

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Gaetz offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 67-284 and insert:

5 Section 2. Subsection (6) is added to section 775.087,
6 Florida Statutes, to read:

7 775.087 Possession or use of weapon; aggravated battery;
8 felony reclassification; minimum sentence.-

9 (6) Notwithstanding s. 27.366, the sentencing court shall
10 not impose the mandatory minimum sentence required by subsection
11 (2) or subsection (3) for a conviction for aggravated assault if
12 the court makes written findings that:

13 (a) The defendant had a good faith belief that the
14 aggravated assault was justifiable pursuant to chapter 776.

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15 (b) The aggravated assault was not committed in the course
16 of committing another criminal offense.

17 (c) The defendant does not pose a threat to public safety.

18 (d) The totality of the circumstances involved in the
19 offense do not justify the imposition of such sentence.

20 Section 3. Section 776.012, Florida Statutes, is amended
21 to read:

22 776.012 Use or threatened use of force in defense of
23 person.—

24 (1) A person is justified in using or threatening to use
25 force, except deadly force, against another when and to the
26 extent that the person reasonably believes that such conduct is
27 necessary to defend himself or herself or another against the
28 other's imminent use of unlawful force. A person who uses or
29 threatens to use force in accordance with this subsection does
30 not have a duty to retreat before using or threatening to use
31 such force. However,

32 (2) A person is justified in using or threatening to use
33 ~~the use of deadly force and does not have a duty to retreat if:~~

34 ~~(1)~~ He or she reasonably believes that using or
35 threatening to use such force is necessary to prevent imminent
36 death or great bodily harm to himself or herself or another or
37 to prevent the imminent commission of a forcible felony. ~~or~~

38 ~~(2)~~ A person who uses or threatens to use deadly force in
39 accordance with this subsection does not have a duty to retreat
40 and has the right to stand his or her ground if the person using

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41 or threatening to use the deadly force is not engaged in a
42 criminal activity and is in a place where he or she has a right
43 to be ~~Under those circumstances permitted pursuant to s.~~
44 ~~776.013.~~

45 Section 4. Subsections (1), (2), and (3) of section
46 776.013, Florida Statutes, are amended to read:

47 776.013 Home protection; use or threatened use of deadly
48 force; presumption of fear of death or great bodily harm.—

49 (1) A person is presumed to have held a reasonable fear of
50 imminent peril of death or great bodily harm to himself or
51 herself or another when using or threatening to use defensive
52 force that is intended or likely to cause death or great bodily
53 harm to another if:

54 (a) The person against whom the defensive force was used
55 or threatened was in the process of unlawfully and forcefully
56 entering, or had unlawfully and forcibly entered, a dwelling,
57 residence, or occupied vehicle, or if that person had removed or
58 was attempting to remove another against that person's will from
59 the dwelling, residence, or occupied vehicle; and

60 (b) The person who uses or threatens to use defensive
61 force knew or had reason to believe that an unlawful and
62 forcible entry or unlawful and forcible act was occurring or had
63 occurred.

64 (2) The presumption set forth in subsection (1) does not
65 apply if:

66 (a) The person against whom the defensive force is used or

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67 | threatened has the right to be in or is a lawful resident of the
68 | dwelling, residence, or vehicle, such as an owner, lessee, or
69 | titleholder, and there is not an injunction for protection from
70 | domestic violence or a written pretrial supervision order of no
71 | contact against that person; or

72 | (b) The person or persons sought to be removed is a child
73 | or grandchild, or is otherwise in the lawful custody or under
74 | the lawful guardianship of, the person against whom the
75 | defensive force is used or threatened; or

76 | (c) The person who uses or threatens to use defensive
77 | force is engaged in a criminal ~~an unlawful~~ activity or is using
78 | the dwelling, residence, or occupied vehicle to further a
79 | criminal ~~an unlawful~~ activity; or

80 | (d) The person against whom the defensive force is used or
81 | threatened is a law enforcement officer, as defined in s.
82 | 943.10(14), who enters or attempts to enter a dwelling,
83 | residence, or vehicle in the performance of his or her official
84 | duties and the officer identified himself or herself in
85 | accordance with any applicable law or the person using or
86 | threatening to use force knew or reasonably should have known
87 | that the person entering or attempting to enter was a law
88 | enforcement officer.

