

1 A bill to be entitled
 2 An act relating to expunging and sealing criminal
 3 history records; amending s. 943.0515, F.S.; providing
 4 for the nonjudicial expunction of criminal history
 5 records at age 21 years for minors who are not serious
 6 or habitual juvenile offenders; creating s. 943.0584,
 7 F.S.; establishing a nonjudicial expunction process
 8 for specified criminal history records; specifying
 9 types of records eligible for the nonjudicial
 10 expunction process; providing exceptions to
 11 eligibility for obtaining a nonjudicial expunction;
 12 establishing an application process and requiring
 13 specified documentation be submitted to FDLE when
 14 seeking a nonjudicial expunction; requiring sworn
 15 statement from petitioner; providing a criminal
 16 penalty for perjury on such sworn statement;
 17 specifying how the nonjudicial expunction must be
 18 processed; providing that an expunction under this
 19 section has the same effect as a record expunged under
 20 s. 943.0585, F.S.; amending s. 943.0585, F.S.;
 21 providing jurisdiction of the courts over expunction
 22 procedures; specifying types of records that are
 23 eligible for court-ordered expunction; providing
 24 limitations upon when a court may expunge such
 25 specified records; requiring specified documentation
 26 be submitted to FDLE when seeking a certificate of

27 | eligibility for court-ordered expunction; providing
 28 | specified documentation that must be submitted to the
 29 | court for a petition to expunge; requiring sworn
 30 | statement from petitioner; providing a criminal
 31 | penalty for perjury on such sworn statement; providing
 32 | guidelines for the processing of an order to expunge
 33 | once issued; providing the effect of the order to
 34 | expunge on the criminal history record; specifying
 35 | exceptions to the confidential and exempt status of an
 36 | expunged criminal history record; requiring criminal
 37 | justice agencies to destroy copies of records that
 38 | have been expunged; amending s. 943.059, F.S.;
 39 | establishing a nonjudicial process for sealing of
 40 | specified records; specifying types of records that
 41 | are eligible for the nonjudicial sealing process;
 42 | providing exceptions to eligibility for obtaining a
 43 | nonjudicial seal; establishing an application process
 44 | and requiring specified documentation be submitted to
 45 | FDLE when seeking a nonjudicial sealing; requiring
 46 | sworn statement from petitioner; providing a criminal
 47 | penalty for perjury on such sworn statement;
 48 | specifying how the nonjudicial sealing must be
 49 | processed; providing for the effect of a record that
 50 | has been sealed under this section; amending ss.
 51 | 776.09, 790.23, 943.0582, 948.08, 948.16, 961.06, and
 52 | 985.345, F.S.; making changes to conform cross-

53 references to changes made in the act; providing an
 54 effective date.

55

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

57

58 Section 1. Paragraph (b) of subsection (1) of section
 59 943.0515, Florida Statutes, is amended to read:

60 943.0515 Retention of criminal history records of minors.—

61 (1)

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

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

71 943.0584 Nonjudicial expunction of criminal history
 72 records.—

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

78 (2) ELIGIBILITY.—The department must approve the

79 nonjudicial expunction of a criminal history record where:

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

82 (b)1. Except as provided in subparagraph 2., an
 83 indictment, information, or other charging document was filed or
 84 issued in the case, but was subsequently dismissed or nolle
 85 prosequi by the state attorney or statewide prosecutor, or was
 86 dismissed or discharged by a court of competent jurisdiction;

87 2. A person may not obtain an expunction under this
 88 paragraph for a dismissal pursuant to ss. 916.145 or 985.19;

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

94 (d)1. Except as provided in subparagraph 2., a not-guilty
 95 verdict was rendered subsequent to a trial or adjudicatory
 96 hearing.

97 2. A person may not obtain an expunction under this
 98 paragraph for a verdict of not guilty by reason of insanity.

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

104 (3) LIMITATIONS.-There is no limitation on the number of

105 times a person may obtain a nonjudicial expunction for a
 106 criminal history record described in paragraphs (2)(a), (b),
 107 (c), or (d). An applicant seeking to have multiple records
 108 expunged need only submit one application to the department
 109 under this section. The department must approve the nonjudicial
 110 expunction of all records pertaining to the applicant that are
 111 eligible for expunction under this section.

