HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/CS/HB 89	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Judiciary Committee; Criminal Justice Subcommittee; Combee; Edwards and others	93 **Y's**	24 **N's**
COMPANION BILLS:	CS/CS/SB 448	**GOVERNOR'S ACTION:**	Pending

SUMMARY ANALYSIS

CS/CS/HB 89 passed the House on March 20, 2014, and subsequently passed the Senate on April 3, 2014.

Section 775.087, F.S., often referred to as the "10-20-Life" law, requires the court to sentence a person convicted of aggravated assault to a minimum term of imprisonment of 3 years if, during the commission of the offense, the person actually possessed a "firearm" or "destructive device." If the person discharged a "firearm" or "destructive device" during the course of the commission of the aggravated assault, the court must sentence the person to a minimum term of imprisonment of 20 years.

The bill prohibits the court from imposing the above-described minimum terms of imprisonment for aggravated assault convictions if the court makes written findings that the:

- Defendant had a good faith belief that the aggravated assault was justifiable pursuant to ch. 776, F.S.;
- Aggravated assault was not committed in the course of committing another criminal offense;
- Defendant does not pose a threat to public safety; and
- Totality of the circumstances involved in the offense do not justify the imposition of such sentence.

The bill also amends various provisions within ch. 776, F.S., Florida's justifiable use of force statutes, to:

- Specify that the justifications contained therein apply to threatened uses of force in the same manner as they apply to actual uses of force;
- Clarify inconsistencies relating to when a person may use deadly force without having a duty to retreat; and
- Limit the chapter's civil immunity provision by specifying that it only applies to civil actions brought by the person, personal representative, or heirs of the person against whom the force was used or threatened.

The bill also requires FDLE to issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record. FDLE must issue such certificate if the person has obtained and submitted to the Florida Department of Law Enforcement (FDLE) a written, certified statement from the appropriate state attorney or statewide prosecutor which states whether an information, indictment, or other charging document was not filed or was dismissed by the state attorney, or dismissed by the court, because it was found that the person acted in lawful self-defense pursuant to the provisions related to justifiable use of force in ch. 776, F.S.

The bill may have a positive prison bed impact on the Department of Corrections and a negative fiscal impact on FDLE. See fiscal section.

Subject to the Governor's veto powers, the bill is effective upon becoming a law.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Aggravated Assault and 10-20-Life

Aggravated Assault

Assault, a first degree misdemeanor,[1] is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.[2] "Aggravated assault," a third degree felony,[3] is an assault:

- With a deadly weapon without intent to kill; or
- With an intent to commit a felony.[4]

10-20-Life

Section 775.087, F.S., often referred to as the "10-20-Life" law, requires the court to sentence a person convicted of aggravated assault or attempted aggravated assault to a minimum term of imprisonment of 3 years if, during the commission of the offense, the person actually *possessed* a "firearm" or "destructive device."[5] If the firearm in the person's possession was a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun,[6] the person must be sentenced to a minimum term of imprisonment of 15 years.[7]

If the person *discharged* a "firearm" or "destructive device," regardless of type, during the course of the commission of the aggravated assault or attempted aggravated assault, the court must sentence the person to a minimum term of imprisonment of 20 years.[8]

Legislative Intent

Section 27.366, F.S., provides the following legislative intent language relating to the minimum terms of imprisonment imposed by the 10-20-Life law.

> It is the intent of the Legislature that convicted criminal offenders who meet the criteria in s. 775.087(2) and (3) be sentenced to the minimum mandatory prison terms provided herein. It is the intent of the Legislature to establish zero tolerance of criminals who use, threaten to use, or avail themselves of firearms in order to commit crimes and thereby demonstrate their lack of value for human life. It is also the intent of the Legislature that prosecutors should appropriately exercise their discretion in those cases in which the offenders' possession of the firearm is incidental to the commission of a crime and not used in furtherance of the crime, used in order to commit the crime, or used in preparation to commit the crime. For every case in which the offender meets the criteria in this act and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney.

