

1 A bill to be entitled
2 An act relating to expunging and sealing criminal
3 history records; amending s. 943.0585, F.S.; providing
4 jurisdiction of the courts over expunction procedures;
5 specifying types of records that are eligible for
6 court-ordered expunction; providing limitations upon
7 when a court may expunge such records; requiring
8 specified documentation be submitted to the Department
9 of Law Enforcement when seeking a certificate of
10 eligibility for court-ordered expunction; providing
11 specified documentation that must be submitted to the
12 court for a petition to expunge; requiring sworn
13 statement from petitioner; providing a criminal
14 penalty for perjury on such sworn statement; providing
15 guidelines for the processing of an order to expunge
16 once issued; providing the effect of the order to
17 expunge on the criminal history record; specifying
18 exceptions to the confidential and exempt status of an
19 expunged criminal history record; requiring criminal
20 justice agencies to destroy copies of records that
21 have been expunged; providing for the treatment of
22 certain cross-references; providing construction;
23 amending s. 943.059, F.S.; providing jurisdiction of
24 the courts over sealing procedures; specifying types
25 of records that are eligible for court-ordered
26 sealing; providing limitations upon when a court may

27 seal such specified records; requiring specified
28 documentation be submitted to the Department of Law
29 Enforcement when seeking a certificate of eligibility
30 for court-ordered sealing; providing specified
31 documentation that must be submitted to the court for
32 a petition to seal; requiring sworn statement from
33 petitioner; providing a criminal penalty for perjury
34 on such sworn statement; providing guidelines for the
35 processing of an order to seal once issued; providing
36 the effect of the order to seal on the criminal
37 history record; specifying exceptions to the
38 confidential and exempt status of a sealed criminal
39 history record; providing for the treatment of certain
40 cross-references; providing construction; creating s.
41 943.0595, F.S.; establishing a nonjudicial process for
42 the sealing of specified records; specifying types of
43 records that are eligible for the nonjudicial sealing
44 process; providing exceptions to eligibility for
45 obtaining a nonjudicial seal; establishing an
46 application process and requiring specified
47 documentation be submitted to the Department of Law
48 Enforcement when seeking a nonjudicial sealing;
49 requiring sworn statement from petitioner; providing a
50 criminal penalty for perjury on such sworn statement;
51 specifying how the nonjudicial sealing must be
52 processed; providing for the effect of a record that

53 has been sealed under this section; providing for the
 54 treatment of certain cross-references; amending ss.
 55 776.09, 943.053, and 943.0582, F.S.; conforming cross-
 56 references; providing an effective date.

57

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

59

60 Section 1. Section 943.0585, Florida Statutes, is amended
 61 to read:

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

64 943.0585 Court-ordered expunction of criminal history
 65 records.-

66 (1) JURISDICTION.-The courts of this state have
 67 jurisdiction over their own procedures, including the
 68 maintenance, expunction, and correction of judicial records
 69 containing criminal history information to the extent such
 70 procedures are not inconsistent with the conditions,
 71 responsibilities, and duties established by this section. A
 72 court of competent jurisdiction may order a criminal justice
 73 agency to expunge the criminal history record of a minor or an
 74 adult who complies with the requirements of this section.

75 (2) ELIGIBILITY.-

76 (a) Except as provided in paragraph (b), a court may order
 77 the expunction of a criminal history record if:

78 1. An indictment, information, or other charging document

79 was not filed or issued in the case.

80 2. An indictment, information, or other charging document
81 was filed or issued in the case, but was subsequently dismissed
82 or nolle prosequi by the state attorney or statewide prosecutor,
83 or was dismissed or discharged by a court of competent
84 jurisdiction. However, a person may not obtain an expunction
85 under this subparagraph for a dismissal by reason of a judicial
86 finding or adjudication that he or she is incompetent to proceed
87 in a criminal or delinquency case, unless the person is a minor
88 who is adjudicated incompetent to proceed because of age or
89 immaturity.

90 3. A not guilty verdict was rendered subsequent to a trial
91 or an adjudicatory hearing, except that a person may not obtain
92 an expunction under this subparagraph for a verdict of not
93 guilty by reason of insanity.

94 4. A person has obtained a court-ordered sealing for a
95 criminal history record in which adjudication was withheld
96 pursuant to s. 943.059 and such criminal history record has been
97 sealed for at least 10 years. A person may not obtain an
98 expunction under this subparagraph for a criminal history record
99 in which there was an adjudication of guilt or adjudication of
100 delinquency.

101 5. A person has obtained a nonjudicial sealing pursuant to
102 s. 943.0595.

