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**PUBLIC SAFETY  
&  
DOMESTIC SECURITY  
POLICY COMMITTEE**

**TUESDAY, MARCH 16, 2010  
8:00 A.M. – 10:00 A.M.  
404 HOB**

**ACTION PACKET**

Larry Cretul  
Speaker

Kevin C. Ambler  
Chair

**COMMITTEE MEETING REPORT**  
**Public Safety & Domestic Security Policy Committee**

**3/16/2010 8:00:00AM**

**Location:** 404 HOB

**Summary:**

**Public Safety & Domestic Security Policy Committee**

*Tuesday March 16, 2010 08:00 am*

HB 211	Favorable	Yeas: 11	Nays: 2
HB 541	Favorable With Committee Substitute	Yeas: 13	Nays: 0
HB 761	Favorable With Committee Substitute	Yeas: 13	Nays: 0
HB 1289	Favorable	Yeas: 13	Nays: 0
HB 1291	Favorable With Committee Substitute	Yeas: 13	Nays: 0
HB 1359	Temporarily Deferred		
PCB PSDS 10-02	Favorable With Amendments (1)	Yeas: 13	Nays: 0
PCB PSDS 10-03	Favorable	Yeas: 12	Nays: 2

**Committee meeting was reported out: Tuesday, March 16, 2010 1:03:19PM**

**COMMITTEE MEETING REPORT**  
**Public Safety & Domestic Security Policy Committee**

**3/16/2010 8:00:00AM**

**Location:** 404 HOB

**Attendance:**

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Kevin Ambler (Chair)	X		
Sandra Adams	X		
Mackenson Bernard	X		
Brad Drake	X		
Greg Evers	X		
Luis Garcia	X		
Bill Heller	X		
Doug Holder	X		
Ed Hooper	X		
Lake Ray	X		
Julio Robaina	X		
Darryl Rouson	X		
Kelli Stargel	X		
James Waldman	X		
<b>Totals:</b>	<b>14</b>	<b>0</b>	<b>0</b>

Committee meeting was reported out: Tuesday, March 16, 2010 1:03:19PM

**COMMITTEE MEETING REPORT**  
**Public Safety & Domestic Security Policy Committee**

**3/16/2010 8:00:00AM**

**Location:** 404 HOB

**HB 211 : Juvenile Justice**

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Sandra Adams	X				
Mackenson Bernard		X			
Brad Drake	X				
Greg Evers	X				
Luis Garcia	X				
Bill Heller	X				
Doug Holder	X				
Ed Hooper	X				
Lake Ray	X				
Julio Robaina			X		
Darryl Rouson	X				
Kelli Stargel	X				
James Waldman		X			
Kevin Ambler (Chair)	X				
<b>Total Yeas: 11</b>		<b>Total Nays: 2</b>			

**Appearances:**

HB 211 by Adams--Juvenile Justice  
 David Utter, Director (Lobbyist) - Opponent  
 Southern Poverty Law Center  
 215 S. Monroe, St, Suite 130  
 Tallahassee Florida 32301  
 Phone: 334-296-0727

HB 211 by Adams--Juvenile Justice  
 Robert Mason, Juvenile Director (State Employee) - Opponent  
 Florida Public Defenders Association  
 25 North Market Street  
 Jacksonville Florida 32202  
 Phone: 904-630-1557

Committee meeting was reported out: Tuesday, March 16, 2010 1:03:19PM

**COMMITTEE MEETING REPORT**  
**Public Safety & Domestic Security Policy Committee**

**3/16/2010 8:00:00AM**

**Location:** 404 HOB

**HB 541 : Expunging Criminal History Records**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Sandra Adams	X				
Mackenson Bernard	X				
Brad Drake	X				
Greg Evers	X				
Luis Garcia	X				
Bill Heller	X				
Doug Holder	X				
Ed Hooper	X				
Lake Ray	X				
Julio Robaina			X		
Darryl Rouson	X				
Kelli Stargel	X				
James Waldman	X				
Kevin Ambler (Chair)	X				
<b>Total Yeas: 13</b>		<b>Total Nays: 0</b>			

**Appearances:**

HB 541 by Thurston--Expunging Criminal History Records  
Honorable Nancy Daniels (State Employee) - Proponent  
Florida Public Defenders Assoc.  
301 S. Monroe Street  
Tallahassee Florida 32301  
Phone: 850-606-1011

HB 541 by Thurston--Expunging Criminal History Records  
Lisa Hurley, Lawyer (State Employee) - Proponent  
Florida Assoc. Criminal Defense Lawyers  
517 E. College Avenue  
Tallahassee Florida 32301  
Phone: 850-224-2001

Committee meeting was reported out: Tuesday, March 16, 2010 1:03:19PM

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COUNCIL/COMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

**ADOPTED**

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Council/Committee hearing bill: Public Safety & Domestic Security Policy Committee  
Representative(s) Ambler offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

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

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person

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20 seeking to expunge a criminal history record has applied for and  
21 received a certificate of eligibility for expunction pursuant to  
22 subsection (2). A criminal history record that relates to a  
23 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
24 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
25 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
26 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
27 any violation specified as a predicate offense for registration  
28 as a sexual predator pursuant to s. 775.21, without regard to  
29 whether that offense alone is sufficient to require such  
30 registration, or for registration as a sexual offender pursuant  
31 to s. 943.0435, may not be expunged, without regard to whether  
32 adjudication was withheld, if the defendant was found guilty of  
33 or pled guilty or nolo contendere to the offense, or if the  
34 defendant, as a minor, was found to have committed, or pled  
35 guilty or nolo contendere to committing, the offense as a  
36 delinquent act. The court may only order expunction of a  
37 criminal history record pertaining to one arrest or one incident  
38 of alleged criminal activity, except as provided in this  
39 section. The court may, at its sole discretion, order the  
40 expunction of a criminal history record pertaining to more than  
41 one arrest if the additional arrests directly relate to the  
42 original arrest. If the court intends to order the expunction of  
43 records pertaining to such additional arrests, such intent must  
44 be specified in the order. A criminal justice agency may not  
45 expunge any record pertaining to such additional arrests if the  
46 order to expunge does not articulate the intention of the court  
47 to expunge a record pertaining to more than one arrest. This

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48 section does not prevent the court from ordering the expunction  
49 of only a portion of a criminal history record pertaining to one  
50 arrest or one incident of alleged criminal activity.