Effect of the Bill

The bill notwithstands s. 27.366, F.S., and prohibits the court from imposing the above-described minimum terms of imprisonment for aggravated assault convictions if the court makes written findings that:

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[1] A first degree misdemeanor is punishable by up to one year in county jail and a $1,000 fine. Sections 775.082 and 775.083, F.S.
[2] Section 784.011, F.S.
[3] A third degree felony is punishable by up to five years imprisonment and a $5,000 fine. Sections 775.082 and 775.083, F.S.
[4] Section 784.021, F.S.
[5] The terms "firearm" and "destructive device" are defined in s. 790.001, F.S.
[6] The term "machine gun" is defined in s. 790.001, F.S.
[7] Section 775.087(3)(a)1., F.S.
[8] Section 775.087(2)(a)2. and (3)(a)2., F.S.

- The defendant had a good faith belief that the aggravated assault was justifiable pursuant to ch. 776, F.S.;
- The aggravated assault was not committed in the course of committing another criminal offense;
- The defendant does not pose a threat to public safety; and
- The totality of the circumstances involved in the offense do not justify the imposition of such sentence.

Justifiable Use of Force – Threatened Use of Force

A person charged with a criminal offense in which force was used (e.g., battery, murder, etc.) may argue at trial that he or she did so in "self-defense." Chapter 776, F.S., contains a variety of provisions setting forth the instances in which a person may use force in self-defense.

Use of Force in Defense of Persons

Section 776.012, F.S., provides that a person is justified in using force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the other's imminent use of unlawful force. However, a person is justified in the use of deadly force and does not have a duty to retreat if:

- He or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony; or
- Under those circumstances permitted pursuant to s. 776.013, F.S.

Section 776.013(3), F.S., also addresses use of force in defense of persons, by specifying that a person does not have a duty to retreat before using force, including deadly force, outside of one's home so long as the person:

- Was not engaged in an unlawful activity;
- Was in a place where he or she had a right to be; and
- Reasonably believed that doing so was necessary to prevent death or great bodily harm or to prevent the commission of a forcible felony.

Use of Force in Defense of Property

Section 776.031, F.S., provides that a person is justified in the use of force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to prevent or terminate the other's trespass on, or other tortious or criminal interference with, either real property other than a dwelling or personal property, lawfully in his or her possession or in the possession of another who is a member of his or her immediate family or household or of a person whose property he or she has a legal duty to protect. A person is justified in the use of deadly force only if he or she reasonably believes that such force is necessary to prevent the imminent commission of a forcible felony. A person does not have a duty to retreat if the person is in a place where he or she has a right to be.

Instances When Use of Force is Not Justifiable

Section 776.041, F.S., specifies that the above-described justifications are not available to a person who:

- Is attempting to commit, committing, or escaping after the commission of, a forcible felony; or
- Initially provokes the use of force against himself or herself, unless:
    - Such force is so great that the person reasonably believes that he or she is in imminent danger of death or great bodily harm and that he or she has exhausted every reasonable means to escape such danger other than the use of force which is likely to cause death or great bodily harm to the assailant; or
    - In good faith, the person withdraws from physical contact with the assailant and indicates clearly to the assailant that he or she desires to withdraw and terminate the use of force, but the assailant continues or resumes the use of force.

Section 776.051, F.S., provides that a person is not justified in the use of force to resist an arrest by a law enforcement officer (LEO), or to resist an LEO who is engaged in the execution of a legal duty, if the LEO was acting in good faith and he or she is known, or reasonably appears, to be an LEO.

