

By the Committee on Fiscal Policy; and Senators Detert and Soto

594-02125-16

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1                   A bill to be entitled  
2           An act relating to expunction of records of minors;  
3           amending s. 790.23, F.S.; creating an exception for  
4           specified minors who, before attaining 21 years of  
5           age, had a criminal history record expunged; amending  
6           s. 943.0515, F.S.; decreasing the period of time that  
7           a minor's criminal history record must be retained  
8           before expunction; authorizing specified minors to  
9           apply for expunction of a criminal history record  
10          under certain circumstances; establishing an  
11          application process and requiring that specified  
12          documentation be submitted to the Department of Law  
13          Enforcement; requiring that specified fees be  
14          deposited into the Department of Law Enforcement  
15          Operating Trust Fund; requiring a sworn written  
16          statement from the applicant; providing a criminal  
17          penalty for perjury on such sworn written statement;  
18          amending s. 943.0582, F.S.; deleting a limitation on  
19          the period of time within which a minor must submit an  
20          application for prearrest or postarrest diversion  
21          expunction to the Department of Law Enforcement after  
22          successful completion of the diversion program;  
23          reenacting s. 985.125(3), F.S., relating to prearrest  
24          and postarrest diversion programs, to incorporate the  
25          amendment made to s. 943.0582, F.S., in a reference  
26          thereto; providing an effective date.

27  
28 Be It Enacted by the Legislature of the State of Florida:

29  
30           Section 1. Subsection (2) of section 790.23, Florida  
31 Statutes, is amended to read:

32           790.23 Felons and delinquents; possession of firearms,

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33 ammunition, or electric weapons or devices unlawful.-

34 (2) This section shall not apply to a person:

35 (a) Convicted of a felony whose civil rights and firearm  
36 authority have been restored.

37 (b) Whose criminal history record has been expunged  
38 pursuant to s. 943.0515(1) (b).

39 Section 2. Paragraph (b) of subsection (1) of section  
40 943.0515, Florida Statutes, is amended to read:

41 943.0515 Retention of criminal history records of minors.-

42 (1)

43 (b)1. If the minor is not classified as a serious or  
44 habitual juvenile offender or committed to a juvenile  
45 correctional facility or juvenile prison under chapter 985, the  
46 program shall retain the minor's criminal history record for 2 ~~5~~  
47 years after the date the minor reaches 19 years of age, at which  
48 time the record shall be expunged unless it meets the criteria  
49 of paragraph (2) (a) or paragraph (2) (b).

50 2. A minor described in subparagraph 1. may apply to the  
51 department to have his or her criminal history record expunged  
52 before the minor reaches 21 years of age. To be eligible for  
53 expunction under this subparagraph, the minor must be 18 years  
54 of age or older and less than 21 years of age and have not been  
55 charged by the state attorney with or found to have committed  
56 any criminal offense within the 5-year period before the  
57 application date. The only offenses eligible to be expunged  
58 under this subparagraph are those that the minor committed  
59 before the minor reached 18 years of age. A criminal history  
60 record expunged under this subparagraph requires the approval of  
61 the state attorney for each circuit in which an offense

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62 specified in the criminal history record occurred. A minor  
63 seeking to expunge a criminal history record under this  
64 subparagraph shall apply to the department for expunction in the  
65 manner prescribed by rule. An application for expunction under  
66 this subparagraph shall include:

67 a. A processing fee of \$75 to the department for placement  
68 in the Department of Law Enforcement Operating Trust Fund,  
69 unless such fee is waived by the executive director.

70 b. A full set of fingerprints of the applicant taken by a  
71 law enforcement agency for purposes of identity verification.

72 c. A sworn, written statement from the minor seeking relief  
73 that he or she is no longer under court supervision applicable  
74 to the disposition of the arrest or alleged criminal activity to  
75 which the application to expunge pertains and that he or she has  
76 not been charged with or found to have committed a criminal  
77 offense, in any jurisdiction of the state or within the United  
78 States, within the 5-year period before the application date.

79  
80 A person who knowingly provides false information on the sworn  
81 statement required by this sub-subparagraph commits a  
82 misdemeanor of the first degree, punishable as provided in s.  
83 775.082 or s. 775.083.

84 3. A minor who applies, but who is not approved for early  
85 expunction in accordance with subparagraph 2., shall have his or  
86 her criminal history record expunged at age 21 if eligible under  
87 subparagraph 1.

88 Section 3. Subsection (3) of section 943.0582, Florida  
89 Statutes, is amended to read:

90 943.0582 Prearrest, postarrest, or teen court diversion

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91 program expunction.—

92 (3) The department shall expunge the nonjudicial arrest  
93 record of a minor who has successfully completed a prearrest or  
94 postarrest diversion program if that minor:

95 (a) Submits an application for prearrest or postarrest  
96 diversion expunction, on a form prescribed by the department,  
97 signed by the minor's parent or legal guardian, or by the minor  
98 if he or she has reached the age of majority at the time of  
99 applying.

100 ~~(b) Submits the application for prearrest or postarrest~~  
101 ~~diversion expunction no later than 12 months after completion of~~  
102 ~~the diversion program.~~

103 (b) ~~(e)~~ Submits to the department, with the application, an  
104 official written statement from the state attorney for the  
105 county in which the arrest occurred certifying that he or she  
106 has successfully completed that county's prearrest or postarrest  
107 diversion program, that his or her participation in the program  
108 was based on an arrest for a nonviolent misdemeanor, and that he  
109 or she has not otherwise been charged by the state attorney  
110 with, or found to have committed, any criminal offense or  
111 comparable ordinance violation.

112 (c) ~~(d)~~ Participated in a prearrest or postarrest diversion  
113 program that expressly authorizes or permits such expunction ~~to~~  
114 ~~occur~~.

115 (d) ~~(e)~~ Participated in a prearrest or postarrest diversion  
116 program based on an arrest for a nonviolent misdemeanor that  
117 would not qualify as an act of domestic violence as that term is  
118 defined in s. 741.28.

119 (e) ~~(f)~~ Has never been, before ~~prior to~~ filing the

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120 application for expunction, ~~been~~ charged by the state attorney  
121 with, or ~~been~~ found to have committed, any criminal offense or  
122 comparable ordinance violation.

123 Section 4. For the purpose of incorporating the amendment  
124 made by this act to section 943.0582, Florida Statutes, in a  
125 reference thereto, subsection (3) of section 985.125, Florida  
126 Statutes, is reenacted to read:

127 985.125 Prearrest or postarrest diversion programs.—

128 (3) The prearrest or postarrest diversion program may, upon  
129 agreement of the agencies that establish the program, provide  
130 for the expunction of the nonjudicial arrest record of a minor  
131 who successfully completes such a program pursuant to s.  
132 943.0582.

133 Section 5. This act shall take effect July 1, 2016.