112 (4) APPLICATION FOR NONJUDICIAL EXPUNCTION.-An adult or,
 113 in the case of a minor child, the parent or legal guardian of
 114 the minor child, seeking to expunge a criminal history record
 115 under this section shall apply to the department in the manner
 116 prescribed by rule. An application for a nonjudicial expunction
 117 shall include a:

118 (a)1. Written, certified statement from the appropriate
 119 state attorney or statewide prosecutor which indicates that the
 120 criminal history record sought to be expunged is eligible under
 121 this section; or

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

130 (b) \$75 processing fee to the department for placement in

131 the Department of Law Enforcement Operating Trust Fund, unless
 132 such fee is waived by the executive director;

133 (c) Certified copy of the disposition of the charge to
 134 which the application to expunge pertains; and

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

137 (5) PROCESSING OF A NONJUDICIAL EXPUNCTION.-If the
 138 department approves an application for nonjudicial expunction, a
 139 certified copy of the form approving the nonjudicial expunction
 140 shall be forwarded to the appropriate state attorney or the
 141 statewide prosecutor, the arresting agency, and the clerk of the
 142 court. The arresting agency is responsible for forwarding the
 143 form approving the nonjudicial expunction to any other agency to
 144 which the arresting agency disseminated the criminal history
 145 record information to which the form pertains. The department
 146 shall forward the form approving the nonjudicial expunction to
 147 the Federal Bureau of Investigation. The clerk of the court
 148 shall forward a copy of the form to any other agency which the
 149 records of the court reflect has received the criminal history
 150 record from the court.

151 (6) EFFECT OF A NONJUDICIAL EXPUNCTION.-

152 (a) A confidential and exempt criminal history record
 153 expunged under this section shall have the same effect, and such
 154 record may be disclosed by the department in the same manner, as
 155 a record expunged under s. 943.0585.

156 (7) STATUTORY REFERENCES.-Any reference to any other

157 chapter, section, or subdivision of the Florida Statutes in this
 158 section constitutes a general reference under the doctrine of
 159 incorporation by reference.

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

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

164 943.0585 Court-ordered expunction of criminal history
 165 records.-

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

175 (2) ELIGIBILITY.-

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

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

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

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

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

204 (3) LIMITATIONS.-A court may only order the expunction of
 205 one criminal history record described in paragraph (2) (a). A
 206 person seeking an expunction under this section is not barred
 207 from relief if the same criminal history record has previously
 208 been approved for a nonjudicial sealing pursuant to s. 943.059.

209 The record expunged must pertain to one arrest or one incident
210 of alleged criminal activity. However, the court may, at its
211 sole discretion, order the expunction of a criminal history
212 record pertaining to more than one arrest or one incident of
213 alleged criminal activity if the additional arrests directly
214 relate to the original arrest. If the court intends to order the
215 expunction of records pertaining to such additional arrests,
216 such intent must be specified in the order. A criminal justice
217 agency may not expunge any record pertaining to such additional
218 arrests if the order to expunge does not articulate the
219 intention of the court to expunge a record pertaining to more
220 than one arrest. This section does not prevent the court from
221 ordering the expunction of only a portion of a criminal history
222 record pertaining to one arrest.

223 (4) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—

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

- 230 1. Has obtained and submitted to the department a written,
231 certified statement from the appropriate state attorney or
232 statewide prosecutor which indicates that the criminal history
233 record sought to be expunged is eligible under subsection (2);
234 2. Remits a \$75 processing fee to the department for

235 placement in the Department of Law Enforcement Operating Trust
236 Fund, unless such fee is waived by the executive director;

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

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

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

249 6. Has not been arrested for or charged with a criminal
250 offense, in any jurisdiction of the state or within the United
251 States, from the date the person completed all sentences of
252 imprisonment or supervisory sanctions imposed by the court for
253 the offense to which the petition to expunge pertains to the
254 date of the application for the certificate of eligibility. This
255 period of time must be no less than one year in length; and

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

258 (b) A certificate of eligibility for expunction is valid
259 for 12 months after the date stamped on the certificate when
260 issued by the department. After that time, the petitioner must

261 reapply to the department for a new certificate of eligibility.
 262 Eligibility for a renewed certification of eligibility must be
 263 based on the status of the applicant and the law in effect at
 264 the time of the renewal application.

