a false statement by reason of  
656 such person's failure to recite or acknowledge an expunged  
657 criminal history record.

658 (c) Information relating to the existence of an expunged  
659 criminal history record which is provided in accordance with  
660 paragraph (a) is confidential and exempt from the provisions of  
661 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
662 except that the department shall disclose the existence of a  
663 criminal history record ordered expunged to the entities set  
664 forth in subparagraphs (a)1., 4., 5., 6., 7., and 8. for their  
665 respective licensing, access authorization, and employment  
666 purposes, and to criminal justice agencies for their respective  
667 criminal justice purposes. It is unlawful for any employee of an

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668 entity set forth in subparagraph (a)1., subparagraph (a)4.,  
669 subparagraph (a)5., subparagraph (a)6., subparagraph (a)7., or  
670 subparagraph (a)8. to disclose information relating to the  
671 existence of an expunged criminal history record of a person  
672 seeking employment, access authorization, or licensure with such  
673 entity or contractor, except to the person to whom the criminal  
674 history record relates or to persons having direct  
675 responsibility for employment, access authorization, or  
676 licensure decisions. Any person who violates this paragraph  
677 commits a misdemeanor of the first degree, punishable as  
678 provided in s. 775.082 or s. 775.083.

679 (5) EXCEPTION FOR LAWFUL SELF-DEFENSE.—Notwithstanding the  
680 eligibility requirements prescribed in paragraph (1)(b) and  
681 subsection (2), the department shall issue a certificate of  
682 eligibility for expunction under this subsection to a person who  
683 is the subject of a criminal history record if that person:

684 (a) Has obtained, and submitted to the department, on a  
685 form provided by the department, a written, certified statement  
686 from the appropriate state attorney or statewide prosecutor  
687 which states whether an information, indictment, or other  
688 charging document was not filed or was dismissed by the state  
689 attorney, or dismissed by the court, because it was found that  
690 the person acted in lawful self-defense pursuant to the  
691 provisions related to justifiable use of force in chapter 776.

692 (b) Each petition to a court to expunge a criminal history  
693 record pursuant to this subsection is complete only when  
694 accompanied by:

695 1. A valid certificate of eligibility for expunction issued  
696 by the department pursuant to this subsection.



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697           2. The petitioner's sworn statement attesting that the  
698 petitioner is eligible for such an expunction to the best of his  
699 or her knowledge or belief.

700  
701 Any person who knowingly provides false information on such  
702 sworn statement to the court commits a felony of the third  
703 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
704 775.084.

705           (c) This subsection does not confer any right to the  
706 expunction of a criminal history record, and any request for  
707 expunction of a criminal history record may be denied at the  
708 discretion of the court.

709           (d) Subsections (3) and (4) shall apply to expunction  
710 ordered under this subsection.

711           (e) The department shall, by rule adopted pursuant to  
712 chapter 120, establish procedures pertaining to the application  
713 for and issuance of certificates of eligibility for expunction  
714 under this subsection.

715           (6) STATUTORY REFERENCES.—Any reference to any other  
716 chapter, section, or subdivision of the Florida Statutes in this  
717 section constitutes a general reference under the doctrine of  
718 incorporation by reference.

719           Section 5. For the purpose of incorporating the amendment  
720 made by this act to section 907.041, Florida Statutes, in a  
721 reference thereto, section 943.059, Florida Statutes, is  
722 reenacted to read:

723           943.059 Court-ordered sealing of criminal history records.—  
724 The courts of this state shall continue to have jurisdiction  
725 over their own procedures, including the maintenance, sealing,

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726 and correction of judicial records containing criminal history  
727 information to the extent such procedures are not inconsistent  
728 with the conditions, responsibilities, and duties established by  
729 this section. Any court of competent jurisdiction may order a  
730 criminal justice agency to seal the criminal history record of a  
731 minor or an adult who complies with the requirements of this  
732 section. The court shall not order a criminal justice agency to  
733 seal a criminal history record until the person seeking to seal  
734 a criminal history record has applied for and received a  
735 certificate of eligibility for sealing pursuant to subsection  
736 (2). A criminal history record that relates to a violation of s.  
737 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,  
738 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,  
739 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,  
740 s. 916.1075, a violation enumerated in s. 907.041, or any  
741 violation specified as a predicate offense for registration as a  
742 sexual predator pursuant to s. 775.21, without regard to whether  
743 that offense alone is sufficient to require such registration,  
744 or for registration as a sexual offender pursuant to s.  
745 943.0435, may not be sealed, without regard to whether  
746 adjudication was withheld, if the defendant was found guilty of  
747 or pled guilty or nolo contendere to the offense, or if the  
748 defendant, as a minor, was found to have committed or pled  
749 guilty or nolo contendere to committing the offense as a  
750 delinquent act. The court may only order sealing of a criminal  
751 history record pertaining to one arrest or one incident of  
752 alleged criminal activity, except as provided in this section.  
753 The court may, at its sole discretion, order the sealing of a  
754 criminal history record pertaining to more than one arrest if