51 Notwithstanding any law to the contrary, a criminal justice  
52 agency may comply with laws, court orders, and official requests  
53 of other jurisdictions relating to expunction, correction, or  
54 confidential handling of criminal history records or information  
55 derived therefrom. This section does not confer any right to the  
56 expunction of any criminal history record, and any request for  
57 expunction of a criminal history record may be denied at the  
58 sole discretion of the court.

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

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

64 (b) The petitioner's sworn statement attesting that the  
65 petitioner:

66 1. Has never, prior to the date on which the petition is  
67 filed, been adjudicated guilty of a criminal offense or  
68 comparable ordinance violation, or been adjudicated delinquent  
69 for committing any felony or a misdemeanor specified in s.  
70 943.051(3)(b).

71 2. Has not been adjudicated guilty of, or adjudicated  
72 delinquent for committing, any of the acts stemming from the  
73 arrest or alleged criminal activity to which the petition  
74 pertains.



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75 3. Has never secured a prior sealing or expunction, except  
76 as provided in subsection (6) and s. 943.059(6), of a criminal  
77 history record under this section, former s. 893.14, former s.  
78 901.33, or former s. 943.058, or from any jurisdiction outside  
79 the state, unless expunction is sought of a criminal history  
80 record previously sealed for 10 years pursuant to paragraph  
81 (2)(h) and the record is otherwise eligible for expunction.

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

85  
86 Any person who knowingly provides false information on such  
87 sworn statement to the court commits a felony of the third  
88 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
89 775.084.

90 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to  
91 petitioning the court to expunge a criminal history record, a  
92 person seeking to expunge a criminal history record shall apply  
93 to the department for a certificate of eligibility for  
94 expunction. The department shall, by rule adopted pursuant to  
95 chapter 120, establish procedures pertaining to the application  
96 for and issuance of certificates of eligibility for expunction.  
97 A certificate of eligibility for expunction is valid for 12  
98 months after the date stamped on the certificate when issued by  
99 the department. After that time, the petitioner must reapply to  
100 the department for a new certificate of eligibility. Eligibility  
101 for a renewed certification of eligibility must be based on the  
102 status of the applicant and the law in effect at the time of the

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103 renewal application. The department shall issue a certificate of  
104 eligibility for expunction to a person who is the subject of a  
105 criminal history record if that person:

106 (a) Has obtained, and submitted to the department, a  
107 written, certified statement from the appropriate clerk of court  
108 ~~state attorney or statewide prosecutor~~ which indicates:

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

111 2. That an indictment, information, or other charging  
112 document, if filed or issued in the case, was dismissed or nolle  
113 prosequi by the state attorney or statewide prosecutor, or was  
114 dismissed by a court of competent jurisdiction, and that none of  
115 the charges related to the arrest or alleged criminal activity  
116 to which the petition to expunge pertains resulted in a trial,  
117 without regard to whether the outcome of the trial was other  
118 than an adjudication of guilt.

119 3. That the criminal history record does not relate to a  
120 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
121 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
122 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
123 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
124 any violation specified as a predicate offense for registration  
125 as a sexual predator pursuant to s. 775.21, without regard to  
126 whether that offense alone is sufficient to require such  
127 registration, or for registration as a sexual offender pursuant  
128 to s. 943.0435, where the defendant was found guilty of, or pled  
129 guilty or nolo contendere to any such offense, or that the  
130 defendant, as a minor, was found to have committed, or pled

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131 guilty or nolo contendere to committing, such an offense as a  
132 delinquent act, without regard to whether adjudication was  
133 withheld.

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

137 (c) Has submitted to the department a certified copy of  
138 the disposition of the charge to which the petition to expunge  
139 pertains.

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

145 (e) Has not been adjudicated guilty of, or adjudicated  
146 delinquent for committing, any of the acts stemming from the  
147 arrest or alleged criminal activity to which the petition to  
148 expunge pertains.

149 (f) Has never secured a prior sealing or expunction,  
150 except as provided in subsection (6) and s. 943.059(6), of a  
151 criminal history record under this section, former s. 893.14,  
152 former s. 901.33, or former s. 943.058, unless expunction is  
153 sought of a criminal history record previously sealed for 10  
154 years pursuant to paragraph (h) and the record is otherwise  
155 eligible for expunction.

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

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159 (h) Has previously obtained a court order sealing the  
160 record under this section, former s. 893.14, former s. 901.33,  
161 or former s. 943.058 for a minimum of 10 years because  
162 adjudication was withheld or because all charges related to the  
163 arrest or alleged criminal activity to which the petition to  
164 expunge pertains were not dismissed prior to trial, without  
165 regard to whether the outcome of the trial was other than an  
166 adjudication of guilt. The requirement for the record to have  
167 previously been sealed for a minimum of 10 years does not apply  
168 when a plea was not entered or all charges related to the arrest  
169 or alleged criminal activity to which the petition to expunge  
170 pertains were dismissed prior to trial.

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

172 (a) In judicial proceedings under this section, a copy of  
173 the completed petition to expunge shall be served upon the  
174 appropriate state attorney or the statewide prosecutor and upon  
175 the arresting agency; however, it is not necessary to make any  
176 agency other than the state a party. The appropriate state  
177 attorney or the statewide prosecutor and the arresting agency  
178 may respond to the court regarding the completed petition to  
179 expunge.

180 (b) If relief is granted by the court, the clerk of the  
181 court shall certify copies of the order to the appropriate state  
182 attorney or the statewide prosecutor and the arresting agency.  
183 The arresting agency is responsible for forwarding the order to  
184 any other agency to which the arresting agency disseminated the  
185 criminal history record information to which the order pertains.  
186 The department shall forward the order to expunge to the Federal

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187 Bureau of Investigation. The clerk of the court shall certify a  
188 copy of the order to any other agency which the records of the  
189 court reflect has received the criminal history record from the  
190 court.

191 (c) For an order to expunge entered by a court prior to  
192 July 1, 1992, the department shall notify the appropriate state  
193 attorney or statewide prosecutor of an order to expunge which is  
194 contrary to law because the person who is the subject of the  
195 record has previously been convicted of a crime or comparable  
196 ordinance violation or has had a prior criminal history record  
197 sealed or expunged. Upon receipt of such notice, the appropriate  
198 state attorney or statewide prosecutor shall take action, within  
199 60 days, to correct the record and petition the court to void  
200 the order to expunge. The department shall seal the record until  
201 such time as the order is voided by the court.