Castle Doctrine Presumptions

Florida has long recognized that there is no duty to retreat before using force when *in one's home* (a principle often referred to as the "Castle Doctrine").[9] Section 776.013, F.S., contains the following presumptions relating to the Castle Doctrine:

- A person has a reasonable fear of imminent peril or death or great bodily harm to themselves or another when using deadly force when:
  - The person against whom the deadly force was used was in the process of unlawfully entering or had unlawfully and forcibly entered, a dwelling, residence, or occupied vehicle, or if that person had removed or was attempting to remove another against that person's will from the dwelling, residence, or occupied vehicle; and
  - The person using the deadly force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.
- A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

The first presumption listed above does not apply if the person:

- Against whom the defensive force is used has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person;
- Sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used;
- Who uses defensive force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or
- Against whom the defensive force is used is a law enforcement officer who enters or attempts to enter a dwelling, residence, or vehicle in the performance of his or her official duties and the officer identified himself or herself or the person using force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer.[10]

Immunity

Section 776.032, F.S., grants immunity from criminal prosecution[11] and civil action to a person who used force or deadly force, so long as the force was used in accordance with ss. 776.012, 776.013, or 776.031, F.S.[12] A law enforcement agency may use standard procedures for investigating the use of force, but the agency may not arrest the person for using force unless it determines that there is probable cause that the force used was unlawful.[13]

Actual Use of Force v. Threatened Use of Force

A close read of the above-listed provisions of ch. 776, F.S., reflects that only a person's actual use of force is justifiable – not a person's *threatened* use of force. While some courts have recognized that a threatened use of force equates to an actual use of force,[14] the statutes do not clearly indicate this.

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[9] *Weiand v. State*, 732 So.2d 1044, 1049 (Fla. 1999).
[10] Section 776.013(2), F.S.
[11] "Criminal prosecution" includes arresting, detaining in custody, and charging or prosecuting the defendant. Section 776.032(1), F.S.
[12] Immunity is not granted if the person against whom force was used was a law enforcement officer who was acting in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer. Section 776.032(1), F.S.
[13] Section 776.032(2), F.S.
[14] *See, e.g., Hosnedl v. State*, 2013 WL 5925402 (Fla. 4th DCA 2013)(*quoting State v. Moore*, 729 A.2d 1021, 1029 (N.J. 1999)); *Stewart v. State*, 672 So.2d 865 (Fla. 2d DCA 1996)(the mere display of a gun without more constitutes non-deadly force); and *Miller*

In recent years, there have been cases in which persons have been convicted of aggravated assault for threatening to use force (e.g., displaying a firearm, etc.) and have been sentenced to mandatory minimum terms of imprisonment pursuant to the 10-20-Life law.[15] In some of these cases, the defendant unsuccessfully argued self-defense.[16] Specifying that the justifications in ch. 776, F.S., apply to threatened uses of force may clarify the issue.

Effect of the Bill

The bill amends each of the statutes in ch. 776, F.S., described above to include threatened uses of force. As a result, the criminal and civil immunity provisions apply to those who threaten to use force, so long as the threat was made in a manner and under circumstances that would have been immune under ch. 776, F.S., had force actually been used. Additionally, those who threaten to use force may claim self-defense if the threat was made in a manner and under circumstances that would have been justifiable under ch. 776, F.S., had force actually been used.

The bill also contains the following legislative findings and intent:

- The Legislature finds that persons have been criminally prosecuted and have been sentenced to mandatory minimum terms of imprisonment pursuant to s. 775.087, F.S., for threatening to use force in a manner and under circumstances that would have been justifiable under ch. 776, F.S., had force actually been used.
- The Legislature intends to:
    - Provide criminal and civil immunity to those who threaten to use force if the threat was made in a manner and under circumstances that would have been immune under ch. 776, F.S., had force actually been used;
    - Clarify that those who threaten to use force may claim self-defense if the threat was made in a manner and under circumstances that would have been justifiable under ch. 776, F.S., had force actually been used;
    - Ensure that those who threaten to use force in a manner and under circumstances that are justifiable under ch. 776, F.S., are not sentenced to a mandatory minimum term of imprisonment pursuant to the 10-20-Life law;[17] and
    - Encourage those who have been sentenced to a mandatory minimum term of imprisonment pursuant to the 10-20-Life law for threatening to use force in a manner and under circumstances that are justifiable under ch. 776, F.S., to apply for executive clemency.