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

268 (5) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.-

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

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

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

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

280 b. The petitioner is eligible for the expunction under
 281 subsection (3); and

282 c. He or she has not been arrested for or charged with a
 283 criminal offense, in any jurisdiction of the state or within the
 284 United States, from the date the person completed all sentences
 285 of imprisonment or supervisory sanctions imposed by the court
 286 for the offense to which the petition to expunge pertains to the

287 date of the application for the certificate of eligibility. This
 288 period of time must be no less than one year in length.

289 (b) Any person who knowingly provides false information on
 290 the sworn statement required by subparagraph (a)2. commits a
 291 felony of the third degree, punishable as provided in s.
 292 775.082, s. 775.083, or s. 775.084.

293 (6) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.—

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

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

313 (c) The department or any other criminal justice agency is
 314 not required to act on an order to expunge entered by a court
 315 when such order does not comply with the requirements of this
 316 section. Upon receipt of such an order, the department must
 317 notify the issuing court, the appropriate state attorney or
 318 statewide prosecutor, the petitioner or the petitioner's
 319 attorney, and the arresting agency of the reason for
 320 noncompliance. The appropriate state attorney or statewide
 321 prosecutor shall take action within 60 days to correct the
 322 record and petition the court to void the order. No cause of
 323 action, including contempt of court, shall arise against any
 324 criminal justice agency for failure to comply with an order to
 325 expunge when the petitioner for such order failed to obtain the
 326 certificate of eligibility as required by this section or such
 327 order does not otherwise comply with the requirements of this
 328 section.

329 (7) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—

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

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

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

342 1. Is a candidate for employment with a criminal justice
 343 agency;

344 2. Is a defendant in a criminal prosecution;

345 3. Concurrently or subsequently seeks relief under this
 346 section, s. 943.0583 or s. 943.059;

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

348 5. Is seeking to be employed or licensed by or to contract
 349 with the Department of Children and Families, the Division of
 350 Vocational Rehabilitation within the Department of Education,
 351 the Agency for Health Care Administration, the Agency for
 352 Persons with Disabilities, the Department of Health, the
 353 Department of Elderly Affairs, or the Department of Juvenile
 354 Justice or to be employed or used by such contractor or licensee
 355 in a sensitive position having direct contact with children, the
 356 disabled, or the elderly;

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

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

365 8. Is seeking to be appointed as a guardian pursuant to s.
 366 744.3125.

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

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

379 (8) STATUTORY REFERENCES.—Any reference to any other
 380 chapter, section, or subdivision of the Florida Statutes in this
 381 section constitutes a general reference under the doctrine of
 382 incorporation by reference.

383 (9) This section does not confer any right to the
 384 expunction of any criminal history record, and any request for
 385 expunction of a criminal history record may be denied at the
 386 sole discretion of the court.

387 Section 4. Section 943.059, Florida Statutes, is amended
 388 to read:

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

391 943.059 Nonjudicial sealing of criminal history records.-

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

397 (2) ELIGIBILITY.-

398 (a) Except as provided in paragraph (b), the department
 399 must approve the nonjudicial sealing of a criminal history
 400 record where:

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

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

408 2. The person was adjudicated guilty or adjudicated
 409 delinquent for a nonviolent misdemeanor. For purposes of this
 410 section, the term "nonviolent misdemeanor" means a misdemeanor
 411 violation of:

412 a. Section 562.11(2), s. 562.111, s. 806.101, s. 806.13,
 413 s. 810.08, s. 810.09, s. 810.10, s. 810.11, s. 810.115, s.
 414 810.13, s. 812.014(3)(a), s. 823.01, s. 823.02, s. 856.011, s.
 415 856.015, s. 870.02, s. 893.13(3), s. 893.13(6)(b), or s.
 416 893.147(1), in which the petitioner was adjudicated guilty or

417 adjudicated delinquent; or

418 b. Any offense found in chs. 316-324 in which the
419 petitioner was adjudicated guilty or adjudicated delinquent,
420 unless the violation of such offense directly caused serious
421 bodily injury or death to a person.

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

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

429 2. The record relates to a serious offense in which the
430 person was found guilty of or adjudicated delinquent of, or pled
431 guilty or pled nolo contendere to the offense, regardless of
432 whether adjudication was withheld. For purposes of this
433 section, the term "serious offense" means a violation of s.
434 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
435 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
436 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
437 s. 916.1075, a violation enumerated in s. 907.041, or any
438 violation specified as a predicate offense for registration as a
439 sexual predator pursuant to s. 775.21, without regard to whether
440 that offense alone is sufficient to require such registration,
441 or for registration as a sexual offender pursuant to s.
442 943.0435.