89 | (3) A person ~~who is not engaged in an unlawful activity~~
90 | ~~and~~ who is attacked in his or her dwelling, residence, or
91 | vehicle ~~in any other place where he or she has a right to be~~ has
92 | no duty to retreat and has the right to stand his or her ground

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93 and use or threaten to use ~~meet force with~~ force, including
94 deadly force, if he or she uses or threatens to use force in
95 accordance with s. 776.012(1) or (2) or s. 776.031(1) or (2)
96 ~~reasonably believes it is necessary to do so to prevent death or~~
97 ~~great bodily harm to himself or herself or another or to prevent~~
98 ~~the commission of a forcible felony.~~

99 Section 5. Section 776.031, Florida Statutes, is amended
100 to read:

101 776.031 Use or threatened use of force in defense of
102 property ~~others.~~

103 (1) A person is justified in using or threatening to use
104 ~~the use of~~ force, except deadly force, against another when and
105 to the extent that the person reasonably believes that such
106 conduct is necessary to prevent or terminate the other's
107 trespass on, or other tortious or criminal interference with,
108 either real property other than a dwelling or personal property,
109 lawfully in his or her possession or in the possession of
110 another who is a member of his or her immediate family or
111 household or of a person whose property he or she has a legal
112 duty to protect. A person who uses or threatens to use force in
113 accordance with this subsection does not have a duty to retreat
114 before using or threatening to use such force. ~~However,~~

115 (2) ~~A~~ A ~~the~~ person is justified in using or threatening to
116 use ~~the use of~~ deadly force only if he or she reasonably
117 believes that such conduct ~~force~~ is necessary to prevent the
118 imminent commission of a forcible felony. A person who uses or

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119 threatens to use deadly force in accordance with this subsection
120 does not have a duty to retreat and has the right to stand his
121 or her ground if the person using or threatening to use the
122 deadly force is not engaged in a criminal activity and is in a
123 place where he or she has a right to be. ~~A person does not have~~
124 ~~a duty to retreat if the person is in a place where he or she~~
125 ~~has a right to be.~~

126 Section 6. Subsections (1) and (2) of section 776.032,
127 Florida Statutes, are amended to read:

128 776.032 Immunity from criminal prosecution and civil
129 action for justifiable use or threatened use of force.—

130 (1) A person who uses or threatens to use force as
131 permitted in s. 776.012, s. 776.013, or s. 776.031 is justified
132 in ~~using~~ such conduct ~~force~~ and is immune from criminal
133 prosecution and civil action for the use or threatened use of
134 such force by the person, personal representative, or heirs of
135 the person against whom the force was used or threatened, unless
136 the person against whom force was used or threatened is a law
137 enforcement officer, as defined in s. 943.10(14), who was acting
138 in the performance of his or her official duties and the officer
139 identified himself or herself in accordance with any applicable
140 law or the person using or threatening to use force knew or
141 reasonably should have known that the person was a law
142 enforcement officer. As used in this subsection, the term
143 "criminal prosecution" includes arresting, detaining in custody,
144 and charging or prosecuting the defendant.

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145 (2) A law enforcement agency may use standard procedures
146 for investigating the use or threatened use of force as
147 described in subsection (1), but the agency may not arrest the
148 person for using or threatening to use force unless it
149 determines that there is probable cause that the force that was
150 used or threatened was unlawful.