202 (d) On or after July 1, 1992, the department or any other  
203 criminal justice agency is not required to act on an order to  
204 expunge entered by a court when such order does not comply with  
205 the requirements of this section. Upon receipt of such an order,  
206 the department must notify the issuing court, the appropriate  
207 state attorney or statewide prosecutor, the petitioner or the  
208 petitioner's attorney, and the arresting agency of the reason  
209 for noncompliance. The appropriate state attorney or statewide  
210 prosecutor shall take action within 60 days to correct the  
211 record and petition the court to void the order. No cause of  
212 action, including contempt of court, shall arise against any  
213 criminal justice agency for failure to comply with an order to  
214 expunge when the petitioner for such order failed to obtain the

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215 certificate of eligibility as required by this section or such  
216 order does not otherwise comply with the requirements of this  
217 section.

218 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any  
219 criminal history record of a minor or an adult which is ordered  
220 expunged by a court of competent jurisdiction pursuant to this  
221 section must be physically destroyed or obliterated by any  
222 criminal justice agency having custody of such record; except  
223 that any criminal history record in the custody of the  
224 department must be retained in all cases. A criminal history  
225 record ordered expunged that is retained by the department is  
226 confidential and exempt from the provisions of s. 119.07(1) and  
227 s. 24(a), Art. I of the State Constitution and not available to  
228 any person or entity except upon order of a court of competent  
229 jurisdiction. A criminal justice agency may retain a notation  
230 indicating compliance with an order to expunge.

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

- 237 1. Is a candidate for employment with a criminal justice  
238 agency;
- 239 2. Is a defendant in a criminal prosecution;
- 240 3. Concurrently or subsequently petitions for relief under  
241 this section or s. 943.059;
- 242 4. Is a candidate for admission to The Florida Bar;

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243 5. Is seeking to be employed or licensed by or to contract  
244 with the Department of Children and Family Services, the Agency  
245 for Health Care Administration, the Agency for Persons with  
246 Disabilities, or the Department of Juvenile Justice or to be  
247 employed or used by such contractor or licensee in a sensitive  
248 position having direct contact with children, the  
249 developmentally disabled, the aged, or the elderly as provided  
250 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
251 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),  
252 chapter 916, s. 985.644, chapter 400, or chapter 429;

253 6. Is seeking to be employed or licensed by the Department  
254 of Education, any district school board, any university  
255 laboratory school, any charter school, any private or parochial  
256 school, or any local governmental entity that licenses child  
257 care facilities; or

258 7. Is seeking authorization from a seaport listed in s.  
259 311.09 for employment within or access to one or more of such  
260 seaports pursuant to s. 311.12.

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

268 (c) Information relating to the existence of an expunged  
269 criminal history record which is provided in accordance with  
270 paragraph (a) is confidential and exempt from the provisions of

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271 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
272 except that the department shall disclose the existence of a  
273 criminal history record ordered expunged to the entities set  
274 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their  
275 respective licensing, access authorization, and employment  
276 purposes, and to criminal justice agencies for their respective  
277 criminal justice purposes. It is unlawful for any employee of an  
278 entity set forth in subparagraph (a)1., subparagraph (a)4.,  
279 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to  
280 disclose information relating to the existence of an expunged  
281 criminal history record of a person seeking employment, access  
282 authorization, or licensure with such entity or contractor,  
283 except to the person to whom the criminal history record relates  
284 or to persons having direct responsibility for employment,  
285 access authorization, or licensure decisions. Any person who  
286 violates this paragraph commits a misdemeanor of the first  
287 degree, punishable as provided in s. 775.082 or s. 775.083.

288 (5) STATUTORY REFERENCES.—Any reference to any other  
289 chapter, section, or subdivision of the Florida Statutes in this  
290 section constitutes a general reference under the doctrine of  
291 incorporation by reference.

292 (6) EXPUNCTION OF CRIMINAL HISTORY RECORD AFTER PRIOR  
293 SEALING OR EXPUNCTION.—A court may expunge a person's criminal  
294 history record after a prior criminal history record has been  
295 sealed or expunged only if the person obtains a certificate from  
296 the department to expunge the criminal history record. The  
297 department shall issue the certificate for a second expunction  
298 only if:



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299 (a) The person has had only one prior expunction of his or  
300 her criminal history record under s. 943.0585 or one prior  
301 expunction following the sealing of the same arrest or alleged  
302 criminal activity that was expunged;

303 (b) The person has not been arrested in Florida during the  
304 10-year period prior to the date on which the application for  
305 the certificate is filed; and

306 (c) The person has not previously sealed or expunged a  
307 criminal history record that involved the same offense to which  
308 the petition to expunge pertains.

309  
310 All other provisions and requirements of this section apply to  
311 an application to expunge a second criminal history record.

312  
313 Section 2. Section 943.059, Florida Statutes, is amended  
314 to read:

315 943.059 Court-ordered sealing of criminal history  
316 records.—The courts of this state shall continue to have  
317 jurisdiction over their own procedures, including the  
318 maintenance, sealing, and correction of judicial records  
319 containing criminal history information to the extent such  
320 procedures are not inconsistent with the conditions,  
321 responsibilities, and duties established by this section. Any  
322 court of competent jurisdiction may order a criminal justice  
323 agency to seal the criminal history record of a minor or an  
324 adult who complies with the requirements of this section. The  
325 court shall not order a criminal justice agency to seal a  
326 criminal history record until the person seeking to seal a

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327 criminal history record has applied for and received a  
328 certificate of eligibility for sealing pursuant to subsection  
329 (2). A criminal history record that relates to a violation of s.  
330 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.  
331 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter  
332 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
333 916.1075, a violation enumerated in s. 907.041, or any violation  
334 specified as a predicate offense for registration as a sexual  
335 predator pursuant to s. 775.21, without regard to whether that  
336 offense alone is sufficient to require such registration, or for  
337 registration as a sexual offender pursuant to s. 943.0435, may  
338 not be sealed, without regard to whether adjudication was  
339 withheld, if the defendant was found guilty of or pled guilty or  
340 nolo contendere to the offense, or if the defendant, as a minor,  
341 was found to have committed or pled guilty or nolo contendere to  
342 committing the offense as a delinquent act. The court may only  
343 order sealing of a criminal history record pertaining to one  
344 arrest or one incident of alleged criminal activity, except as  
345 provided in this section. The court may, at its sole discretion,  
346 order the sealing of a criminal history record pertaining to  
347 more than one arrest if the additional arrests directly relate  
348 to the original arrest. If the court intends to order the  
349 sealing of records pertaining to such additional arrests, such  
350 intent must be specified in the order. A criminal justice agency  
351 may not seal any record pertaining to such additional arrests if  
352 the order to seal does not articulate the intention of the court  
353 to seal records pertaining to more than one arrest. This section  
354 does not prevent the court from ordering the sealing of only a

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355 | portion of a criminal history record pertaining to one arrest or  
356 | one incident of alleged criminal activity. Notwithstanding any  
357 | law to the contrary, a criminal justice agency may comply with  
358 | laws, court orders, and official requests of other jurisdictions  
359 | relating to sealing, correction, or confidential handling of  
360 | criminal history records or information derived therefrom. This  
361 | section does not confer any right to the sealing of any criminal  
362 | history record, and any request for sealing a criminal history  
363 | record may be denied at the sole discretion of the court.