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

457 (4) APPLICATION FOR NONJUDICIAL SEALING.-An adult or, in
 458 the case of a minor child, the parent or legal guardian of the
 459 minor child, seeking to seal a criminal history record under
 460 this section shall apply to the department in the manner
 461 prescribed by rule. An application for nonjudicial sealing shall
 462 include a:

463 (a) Written, certified statement from the appropriate
 464 state attorney or statewide prosecutor which indicates that the
 465 criminal history record sought to be sealed is eligible under
 466 subsection (2);

467 (b) If applicable, written, certified statement from the
 468 appropriate state attorney or statewide prosecutor that

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

475 (c) \$75 processing fee to the department for placement in
 476 the Department of Law Enforcement Operating Trust Fund, unless
 477 such fee is waived by the executive director;

478 (d) Certified copy of the disposition of the charge to
 479 which the application to seal pertains;

480 (e) Full set of fingerprints of the applicant taken by a
 481 law enforcement agency for purposes of identity verification;
 482 and

483 (f) Sworn, written statement from the person seeking the
 484 sealing that he or she:

485 1. Is no longer under court supervision applicable to the
 486 disposition of the arrest or alleged criminal activity to which
 487 the application to seal pertains;

488 2. Has never secured a prior sealing or expunction of a
 489 criminal history record under this section, s. 943.0585, former
 490 s. 893.14, former 901.33, or former 943.058; and

491 3. Has not been arrested for or charged with a criminal
 492 offense, in any jurisdiction of the state or within the United
 493 States, from the date the person completed all sentences of
 494 imprisonment or supervisory sanctions imposed by the court for

495 the offense to which the application for nonjudicial sealing
496 pertains to the date of the application for the nonjudicial
497 sealing. This period of time must be no less than one year in
498 length.

499 (g) Any person who knowingly provides false information on
500 the sworn statement required by paragraph (f) commits a felony
501 of the third degree, punishable as provided in s. 775.082, s.
502 775.083, or s. 775.084.

503 (6) PROCESSING OF A NONJUDICIAL SEAL.-

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

517 (b) The nonjudicial sealing of a criminal history record
518 pursuant to this section does not require that such record be
519 surrendered to the court, and such record shall continue to be
520 maintained by the department and other criminal justice

521 agencies.

522 (7) EFFECT OF CRIMINAL HISTORY RECORD SEALING.-

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

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

531 2. Is a defendant in a criminal prosecution;

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

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

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

544 6. Is seeking to be employed or licensed by the Department
 545 of Education, any district school board, any university
 546 laboratory school, any charter school, any private or parochial

547 school, or any local governmental entity that licenses child
 548 care facilities;

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

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

555 9. Is seeking to be appointed as a guardian pursuant to s.
 556 744.3125; or

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

562 (b) Subject to the exceptions in paragraph (b), a person
 563 who has been granted a sealing under this section, former s.
 564 893.14, former s. 901.33, or former s. 943.058 may not be held
 565 under any provision of law of this state to commit perjury or to
 566 be otherwise liable for giving a false statement by reason of
 567 such person's failure to recite or acknowledge a sealed criminal
 568 history record.

569 (c) Notwithstanding any law to the contrary, a criminal
 570 justice agency may comply with laws, court orders, and official
 571 requests of other jurisdictions relating to sealing, correction,
 572 or confidential handling of criminal history records or

573 information derived therefrom.

574 (8) STATUTORY REFERENCES.—Any reference to any other
575 chapter, section, or subdivision of the Florida Statutes in this
576 section constitutes a general reference under the doctrine of
577 incorporation by reference.

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

580 776.09 Retention of records pertaining to persons found to
581 be acting in lawful self-defense; expunction of criminal history
582 records.—

583 (3) Under either condition described in subsection (1) or
584 subsection (2), the person accused may apply for the nonjudicial
585 expunction of a certificate of eligibility to expunge the
586 associated criminal history record, pursuant to s.
587 943.0584(2)(c) ~~943.0585(5)~~, notwithstanding the eligibility
588 requirements prescribed in s. 943.0584(2) and (4)(a)2
589 ~~943.0585(1)(b) or (2)~~.