151 Section 7. Subsection (2) of section 776.041, Florida
152 Statutes, is amended to read:

153 776.041 Use or threatened use of force by aggressor.—The
154 justification described in the preceding sections of this
155 chapter is not available to a person who:

156 (2) Initially provokes the use or threatened use of force
157 against himself or herself, unless:

158 (a) Such force or threat of force is so great that the
159 person reasonably believes that he or she is in imminent danger
160 of death or great bodily harm and that he or she has exhausted
161 every reasonable means to escape such danger other than the use
162 or threatened use of force which is likely to cause death or
163 great bodily harm to the assailant; or

164 (b) In good faith, the person withdraws from physical
165 contact with the assailant and indicates clearly to the
166 assailant that he or she desires to withdraw and terminate the
167 use or threatened use of force, but the assailant continues or
168 resumes the use or threatened use of force.

169 Section 8. Subsection (1) of section 776.051, Florida
170 Statutes, is amended to read:

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171 776.051 Use or threatened use of force in resisting arrest
172 or making an arrest or in the execution of a legal duty;
173 prohibition.-

174 (1) A person is not justified in the use or threatened use
175 of force to resist an arrest by a law enforcement officer, or to
176 resist a law enforcement officer who is engaged in the execution
177 of a legal duty, if the law enforcement officer was acting in
178 good faith and he or she is known, or reasonably appears, to be
179 a law enforcement officer.

180 Section 9. Subsection (1) of section 776.06, Florida
181 Statutes, is amended to read:

182 776.06 Deadly force by a law enforcement or correctional
183 officer.-

184 (1) As applied to a law enforcement officer or
185 correctional officer acting in the performance of his or her
186 official duties, the term "deadly force" means force that is
187 likely to cause death or great bodily harm and includes, but is
188 not limited to:

189 (a) The firing of a firearm in the direction of the person
190 to be arrested, even though no intent exists to kill or inflict
191 great bodily harm; and

192 (b) The firing of a firearm at a vehicle in which the
193 person to be arrested is riding.

194 Section 10. Section 776.09, Florida Statutes, is created
195 to read:

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196 776.09 Retention of records pertaining to persons found to
197 be acting in lawful self-defense; expunction of criminal history
198 records.-

199 (1) Whenever the state attorney or statewide prosecutor
200 dismisses an information, indictment, or other charging
201 document, or decides not to file an information, indictment, or
202 other charging document because of a finding that the person
203 accused acted in lawful self-defense pursuant to the provisions
204 related to the justifiable use of force in this chapter, that
205 finding shall be documented in writing and retained in the files
206 of the state attorney or statewide prosecutor.

207 (2) Whenever a court dismisses an information, indictment,
208 or other charging document because of a finding that the person
209 accused acted in lawful self-defense pursuant to the provisions
210 related to the justifiable use of force in this chapter, that
211 finding shall be recorded in an order or memorandum, which shall
212 be retained in the court's records.

213 (3) Under either condition described in subsection (1) or
214 subsection (2), the person accused may apply for a certificate
215 of eligibility to expunge the associated criminal history
216 record, pursuant to s. 943.0585(5), notwithstanding the
217 eligibility requirements prescribed in s. 943.0585(1)(b) or (2).

218 Section 11. Section 943.0585, Florida Statutes, is amended
219 to read:

220 943.0585 Court-ordered expunction of criminal history
221 records.-The courts of this state have jurisdiction over their

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222 own procedures, including the maintenance, expunction, and
223 correction of judicial records containing criminal history
224 information to the extent such procedures are not inconsistent
225 with the conditions, responsibilities, and duties established by
226 this section. Any court of competent jurisdiction may order a
227 criminal justice agency to expunge the criminal history record
228 of a minor or an adult who complies with the requirements of
229 this section. The court shall not order a criminal justice
230 agency to expunge a criminal history record until the person
231 seeking to expunge a criminal history record has applied for and
232 received a certificate of eligibility for expunction pursuant to
233 subsection (2) or subsection (5). A criminal history record that
234 relates to a violation of s. 393.135, s. 394.4593, s. 787.025,
235 chapter 794, s. 796.03, s. 800.04, s. 810.14, s. 817.034, s.
236 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.
237 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s.
238 907.041, or any violation specified as a predicate offense for
239 registration as a sexual predator pursuant to s. 775.21, without
240 regard to whether that offense alone is sufficient to require
241 such registration, or for registration as a sexual offender
242 pursuant to s. 943.0435, may not be expunged, without regard to
243 whether adjudication was withheld, if the defendant was found
244 guilty of or pled guilty or nolo contendere to the offense, or
245 if the defendant, as a minor, was found to have committed, or
246 pled guilty or nolo contendere to committing, the offense as a
247 delinquent act. The court may only order expunction of a

