

By Senator Pizzo

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1 A bill to be entitled
2 An act relating to expunction of criminal history
3 records; reenacting and amending s. 943.0585, F.S.;
4 expanding an exception to an eligibility requirement
5 for expunction of a criminal history record to allow
6 prior expunctions of criminal history records granted
7 when the person was a minor; providing applicability;
8 providing an effective date.

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

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12 Section 1. Subsection (1) of section 943.0585, Florida
13 Statutes, is amended, and paragraph (a) of subsection (2) and
14 subsection (3) of that section are reenacted, to read:

15 943.0585 Court-ordered expunction of criminal history
16 records.—

17 (1) ELIGIBILITY.—A person is eligible to petition a court
18 to expunge a criminal history record if:

19 (a) An indictment, information, or other charging document
20 was not filed or issued in the case giving rise to the criminal
21 history record.

22 (b) An indictment, information, or other charging document
23 was filed or issued in the case giving rise to the criminal
24 history record, was dismissed or nolle prosequi by the state
25 attorney or statewide prosecutor, or was dismissed by a court of
26 competent jurisdiction or a judgment of acquittal was rendered
27 by a judge, or a verdict of not guilty was rendered by a judge
28 or jury.

29 (c) The person is not seeking to expunge a criminal history

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30 record that is ineligible for court-ordered expunction under s.
31 943.0584.

32 (d) The person has never, as of the date the application
33 for a certificate of expunction is filed, been adjudicated
34 guilty in this state of a criminal offense or been adjudicated
35 delinquent in this state for committing any felony or any of the
36 following misdemeanors, unless the record of such adjudication
37 of delinquency has been expunged pursuant to s. 943.0515:

- 38 1. Assault, as defined in s. 784.011;
- 39 2. Battery, as defined in s. 784.03;
- 40 3. Assault on a law enforcement officer, a firefighter, or
41 other specified officers, as defined in s. 784.07(2)(a);
- 42 4. Carrying a concealed weapon, as defined in s. 790.01(1);
- 43 5. Open carrying of a weapon, as defined in s. 790.053;
- 44 6. Unlawful possession or discharge of a weapon or firearm
45 at a school-sponsored event or on school property, as defined in
46 s. 790.115;
- 47 7. Unlawful use of destructive devices or bombs, as defined
48 in s. 790.1615(1);
- 49 8. Unlawful possession of a firearm, as defined in s.
50 790.22(5);
- 51 9. Exposure of sexual organs, as defined in s. 800.03;
- 52 10. Arson, as defined in s. 806.031(1);
- 53 11. Petit theft, as defined in s. 812.014(3);
- 54 12. Neglect of a child, as defined in s. 827.03(1)(e); or
- 55 13. Cruelty to animals, as defined in s. 828.12(1).

56 (e) The person has not been adjudicated guilty of, or
57 adjudicated delinquent for committing, any of the acts stemming
58 from the arrest or alleged criminal activity to which the

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59 petition pertains.

60 (f) The person is no longer under court supervision
61 applicable to the disposition of arrest or alleged criminal
62 activity to which the petition to expunge pertains.

63 (g) The person has never secured a prior sealing or
64 expunction of a criminal history record under this section, s.
65 943.059, former s. 893.14, former s. 901.33, or former s.
66 943.058, unless:

67 1. Expunction is sought of a criminal history record
68 previously sealed for 10 years pursuant to paragraph (h) and the
69 record is otherwise eligible for expunction; or

70 2. The prior expunction was granted when he or she was a
71 minor and the record is otherwise eligible for expunction. The
72 requirement for the record to have previously been sealed for a
73 minimum of 10 years under paragraph (h) does not apply to this
74 subparagraph.

75 (h) The person has previously obtained a court-ordered
76 sealing the criminal history record under s. 943.059, former s.
77 893.14, former s. 901.33, or former s. 943.058 for a minimum of
78 10 years because adjudication was withheld or because all
79 charges related to the arrest or alleged criminal activity to
80 which the petition to expunge pertains were not dismissed before
81 trial, without regard to whether the outcome of the trial was
82 other than an adjudication of guilt. The requirement for the
83 record to have previously been sealed for a minimum of 10 years
84 does not apply if a plea was not entered or all charges related
85 to the arrest or alleged criminal activity to which the petition
86 to expunge pertains were dismissed before trial or a judgment of
87 acquittal was rendered by a judge or a verdict of not guilty was

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88 rendered by a judge or jury.

89 (2) CERTIFICATE OF ELIGIBILITY.—Before petitioning a court
90 to expunge a criminal history record, a person seeking to
91 expunge a criminal history record must apply to the department
92 for a certificate of eligibility for expunction. The department
93 shall adopt rules to establish procedures for applying for and
94 issuing a certificate of eligibility for expunction.

95 (a) The department shall issue a certificate of eligibility
96 for expunction to a person who is the subject of a criminal
97 history record if that person:

98 1. Satisfies the eligibility criteria in paragraphs (1) (a)-
99 (h) and is not ineligible under s. 943.0584.

100 2. Has submitted to the department a written certified
101 statement from the appropriate state attorney or statewide
102 prosecutor which confirms the criminal history record complies
103 with the criteria in paragraph (1) (a) or paragraphs (1) (b) and
104 (c).

105 3. Has submitted to the department a certified copy of the
106 disposition of the charge to which the petition to expunge
107 pertains.

108 4. Remits a \$75 processing fee to the department for
109 placement in the Department of Law Enforcement Operating Trust
110 Fund, unless the executive director waives such fee.

111 (3) PETITION.—Each petition to expunge a criminal history
112 record must be accompanied by:

113 (a) A valid certificate of eligibility issued by the
114 department.

115 (b) The petitioner's sworn statement that he or she:

116 1. Satisfies the eligibility requirements for expunction in

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117 subsection (1).

118 2. Is eligible for expunction to the best of his or her
119 knowledge and does not have any other petition to seal or
120 expunge a criminal history record pending before any court.

121
122 A person who knowingly provides false information on such sworn
123 statement commits a felony of the third degree, punishable as
124 provided in s. 775.082, s. 775.083, or s. 775.084.

125 Section 2. This act shall take effect July 1, 2020.