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

367 | (a) A valid certificate of eligibility for sealing issued  
368 | by the department pursuant to subsection (2).

369 | (b) The petitioner's sworn statement attesting that the  
370 | petitioner:

371 | 1. Has never, prior to the date on which the petition is  
372 | filed, been adjudicated guilty of a criminal offense or  
373 | comparable ordinance violation, or been adjudicated delinquent  
374 | for committing any felony or a misdemeanor specified in s.  
375 | 943.051(3)(b).

376 | 2. Has not been adjudicated guilty of or adjudicated  
377 | delinquent for committing any of the acts stemming from the  
378 | arrest or alleged criminal activity to which the petition to  
379 | seal pertains.

380 | 3. Has never secured a prior sealing or expunction, except  
381 | as provided in subsection (6), of a criminal history record

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382 under this section, former s. 893.14, former s. 901.33, former  
383 s. 943.058, or from any jurisdiction outside the state.

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

387  
388 Any person who knowingly provides false information on such  
389 sworn statement to the court commits a felony of the third  
390 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
391 775.084.

392 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to  
393 petitioning the court to seal a criminal history record, a  
394 person seeking to seal a criminal history record shall apply to  
395 the department for a certificate of eligibility for sealing. The  
396 department shall, by rule adopted pursuant to chapter 120,  
397 establish procedures pertaining to the application for and  
398 issuance of certificates of eligibility for sealing. A  
399 certificate of eligibility for sealing is valid for 12 months  
400 after the date stamped on the certificate when issued by the  
401 department. After that time, the petitioner must reapply to the  
402 department for a new certificate of eligibility. Eligibility for  
403 a renewed certification of eligibility must be based on the  
404 status of the applicant and the law in effect at the time of the  
405 renewal application. The department shall issue a certificate of  
406 eligibility for sealing to a person who is the subject of a  
407 criminal history record provided that such person:

## Amendment No. 1

408 (a) Has submitted to the department a certified copy of  
409 the disposition of the charge to which the petition to seal  
410 pertains.

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

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

419 (d) Has not been adjudicated guilty of or adjudicated  
420 delinquent for committing any of the acts stemming from the  
421 arrest or alleged criminal activity to which the petition to  
422 seal pertains.

423 (e) Has never secured a prior sealing or expunction,  
424 except as provided in subsection (6), of a criminal history  
425 record under this section, former s. 893.14, former s. 901.33,  
426 or former s. 943.058.

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

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

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

Amendment No. 1

436 attorney or the statewide prosecutor and the arresting agency  
437 may respond to the court regarding the completed petition to  
438 seal.

439 (b) If relief is granted by the court, the clerk of the  
440 court shall certify copies of the order to the appropriate state  
441 attorney or the statewide prosecutor and to the arresting  
442 agency. The arresting agency is responsible for forwarding the  
443 order to any other agency to which the arresting agency  
444 disseminated the criminal history record information to which  
445 the order pertains. The department shall forward the order to  
446 seal to the Federal Bureau of Investigation. The clerk of the  
447 court shall certify a copy of the order to any other agency  
448 which the records of the court reflect has received the criminal  
449 history record from the court.

450 (c) For an order to seal entered by a court prior to July  
451 1, 1992, the department shall notify the appropriate state  
452 attorney or statewide prosecutor of any order to seal which is  
453 contrary to law because the person who is the subject of the  
454 record has previously been convicted of a crime or comparable  
455 ordinance violation or has had a prior criminal history record  
456 sealed or expunged, except as provided in subsection (6). Upon  
457 receipt of such notice, the appropriate state attorney or  
458 statewide prosecutor shall take action, within 60 days, to  
459 correct the record and petition the court to void the order to  
460 seal. The department shall seal the record until such time as  
461 the order is voided by the court.

462 (d) On or after July 1, 1992, the department or any other  
463 criminal justice agency is not required to act on an order to

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464 seal entered by a court when such order does not comply with the  
465 requirements of this section. Upon receipt of such an order, the  
466 department must notify the issuing court, the appropriate state  
467 attorney or statewide prosecutor, the petitioner or the  
468 petitioner's attorney, and the arresting agency of the reason  
469 for noncompliance. The appropriate state attorney or statewide  
470 prosecutor shall take action within 60 days to correct the  
471 record and petition the court to void the order. No cause of  
472 action, including contempt of court, shall arise against any  
473 criminal justice agency for failure to comply with an order to  
474 seal when the petitioner for such order failed to obtain the  
475 certificate of eligibility as required by this section or when  
476 such order does not comply with the requirements of this  
477 section.

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

482 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal  
483 history record of a minor or an adult which is ordered sealed by  
484 a court of competent jurisdiction pursuant to this section is  
485 confidential and exempt from the provisions of s. 119.07(1) and  
486 s. 24(a), Art. I of the State Constitution and is available only  
487 to the person who is the subject of the record, to the subject's  
488 attorney, to criminal justice agencies for their respective  
489 criminal justice purposes, which include conducting a criminal  
490 history background check for approval of firearms purchases or  
491 transfers as authorized by state or federal law, to judges in

## Amendment No. 1

492 the state courts system for the purpose of assisting them in  
493 their case-related decisionmaking responsibilities, as set forth  
494 in s. 943.053(5), or to those entities set forth in  
495 subparagraphs (a)1., 4., 5., 6., and 8. for their respective  
496 licensing, access authorization, and employment purposes.