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248 criminal history record pertaining to one arrest or one incident
249 of alleged criminal activity, except as provided in this
250 section. The court may, at its sole discretion, order the
251 expunction of a criminal history record pertaining to more than
252 one arrest if the additional arrests directly relate to the
253 original arrest. If the court intends to order the expunction of
254 records pertaining to such additional arrests, such intent must
255 be specified in the order. A criminal justice agency may not
256 expunge any record pertaining to such additional arrests if the
257 order to expunge does not articulate the intention of the court
258 to expunge a record pertaining to more than one arrest. This
259 section does not prevent the court from ordering the expunction
260 of only a portion of a criminal history record pertaining to one
261 arrest or one incident of alleged criminal activity.
262 Notwithstanding any law to the contrary, a criminal justice
263 agency may comply with laws, court orders, and official requests
264 of other jurisdictions relating to expunction, correction, or
265 confidential handling of criminal history records or information
266 derived therefrom. This section does not confer any right to the
267 expunction of any criminal history record, and any request for
268 expunction of a criminal history record may be denied at the
269 sole discretion of the court.
270 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each
271 petition to a court to expunge a criminal history record is
272 complete only when accompanied by:

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

275 (b) The petitioner's sworn statement attesting that the
276 petitioner:

277 1. Has never, prior to the date on which the petition is
278 filed, been adjudicated guilty of a criminal offense or
279 comparable ordinance violation, or been adjudicated delinquent
280 for committing any felony or a misdemeanor specified in s.
281 943.051(3)(b).

282 2. Has not been adjudicated guilty of, or adjudicated
283 delinquent for committing, any of the acts stemming from the
284 arrest or alleged criminal activity to which the petition
285 pertains.

286 3. Has never secured a prior sealing or expunction of a
287 criminal history record under this section, s. 943.059, former
288 s. 893.14, former s. 901.33, or former s. 943.058, unless
289 expunction is sought of a criminal history record previously
290 sealed for 10 years pursuant to paragraph (2)(h) and the record
291 is otherwise eligible for expunction.

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

295

296 Any person who knowingly provides false information on such
297 sworn statement to the court commits a felony of the third

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298 degree, punishable as provided in s. 775.082, s. 775.083, or s.
299 775.084.

300 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
301 petitioning the court to expunge a criminal history record, a
302 person seeking to expunge a criminal history record shall apply
303 to the department for a certificate of eligibility for
304 expunction. The department shall, by rule adopted pursuant to
305 chapter 120, establish procedures pertaining to the application
306 for and issuance of certificates of eligibility for expunction.
307 A certificate of eligibility for expunction is valid for 12
308 months after the date stamped on the certificate when issued by
309 the department. After that time, the petitioner must reapply to
310 the department for a new certificate of eligibility. Eligibility
311 for a renewed certification of eligibility must be based on the
312 status of the applicant and the law in effect at the time of the
313 renewal application. The department shall issue a certificate of
314 eligibility for expunction to a person who is the subject of a
315 criminal history record if that person:

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

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

321 2. That an indictment, information, or other charging
322 document, if filed or issued in the case, was dismissed or nolle
323 prosequi by the state attorney or statewide prosecutor, or was

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324 dismissed by a court of competent jurisdiction, and that none of
325 the charges related to the arrest or alleged criminal activity
326 to which the petition to expunge pertains resulted in a trial,
327 without regard to whether the outcome of the trial was other
328 than an adjudication of guilt.