590 Section 6. Paragraphs (b) and (d) of subsection (1) of
591 section 790.23, Florida Statutes, are amended to read:

592 790.23 Felons and delinquents; possession of firearms,
593 ammunition, or electric weapons or devices unlawful.—

594 (1) It is unlawful for any person to own or to have in his
595 or her care, custody, possession, or control any firearm,
596 ammunition, or electric weapon or device, or to carry a
597 concealed weapon, including a tear gas gun or chemical weapon or
598 device, if that person has been:

599 (b)1. Found, in the courts of this state, to have
 600 committed a delinquent act that would be a felony if committed
 601 by an adult, such person meets the description of s.

602 943.0515(1) (a), and such person is under 24 years of age; or

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

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

611 943.0515(1) (a), and such person is under 24 years of age; or

612 2. Found to have committed a delinquent act in another
 613 state, territory, or country that would be a felony if committed
 614 by an adult and which was punishable by imprisonment for a term
 615 exceeding 1 year, such person meets the description of s.

616 943.0515(1) (b), and such person is under 21 years of age; or

617 Section 7. Section 943.0582, Florida Statutes, is amended
 618 to read:

619 943.0582 Prearrest, postarrest, or teen court diversion
 620 program expunction.—

621 (1) Notwithstanding any law dealing generally with the
 622 preservation and destruction of public records, the department
 623 may provide, by rule adopted pursuant to chapter 120, for the
 624 expunction of any nonjudicial record of the arrest of a minor

625 | who has successfully completed a prearrest or postarrest
 626 | diversion program for minors as authorized by s. 985.125.

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

630 | 1. The provisions of s. 943.0585(7)(c) ~~943.0585(4)(a)~~ do
 631 | not apply, except that the criminal history record of a person
 632 | whose record is expunged pursuant to this section shall be made
 633 | available only to criminal justice agencies for the purpose of
 634 | determining eligibility for prearrest, postarrest, or teen court
 635 | diversion programs; when the record is sought as part of a
 636 | criminal investigation; or when the subject of the record is a
 637 | candidate for employment with a criminal justice agency. For all
 638 | other purposes, a person whose record is expunged under this
 639 | section may lawfully deny or fail to acknowledge the arrest and
 640 | the charge covered by the expunged record.

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

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

649 | (3) The department shall expunge the nonjudicial arrest
 650 | record of a minor who has successfully completed a prearrest or

651 postarrest diversion program if that minor:

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

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

660 (c) Submits to the department, with the application, an
661 official written statement from the state attorney for the
662 county in which the arrest occurred certifying that he or she
663 has successfully completed that county's prearrest or postarrest
664 diversion program, that his or her participation in the program
665 was based on an arrest for a nonviolent misdemeanor, and that he
666 or she has not otherwise been charged by the state attorney with
667 or found to have committed any criminal offense or comparable
668 ordinance violation.

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

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

676 (f) Has never, prior to filing the application for

677 expunction, been charged by the state attorney with or been
 678 found to have committed any criminal offense or comparable
 679 ordinance violation.

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

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

691 Section 8. Paragraph (b) of subsection (6) and paragraph
 692 (b) of subsection (7) of section 948.08, Florida Statutes, is
 693 amended to read:

694 948.08 Pretrial intervention program.—

695 (6)

696 (b) While enrolled in a pretrial intervention program
 697 authorized by this subsection, the participant is subject to a
 698 coordinated strategy developed by a drug court team under s.
 699 397.334(4). The coordinated strategy may include a protocol of
 700 sanctions that may be imposed upon the participant for
 701 noncompliance with program rules. The protocol of sanctions may
 702 include, but is not limited to, placement in a substance abuse

703 treatment program offered by a licensed service provider as
 704 defined in s. 397.311 or in a jail-based treatment program or
 705 serving a period of incarceration within the time limits
 706 established for contempt of court. The coordinated strategy must
 707 be provided in writing to the participant before the participant
 708 agrees to enter into a pretrial treatment-based drug court
 709 program or other pretrial intervention program. Any person whose
 710 charges are dismissed after successful completion of the
 711 treatment-based drug court program, if otherwise eligible, may
 712 have his or her arrest record and plea of nolo contendere to the
 713 dismissed charges expunged under s. 943.0584 ~~943.0585~~.