497 (a) The subject of a criminal history record sealed under  
498 this section or under other provisions of law, including former  
499 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
500 deny or fail to acknowledge the arrests covered by the sealed  
501 record, except when the subject of the record:

- 502 1. Is a candidate for employment with a criminal justice  
503 agency;
- 504 2. Is a defendant in a criminal prosecution;
- 505 3. Concurrently or subsequently petitions for relief under  
506 this section or s. 943.0585;
- 507 4. Is a candidate for admission to The Florida Bar;
- 508 5. Is seeking to be employed or licensed by or to contract  
509 with the Department of Children and Family Services, the Agency  
510 for Health Care Administration, the Agency for Persons with  
511 Disabilities, or the Department of Juvenile Justice or to be  
512 employed or used by such contractor or licensee in a sensitive  
513 position having direct contact with children, the  
514 developmentally disabled, the aged, or the elderly as provided  
515 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
516 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
517 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;
- 518 6. Is seeking to be employed or licensed by the Department  
519 of Education, any district school board, any university



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520 laboratory school, any charter school, any private or parochial  
521 school, or any local governmental entity that licenses child  
522 care facilities;

523 7. Is attempting to purchase a firearm from a licensed  
524 importer, licensed manufacturer, or licensed dealer and is  
525 subject to a criminal history check under state or federal law;  
526 or

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

530 (b) Subject to the exceptions in paragraph (a), a person  
531 who has been granted a sealing under this section, former s.  
532 893.14, former s. 901.33, or former s. 943.058 may not be held  
533 under any provision of law of this state to commit perjury or to  
534 be otherwise liable for giving a false statement by reason of  
535 such person's failure to recite or acknowledge a sealed criminal  
536 history record.

537 (c) Information relating to the existence of a sealed  
538 criminal record provided in accordance with the provisions of  
539 paragraph (a) is confidential and exempt from the provisions of  
540 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
541 except that the department shall disclose the sealed criminal  
542 history record to the entities set forth in subparagraphs (a)1.,  
543 4., 5., 6., and 8. for their respective licensing, access  
544 authorization, and employment purposes. It is unlawful for any  
545 employee of an entity set forth in subparagraph (a)1.,  
546 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or  
547 subparagraph (a)8. to disclose information relating to the

Amendment No. 1

548 existence of a sealed criminal history record of a person  
549 seeking employment, access authorization, or licensure with such  
550 entity or contractor, except to the person to whom the criminal  
551 history record relates or to persons having direct  
552 responsibility for employment, access authorization, or  
553 licensure decisions. Any person who violates the provisions of  
554 this paragraph commits a misdemeanor of the first degree,  
555 punishable as provided in s. 775.082 or s. 775.083.

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

560 (6) SEALING OF CRIMINAL HISTORY RECORD AFTER PRIOR SEALING  
561 OR EXPUNCTION.—A court may seal a person's criminal history  
562 record after a prior criminal history record has been sealed or  
563 expunged only if the person obtains a certificate from the  
564 department to seal the criminal history record. The department  
565 shall issue the certificate for the second sealing only if:

566 (a) The person has had only one prior expunction or sealing  
567 of his or her criminal history record under ss. 943.0585 or  
568 943.059, or one prior expunction following the sealing of the  
569 same arrest or alleged criminal activity that was expunged;

570 (b) The person has not been arrested in Florida during the  
571 5-year period prior to the date on which the application for the  
572 certificate is filed; and

573 (c) The person has not previously sealed or expunged a  
574 criminal history record that involved the same offense to which  
575 the petition to seal pertains.

Amendment No. 1

576

577 All other provisions and requirements of this section apply to  
578 an application to seal a second criminal history record.

579 Section 3. This act shall take effect July 1, 2010.

580

581

582

-----  
**T I T L E A M E N D M E N T**

583

584 Remove the entire title and insert:

584

585 An act to be entitled

585

586 An act relating to sealing and expunging criminal history  
587 records; amending s. 943.0585, F.S.; authorizing a court to  
588 expunge a criminal history record of a person who had a prior  
589 criminal history record sealed or expunged; amending s. 943.059,  
590 F.S.; authorizing a court to seal a criminal history record of a  
591 person who had a prior criminal history record sealed or  
592 expunged; providing an effective date.

**COMMITTEE MEETING REPORT**  
**Public Safety & Domestic Security Policy Committee**

**3/16/2010 8:00:00AM**

**Location:** 404 HOB

**HB 761 : State Attorneys**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Sandra Adams	X				
Mackenson Bernard	X				
Brad Drake	X				
Greg Evers	X				
Luis Garcia	X				
Bill Heller	X				
Doug Holder	X				
Ed Hooper	X				
Lake Ray	X				
Julio Robaina			X		
Darryl Rouson	X				
Kelli Stargel	X				
James Waldman	X				
Kevin Ambler (Chair)	X				
<b>Total Yeas: 13</b>		<b>Total Nays: 0</b>			

**Appearances:**

HB 761 by Ray--State Attorneys

Monica Hofheinz, Asst. State Attorney (Lobbyist) (State Employee) - Information Only

Florida State Attorney 17th Circuit

201 SE 6th Street

Fort Lauderdale Florida 33301

Committee meeting was reported out: Tuesday, March 16, 2010 1:03:19PM

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	✓	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

**ADOPTED**

1 Council/Committee hearing bill: Public Safety & Domestic  
 2 Security Policy Committee  
 3 Representative(s) Ray offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
 7 Section 1. Section 27.366, Florida Statutes, is amended to  
 8 read:

9 27.366 Legislative intent and policy in cases meeting  
 10 criteria of s. 775.087(2) and (3) ~~report.~~

11 ~~(1)~~ It is the intent of the Legislature that convicted  
 12 criminal offenders who meet the criteria in s. 775.087(2) and  
 13 (3) be sentenced to the minimum mandatory prison terms provided  
 14 herein. It is the intent of the Legislature to establish zero  
 15 tolerance of criminals who use, threaten to use, or avail  
 16 themselves of firearms in order to commit crimes and thereby  
 17 demonstrate their lack of value for human life. It is also the  
 18 intent of the Legislature that prosecutors should appropriately  
 19 exercise their discretion in those cases in which the offenders'

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 761 (2010)

Amendment No. 1

20 possession of the firearm is incidental to the commission of a  
21 crime and not used in furtherance of the crime, used in order to  
22 commit the crime, or used in preparation to commit the crime.

