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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2017	.	
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The Committee on Criminal Justice (Brandes) recommended the following:

1           **Senate Amendment to Substitute Amendment (756200) (with**  
2 **title amendment)**

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4           Delete lines 36 - 134  
5 and insert:

6           Section 2. Paragraph (b) of subsection (1) and paragraphs  
7 (a) and (d) of subsection (2) of section 943.0585, Florida  
8 Statutes, is amended to read:

9           943.0585 Court-ordered expunction of criminal history  
10 records.—The courts of this state have jurisdiction over their



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11 own procedures, including the maintenance, expunction, and  
12 correction of judicial records containing criminal history  
13 information to the extent such procedures are not inconsistent  
14 with the conditions, responsibilities, and duties established by  
15 this section. Any court of competent jurisdiction may order a  
16 criminal justice agency to expunge the criminal history record  
17 of a minor or an adult who complies with the requirements of  
18 this section. The court shall not order a criminal justice  
19 agency to expunge a criminal history record until the person  
20 seeking to expunge a criminal history record has applied for and  
21 received a certificate of eligibility for expunction pursuant to  
22 subsection (2) or subsection (5). A criminal history record that  
23 relates to a violation of s. 393.135, s. 394.4593, s. 787.025,  
24 chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,  
25 s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,  
26 s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in  
27 s. 907.041, or any violation specified as a predicate offense  
28 for registration as a sexual predator pursuant to s. 775.21,  
29 without regard to whether that offense alone is sufficient to  
30 require such registration, or for registration as a sexual  
31 offender pursuant to s. 943.0435, may not be expunged, without  
32 regard to whether adjudication was withheld, if the defendant  
33 was found guilty of or pled guilty or nolo contendere to the  
34 offense, or if the defendant, as a minor, was found to have  
35 committed, or pled guilty or nolo contendere to committing, the  
36 offense as a delinquent act. The court may only order expunction  
37 of a criminal history record pertaining to one arrest or one  
38 incident of alleged criminal activity, except as provided in  
39 this section. The court may, at its sole discretion, order the



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40 expunction of a criminal history record pertaining to more than  
41 one arrest if the additional arrests directly relate to the  
42 original arrest. If the court intends to order the expunction of  
43 records pertaining to such additional arrests, such intent must  
44 be specified in the order. A criminal justice agency may not  
45 expunge any record pertaining to such additional arrests if the  
46 order to expunge does not articulate the intention of the court  
47 to expunge a record pertaining to more than one arrest. This  
48 section does not prevent the court from ordering the expunction  
49 of only a portion of a criminal history record pertaining to one  
50 arrest or one incident of alleged criminal activity.

51 Notwithstanding any law to the contrary, a criminal justice  
52 agency may comply with laws, court orders, and official requests  
53 of other jurisdictions relating to expunction, correction, or  
54 confidential handling of criminal history records or information  
55 derived therefrom. This section does not confer any right to the  
56 expunction of any criminal history record, and any request for  
57 expunction of a criminal history record may be denied at the  
58 sole discretion of the court.

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

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

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



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

72           ~~3.2.~~ Has not been adjudicated guilty of, or adjudicated  
73 delinquent for committing, any of the acts stemming from the  
74 arrest or alleged criminal activity to which the petition  
75 pertains.

76           ~~4.3.~~ Has never secured a prior sealing or expunction of a  
77 criminal history record under this section, s. 943.059, former  
78 s. 893.14, former s. 901.33, or former s. 943.058, unless  
79 expunction is sought of a criminal history record previously  
80 sealed for 10 years pursuant to paragraph (2)(h) and the record  
81 is otherwise eligible for expunction.

82           ~~5.4.~~ Is eligible for such an expunction to the best of his  
83 or her knowledge or belief and does not have any other petition  
84 to expunge or any petition to seal pending before any court.

85

86 Any person who knowingly provides false information on such  
87 sworn statement to the court commits a felony of the third  
88 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
89 775.084.

90           (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to  
91 petitioning the court to expunge a criminal history record, a  
92 person seeking to expunge a criminal history record shall apply  
93 to the department for a certificate of eligibility for  
94 expunction. The department shall, by rule adopted pursuant to  
95 chapter 120, establish procedures pertaining to the application  
96 for and issuance of certificates of eligibility for expunction.  
97 A certificate of eligibility for expunction is valid for 12



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98 months after the date stamped on the certificate when issued by  
99 the department. After that time, the petitioner must reapply to  
100 the department for a new certificate of eligibility. Eligibility  
101 for a renewed certification of eligibility must be based on the  
102 status of the applicant and the law in effect at the time of the  
103 renewal application. The department shall issue a certificate of  
104 eligibility for expunction to a person who is the subject of a  
105 criminal history record if that person:

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

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

111 2. That an indictment, information, or other charging  
112 document, if filed or issued in the case, was dismissed or nolle  
113 prosequi by the state attorney or statewide prosecutor, or was  
114 dismissed by a court of competent jurisdiction, that a judgment  
115 of acquittal was rendered by a judge, or that a verdict of not  
116 guilty was rendered by a judge or jury ~~and that none of the~~  
117 ~~charges related to the arrest or alleged criminal activity to~~  
118 ~~which the petition to expunge pertains resulted in a trial,~~  
119 ~~without regard to whether the outcome of the trial was other~~  
120 ~~than an adjudication of guilt.~~

121 3. That the criminal history record does not relate to a  
122 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
123 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,  
124 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,  
125 s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,  
126 or any violation specified as a predicate offense for



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127 registration as a sexual predator pursuant to s. 775.21, without  
128 regard to whether that offense alone is sufficient to require  
129 such registration, or for registration as a sexual offender  
130 pursuant to s. 943.0435, where the defendant was found guilty  
131 of, or pled guilty or nolo contendere to any such offense, or  
132 that the defendant, as a minor, was found to have committed, or  
133 pled guilty or nolo contendere to committing, such an offense as  
134 a delinquent act, without regard to whether adjudication was  
135 withheld.

136 (d)1. Has never, before ~~prior to~~ the date on which the  
137 application for a certificate of eligibility is filed, been  
138 adjudicated guilty of a felony ~~criminal~~ offense or comparable  
139 ordinance violation, or been adjudicated delinquent for  
140 committing any felony ~~or a misdemeanor specified in s.~~  
141 ~~943.051(3)(b).~~

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

145  
146 ===== T I T L E A M E N D M E N T =====

147 And the title is amended as follows:

148 Delete line 155

149 and insert:

150 adjudications of guilt or delinquency for specified  
151 misdemeanor offenses committed before a certain time  
152 and instances in which a judgment of acquittal or a