329 3. That the criminal history record does not relate to a
330 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
331 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
332 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
333 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
334 any violation specified as a predicate offense for registration
335 as a sexual predator pursuant to s. 775.21, without regard to
336 whether that offense alone is sufficient to require such
337 registration, or for registration as a sexual offender pursuant
338 to s. 943.0435, where the defendant was found guilty of, or pled
339 guilty or nolo contendere to any such offense, or that the
340 defendant, as a minor, was found to have committed, or pled
341 guilty or nolo contendere to committing, such an offense as a
342 delinquent act, without regard to whether adjudication was
343 withheld.

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

347 (c) Has submitted to the department a certified copy of
348 the disposition of the charge to which the petition to expunge
349 pertains.

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

355 (e) Has not been adjudicated guilty of, or adjudicated
356 delinquent for committing, any of the acts stemming from the
357 arrest or alleged criminal activity to which the petition to
358 expunge pertains.

359 (f) Has never secured a prior sealing or expunction of a
360 criminal history record under this section, s. 943.059, former
361 s. 893.14, former s. 901.33, or former s. 943.058, unless
362 expunction is sought of a criminal history record previously
363 sealed for 10 years pursuant to paragraph (h) and the record is
364 otherwise eligible for expunction.

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

368 (h) Has previously obtained a court order sealing the
369 record under this section, former s. 893.14, former s. 901.33,
370 or former s. 943.058 for a minimum of 10 years because
371 adjudication was withheld or because all charges related to the
372 arrest or alleged criminal activity to which the petition to
373 expunge pertains were not dismissed prior to trial, without
374 regard to whether the outcome of the trial was other than an
375 adjudication of guilt. The requirement for the record to have

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376 previously been sealed for a minimum of 10 years does not apply
377 when a plea was not entered or all charges related to the arrest
378 or alleged criminal activity to which the petition to expunge
379 pertains were dismissed prior to trial.

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

381 (a) In judicial proceedings under this section, a copy of
382 the completed petition to expunge shall be served upon the
383 appropriate state attorney or the statewide prosecutor and upon
384 the arresting agency; however, it is not necessary to make any
385 agency other than the state a party. The appropriate state
386 attorney or the statewide prosecutor and the arresting agency
387 may respond to the court regarding the completed petition to
388 expunge.

389 (b) If relief is granted by the court, the clerk of the
390 court shall certify copies of the order to the appropriate state
391 attorney or the statewide prosecutor and the arresting agency.
392 The arresting agency is responsible for forwarding the order to
393 any other agency to which the arresting agency disseminated the
394 criminal history record information to which the order pertains.
395 The department shall forward the order to expunge to the Federal
396 Bureau of Investigation. The clerk of the court shall certify a
397 copy of the order to any other agency which the records of the
398 court reflect has received the criminal history record from the
399 court.

400 (c) For an order to expunge entered by a court prior to
401 July 1, 1992, the department shall notify the appropriate state

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402 attorney or statewide prosecutor of an order to expunge which is
403 contrary to law because the person who is the subject of the
404 record has previously been convicted of a crime or comparable
405 ordinance violation or has had a prior criminal history record
406 sealed or expunged. Upon receipt of such notice, the appropriate
407 state attorney or statewide prosecutor shall take action, within
408 60 days, to correct the record and petition the court to void
409 the order to expunge. The department shall seal the record until
410 such time as the order is voided by the court.

411 (d) On or after July 1, 1992, the department or any other
412 criminal justice agency is not required to act on an order to
413 expunge entered by a court when such order does not comply with
414 the requirements of this section. Upon receipt of such an order,
415 the department must notify the issuing court, the appropriate
416 state attorney or statewide prosecutor, the petitioner or the
417 petitioner's attorney, and the arresting agency of the reason
418 for noncompliance. The appropriate state attorney or statewide
419 prosecutor shall take action within 60 days to correct the
420 record and petition the court to void the order. No cause of
421 action, including contempt of court, shall arise against any
422 criminal justice agency for failure to comply with an order to
423 expunge when the petitioner for such order failed to obtain the
424 certificate of eligibility as required by this section or such
425 order does not otherwise comply with the requirements of this
426 section.