23 ~~For every case in which the offender meets the criteria in this~~  
24 ~~act and does not receive the mandatory minimum prison sentence,~~  
25 ~~the state attorney must explain the sentencing deviation in~~  
26 ~~writing and place such explanation in the case file maintained~~  
27 ~~by the state attorney. On a quarterly basis, each state attorney~~  
28 ~~shall submit copies of deviation memoranda regarding offenses~~  
29 ~~committed on or after the effective date of this act to the~~  
30 ~~President of the Florida Prosecuting Attorneys Association, Inc.~~  
31 ~~The association must maintain such information and make such~~  
32 ~~information available to the public upon request for at least a~~  
33 ~~10-year period.~~

34 ~~(2) Effective July 1, 2000, each state attorney shall~~  
35 ~~annually report to the Speaker of the House of Representatives,~~  
36 ~~the President of the Senate, and the Executive Office of the~~  
37 ~~Governor regarding the prosecution and sentencing of offenders~~  
38 ~~who met the criteria in s. 775.087(2) and (3). The report must~~  
39 ~~categorize the defendants by age, gender, race, and ethnicity.~~  
40 ~~Cases in which a final disposition has not yet been reached~~  
41 ~~shall be reported in a subsequent annual report.~~

42 Section 2. Paragraph (d) of subsection (9) of section  
43 775.082, Florida Statutes; is amended to read:

44 775.082 Penalties; applicability of sentencing structures;  
45 mandatory minimum sentences for certain reoffenders previously  
46 released from prison.-

47 (9)

Amendment No. 1

48           (d)1. It is the intent of the Legislature that offenders  
49 previously released from prison who meet the criteria in  
50 paragraph (a) be punished to the fullest extent of the law and  
51 as provided in this subsection, unless the state attorney  
52 determines that extenuating circumstances exist which preclude  
53 the just prosecution of the offender, including whether the  
54 victim recommends that the offender not be sentenced as provided  
55 in this subsection.

56           ~~2. For every case in which the offender meets the criteria~~  
57 ~~in paragraph (a) and does not receive the mandatory minimum~~  
58 ~~prison sentence, the state attorney must explain the sentencing~~  
59 ~~deviation in writing and place such explanation in the case file~~  
60 ~~maintained by the state attorney. On an annual basis, each state~~  
61 ~~attorney shall submit copies of deviation memoranda regarding~~  
62 ~~offenses committed on or after the effective date of this~~  
63 ~~subsection, to the president of the Florida Prosecuting~~  
64 ~~Attorneys Association, Inc. The association must maintain such~~  
65 ~~information, and make such information available to the public~~  
66 ~~upon request, for at least a 10 year period.~~

67           Section 3. Section 775.08401, Florida Statutes, is  
68 repealed.

69           Section 4. Subsection (5) of section 775.087, Florida  
70 Statutes, is repealed.

71           Section 5. Subsection (1) of section 903.286, Florida  
72 Statutes, is amended to read:

73           903.286 Return of cash bond; requirement to withhold  
74 unpaid fines, fees, court costs; cash bond forms.-

COUNCIL/COMMITTEE AMENDMENT

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Amendment No. 1

75 (1) Notwithstanding s. 903.31(2), the clerk of the court  
76 shall withhold from the return of a cash bond posted on behalf  
77 of a criminal defendant by a person other than a bail bond agent  
78 licensed pursuant to chapter 648 sufficient funds to pay any  
79 unpaid court fees, court costs, costs of prosecution, and  
80 criminal penalties. If sufficient funds are not available to pay  
81 all unpaid court fees, court costs, costs of prosecution, and  
82 criminal penalties, the clerk of the court shall immediately  
83 obtain payment from the defendant or enroll the defendant in a  
84 payment plan pursuant to s. 28.246.

85 Section 6. Section 938.27, Florida Statutes, is amended to  
86 read:

87 938.27 Judgment for costs on conviction.—

88 (1) In all criminal and violation-of-probation or  
89 community-control cases, convicted persons are liable for  
90 payment of the costs of prosecution, including investigative  
91 costs incurred by law enforcement agencies, by fire departments  
92 for arson investigations, and by investigations of the  
93 Department of Financial Services or the Office of Financial  
94 Regulation of the Financial Services Commission, ~~if requested by~~  
95 ~~such agencies~~. The court shall include these costs in every  
96 judgment rendered against the convicted person. For purposes of  
97 this section, "convicted" means a determination of guilt, or of  
98 violation of probation or community control, which is a result  
99 of a plea, trial, or violation proceeding, regardless of whether  
100 adjudication is withheld.

101 (2)(a) The court shall impose the costs of prosecution and  
102 investigation notwithstanding the defendant's present ability to



Amendment No. 1

103 pay. The court shall require the defendant to pay the costs  
104 within a specified period or in specified installments.

105 (b) The end of such period or the last such installment  
106 shall not be later than:

107 1. The end of the period of probation or community  
108 control, if probation or community control is ordered;

109 2. Five years after the end of the term of imprisonment  
110 imposed, if the court does not order probation or community  
111 control; or

112 3. Five years after the date of sentencing in any other  
113 case.

114

115 However, in no event shall the obligation to pay any unpaid  
116 amounts expire if not paid in full within the period specified  
117 in this paragraph.

118 (c) If not otherwise provided by the court under this  
119 section, costs shall be paid immediately.

120 (3) If a defendant is placed on probation or community  
121 control, payment of any costs under this section shall be a  
122 condition of such probation or community control. The court may  
123 revoke probation or community control if the defendant fails to  
124 pay these costs.

125 (4) Any dispute as to the proper amount or type of costs  
126 shall be resolved by the court by the preponderance of the  
127 evidence. The burden of demonstrating the amount of costs  
128 incurred is on the state attorney. ~~The burden of demonstrating~~  
129 ~~the financial resources of the defendant and the financial needs~~  
130 ~~of the defendant is on the defendant. The burden of~~

Amendment No. 1

131 ~~demonstrating such other matters as the court deems appropriate~~  
132 ~~is upon the party designated by the court as justice requires.~~

133 (5) Any default in payment of costs may be collected by  
134 any means authorized by law for enforcement of a judgment.

135 (6) The clerk of the court shall collect and dispense cost  
136 payments in any case. The clerk of court shall separately record  
137 each assessment and the payment of costs of prosecution. Costs  
138 of prosecution must be assessed by the court with respect to  
139 each case number in which the court orders costs of prosecution.  
140 The clerk shall provide a monthly report to the state attorney's  
141 office of the assessments and payments recorded.

142 (7) Investigative costs that are recovered shall be  
143 returned to the appropriate investigative agency that incurred  
144 the expense. Such costs include actual expenses incurred in  
145 conducting the investigation and prosecution of the criminal  
146 case; however, costs may also include the salaries of permanent  
147 employees. Any investigative costs recovered on behalf of a  
148 state agency must be remitted to the Department of Revenue for  
149 deposit in the agency operating trust fund, and a report of the  
150 payment must be sent to the agency, except that any  
151 investigative costs recovered on behalf of the Department of Law  
152 Enforcement shall be deposited in the department's Forfeiture  
153 and Investigative Support Trust Fund under s. 943.362.