103 (b) A person may not obtain a court-ordered expunction
104 under this section unless all charges stemming from the arrest

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105 or incident of alleged criminal activity to which the expunction
106 pertains were disposed of in a manner described in paragraph
107 (a).

108 (3) LIMITATIONS.—A court may only order the expunction of
109 one criminal history record described in paragraph (2)(a). The
110 record expunged must pertain to one arrest or one incident of
111 alleged criminal activity, except that the court may, at its
112 sole discretion, order the expunction of a criminal history
113 record pertaining to more than one arrest or one incident of
114 alleged criminal activity if the additional arrests directly
115 relate to the original arrest or incident of alleged criminal
116 activity. If the court intends to order the expunction of
117 records pertaining to such additional arrests or incidents of
118 alleged criminal activity, such intent must be specified in the
119 order. A criminal justice agency may not expunge a record
120 pertaining to such additional arrests or incidents of alleged
121 criminal activity if the order to expunge does not articulate
122 the intention of the court to expunge such record. This
123 subsection does not prevent the court from ordering the
124 expunction of only a portion of a criminal history record
125 pertaining to one arrest or incident of alleged criminal
126 activity.

127 (4) CERTIFICATE OF ELIGIBILITY.—

128 (a) A person seeking to expunge a criminal history record
129 under this section must apply to the department for a
130 certificate of eligibility for expunction before petitioning the

131 court for expunction. The department shall issue a certificate
132 of eligibility for expunction to a person who is the subject of
133 a criminal history record if that person:

134 1. Has submitted to the department a written, certified
135 statement from the appropriate state attorney or statewide
136 prosecutor which indicates that the criminal history record
137 sought to be expunged is eligible under subsection (2).

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

141 3. Has submitted to the department a certified copy of the
142 disposition of the charge to which the petition to expunge
143 pertains.

144 4. Has never secured a prior sealing or expunction of a
145 criminal history record under this section, s. 943.059, former
146 s. 893.14, former s. 901.33, or former s. 943.058, unless
147 expunction is sought for a sealed record pursuant to
148 subparagraph (2)(a)4. or subparagraph (2)(a)5.

149 5. Is no longer under court supervision applicable to the
150 disposition of the arrest or incident of alleged criminal
151 activity to which the petition to expunge pertains.

152 6. Has submitted to the department a full set of
153 fingerprints taken by a law enforcement agency for purposes of
154 identity verification.

155 (b) A certificate of eligibility for expunction is valid
156 for 12 months after the date that the certificate is issued by

157 the department. After that time, the petitioner must reapply to
158 the department for a new certificate of eligibility. Eligibility
159 for a renewed certification of eligibility must be based on the
160 status of the applicant and the law in effect at the time of the
161 renewal application.

162 (c) The department shall adopt rules establishing
163 procedures pertaining to the application for and issuance of
164 certificates of eligibility for expunction.

165 (5) PETITION.—

166 (a) The court shall not order a criminal justice agency to
167 expunge a criminal history record under this section until the
168 person seeking to expunge the record has received a certificate
169 of eligibility for expunction pursuant to subsection (4). Each
170 petition to a court to expunge a criminal history record is
171 complete only when accompanied by:

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

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

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

177 b. The petitioner meets the requirement of subparagraph
178 (4) (a)4.

179 c. The petitioner is eligible for the expunction to the
180 best of his or her knowledge or belief and does not have any
181 other petition to expunge or a petition to seal pending before a
182 court.

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183 (b) A person who knowingly provides false information on
184 the sworn statement required by subparagraph (a)2. commits a
185 felony of the third degree, punishable as provided in s.
186 775.082, s. 775.083, or s. 775.084.

187 (6) PROCESSING.—

188 (a) In judicial proceedings under this section, a copy of
189 the completed petition to expunge shall be served upon the
190 appropriate state attorney or the statewide prosecutor and upon
191 the arresting agency; however, it is not necessary to make any
192 agency other than the state a party. The appropriate state
193 attorney or the statewide prosecutor and the arresting agency
194 may respond to the court regarding the completed petition to
195 expunge.

196 (b) If relief is granted by the court, the clerk of the
197 court shall certify copies of the order to the appropriate state
198 attorney or the statewide prosecutor and the arresting agency.
199 The arresting agency is responsible for forwarding the order to
200 any other agency to which the arresting agency disseminated the
201 criminal history record information to which the order pertains.
202 The department shall notify the Federal Bureau of Investigation
203 of the order to expunge, as needed. The clerk of the court shall
204 certify a copy of the order to any other agency which the
205 records of the court reflect has received the criminal history
206 record from the court.

