

## CHAPTER 2014-195

### Committee Substitute for Committee Substitute for House Bill No. 89

An act relating to the threatened use of force; providing legislative findings and intent; amending s. 775.087, F.S.; prohibiting the court from imposing certain mandatory minimum sentences if the court makes specified written findings; amending s. 776.012, F.S.; applying provisions relating to the use of force in defense of persons to the threatened use of force; providing that a person who lawfully uses or threatens to use nondeadly force does not have a duty to retreat; providing that a person who lawfully uses or threatens to use deadly force does not have a duty to retreat 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; amending s. 776.013, F.S.; applying presumption relating to the use of deadly force to the threatened use of deadly force in the defense of a residence and similar circumstances; applying provisions relating to such use of force to the threatened use of force; removing provisions relating to one's duty to retreat before using force; amending s. 776.031, F.S.; applying provisions relating to the use of force in defense of property to the threatened use of force; providing that a person who lawfully uses or threatens to use nondeadly force does not have a duty to retreat; providing that a person who lawfully uses or threatens to use deadly force does not have a duty to retreat 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; amending s. 776.032, F.S.; applying immunity provisions that relate to the use of force to the threatened use of force; limiting immunity provisions to civil actions by the person, personal representative, or heirs of the person against whom force was used; amending s. 776.041, F.S.; applying provisions relating to the use of force by an aggressor to the threatened use of force; providing exceptions; amending s. 776.051, F.S.; providing that a person is not justified in the threatened use of force to resist an arrest by a law enforcement officer; amending s. 776.06, F.S.; clarifying that the provision relates to use of force by a law enforcement officer or correctional officer; creating s. 776.09, F.S.; providing that a person is eligible to apply for a certificate of eligibility for expunction, notwithstanding specified eligibility requirements, if the charging document in the case is not filed or is dismissed because it is found that the person acted in lawful self-defense pursuant to the provisions related to the justifiable use of force in chapter 776, F.S.; requiring a prosecutor, statewide prosecutor, or court to document and retain such findings; amending s. 943.0585, F.S.; requiring the Department of Law Enforcement to provide a certificate of eligibility for expunction, notwithstanding the eligibility requirements, to a person who has a written, certified statement from a prosecutor or statewide prosecutor indicating that the charging document in the case was not filed or was dismissed because it was found that the person acted in lawful self-

defense pursuant to the provisions related to the justifiable use of force in chapter 776, F.S.; providing a penalty for knowingly providing false information on a sworn statement; providing applicability; requiring the department to adopt rules; providing an effective date.

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

Section 1. (1) The Legislature finds that persons have been criminally prosecuted and have been sentenced to mandatory minimum terms of imprisonment pursuant to s. 775.087, Florida Statutes, for threatening to use force in a manner and under circumstances that would have been justifiable under chapter 776, Florida Statutes, had force actually been used.

(2) The Legislature intends to:

(a) 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 chapter 776, Florida Statutes, had force actually been used.

(b) 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 chapter 776, Florida Statutes, had force actually been used.

(c) Ensure that those who threaten to use force in a manner and under circumstances that are justifiable under chapter 776, Florida Statutes, are not sentenced to a mandatory minimum term of imprisonment pursuant to s. 775.087, Florida Statutes.

(d) Encourage those who have been sentenced to a mandatory minimum term of imprisonment pursuant to s. 775.087, Florida Statutes, for threatening to use force in a manner and under circumstances that are justifiable under chapter 776, Florida Statutes, to apply for executive clemency.