154 (8) Costs for the state attorney shall be set in all cases  
155 at no less than \$50 per case when a misdemeanor or criminal  
156 traffic offense is charged and no less than \$100 per case when a  
157 felony offense is charged, including a proceeding in which the  
158 underlying offense is a violation of probation or community

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159 control. The court may set a higher amount upon a showing of  
160 sufficient proof of higher costs incurred. Costs recovered on  
161 behalf of the state attorney under this section shall be  
162 deposited into the state attorney's grants and donations trust  
163 fund to be used during the fiscal year in which the funds are  
164 collected, or in any subsequent fiscal year, for actual expenses  
165 incurred in investigating and prosecuting criminal cases, which  
166 may include the salaries of permanent employees, or for any  
167 other purpose authorized by the Legislature.

168 Section 7. Subsection (4) of section 985.557, Florida  
169 Statutes, is repealed.

170 Section 8. Subsection (5) of section 775.0843, Florida  
171 Statutes, is amended to read:

172 775.0843 Policies to be adopted for career criminal  
173 cases.—

174 (5) Each career criminal apprehension program shall  
175 concentrate on the identification and arrest of career criminals  
176 and the support of subsequent prosecution. The determination of  
177 which suspected felony offenders shall be the subject of career  
178 criminal apprehension efforts shall be made in accordance with  
179 written target selection criteria selected by the individual law  
180 enforcement agency and state attorney consistent with the  
181 provisions of this section and s. ss. 775.08401 and 775.0842.

182 Section 9. This act shall take effect July 1, 2010.

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Amendment No. 1

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**T I T L E   A M E N D M E N T**

Remove the entire title and insert:

A bill to be entitled

An act relating to state attorneys; amending s. 27.366, F.S.; deleting a provision that requires each state attorney to report why a case-qualified defendant did not receive the mandatory minimum prison sentence in cases involving the possession or use of a weapon; amending s. 775.082, F.S.; deleting a provision that requires each state attorney to report why a case-qualified defendant did not receive the mandatory minimum prison sentence in cases involving certain specified offenses; repealing s. 775.08401, F.S., relating to criteria to be used when state attorneys decide to pursue habitual felony offenders or habitual violent felony offenders; repealing s. 775.087(5), F.S., relating to a provision that requires each state attorney to report why a case-qualified defendant did not receive the mandatory minimum prison sentence in cases involving certain specified offenses; amending s. 903.286, F.S.; requiring the clerk of the court to withhold sufficient funds to pay any unpaid costs of prosecution from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent; amending s. 938.27, F.S.; deleting provisions regarding the burden of establishing financial resources of the defendant; requiring the clerk of court to separately record each assessment and payment of costs of prosecution; requiring the clerk to prepare a monthly

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215 | report to the state attorney's office of the recorded  
216 | assessments and payments; repealing s. 985.557(4), F.S.,  
217 | relating to direct-file policies and guidelines for  
218 | juveniles; amending s. 775.0843, F.S.; conforming a cross-  
219 | reference; providing an effective date.

220

**COMMITTEE MEETING REPORT**  
**Public Safety & Domestic Security Policy Committee**

**3/16/2010 8:00:00AM**

**Location:** 404 HOB

**HB 1289 : Money Laundering**

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Sandra Adams	X				
Mackenson Bernard	X				
Brad Drake	X				
Greg Evers	X				
Luis Garcia	X				
Bill Heller	X				
Doug Holder	X				
Ed Hooper	X				
Lake Ray	X				
Julio Robaina			X		
Darryl Rouson	X				
Kelli Stargel	X				
James Waldman	X				
Kevin Ambler (Chair)	X				
<b>Total Yeas: 13</b>		<b>Total Nays: 0</b>			

**Appearances:**

HB 1289 by Grady--Money Laundering

Bruce D. Grant, Director, Florida Office of Drug Control (Lobbyist) (State Employee) - Information Only  
 Office of the Governor  
 400 S. Monroe, Suite 2105  
 Tallahassee Florida 32399  
 Phone: 850-488-9557

Committee meeting was reported out: Tuesday, March 16, 2010 1:03:19PM

**COMMITTEE MEETING REPORT**  
**Public Safety & Domestic Security Policy Committee**

**3/16/2010 8:00:00AM**

**Location:** 404 HOB

**HB 1291 : Domestic Violence Fatality Review Teams**

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
Mackenson Bernard	X				
Brad Drake	X				
Greg Evers	X				
Luis Garcia	X				
Bill Heller	X				
Doug Holder	X				
Ed Hooper	X				
Lake Ray	X				
Julio Robaina			X		
Darryl Rouson	X				
Kelli Stargel	X				
James Waldman	X				
Kevin Ambler (Chair)	X				
<b>Total Yeas: 13</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Tuesday, March 16, 2010 1:03:19PM

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 1291 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED                                    — (Y/N)  
ADOPTED AS AMENDED                   — (Y/N)  
ADOPTED W/O OBJECTION               — ✓ (Y/N)  
FAILED TO ADOPT                       — (Y/N)  
WITHDRAWN                              — (Y/N)  
OTHER                                     —

ADOPTED

1 Council/Committee hearing bill: Public Safety & Domestic  
2 Security Policy Committee  
3 Representative(s) Coley offered the following:

4  
5                   **Amendment**

6                   Remove lines 22-23 and insert:  
7 definition; membership; duties; ~~report by the Department of Law~~  
8 ~~Enforcement.~~—



**COMMITTEE MEETING REPORT**  
**Public Safety & Domestic Security Policy Committee**

**3/16/2010 8:00:00AM**

**Location:** 404 HOB

**HB 1359 : Detention by Licensed Security Officers**

*Temporarily Deferred*

**Appearances:**

HB 1359 by Murzin--Detention by Licensed Security Officers

Dave Murrell (Lobbyist) - Opponent

Florida Police Benevolence Assoc.