207 (c) The department or any other criminal justice agency is
208 not required to act on an order to expunge entered by a court if

209 such order does not comply with the requirements of this
210 section. Upon receipt of such an order, the department must
211 notify the issuing court, the appropriate state attorney or
212 statewide prosecutor, the petitioner or the petitioner's
213 attorney, and the arresting agency of the reason for
214 noncompliance. The appropriate state attorney or statewide
215 prosecutor shall take action within 60 days after receiving such
216 order to correct the record and petition the court to void the
217 order. A cause of action, including contempt of court, does not
218 arise against a criminal justice agency for failure to comply
219 with an order to expunge if the petitioner for such order failed
220 to obtain the certificate of eligibility as required by this
221 section or such order does not otherwise comply with the
222 requirements of this section.

223 (7) EFFECT.—

224 (a) A criminal history record of a minor or an adult which
225 is ordered expunged by a court of competent jurisdiction
226 pursuant to this section must be physically destroyed or
227 obliterated by each criminal justice agency having custody of
228 such record, except that a criminal history record in the
229 custody of the department must be retained in all cases.

230 (b) The person who is the subject of a criminal history
231 record that is expunged under this section or under other
232 provisions of law, including former s. 893.14, former s. 901.33,
233 and former s. 943.058, may lawfully deny or fail to acknowledge
234 the criminal history covered by the expunged record, except when

235 the subject of the record:

236 1. Is a candidate for employment with a criminal justice

237 agency;

238 2. Is a defendant in a criminal prosecution;

239 3. Concurrently or subsequently seeks relief under this

240 section, s. 943.0583, or s. 943.059;

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

242 5. Is seeking to be employed or licensed by or to contract

243 with the Department of Children and Families, the Division of

244 Vocational Rehabilitation within the Department of Education,

245 the Agency for Health Care Administration, the Agency for

246 Persons with Disabilities, the Department of Health, the

247 Department of Elderly Affairs, or the Department of Juvenile

248 Justice or to be employed or used by such contractor or licensee

249 in a sensitive position having direct contact with children,

250 persons with disabilities, or elderly persons;

251 6. Is seeking to be employed or licensed by the Department

252 of Education, a district school board, a university laboratory

253 school, a charter school, a private or parochial school, or a

254 local governmental entity that licenses child care facilities;

255 7. Is seeking to be licensed by the Division of Insurance

256 Agent and Agency Services within the Department of Financial

257 Services; or

258 8. Is seeking to be appointed as a guardian pursuant to s.

259 744.3125.

260 (c) Subject to the exceptions in paragraph (b), a person

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261 who has been granted an expunction under this section, former s.
262 893.14, former s. 901.33, or former s. 943.058 may not be held
263 under a law of this state to commit perjury or to be otherwise
264 liable for giving a false statement by reason of such person's
265 failure to recite or acknowledge an expunged criminal history
266 record.

267 (d) Notwithstanding any law to the contrary, a criminal
268 justice agency may comply with laws, court orders, and official
269 requests of other jurisdictions relating to expunction,
270 correction, or confidential handling of criminal history records
271 or information derived therefrom.

272 (8) EXCEPTION FOR LAWFUL SELF-DEFENSE.—

273 (a) Notwithstanding subsections (2), (4), and (5):

274 1. The department shall issue a certificate of eligibility
275 for expunction under this subsection to a person who is the
276 subject of a criminal history record if that person has
277 submitted to the department, on a form provided by the
278 department, a written, certified statement from the appropriate
279 state attorney or statewide prosecutor which states whether an
280 information, indictment, or other charging document was not
281 filed or was dismissed by the state attorney, or dismissed by
282 the court, because it was found that the person acted in lawful
283 self-defense pursuant to the provisions related to justifiable
284 use of force in chapter 776.

285 2. Each petition to a court to expunge a criminal history
286 record pursuant to this subsection is complete only when

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287 accompanied by:

288 a. A valid certificate of eligibility for expunction
289 issued by the department pursuant to this subsection.

290 b. The petitioner's sworn statement attesting that the
291 petitioner is eligible for such an expunction to the best of his
292 or her knowledge or belief.

293

294 A person who knowingly provides false information on such sworn
295 statement to the court commits a felony of the third degree,
296 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

297 (b) This subsection does not confer any right to the
298 expunction of a criminal history record, and any request for
299 expunction of a criminal history record may be denied at the
300 discretion of the court.