Statutory Inconsistencies

A close read of the various self defense statutes in ch. 776, F.S., reveals a handful of inconsistencies, some of which have been recognized by various District Courts of Appeal.[18] These inconsistencies are described below.

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v. State, 613 So.2d 530 (Fla. 3d DCA 1993)(firing a firearm in the air, even as a so-called "warning shot," constitutes as a matter of law the use of deadly force).

[15] For example, 53 year old Orville Wollard was charged with aggravated assault with a deadly weapon after firing a warning shot into a wall in response to his daughter's boyfriend aggressive behavior towards his daughter (the boyfriend had physically attacked Wollard earlier that day and, upon returning to Wollard's house, shoved Wollard's daughter and punched a hole in the wall). Wollard claimed self-defense but was convicted and sentenced to 20 years pursuant to the 10-20-Life law. http://famm.org/orville-lee-wollard/ (last visited on April 24, 2014); http://www.theledger.com/article/20090619/NEWS/906195060 (last visited on April 24, 2014).

[16] *Id*.

[17] Section 775.087, F.S., often referred to as the "10-20-Life" law, requires a judge to sentence a person convicted of specified offenses to a minimum term of imprisonment if, during the commission of the offense, the person possessed or discharged a firearm or destructive device. Under the 10-20-Life law, a person convicted of aggravated assault must be sentenced to:

- 3 years if such person possessed a firearm or destructive device during the commission of the offense;
- 20 years if such person discharged a firearm or destructive device during the commission of the offense; and
- Not less than 25 years and not more than life in prison if, during the course of the commission of the offense, the person discharged a firearm or destructive device and, as the result of the discharge, death or great bodily harm was inflicted.

[18] *See, e.g., Pages v. Seliman-Tapia*, 2014 WL 950167 (Fla. 3d DCA 2014); *State v. Wonder*, 128 So.3d 867 (Fla. 4th DCA 2013); and *Little v. State*, 111 So.2d 214 (Fla. 2d DCA 2013).

Standard for Using Deadly Force
Section 776.012, F.S., relating to use of force in defense of persons, permits a person to use deadly force if he or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony. Similarly, s. 776.031, F.S., relating to use of force in defense of property, specifies that a person is justified in the use of deadly force only if he or she reasonably believes that such force is necessary to prevent the imminent commission of a forcible felony. In contrast, s. 776.013(3), F.S., uses the same deadly force standard but does not require imminence.

Using the Deadly Force Standard for Nondeadly Force
Section 776.013(3), F.S., permits a person who is not engaged in an unlawful activity and who is attacked in a place where he or she has a right to be to use force, including deadly force, if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony. A strict reading of this provision only permits a person to use force (i.e., nondeadly force) if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony. This is generally the standard for when a person can use deadly force.

Duty to Retreat
Section 776.013(3), F.S., specifies that a person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony.

Section 776.012(1), F.S., relating to use of force in defense of persons, specifies that a person does not have a duty to retreat prior to using deadly force if he or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony. The statute does not require that the person be engaged in a lawful activity or be in a place he or she has a right to be.

Section 776.031, F.S., relating to use of force in defense of property, specifies that a person is justified in the use of deadly force only if he or she reasonably believes that such force is necessary to prevent the imminent commission of a forcible felony. For purposes of this statute, a person does not have a duty to retreat if the person is in a place where he or she has a right to be – there is no requirement that the person be engaged in a lawful activity.