300 E. Brevard Street

Tallahassee Florida 32301

Phone: 850-222-3329

**Committee meeting was reported out: Tuesday, March 16, 2010 1:03:19PM**

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 1359 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED                                    — (Y/N)  
ADOPTED AS AMENDED                   — (Y/N)  
ADOPTED W/O OBJECTION                ✓ (Y/N)  
FAILED TO ADOPT                        — (Y/N)  
WITHDRAWN                               — (Y/N)  
OTHER                                     —

**ADOPTED**

1 Council/Committee hearing bill: Public Safety & Domestic  
2 Security Policy Committee  
3 Representative Holder offered the following:

**Amendment (with title amendment)**

Remove lines 23-93 and insert:

Section 1. Section 493.6305, Florida Statutes, is amended  
to read:

493.6305 Uniforms, required wear; authority limitations  
exceptions.—

(1) Class "D" and Class "MB" licensees shall perform  
duties regulated under this chapter in a uniform that which  
bears at least one patch or emblem visible at all times clearly  
identifying the employing agency. A licensed security officer  
who also possesses a valid Class "G" license, or a licensed  
security agency manager who also possesses a valid Class "G"  
license, who is on duty, in uniform, and is providing security  
services on the premises of a critical infrastructure facility,  
and who has probable cause to believe that a person has

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 1359 (2010)

Amendment No. 1

20 committed or is committing a crime against the client or patrons  
21 thereof, may temporarily detain the person for the purpose of  
22 ascertaining his or her identity and the circumstances of the  
23 activity that is the basis for the temporary detention. The  
24 detaining security officer may detain the person in a reasonable  
25 manner until the responding law enforcement officer arrives at  
26 the premises of the client and is in the presence of the  
27 detainee. Upon resignation or termination of employment, a Class  
28 "D" licensee shall immediately return to the employer any  
29 uniform and any other equipment issued to her or him by the  
30 employer.

31 (2) When temporarily detaining any person, the licensed  
32 security officer or security agency manager shall notify the  
33 appropriate law enforcement agency as soon as reasonably  
34 possible. Temporary detention of a person by a licensed security  
35 officer or security agency manager must be done solely for the  
36 purpose of detaining the person before the arrival of a law  
37 enforcement officer, and custody of any person being temporarily  
38 detained shall be immediately transferred to the responding law  
39 enforcement officer for determination of appropriate  
40 disposition.

41 (3) A person may not be further detained under this  
42 section upon the arrival of a law enforcement officer except  
43 under the authority of the responding law enforcement officer.  
44 The temporary detention by a licensed security officer or  
45 security agency manager may not extend beyond the place where it  
46 was first affected or the immediate vicinity thereof.

Amendment No. 1

47 (4) A person may not be temporarily detained under  
48 subsection (2) longer than is reasonably necessary to effect the  
49 purposes of this section.

50 (5)(2) Class "D" licensees may perform duties regulated  
51 under this chapter in nonuniform status on a limited special  
52 assignment basis, and only when duty circumstances or special  
53 requirements of the client necessitate such dress.

54 (6)(3) Class "D" licensees who are also Class "G"  
55 licensees and who are performing limited, special assignment  
56 duties may carry their authorized firearm concealed in the  
57 conduct of such duties.

58 (7) Upon resignation or termination of employment, a Class  
59 "D" licensee shall immediately return to the employer any  
60 uniform and any other equipment issued to him or her by the  
61 employer.

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**T I T L E   A M E N D M E N T**

Remove lines 9-16 and insert:  
offender to the custody of the officer; amending s. 493.6118,  
F.S.;

**COMMITTEE MEETING REPORT**  
**Public Safety & Domestic Security Policy Committee**

**3/16/2010 8:00:00AM**

**Location:** 404 HOB

**PCB PSDS 10-02 : Department of Juvenile Justice**

Favorable With Amendments (1)

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
Mackenson Bernard	X				
Brad Drake	X				
Greg Evers	X				
Luis Garcia	X				
Bill Heller	X				
Doug Holder	X				
Ed Hooper	X				
Lake Ray	X				
Julio Robaina	X				
Darryl Rouson				X	
Kelli Stargel	X				
James Waldman	X				
Kevin Ambler (Chair)	X				
<b>Total Yeas: 13</b>		<b>Total Nays: 0</b>			

**Appearances:**

PCB PSDS 10-02--Department of Juvenile Justice  
 Jason Welty, Legislative Affairs Director (Lobbyist) (State Employee) - Proponent  
 Dept. of Juvenile Justice  
 2737 Centerview Drive  
 Tallahassee Florida 32399-3100  
 Phone: 850-921-3097

Committee meeting was reported out: Tuesday, March 16, 2010 1:03:19PM



Council/Committee/Subcommittee on

PSDS

Date 3-16-10

**ADOPTED**

Action

A/WO

**HOUSE AMENDMENT FOR DRAFTING PURPOSES ONLY**

(may be used in Council/Committee/Subcommittee, but **not** on House Floor)

Amendment No. 1

Bill No. PCB -10-02

(For filing with the Clerk, Council, Committee and Member Amendments must be prepared by House Bill Drafting Services (Rule 12.1))

Representative(s)/The Council/Committee/Subcommittee on Adams / PSDS

offered the following amendment:

Amendment

on page 24 <sup>Between</sup> line(s) 447 + 448 insert

The legislature finds that the court is in the best position to weigh all facts and circumstances to determine whether or not to commit a juvenile to the department and to determine the most appropriate restrictiveness level for a juvenile committed to the department.

**COMMITTEE MEETING REPORT**  
**Public Safety & Domestic Security Policy Committee**

**3/16/2010 8:00:00AM**

**Location: 404 HOB**

**PCB PSDS 10-03 : Handbill Distribution**

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Sandra Adams	X				
Mackenson Bernard		X			
Brad Drake	X				
Greg Evers	X				
Luis Garcia	X				
Bill Heller	X				
Doug Holder	X				
Ed Hooper	X				
Lake Ray	X				
Julio Robaina	X				
Darryl Rouson	X				
Kelli Stargel	X				
James Waldman		X			
Kevin Ambler (Chair)	X				
<b>Total Yeas: 12</b>		<b>Total Nays: 2</b>			

**Appearances:**

PCB PSDS 10-03--Handbill Distribution

Rich Maldechi , President - Information Only  
 Central Floiruda Hotel & Lodging Assoc.  
 7380 Sand the Road, Suite 200  
 Orlando Florida 32812  
 Phone: 467-313-5000

PCB PSDS 10-03--Handbill Distribution

Rich Templin, Communication Director (Lobbyist) - Opponent  
 Florida AFL-CIO  
 135 S. Monroe Street  
 Tallahassee Florida 32301  
 Phone: 850-224-6926

PCB PSDS 10-03--Handbill Distribution

Peter Bonk, Owner - Orlando Pizza Express - Opponent  
 Pizza Entities  
 3262 Vineland Road, Suite 106  
 Kissimmee Florida 34746  
 Phone: 407-535-7328

Committee meeting was reported out: Tuesday, March 16, 2010 1:03:19PM