301 (c) Subsections (1), (3), (6), and (7) apply to an
302 expunction ordered under this subsection, except that a person
303 may obtain an expunction of one or more criminal history records
304 described under subparagraph (a)1.

305 (d) The department shall adopt rules to establish
306 procedures pertaining to the application for and issuance of
307 certificates of eligibility for expunction under this
308 subsection.

309 (9) STATUTORY REFERENCES.—Any reference to:

310 (a) Another chapter, section, or other subdivision of the
311 Florida Statutes in this section constitutes a general reference
312 under the doctrine of incorporation by reference.

313 (b) This section or a subdivision of this section in
314 another chapter, section, or other subdivision of the Florida
315 Statutes constitutes a general reference under the doctrine of
316 incorporation by reference.

317 (10) NO RIGHT TO EXPUNCTION.—This section does not confer
318 a right to the expunction of a criminal history record, and a
319 request for expunction of a criminal history record may be
320 denied at the sole discretion of the court.

321 Section 2. Section 943.059, Florida Statutes, is amended
322 to read:

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

325 943.059 Court-ordered sealing of criminal history
326 records.—

327 (1) JURISDICTION.—The courts of this state have
328 jurisdiction over their own procedures, including the
329 maintenance, sealing, and correction of judicial records
330 containing criminal history information to the extent such
331 procedures are not inconsistent with the conditions,
332 responsibilities, and duties established by this section. A
333 court of competent jurisdiction may order a criminal justice
334 agency to seal the criminal history record of a minor or an
335 adult who complies with the requirements of this section.

336 (2) ELIGIBILITY.—

337 (a) Except as provided in paragraph (b), a court may order
338 the sealing of a criminal history record if the person was:

339 1. Found guilty of, found to have committed, pled guilty
340 to, or pled nolo contendere to an offense and none of the
341 charges stemming from the arrest or alleged criminal activity to
342 which the sealing pertains resulted in an adjudication of guilt
343 or delinquency; or

344 2. Adjudicated guilty or adjudicated delinquent for a
345 nonviolent misdemeanor. For purposes of this subparagraph, the
346 term "nonviolent misdemeanor" means a misdemeanor violation of:

347 a. Section 562.11(2), s. 562.111, s. 806.101, s. 806.13,
348 s. 810.08, s. 810.09, s. 810.10, s. 810.11, s. 810.115, s.
349 810.13, s. 812.014(3)(a), s. 823.01, s. 823.02, s. 856.011, s.
350 856.015, s. 870.02, s. 893.13(3), s. 893.13(6)(b), or s.
351 893.147(1); or

352 b. An offense specified in chapters 316-324, unless the
353 violation directly caused serious bodily injury or death to a
354 person or the violation is an offense specified in chapter 316
355 or chapter 322 which was committed by a person driving a
356 commercial motor vehicle as defined in s. 316.003 or holding a
357 commercial driver license as defined in s. 322.01.

358 (b) A person may not obtain a court-ordered sealing of a
359 criminal history record under this section if:

360 1. The person seeking the sealing has, at any time before
361 the date on which the application for a certificate of
362 eligibility is filed, been adjudicated guilty for a felony
363 offense or adjudicated delinquent for an offense that would be a
364 felony if committed by an adult; or

365 2. The record relates to a serious offense for which the
366 person was found guilty or adjudicated delinquent, or pled
367 guilty or pled nolo contendere, regardless of whether
368 adjudication was withheld. For purposes of this subparagraph,
369 the term "serious offense" means a violation of s. 393.135, s.
370 394.4593, s. 787.025, chapter 794, former s. 796.03, s. 800.04,
371 s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s.
372 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a
373 violation enumerated in s. 907.041, or any violation specified
374 as a predicate offense for registration as a sexual predator
375 pursuant to s. 775.21, without regard to whether that offense
376 alone is sufficient to require such registration, or for
377 registration as a sexual offender pursuant to s. 943.0435.

378 (c) A criminal history record that is sealed under this
379 section shall continue to be considered a prior conviction for
380 purposes of any statute that uses a prior conviction as a basis
381 for determining the applicable degree of felony or misdemeanor
382 for a criminal offense, the penalty for a criminal offense, or
383 any other issue with respect to a criminal offense. For purposes
384 of this paragraph, the term "conviction" means a determination
385 of guilt that is the result of a plea or trial, regardless of
386 whether adjudication is withheld. However, whether a conviction
387 for which adjudication is withheld may be considered a prior
388 conviction shall be controlled by the statute using the prior
389 conviction as the basis for determining the applicable degree of
390 offense, penalty, or other issue.