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427 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
428 criminal history record of a minor or an adult which is ordered
429 expunged by a court of competent jurisdiction pursuant to this
430 section must be physically destroyed or obliterated by any
431 criminal justice agency having custody of such record; except
432 that any criminal history record in the custody of the
433 department must be retained in all cases. A criminal history
434 record ordered expunged that is retained by the department is
435 confidential and exempt from the provisions of s. 119.07(1) and
436 s. 24(a), Art. I of the State Constitution and not available to
437 any person or entity except upon order of a court of competent
438 jurisdiction. A criminal justice agency may retain a notation
439 indicating compliance with an order to expunge.

440 (a) The person who is the subject of a criminal history
441 record that is expunged under this section or under other
442 provisions of law, including former s. 893.14, former s. 901.33,
443 and former s. 943.058, may lawfully deny or fail to acknowledge
444 the arrests covered by the expunged record, except when the
445 subject of the record:

- 446 1. Is a candidate for employment with a criminal justice
447 agency;
- 448 2. Is a defendant in a criminal prosecution;
- 449 3. Concurrently or subsequently petitions for relief under
450 this section, s. 943.0583, or s. 943.059;
- 451 4. Is a candidate for admission to The Florida Bar;

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452 5. Is seeking to be employed or licensed by or to contract
453 with the Department of Children and Families, the Division of
454 Vocational Rehabilitation within the Department of Education,
455 the Agency for Health Care Administration, the Agency for
456 Persons with Disabilities, the Department of Health, the
457 Department of Elderly Affairs, or the Department of Juvenile
458 Justice or to be employed or used by such contractor or licensee
459 in a sensitive position having direct contact with children, the
460 disabled, or the elderly; or

461 6. Is seeking to be employed or licensed by the Department
462 of Education, any district school board, any university
463 laboratory school, any charter school, any private or parochial
464 school, or any local governmental entity that licenses child
465 care facilities.

466 (b) Subject to the exceptions in paragraph (a), a person
467 who has been granted an expunction under this section, former s.
468 893.14, former s. 901.33, or former s. 943.058 may not be held
469 under any provision of law of this state to commit perjury or to
470 be otherwise liable for giving a false statement by reason of
471 such person's failure to recite or acknowledge an expunged
472 criminal history record.

473 (c) Information relating to the existence of an expunged
474 criminal history record which is provided in accordance with
475 paragraph (a) is confidential and exempt from the provisions of
476 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
477 except that the department shall disclose the existence of a

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478 criminal history record ordered expunged to the entities set
479 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their
480 respective licensing, access authorization, and employment
481 purposes, and to criminal justice agencies for their respective
482 criminal justice purposes. It is unlawful for any employee of an
483 entity set forth in subparagraph (a)1., subparagraph (a)4.,
484 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to
485 disclose information relating to the existence of an expunged
486 criminal history record of a person seeking employment, access
487 authorization, or licensure with such entity or contractor,
488 except to the person to whom the criminal history record relates
489 or to persons having direct responsibility for employment,
490 access authorization, or licensure decisions. Any person who
491 violates this paragraph commits a misdemeanor of the first
492 degree, punishable as provided in s. 775.082 or s. 775.083.

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

498 (a) Has obtained, and submitted to the department, on a
499 form provided by the department, a written, certified statement
500 from the appropriate state attorney or statewide prosecutor
501 which states whether an information, indictment, or other
502 charging document was not filed or was dismissed by the state
503 attorney, or dismissed by the court, because it was found that

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504 the person acted in lawful self-defense pursuant to the
505 provisions related to justifiable use of force in chapter 776.