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

775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.—

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

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

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

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

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

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

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

(1) A person is justified in using or threatening to use 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. A person who uses or threatens to use force in accordance with this subsection does not have a duty to retreat before using or threatening to use such force. ~~However,~~

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

(1) He or she reasonably believes that using or threatening to use 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~~

(2) A person who uses or threatens to use deadly force in accordance with this subsection 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 ~~Under those circumstances permitted pursuant to s. 776.013.~~

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

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

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

(a) The person against whom the defensive force was used or threatened was in the process of unlawfully and forcefully 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

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

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

(a) The person against whom the defensive force is used or threatened has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person; or

(b) The person or persons 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 or threatened; or

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

(d) The person against whom the defensive force is used or threatened is a law enforcement officer, as defined in s. 943.10(14), 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 in accordance with any applicable law or the person using or threatening to use force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer.

(3) ~~A person who is not engaged in an unlawful activity and who is attacked in his or her dwelling, residence, or vehicle 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 use or threaten to use meet force with force, including deadly force, if he or she uses or threatens to use force in accordance with s. 776.012(1) or (2) or s. 776.031(1) or (2) 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 5. Section 776.031, Florida Statutes, is amended to read:

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

(1) A person is justified in using or threatening to use ~~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 who uses or threatens to use force in accordance with this subsection does not have a duty to retreat before using or threatening to use such force. ~~However,~~

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

who uses or threatens to use deadly force in accordance with this subsection 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. 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.

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

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

(1) A person who uses or threatens to use force as permitted in s. 776.012, s. 776.013, or s. 776.031 is justified in ~~using such~~ conduct ~~force~~ and is immune from criminal prosecution and civil action for the use or threatened use of such force by the person, personal representative, or heirs of the person against whom the force was used or threatened, unless the person against whom force was used or threatened is a law enforcement officer, as defined in s. 943.10(14), 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 or threatening to use force knew or reasonably should have known that the person was a law enforcement officer. As used in this subsection, the term “criminal prosecution” includes arresting, detaining in custody, and charging or prosecuting the defendant.

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

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

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

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

(a) Such force or threat of 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 or threatened use of force which is likely to cause death or great bodily harm to the assailant; or

(b) 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 or threatened use of force, but the assailant continues or resumes the use or threatened use of force.

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

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

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

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

776.06 Deadly force by a law enforcement or correctional officer.—

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

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

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

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

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

(1) 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 this chapter, that finding shall be documented in writing and retained in the files of the state attorney or statewide prosecutor.

(2) 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 this chapter, that finding shall be recorded in an order or memorandum, which shall be retained in the court’s records.

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

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

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2) or subsection (5). A criminal history record that relates to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

(h) Has previously obtained a court order sealing the record under this section, former s. 893.14, former s. 901.33, or former s. 943.058 for a

minimum of 10 years because adjudication was withheld or because all charges related to the arrest or alleged criminal activity to which the petition to expunge pertains were not dismissed prior to trial, without regard to whether the outcome of the trial was other than an adjudication of guilt. The requirement for the record to have previously been sealed for a minimum of 10 years does not apply when a plea was not entered or all charges related to the arrest or alleged criminal activity to which the petition to expunge pertains were dismissed prior to trial.

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

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

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

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

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

required by this section or such order does not otherwise comply with the requirements of this section.

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

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

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section, s. 943.0583, or s. 943.059;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the disabled, or the elderly; or
6. Is seeking to be employed or licensed by the Department of Education, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity that licenses child care facilities.

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

(c) Information relating to the existence of an expunged criminal history record which is provided in accordance with paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the existence of a criminal history record ordered expunged to the entities set forth in subparagraphs (a)1., 4., 5., 6., and 7. for their respective licensing, access authorization, and employment purposes, and to criminal justice agencies for their respective criminal justice purposes. It is unlawful for any employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to disclose information relating to the existence of an expunged criminal history record of a person seeking employment, access authorization, or licensure with such entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment, access authorization, or licensure decisions. Any person who violates this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

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

(a) Has obtained, and submitted to the department, on a form provided by the department, 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 chapter 776.

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

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

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

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

(c) This subsection does 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.

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

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

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

Section 12. This act shall take effect upon becoming a law.

Approved by the Governor June 20, 2014.

Filed in Office Secretary of State June 20, 2014.