391 (3) LIMITATIONS.—A court may only order the sealing of one
392 criminal history record described in paragraph (2) (a). The
393 record sealed must pertain to one arrest or one incident of
394 alleged criminal activity, except that the court may, at its
395 sole discretion, order the sealing of a criminal history record
396 pertaining to more than one arrest or one incident of alleged
397 criminal activity if the additional arrests or incidents of
398 alleged criminal activity directly relate to the original
399 arrest. If the court intends to order the sealing of records
400 pertaining to such additional arrests or incidents of alleged
401 criminal activity, such intent must be specified in the order. A
402 criminal justice agency may not seal a record pertaining to such
403 additional arrests or incidents of alleged criminal activity if
404 the order to seal does not articulate the intention of the court
405 to seal such record. This subsection does not prevent the court
406 from ordering the sealing of only a portion of a criminal
407 history record pertaining to one arrest or incident of alleged
408 criminal activity.

409 (4) CERTIFICATE OF ELIGIBILITY.—

410 (a) A person seeking to seal a criminal history record
411 under this section shall apply to the department for a
412 certificate of eligibility for sealing before petitioning the
413 court for sealing. The department shall issue a certificate of
414 eligibility for sealing to a person who is the subject of a
415 criminal history record if that person:

416 1. Has submitted to the department a written, certified

417 statement from the appropriate state attorney or statewide
418 prosecutor which indicates that the criminal history record
419 sought to be sealed is eligible under subsection (2).

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

423 3. Has submitted to the department a certified copy of the
424 disposition of the charge to which the petition to seal
425 pertains.

426 4. Has never secured a prior sealing or expunction of a
427 criminal history record under this section, s. 943.0585, former
428 s. 893.14, former s. 901.33, or former s. 943.058.

429 5. Is no longer under court supervision applicable to the
430 disposition of the arrest or incident of alleged criminal
431 activity to which the petition to seal pertains.

432 6. Has not been arrested for or charged with a criminal
433 offense, in this state or any other jurisdiction within the
434 United States between the date that the person completed the
435 sentence imposed by the court for the offense to which the
436 petition to seal pertains and the date of the application for
437 the certificate of eligibility. This period of time must be at
438 least 3 years.

439 7. Has submitted to the department a full set of
440 fingerprints taken by a law enforcement agency for purposes of
441 identity verification.

442 (b) A certificate of eligibility for sealing is valid for

443 12 months after the date that the certificate is issued by the
444 department. After that time, the petitioner must reapply to the
445 department for a new certificate of eligibility. Eligibility for
446 a renewed certificate of eligibility must be based on the status
447 of the applicant and the law in effect at the time of the
448 renewal application.

449 (c) The department shall adopt rules to establish
450 procedures pertaining to the application for and issuance of
451 certificates of eligibility for sealing.

452 (5) PETITION.—

453 (a) The court may not order a criminal justice agency to
454 seal a criminal history record under this section until the
455 person seeking to seal the record has received a certificate of
456 eligibility for sealing pursuant to subsection (4). Each
457 petition to a court to seal a criminal history record is
458 complete only when accompanied by:

459 1. A valid certificate of eligibility for sealing issued
460 by the department pursuant to subsection (4).

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

462 a. The criminal history record sought to be sealed is
463 eligible under subsection (2).

464 b. The petitioner meets the requirement of subparagraph
465 (4) (a) 4.

466 c. The petitioner has not been arrested for or charged
467 with a criminal offense in this state or any other jurisdiction
468 within the United States between the date that the person

469 completed the sentence imposed by the court for the offense to
470 which the petition to seal pertains and the date of the petition
471 for court-ordered sealing, which period must be at least 3
472 years.

473 d. The petitioner is eligible for the expunction to the
474 best of his or her knowledge or belief and does not have any
475 other petition to expunge or any petition to seal pending before
476 any court.

477 (b) A person who knowingly provides false information on
478 the sworn statement required by subparagraph (a)2. commits a
479 felony of the third degree, punishable as provided in s.
480 775.082, s. 775.083, or s. 775.084.

481 (6) PROCESSING.—

482 (a) In judicial proceedings under this section, a copy of
483 the completed petition to seal shall be served upon the
484 appropriate state attorney or the statewide prosecutor and upon
485 the arresting agency; however, it is not necessary to make any
486 agency other than the state a party. The appropriate state
487 attorney or the statewide prosecutor and the arresting agency
488 may respond to the court regarding the completed petition to
489 seal.