Effect of the Bill
The bill amends ss. 776.012, 776.013(3), and 776.031, F.S., to remove the above-described inconsistencies. Specifically, the bill:

- Amends s. 776.012, F.S., to specify that a person is only permitted to use or threaten to use deadly force in defense of others when the person reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony;
- Amends s. 776.031, F.S. to specify that a person is only permitted to use or threaten to use deadly force in defense of property when the person reasonably believes that such force is necessary to prevent the imminent commission of a forcible felony;
- Amends s. 776.013(3), F.S., to limit its application to Castle Doctrine scenarios by specifying that a person who is attacked in his or her dwelling, residence, or vehicle has no duty to retreat and has the right to stand his or her ground and use or threaten to use force, including deadly force, if he or she uses or threatens to use force in accordance with s. 776.012, F.S., or s. 776.031, F.S.; and
- Amends ss. 776.012 and 776.031, F.S., to specify that a person who lawfully uses or threatens to use deadly force does not have a duty to retreat and has the right to stand his or her ground if

the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be.

Civil Immunity for Justifiably Using Force

In 2005, the Florida Legislature passed Senate Bill 436, commonly referred to as Florida's "Stand Your Ground" law. The bill, in part, granted a person who used justifiable force in the defense of themselves or another immunity from criminal prosecution and civil action. This provision provides immunity from civil action, even if the person justifiably using the force was negligent in doing so and even if an innocent third party was injured as a result.

Effect of the Bill

The bill limits the civil immunity provision by specifying that it only applies to civil actions brought by the person, personal representative, or heirs of the person against whom the force was used or threatened. An innocent third party injured by the lawful use of force will have the ability to file a civil action (if a cause of action, such as negligence, exists).

Expunging Criminal History Records

Section 943.0585 F.S., sets forth procedures for expunging criminal history records. When a criminal history record is expunged, criminal justice agencies other than the Florida Department of Law Enforcement (FDLE) must physically destroy the record, and can only make a notation indicating compliance with an expunction order.[19] FDLE must retain expunged records.[20] Records that have been expunged are confidential and exempt from public records.[21]

A person seeking an expunction must first obtain a certificate of eligibility from FDLE. In order to receive a certificate, a person must:

- Submit to FDLE a written, certified statement from the appropriate state attorney or statewide prosecutor indicating that:
  - An indictment, information, or other charging document was not filed or issued in the case; or if filed, was dismissed or nolle prosequi by the state attorney or statewide prosecutor or was dismissed by a court of competent jurisdiction;
  - None of the charges related to the record the person wishes to expunge resulted in a trial, without regard to whether the outcome was other than an adjudication of guilt; and
  - The criminal history record does not relate to a violation of specified offenses.[22]
- Pay a $75 processing fee.
- Submit a certified copy of the disposition of the record they wish to have expunged.
- Have never been adjudicated guilty or delinquent for committing a felony or misdemeanor specified in s. 943.051(3)(b), F.S.,[23] prior to the date of their application for the certificate.[24]

[19] Section 943.0585(4), F.S.
[20] *Id.*
[21] Section 943.0585(4)(c), F.S.
[22] These offenses include: sexual misconduct with developmentally disabled clients, mental health patients, or forensic clients, or the reporting of such sexual misconduct; luring or enticing a child; sexual battery; procuring a person under 18 years for prostitution; lewd, lascivious, or indecent assault upon a child, lewd or lascivious offenses committed on an elderly or disabled person; communications fraud; sexual performance by a child; unlawful distribution of obscene materials to a minor; unlawful activities involving computer pornography; selling or buying minors for the purpose of engaging in sexually explicit conduct; offenses by public officers and employees; drug trafficking; and other dangerous crimes such as arson, aggravated assault or battery, kidnapping, murder, robbery, home invasion robbery, carjacking, stalking, domestic violence, and burglary.
[23] These offenses include: assault, as defined in s. 784.011, F.S.; battery, as defined in s. 784.03, F.S.; carrying a concealed weapon, as defined in s. 790.01(1), F.S.; unlawful use of destructive devices or bombs, as defined in s. 790.1615(1), F.S.; negligent treatment of children, as defined in s. 827.05, F.S.; assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b), F.S.; open carrying of a weapon, as defined in s. 790.053 F.S.; exposure of sexual organs, as defined in s. 800.03, F.S.; unlawful possession of a firearm, as defined in s. 790.22(5), F.S.; petit theft, as defined in s. 812.014(3), F.S.; cruelty to animals, as defined in s. 828.12(1), F.S.; arson, as defined in s. 806.031(1), F.S.; and unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115, F.S.
[24] Section 943.0585(2)(d), F.S.

