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LEGISLATIVE ACTION

Senate

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House

The Committee on Criminal Justice (Bracy) recommended the following:

Senate Substitute for Amendment (631680) (with title amendment)

Delete lines 72 - 151

and insert:

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 delinquent for committing a



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11 misdemeanor offense specified in s. 943.051(3)(b) in the
12 previous 10 years.

13 3.2. Has not been adjudicated guilty of, or adjudicated
14 delinquent for committing, any of the acts stemming from the
15 arrest or alleged criminal activity to which the petition
16 pertains.

17 4.3. Has never secured a prior sealing or expunction of a
18 criminal history record under this section, s. 943.059, former
19 s. 893.14, former s. 901.33, or former s. 943.058, unless
20 expunction is sought of a criminal history record previously
21 sealed for 10 years pursuant to paragraph (2)(h) and the record
22 is otherwise eligible for expunction.

23 5.4. Is eligible for such an expunction to the best of his
24 or her knowledge or belief and does not have any other petition
25 to expunge or any petition to seal pending before any court.

26
27 Any person who knowingly provides false information on such
28 sworn statement to the court commits a felony of the third
29 degree, punishable as provided in s. 775.082, s. 775.083, or s.
30 775.084.

31 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
32 petitioning the court to expunge a criminal history record, a
33 person seeking to expunge a criminal history record shall apply
34 to the department for a certificate of eligibility for
35 expunction. The department shall, by rule adopted pursuant to
36 chapter 120, establish procedures pertaining to the application
37 for and issuance of certificates of eligibility for expunction.
38 A certificate of eligibility for expunction is valid for 12
39 months after the date stamped on the certificate when issued by



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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, that a judgment of acquittal was rendered by a judge, or that a verdict of not guilty was rendered by a judge or jury ~~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, former 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



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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.

(d)1. Has never, before ~~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).~~

2. Has not been adjudicated delinquent for committing a misdemeanor offense specified in s. 943.051(3)(b) in the previous 10 years.

Section 2. Paragraph (b) of subsection (1) and paragraph (c) of subsection (2) of section 943.059, Florida Statutes, are amended to read:

943.059 Court-ordered sealing of criminal history records.—
The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, 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 seal 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



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98 seal a criminal history record until the person seeking to seal
99 a criminal history record has applied for and received a
100 certificate of eligibility for sealing pursuant to subsection
101 (2). A criminal history record that relates to a violation of s.
102 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
103 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
104 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
105 s. 916.1075, a violation enumerated in s. 907.041, or any
106 violation specified as a predicate offense for registration as a
107 sexual predator pursuant to s. 775.21, without regard to whether
108 that offense alone is sufficient to require such registration,
109 or for registration as a sexual offender pursuant to s.
110 943.0435, may not be sealed, without regard to whether
111 adjudication was withheld, if the defendant was found guilty of
112 or pled guilty or nolo contendere to the offense, or if the
113 defendant, as a minor, was found to have committed or pled
114 guilty or nolo contendere to committing the offense as a
115 delinquent act. The court may only order sealing of a criminal
116 history record pertaining to one arrest or one incident of
117 alleged criminal activity, except as provided in this section.
118 The court may, at its sole discretion, order the sealing of a
119 criminal history record pertaining to more than one arrest if
120 the additional arrests directly relate to the original arrest.
121 If the court intends to order the sealing of records pertaining
122 to such additional arrests, such intent must be specified in the
123 order. A criminal justice agency may not seal any record
124 pertaining to such additional arrests if the order to seal does
125 not articulate the intention of the court to seal records
126 pertaining to more than one arrest. This section does not



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prevent the court from ordering the sealing 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 sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

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

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

1. Has never, before ~~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 delinquent for committing a misdemeanor offense specified in s. 943.051(3)(b) in the previous 10 years.

~~3.2.~~ 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 to seal pertains.

~~4.3.~~ Has never secured a prior sealing or expunction of a criminal history record under this section, s. 943.0585, former



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s. 893.14, former s. 901.33, or former s. 943.058.

5.4. Is eligible for such a sealing to the best of his or her knowledge or belief and does not have any other petition to seal or any petition to expunge 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 SEALING.—Prior to petitioning the court to seal a criminal history record, a person seeking to seal a criminal history record shall apply to the department for a certificate of eligibility for sealing. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for sealing. A certificate of eligibility for sealing 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 sealing to a person who is the subject of a criminal history record provided that such person:

(c)1. Has never, before ~~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



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~~felony or a misdemeanor specified in s. 943.051(3)(b).~~

2. Has not been adjudicated delinquent for committing a
misdemeanor offense specified in s. 943.051(3)(b) in the
previous 10 years.

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

And the title is amended as follows:

Delete lines 2 - 8

and insert:

An act relating to criminal history records; amending
s. 943.0585, F.S.; revising the elements that must be
attested to by a petitioner in a statement submitted
in support of the expunction of a criminal history
record; revising the circumstances under which the
Department of Law Enforcement must issue a certificate
of eligibility for expunction of a criminal history
record; amending s. 943.059, F.S.; revising the
elements that must be attested to by a petitioner in a
statement submitted in support of the sealing of a
criminal history record; revising the circumstances
under which the Department of Law Enforcement must
issue a certificate of eligibility for sealing of a