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755 the additional arrests directly relate to the original arrest.  
756 If the court intends to order the sealing of records pertaining  
757 to such additional arrests, such intent must be specified in the  
758 order. A criminal justice agency may not seal any record  
759 pertaining to such additional arrests if the order to seal does  
760 not articulate the intention of the court to seal records  
761 pertaining to more than one arrest. This section does not  
762 prevent the court from ordering the sealing of only a portion of  
763 a criminal history record pertaining to one arrest or one  
764 incident of alleged criminal activity. Notwithstanding any law  
765 to the contrary, a criminal justice agency may comply with laws,  
766 court orders, and official requests of other jurisdictions  
767 relating to sealing, correction, or confidential handling of  
768 criminal history records or information derived therefrom. This  
769 section does not confer any right to the sealing of any criminal  
770 history record, and any request for sealing a criminal history  
771 record may be denied at the sole discretion of the court.

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

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

777 (b) The petitioner's sworn statement attesting that the  
778 petitioner:

779 1. Has never, prior to the date on which the petition is  
780 filed, been adjudicated guilty of a criminal offense or  
781 comparable ordinance violation, or been adjudicated delinquent  
782 for committing any felony or a misdemeanor specified in s.  
783 943.051(3)(b).

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784           2. Has not been adjudicated guilty of or adjudicated  
785 delinquent for committing any of the acts stemming from the  
786 arrest or alleged criminal activity to which the petition to  
787 seal pertains.

788           3. Has never secured a prior sealing or expunction of a  
789 criminal history record under this section, s. 943.0585, former  
790 s. 893.14, former s. 901.33, or former s. 943.058.

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

794  
795 Any person who knowingly provides false information on such  
796 sworn statement to the court commits a felony of the third  
797 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
798 775.084.

799           (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to  
800 petitioning the court to seal a criminal history record, a  
801 person seeking to seal a criminal history record shall apply to  
802 the department for a certificate of eligibility for sealing. The  
803 department shall, by rule adopted pursuant to chapter 120,  
804 establish procedures pertaining to the application for and  
805 issuance of certificates of eligibility for sealing. A  
806 certificate of eligibility for sealing is valid for 12 months  
807 after the date stamped on the certificate when issued by the  
808 department. After that time, the petitioner must reapply to the  
809 department for a new certificate of eligibility. Eligibility for  
810 a renewed certification of eligibility must be based on the  
811 status of the applicant and the law in effect at the time of the  
812 renewal application. The department shall issue a certificate of

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813 eligibility for sealing to a person who is the subject of a  
814 criminal history record provided that such person:

815 (a) Has submitted to the department a certified copy of the  
816 disposition of the charge to which the petition to seal  
817 pertains.

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

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

826 (d) Has not been adjudicated guilty of or adjudicated  
827 delinquent for committing any of the acts stemming from the  
828 arrest or alleged criminal activity to which the petition to  
829 seal pertains.

830 (e) Has never secured a prior sealing or expunction of a  
831 criminal history record under this section, s. 943.0585, former  
832 s. 893.14, former s. 901.33, or former s. 943.058.

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

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

837 (a) In judicial proceedings under this section, a copy of  
838 the completed petition to seal shall be served upon the  
839 appropriate state attorney or the statewide prosecutor and upon  
840 the arresting agency; however, it is not necessary to make any  
841 agency other than the state a party. The appropriate state

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842 attorney or the statewide prosecutor and the arresting agency  
843 may respond to the court regarding the completed petition to  
844 seal.

845 (b) If relief is granted by the court, the clerk of the  
846 court shall certify copies of the order to the appropriate state  
847 attorney or the statewide prosecutor and to the arresting  
848 agency. The arresting agency is responsible for forwarding the  
849 order to any other agency to which the arresting agency  
850 disseminated the criminal history record information to which  
851 the order pertains. The department shall forward the order to  
852 seal to the Federal Bureau of Investigation. The clerk of the  
853 court shall certify a copy of the order to any other agency  
854 which the records of the court reflect has received the criminal  
855 history record from the court.

856 (c) For an order to seal entered by a court prior to July  
857 1, 1992, the department shall notify the appropriate state  
858 attorney or statewide prosecutor of any order to seal which is  
859 contrary to law because the person who is the subject of the  
860 record has previously been convicted of a crime or comparable  
861 ordinance violation or has had a prior criminal history record  
862 sealed or expunged. Upon receipt of such notice, the appropriate  
863 state attorney or statewide prosecutor shall take action, within  
864 60 days, to correct the record and petition the court to void  
865 the order to seal. The department shall seal the record until  
866 such time as the order is voided by the court.