- Have never been adjudicated guilty or delinquent for committing any of the acts stemming from the arrest or alleged criminal activity of the record they wish to have expunged.
- Have never had a prior sealing or expunction of criminal history record unless an expunction is sought for a record previously sealed for 10 years and the record is otherwise eligible for expunction. A record must have been sealed for 10 years before it can be expunged, unless charges were not filed or were dismissed by the prosecutor or court.[25]
- No longer be under any court supervision related to the record they wish to have expunged.[26]

In addition to the certificate, a petition to expunge a criminal history record must also include the petitioner's sworn statement that he or she:

- Has not previously been adjudicated guilty of an offense or comparable ordinance violation, or adjudicated delinquent for committing a felony or misdemeanor listed in s. 943.051(3)(b), F.S.;
- Has not been adjudicated guilty or delinquent for committing any of the acts he or she is currently trying to have sealed or expunged;
- Has not obtained a prior sealing or expunction; and
- Is eligible to the best of his or her knowledge and has no other pending expunction or sealing petitions before any court.[27]

Once a petition to expunge is submitted, the court must decide whether the expunction is appropriate.[28]

Effect of the Bill

The bill creates s. 776.09, F.S., to specify that notwithstanding the above-described criteria, a person is authorized to apply for a certificate of eligibility to expunge a criminal history record under the following conditions:

- Whenever the state attorney or statewide prosecutor dismisses an information, indictment, or other charging document, or decides not to file an information, indictment, or other charging document because of a finding that the person accused acted in lawful self-defense pursuant to the provisions related to the justifiable use of force in ch. 776, F.S.
- Whenever a court dismisses an information, indictment, or other charging document because of a finding that the person accused acted in lawful self-defense pursuant to the provisions related to the justifiable use of force in ch. 776, F.S.

The bill requires these findings to be documented in writing and retained in the files of the state attorney or statewide prosecutor, or in the court's records.

The bill amends s. 943.0585, F.S., to require FDLE to issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record. FDLE must issue such certificate if the person has obtained, and submitted to FDLE a written, certified statement from the appropriate state attorney or statewide prosecutor which states whether an information, indictment, or other charging document was not filed or was dismissed by the state attorney, or dismissed by the court, because it was found that the person acted in lawful self-defense pursuant to the provisions related to justifiable use of force in ch. 776, F.S.

Each petition to a court to expunge a criminal history record is complete only when accompanied by:

- A valid certificate of eligibility for expunction issued by FDLE; and
- The petitioner's sworn statement[29] attesting that the petitioner is eligible for such an expunction to the best of his or her knowledge or belief.

[25] Section 943.0585(2)(h), F.S.
[26] Section 943.0585(2), F.S.
[27] Section 943.0585(1)(b), F.S. Knowingly providing false information on the sworn statement is a third degree felony.
[28] Section 943.0585, F.S.
[29] A person who knowingly provides false information on such sworn statement commits a third degree felony punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

These provisions do not confer any right to the expunction of a criminal history record, and any request for expunction of a criminal history record may be denied at the discretion of the court.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill may have a positive prison bed impact because it prohibits the court from imposing minimum terms of imprisonment for aggravated assault convictions if the court makes certain written findings.

   The bill's expunction provisions may result in a negative fiscal impact to FDLE because they do not require certificate of eligibility applicants to submit the $75 application fee currently required.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.