490 (b) If relief is granted by the court, the clerk of the
491 court shall certify copies of the order to the appropriate state
492 attorney or the statewide prosecutor and the arresting agency.
493 The arresting agency is responsible for forwarding the order to
494 any other agency to which the arresting agency disseminated the

495 criminal history record information to which the order pertains.
496 The department shall notify the Federal Bureau of Investigation
497 of the order to seal, as needed. The clerk of the court shall
498 certify a copy of the order to any other agency which the
499 records of the court reflect has received the criminal history
500 record from the court.

501 (c) The department or any other criminal justice agency is
502 not required to act on an order to seal entered by a court if
503 such order does not comply with the requirements of this
504 section. Upon receipt of such an order, the department must
505 notify the issuing court, the appropriate state attorney or
506 statewide prosecutor, the petitioner or the petitioner's
507 attorney, and the arresting agency of the reason for
508 noncompliance. The appropriate state attorney or statewide
509 prosecutor shall take action within 60 days after receiving such
510 order to correct the record and petition the court to void the
511 order. A cause of action, including contempt of court, does not
512 arise against a criminal justice agency for failure to comply
513 with an order to seal when the petitioner for such order failed
514 to obtain the certificate of eligibility as required by this
515 section or such order does not otherwise comply with the
516 requirements of this section.

517 (d) An order sealing a criminal history record pursuant to
518 this section does not require that such record be surrendered to
519 the court, and such record shall continue to be maintained by
520 the department and other criminal justice agencies.

521 (7) EFFECT.—

522 (a) The person who is the subject of a criminal history
523 record that is sealed under this section or under other
524 provisions of law, including former s. 893.14, former s. 901.33,
525 and former s. 943.058, may lawfully deny or fail to acknowledge
526 the criminal history covered by the sealed record, unless the
527 subject of the record:

528 1. Is a candidate for employment with a criminal justice
529 agency;

530 2. Is a defendant in a criminal prosecution;

531 3. Concurrently or subsequently seeks relief under this
532 section or s. 943.0585;

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

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

543 6. Is seeking to be employed or licensed by the Department
544 of Education, any district school board, any university
545 laboratory school, any charter school, any private or parochial
546 school, or any local governmental entity that licenses child

547 care facilities;

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

551 8. Is seeking to be licensed by the Division of Insurance
552 Agent and Agency Services within the Department of Financial
553 Services;

554 9. Is seeking to be appointed as a guardian pursuant to s.
555 744.3125; or

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

561 11. Is seeking authorization to use a restricted driver
562 license from, to be employed or licensed by or to contract with,
563 or to obtain a commercial driver license through, the Department
564 of Highway Safety and Motor Vehicles.

565 (b) Subject to the exceptions in paragraph (a), a person
566 who has been granted a sealing under this section, former s.
567 893.14, former s. 901.33, or former s. 943.058 may not be held
568 under any provision of law of this state to commit perjury or to
569 be otherwise liable for giving a false statement by reason of
570 such person's failure to recite or acknowledge a sealed criminal
571 history record.

572 (c) Notwithstanding any law to the contrary, a criminal

573 justice agency may comply with laws, court orders, and official
 574 requests of other jurisdictions relating to sealing, correction,
 575 or confidential handling of criminal history records or
 576 information derived therefrom.

577 (8) STATUTORY REFERENCES.—Any reference to:

578 (a) Another chapter, section, or other subdivision of the
 579 Florida Statutes in this section constitutes a general reference
 580 under the doctrine of incorporation by reference.

581 (b) This section or a subdivision of this section in
 582 another chapter, section, or other subdivision of the Florida
 583 Statutes constitutes a general reference under the doctrine of
 584 incorporation by reference.

585 (9) NO RIGHT TO SEALING.—This section does not confer a
 586 right to the sealing of a criminal history record, and a request
 587 for sealing of a criminal history record may be denied at the
 588 sole discretion of the court.

589 Section 3. Section 943.0595, Florida Statutes, is created
 590 to read:

591 943.0595 Nonjudicial sealing of criminal history records.—

592 (1) NONJUDICIAL SEALING.—Notwithstanding any provision of
 593 law relating generally to the preservation and destruction of
 594 public records, the department shall adopt rules to establish
 595 procedures pertaining to the nonjudicial sealing of any criminal
 596 history record of a minor or an adult described in this section.

597 (2) ELIGIBILITY.—

598 (a) The department must approve the nonjudicial sealing of

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599 a criminal history record if:

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

602 2. An indictment, information, or other charging document
603 was filed or issued in the case, but was subsequently dismissed
604 or nolle prosequi by the state attorney or statewide prosecutor,
605 or was dismissed or discharged by a court of competent
606 jurisdiction. However, a person may not obtain a sealing under
607 this subparagraph for a dismissal by reason of a judicial
608 finding or adjudication that he or she is incompetent to proceed
609 in a criminal or delinquency case, unless the person is a minor
610 who is adjudicated incompetent to proceed because of age or
611 immaturity.