867 (d) On or after July 1, 1992, the department or any other  
868 criminal justice agency is not required to act on an order to  
869 seal entered by a court when such order does not comply with the  
870 requirements of this section. Upon receipt of such an order, the

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871 department must notify the issuing court, the appropriate state  
872 attorney or statewide prosecutor, the petitioner or the  
873 petitioner's attorney, and the arresting agency of the reason  
874 for noncompliance. The appropriate state attorney or statewide  
875 prosecutor shall take action within 60 days to correct the  
876 record and petition the court to void the order. No cause of  
877 action, including contempt of court, shall arise against any  
878 criminal justice agency for failure to comply with an order to  
879 seal when the petitioner for such order failed to obtain the  
880 certificate of eligibility as required by this section or when  
881 such order does not comply with the requirements of this  
882 section.

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

887 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal  
888 history record of a minor or an adult which is ordered sealed by  
889 a court pursuant to this section is confidential and exempt from  
890 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
891 Constitution and is available only to the person who is the  
892 subject of the record, to the subject's attorney, to criminal  
893 justice agencies for their respective criminal justice purposes,  
894 which include conducting a criminal history background check for  
895 approval of firearms purchases or transfers as authorized by  
896 state or federal law, to judges in the state courts system for  
897 the purpose of assisting them in their case-related  
898 decisionmaking responsibilities, as set forth in s. 943.053(5),  
899 or to those entities set forth in subparagraphs (a)1., 4., 5.,

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900 6., 8., 9., and 10. for their respective licensing, access  
901 authorization, and employment purposes.

902 (a) The subject of a criminal history record sealed under  
903 this section or under other provisions of law, including former  
904 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
905 deny or fail to acknowledge the arrests covered by the sealed  
906 record, except when the subject of the record:

- 907 1. Is a candidate for employment with a criminal justice  
908 agency;
- 909 2. Is a defendant in a criminal prosecution;
- 910 3. Concurrently or subsequently petitions for relief under  
911 this section, s. 943.0583, or s. 943.0585;
- 912 4. Is a candidate for admission to The Florida Bar;
- 913 5. Is seeking to be employed or licensed by or to contract  
914 with the Department of Children and Families, the Division of  
915 Vocational Rehabilitation within the Department of Education,  
916 the Agency for Health Care Administration, the Agency for  
917 Persons with Disabilities, the Department of Health, the  
918 Department of Elderly Affairs, or the Department of Juvenile  
919 Justice or to be employed or used by such contractor or licensee  
920 in a sensitive position having direct contact with children, the  
921 disabled, or the elderly;
- 922 6. Is seeking to be employed or licensed by the Department  
923 of Education, a district school board, a university laboratory  
924 school, a charter school, a private or parochial school, or a  
925 local governmental entity that licenses child care facilities;
- 926 7. Is attempting to purchase a firearm from a licensed  
927 importer, licensed manufacturer, or licensed dealer and is  
928 subject to a criminal history check under state or federal law;



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929           8. Is seeking to be licensed by the Division of Insurance  
930 Agent and Agency Services within the Department of Financial  
931 Services;

932           9. Is seeking to be appointed as a guardian pursuant to s.  
933 744.3125; or

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

939           (b) Subject to the exceptions in paragraph (a), a person  
940 who has been granted a sealing under this section, former s.  
941 893.14, former s. 901.33, or former s. 943.058 may not be held  
942 under any provision of law of this state to commit perjury or to  
943 be otherwise liable for giving a false statement by reason of  
944 such person's failure to recite or acknowledge a sealed criminal  
945 history record.

946           (c) Information relating to the existence of a sealed  
947 criminal record provided in accordance with the provisions of  
948 paragraph (a) is confidential and exempt from the provisions of  
949 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
950 except that the department shall disclose the sealed criminal  
951 history record to the entities set forth in subparagraphs (a)1.,  
952 4., 5., 6., 8., 9., and 10. for their respective licensing,  
953 access authorization, and employment purposes. An employee of an  
954 entity set forth in subparagraph (a)1., subparagraph (a)4.,  
955 subparagraph (a)5., subparagraph (a)6., subparagraph (a)8.,  
956 subparagraph (a)9., or subparagraph (a)10. may not disclose  
957 information relating to the existence of a sealed criminal

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958 history record of a person seeking employment, access  
959 authorization, or licensure with such entity or contractor,  
960 except to the person to whom the criminal history record relates  
961 or to persons having direct responsibility for employment,  
962 access authorization, or licensure decisions. A person who  
963 violates the provisions of this paragraph commits a misdemeanor  
964 of the first degree, punishable as provided in s. 775.082 or s.  
965 775.083.

966 (5) STATUTORY REFERENCES.—Any reference to any other  
967 chapter, section, or subdivision of the Florida Statutes in this  
968 section constitutes a general reference under the doctrine of  
969 incorporation by reference.

970 Section 6. This act shall take effect July 1, 2018.