

Committee on Criminal Justice

CS/SB 386 — Expunction of Records of Minors

by Fiscal Policy Committee and Senators Detert, Soto, Joyner, and Evers

Automatic Expunction of Criminal History Records of Minors

The bill (Chapter 2016-42, L.O.F.) amends s. 943.0515, F.S., to require all records maintained by the Florida Department of Law Enforcement (FDLE) related to minors who are not classified as serious or habitual juvenile offenders or who have not been committed to a juvenile correctional facility or juvenile prison to be automatically expunged when the minor reaches the age of 21 years, instead of 24 years of age.

Automatic expunction will occur so long as one of the following exceptions does not apply:

- A person 18 years of age or older is charged with or convicted of a forcible felony and the person's criminal history record as a minor has not yet been destroyed;
- At any time a minor is adjudicated as an adult for a forcible felony; or
- The record relates to a minor who was adjudicated delinquent for a violation committed on or after July 1, 2007, as provided in s. 943.0435(1)(a)1.d., F.S., involving certain sexual offenses.

Automatic expunction of records related to juveniles who are classified as serious or habitual juvenile offenders or who have been committed to a juvenile correctional facility or juvenile prison will remain at 26 years of age under the bill.

Application for Expunction of Criminal History Records Prior to Age 21

The bill provides that a minor who is eligible for automatic expunction of criminal history records at age 21 may apply for an expunction any time after reaching 18 years but before reaching 21 years of age. The only offenses eligible to be expunged are those that the minor committed before reaching the age of 18 years. In order to qualify for expunction prior to age 21, the minor is required to apply to the FDLE and must:

- Submit a \$75 processing fee;
- Submit a full set of fingerprints for identity verification;
- Have the approval of the state attorney for each circuit in which an offense specified in the criminal history record occurred; and
- Submit a sworn, written statement attesting that he or she:
 - Is no longer under court supervision applicable to the disposition of the arrest of alleged criminal activity to which the application to expunge pertains; and
 - Has not been charged with or found to have committed a criminal offense in any jurisdiction of the state or within the United States within five years prior to the application date.

An unsuccessful request for early expunction of criminal history records will not affect the applicant's eligibility for automatic expunction of the records upon reaching age 21.

The bill provides that knowingly submitting false information on the sworn statement is a first degree misdemeanor.

Juvenile Diversion Expunction

The bill amends s. 943.0582, F.S., to eliminate the requirement that an application for prearrest or postarrest diversion expunction must be submitted within 12 months after the minor completes the diversion program.

Possession of Firearms

The bill amends s. 790.23, F.S., to allow an individual whose criminal record has been expunged, pursuant to the bill, to possess firearms.

These provisions were approved by the Governor and take effect July 1, 2016.

Vote: Senate 37-0; House 113-2