612 3. A not guilty verdict was rendered subsequent to a trial
613 or adjudicatory hearing, except that a person may not obtain a
614 sealing under this subparagraph for a verdict of not guilty by
615 reason of insanity.

616 (b) A person may not obtain a nonjudicial sealing under
617 this section unless all charges stemming from the arrest or
618 alleged incident of criminal activity to which the application
619 for sealing pertains were disposed of in a manner described in
620 paragraph (a).

621 (3) LIMITATIONS.—There is no limitation on the number of
622 times that a person may obtain a nonjudicial sealing for a
623 criminal history record described in paragraph (2) (a). An
624 applicant may seek to have multiple criminal history records

625 sealed through the submission of a single application to the
626 department. The department shall approve each application for
627 nonjudicial sealing which satisfies the requirements of this
628 section.

629 (4) APPLICATION.—An adult or, in the case of a minor, the
630 parent or legal guardian of or legal counsel for the minor,
631 seeking to seal a criminal history record under this section
632 shall apply to the department in the manner prescribed by rule.
633 An application for a nonjudicial sealing must be accompanied by
634 a:

635 (a) Written, certified statement from the appropriate
636 state attorney or statewide prosecutor which indicates that the
637 criminal history record sought to be sealed is eligible under
638 this section.

639 (b) Processing fee of \$75 to the department for placement
640 in the Department of Law Enforcement Operating Trust Fund,
641 unless such fee is waived by the executive director.

642 (c) Certified copy of the disposition of the charge to
643 which the application to seal pertains.

644 (d) Full set of fingerprints of the applicant taken by a
645 law enforcement agency for purposes of identity verification.

646 (5) PROCESSING.—

647 (a) If the department approves an application for a
648 nonjudicial sealing, a certified copy of the form approving the
649 nonjudicial sealing shall be forwarded to the appropriate state
650 attorney or the statewide prosecutor, the arresting agency, and

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651 the clerk of the court. The arresting agency is responsible for
652 forwarding the form approving the nonjudicial sealing to any
653 other agency to which the arresting agency disseminated the
654 criminal history record information to which the form pertains.
655 The department shall notify the Federal Bureau of Investigation
656 of the nonjudicial sealing as needed. The clerk of the court
657 shall forward a copy of the form to any other agency that the
658 records of the court reflect has received the criminal history
659 record from the court.

660 (b) The nonjudicial sealing of a criminal history record
661 pursuant to this section does not require that such record be
662 surrendered to the court, and such record shall continue to be
663 maintained by the department and other criminal justice
664 agencies.

665 (6) EFFECT.—The sealing of a record under this section
666 shall have the same effect, and such record may be disclosed by
667 the department in the same manner, as a record sealed under s.
668 943.059, except that a record sealed under this section shall
669 not be made available to the Department of Highway Safety and
670 Motor Vehicles.

671 (7) STATUTORY REFERENCES.—Any reference to:

672 (a) Another chapter, section, or other subdivision of the
673 Florida Statutes in this section constitutes a general reference
674 under the doctrine of incorporation by reference.

675 (b) This section or a subdivision of this section in
676 another chapter, section, or other subdivision of the Florida

677 Statutes constitutes a general reference under the doctrine of
 678 incorporation by reference.

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

681 776.09 Retention of records pertaining to persons found to
 682 be acting in lawful self-defense; expunction of criminal history
 683 records.—

684 (3) Under either condition described in subsection (1) or
 685 subsection (2), the person accused may apply for a certificate
 686 of eligibility to expunge the associated criminal history
 687 record, pursuant to s. 943.0585(8) ~~943.0585(5)~~, notwithstanding
 688 ~~the eligibility requirements prescribed in s. 943.0585(1)(b) or~~
 689 ~~(2).~~

690 Section 5. Subsections (5), (8), (9), and (10) of section
 691 943.053, Florida Statutes, are amended to read:

692 943.053 Dissemination of criminal justice information;
 693 fees.—

694 (5) Notwithstanding the provisions of s. 943.0525, and any
 695 user agreements adopted pursuant thereto, and notwithstanding
 696 the confidentiality of sealed records as provided for in ss. s.
 697 943.059 and 943.0595, the department shall make online access to
 698 Florida criminal justice information available to each judge in
 699 the state courts system for the purpose of assisting judges in
 700 their case-related decisionmaking responsibilities. Such online
 701 access shall be provided without charge to the state courts
 702 system. Sealed records received by the courts under this section

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703 remain confidential and exempt from the provisions of s.
704 119.07(1). The information provided pursuant to this section
705 shall not take the place of any information required to be
706 provided to the courts by any other agency or entity.
707 Information provided under this section shall be used only for
708 the official court business for which it was requested and may
709 not be further disseminated.