714 (7)

715 (b) While enrolled in a pretrial intervention program
 716 authorized by this subsection, the participant shall be subject
 717 to a coordinated strategy developed by a veterans' treatment
 718 intervention team. The coordinated strategy should be modeled
 719 after the therapeutic jurisprudence principles and key
 720 components in s. 397.334(4), with treatment specific to the
 721 needs of servicemembers and veterans. The coordinated strategy
 722 may include a protocol of sanctions that may be imposed upon the
 723 participant for noncompliance with program rules. The protocol
 724 of sanctions may include, but need not be limited to, placement
 725 in a treatment program offered by a licensed service provider or
 726 in a jail-based treatment program or serving a period of
 727 incarceration within the time limits established for contempt of
 728 court. The coordinated strategy must be provided in writing to

729 the participant before the participant agrees to enter into a
 730 pretrial veterans' treatment intervention program or other
 731 pretrial intervention program. Any person whose charges are
 732 dismissed after successful completion of the pretrial veterans'
 733 treatment intervention program, if otherwise eligible, may have
 734 his or her arrest record of the dismissed charges expunged under
 735 s. 943.0584 ~~943.0585~~.

736 Section 9. Paragraph (b) of subsection (1) and paragraph
 737 (b) of subsection (2) of section 948.16, Florida Statutes, is
 738 amended to read:

739 948.16 Misdemeanor pretrial substance abuse education and
 740 treatment intervention program; misdemeanor pretrial veterans'
 741 treatment intervention program.—

742 (1)

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

755 | agrees to enter into a pretrial treatment-based drug court
 756 | program or other pretrial intervention program. Any person whose
 757 | charges are dismissed after successful completion of the
 758 | treatment-based drug court program, if otherwise eligible, may
 759 | have his or her arrest record and plea of nolo contendere to the
 760 | dismissed charges expunged under s. 943.0584 ~~943.0585~~.

761 | (2)

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

781 eligible, may have his or her arrest record of the dismissed
 782 charges expunged under s. 943.0584 ~~943.0585~~.

783 Section 10. Paragraph (e) of subsection (1) of section
 784 961.06, Florida Statutes, is amended to read:

785 961.06 Compensation for wrongful incarceration.—

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

790 (e) Notwithstanding any provision to the contrary in s.
 791 943.0583, 943.0584, or s. 943.0585, immediate administrative
 792 expunction of the person's criminal record resulting from his or
 793 her wrongful arrest, wrongful conviction, and wrongful
 794 incarceration. The Department of Legal Affairs and the
 795 Department of Law Enforcement shall, upon a determination that a
 796 claimant is entitled to compensation, immediately take all
 797 action necessary to administratively expunge the claimant's
 798 criminal record arising from his or her wrongful arrest,
 799 wrongful conviction, and wrongful incarceration. All fees for
 800 this process shall be waived.

801
 802 The total compensation awarded under paragraphs (a), (c), and
 803 (d) may not exceed \$2 million. No further award for attorney's
 804 fees, lobbying fees, costs, or other similar expenses shall be
 805 made by the state.

806 Section 11. Paragraph (b) of subsection (7) of section

807 985.04, Florida Statutes, is amended to read:

808 985.04 Oaths; records; confidential information.—

809 (7)

810 (b) The destruction of records pertaining to children
 811 committed to or supervised by the department pursuant to a court
 812 order, which records are retained until a child reaches the age
 813 of 21 ~~24~~ years or until a serious or habitual delinquent child
 814 reaches the age of 26 years, shall be subject to chapter 943.

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

817 985.045 Court records.—

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

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

835 985.345 Delinquency pretrial intervention program.—

836 (2) While enrolled in a delinquency pretrial intervention
 837 program authorized by this section, a child is subject to a
 838 coordinated strategy developed by a drug court team under s.
 839 397.334(4). The coordinated strategy may include a protocol of
 840 sanctions that may be imposed upon the child for noncompliance
 841 with program rules. The protocol of sanctions may include, but
 842 is not limited to, placement in a substance abuse treatment
 843 program offered by a licensed service provider as defined in s.
 844 397.311 or serving a period of secure detention under this
 845 chapter. The coordinated strategy must be provided in writing to
 846 the child before the child agrees to enter the pretrial
 847 treatment-based drug court program or other pretrial
 848 intervention program. Any child whose charges are dismissed
 849 after successful completion of the treatment-based drug court
 850 program, if otherwise eligible, may have his or her arrest
 851 record and plea of nolo contendere to the dismissed charges
 852 expunged under s. 943.0584 ~~943.0585~~.

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