506 (b) Each petition to a court to expunge a criminal history
507 record pursuant to this subsection is complete only when
508 accompanied by:

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

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

514

515 Any person who knowingly provides false information on such
516 sworn statement to the court commits a felony of the third
517 degree, punishable as provided in s. 775.082, s. 775.083, or s.
518 775.084.

519 (c) This subsection does not confer any right to the
520 expunction of a criminal history record, and any request for
521 expunction of a criminal history record may be denied at the
522 discretion of the court.

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

525 (e) The department shall, by rule adopted pursuant to
526 chapter 120, establish procedures pertaining to the application
527 for and issuance of certificates of eligibility for expunction
528 under this subsection.

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529 (6)~~(5)~~ STATUTORY REFERENCES.—Any reference to any other
530 chapter, section, or subdivision of the Florida Statutes in this
531 section constitutes a general reference under the doctrine of
532 incorporation by reference.

533 Section 12. This act shall take effect upon becoming a
534

535 -----

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

536 Remove lines 4-37 and insert:

537 775.087, F.S.; prohibiting the court from imposing
538 certain mandatory minimum sentences if the court makes
539 specified written findings; amending s. 776.012, F.S.;
540 applying provisions relating to the use of force in
541 defense of persons to the threatened use of force;
542 providing that a person who lawfully uses or threatens
543 to use nondeadly force does not have a duty to
544 retreat; providing that a person who lawfully uses or
545 threatens to use deadly force does not have a duty to
546 retreat if the person using or threatening to use the
547 deadly force is not engaged in a criminal activity and
548 is in a place where he or she has a right to be;
549 amending s. 776.013, F.S.; applying presumption
550 relating to the use of deadly force to the threatened
551 use of deadly force in the defense of a residence and
552 similar circumstances; applying provisions relating to
553 such use of force to the threatened use of force;
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555 removing provisions relating to one's duty to retreat
556 before using force; amending s. 776.031, F.S.;

557 applying provisions relating to the use of force in
558 defense of property to the threatened use of force;
559 providing that a person who lawfully uses or threatens
560 to use nondeadly force does not have a duty to
561 retreat; providing that a person who lawfully uses or
562 threatens to use deadly force does not have a duty to
563 retreat if the person using or threatening to use the
564 deadly force is not engaged in a criminal activity and
565 is in a place where he or she has a right to be;

566 amending s. 776.032, F.S.; applying immunity
567 provisions that relate to the use of force to the
568 threatened use of force; limiting immunity provisions
569 to civil actions by the person, personal
570 representative, or heirs of the person against whom
571 force was used; amending s. 776.041, F.S.; applying
572 provisions relating to the use of force by an
573 aggressor to the threatened use of force; providing
574 exceptions; amending s. 776.051, F.S.; providing that
575 a person is not justified in the threatened use of
576 force to resist an arrest by a law enforcement
577 officer; amending s. 776.06, F.S.; clarifying that the
578 provision relates to use of force by a law enforcement
579 officer or correctional officer; creating s. 776.09,
580 F.S.; providing that a person is eligible to apply for

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581 a certificate of eligibility for expunction,
582 notwithstanding specified eligibility requirements, if
583 the charging document in the case is not filed or is
584 dismissed because it is found that the person acted in
585 lawful self-defense pursuant to the provisions related
586 to the justifiable use of force in chapter 776, F.S.;
587 requiring a prosecutor, statewide prosecutor, or court
588 to document and retain such findings; amending s.
589 943.0585, F.S.; requiring the Department of Law
590 Enforcement to provide a certificate of eligibility
591 for expunction, notwithstanding the eligibility
592 requirements, to a person who has a written, certified
593 statement from a prosecutor or statewide prosecutor
594 indicating that the charging document in the case was
595 not filed or was dismissed because it was found that
596 the person acted in lawful self-defense pursuant to
597 the provisions related to the justifiable use of force
598 in chapter 776, F.S.; providing a penalty for
599 knowingly providing false information on a sworn
600 statement; providing applicability; requiring the
601 department to adopt rules; providing an effective

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