710 (8) Notwithstanding the provisions of s. 943.0525, and any
711 user agreements adopted pursuant thereto, and notwithstanding
712 the confidentiality of sealed records as provided for in ss. ~~s.~~
713 943.059 and 943.0595, the sheriff of any county that has
714 contracted with a private entity to operate a county detention
715 facility pursuant to the provisions of s. 951.062 shall provide
716 that private entity, in a timely manner, copies of the Florida
717 criminal history records for its inmates. The sheriff may assess
718 a charge for the Florida criminal history records pursuant to
719 the provisions of chapter 119. Sealed records received by the
720 private entity under this section remain confidential and exempt
721 from the provisions of s. 119.07(1).

722 (9) Notwithstanding the provisions of s. 943.0525, and any
723 user agreements adopted pursuant thereto, and notwithstanding
724 the confidentiality of sealed records as provided for in ss. ~~s.~~
725 943.059 and 943.0595, the Department of Corrections shall
726 provide, in a timely manner, copies of the Florida criminal
727 history records for inmates housed in a private state
728 correctional facility to the private entity under contract to

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729 operate the facility pursuant to the provisions of s. 944.105.
730 The department may assess a charge for the Florida criminal
731 history records pursuant to the provisions of chapter 119.
732 Sealed records received by the private entity under this section
733 remain confidential and exempt from the provisions of s.
734 119.07(1).

735 (10) Notwithstanding the provisions of s. 943.0525 and any
736 user agreements adopted pursuant thereto, and notwithstanding
737 the confidentiality of sealed records as provided for in ss. s.
738 943.059 and 943.0595, the Department of Juvenile Justice or any
739 other state or local criminal justice agency may provide copies
740 of the Florida criminal history records for juvenile offenders
741 currently or formerly detained or housed in a contracted
742 juvenile assessment center or detention facility or serviced in
743 a contracted treatment program and for employees or other
744 individuals who will have access to these facilities, only to
745 the entity under direct contract with the Department of Juvenile
746 Justice to operate these facilities or programs pursuant to the
747 provisions of s. 985.688. The criminal justice agency providing
748 such data may assess a charge for the Florida criminal history
749 records pursuant to the provisions of chapter 119. Sealed
750 records received by the private entity under this section remain
751 confidential and exempt from the provisions of s. 119.07(1).
752 Information provided under this section shall be used only for
753 the criminal justice purpose for which it was requested and may
754 not be further disseminated.

755 Section 6. Paragraph (a) of subsection (2) and subsections
 756 (4) and (5) of section 943.0582, Florida Statutes, are amended
 757 to read:

758 943.0582 Prearrest, postarrest, or teen court diversion
 759 program expunction.—

760 (2)(a) As used in this section, the term "expunction" has
 761 the same meaning ascribed in and effect as s. 943.0585, except
 762 that:

763 1. The provisions of s. 943.0585(7)(b) ~~943.0585(4)(a)~~ do
 764 not apply, except that the criminal history record of a person
 765 whose record is expunged pursuant to this section shall be made
 766 available only to criminal justice agencies for the purpose of
 767 determining eligibility for prearrest, postarrest, or teen court
 768 diversion programs; when the record is sought as part of a
 769 criminal investigation; or when the subject of the record is a
 770 candidate for employment with a criminal justice agency. For all
 771 other purposes, a person whose record is expunged under this
 772 section may lawfully deny or fail to acknowledge the arrest and
 773 the charge covered by the expunged record.

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

778 (4) The department may ~~is authorized to~~ charge a \$75
 779 processing fee for each request received for prearrest or
 780 postarrest diversion program expunction, for placement in the

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781 Department of Law Enforcement Operating Trust Fund, unless such
782 fee is waived by the executive director.

783 (5) Expunction or sealing granted under this section does
784 not prevent the minor who receives such relief from seeking
785 ~~petitioning for~~ the expunction or sealing of a later criminal
786 history record as provided for in ss. 943.0583, 943.0585, ~~and~~
787 943.059, and 943.0595, if the minor is otherwise eligible under
788 those sections.

789 Section 7. This act shall take effect July 1, 2016.