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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: RS | . | |
| 02/14/2018 | . | |
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The Committee on Judiciary (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (a) and (h) of subsection (2) of
section 943.0585, Florida Statutes, are amended, and paragraph
(b) of subsection (1) and paragraph (f) of subsection (2) of
that section are republished, to read:

943.0585 Court-ordered expunction of criminal history
records.—The courts of this state have jurisdiction over their
own procedures, including the maintenance, expunction, and



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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
40 expunction of a criminal history record pertaining to more than



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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, prior to the date on which the petition is
65 filed, been adjudicated guilty of a criminal offense or
66 comparable ordinance violation, or been adjudicated delinquent
67 for committing any felony or a misdemeanor specified in s.
68 943.051(3)(b).

69 2. Has not been adjudicated guilty of, or adjudicated



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70 delinquent for committing, any of the acts stemming from the
71 arrest or alleged criminal activity to which the petition
72 pertains.

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

79 4. Is eligible for such an expunction to the best of his or
80 her knowledge or belief and does not have any other petition to
81 expunge or any petition to seal pending before any court.

82
83 Any person who knowingly provides false information on such
84 sworn statement to the court commits a felony of the third
85 degree, punishable as provided in s. 775.082, s. 775.083, or s.
86 775.084.

87 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
88 petitioning the court to expunge a criminal history record, a
89 person seeking to expunge a criminal history record shall apply
90 to the department for a certificate of eligibility for
91 expunction. The department shall, by rule adopted pursuant to
92 chapter 120, establish procedures pertaining to the application
93 for and issuance of certificates of eligibility for expunction.
94 A certificate of eligibility for expunction is valid for 12
95 months after the date stamped on the certificate when issued by
96 the department. After that time, the petitioner must reapply to
97 the department for a new certificate of eligibility. Eligibility
98 for a renewed certification of eligibility must be based on the



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99 status of the applicant and the law in effect at the time of the
100 renewal application. The department shall issue a certificate of
101 eligibility for expunction to a person who is the subject of a
102 criminal history record if that person:

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

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

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

118 3. That the criminal history record does not relate to a
119 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
120 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
121 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
122 s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,
123 or any violation specified as a predicate offense for
124 registration as a sexual predator pursuant to s. 775.21, without
125 regard to whether that offense alone is sufficient to require
126 such registration, or for registration as a sexual offender
127 pursuant to s. 943.0435, where the defendant was found guilty



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128 of, or pled guilty or nolo contendere to any such offense, or
129 that the defendant, as a minor, was found to have committed, or
130 pled guilty or nolo contendere to committing, such an offense as
131 a delinquent act, without regard to whether adjudication was
132 withheld.

133 (f) Has never secured a prior sealing or expunction of a
134 criminal history record under this section, s. 943.059, former
135 s. 893.14, former s. 901.33, or former s. 943.058, unless
136 expunction is sought of a criminal history record previously
137 sealed for 10 years pursuant to paragraph (h) and the record is
138 otherwise eligible for expunction.

139 (h) Has previously obtained a court order sealing the
140 record under this section, former s. 893.14, former s. 901.33,
141 or former s. 943.058 for a minimum of 10 years because
142 adjudication was withheld or because all charges related to the
143 arrest or alleged criminal activity to which the petition to
144 expunge pertains were not dismissed before ~~prior to~~ trial,
145 ~~without regard to whether the outcome of the trial was other~~
146 ~~than an adjudication of guilt.~~ The requirement for the record to
147 have previously been sealed for a minimum of 10 years does not
148 apply when a plea was not entered or all charges related to the
149 arrest or alleged criminal activity to which the petition to
150 expunge pertains were dismissed before ~~prior to~~ trial, when a
151 judgment of acquittal was rendered by a judge, or when a verdict
152 of not guilty was rendered by a judge or jury.

153 Section 2. Present paragraphs (c) through (f) of subsection
154 (2) of section 943.059, Florida Statutes, are redesignated as
155 paragraphs (d) through (g), respectively, a new paragraph (c) is
156 added to that subsection, and paragraph (a) of subsection (1) of



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157 that section is republished, to read:

158 943.059 Court-ordered sealing of criminal history records.—

159 The courts of this state shall continue to have jurisdiction
160 over their own procedures, including the maintenance, sealing,
161 and correction of judicial records containing criminal history
162 information to the extent such procedures are not inconsistent
163 with the conditions, responsibilities, and duties established by
164 this section. Any court of competent jurisdiction may order a
165 criminal justice agency to seal the criminal history record of a
166 minor or an adult who complies with the requirements of this
167 section. The court shall not order a criminal justice agency to
168 seal a criminal history record until the person seeking to seal
169 a criminal history record has applied for and received a
170 certificate of eligibility for sealing pursuant to subsection
171 (2). A criminal history record that relates to a violation of s.
172 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
173 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
174 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
175 s. 916.1075, a violation enumerated in s. 907.041, or any
176 violation specified as a predicate offense for registration as a
177 sexual predator pursuant to s. 775.21, without regard to whether
178 that offense alone is sufficient to require such registration,
179 or for registration as a sexual offender pursuant to s.
180 943.0435, may not be sealed, without regard to whether
181 adjudication was withheld, if the defendant was found guilty of
182 or pled guilty or nolo contendere to the offense, or if the
183 defendant, as a minor, was found to have committed or pled
184 guilty or nolo contendere to committing the offense as a
185 delinquent act. The court may only order sealing of a criminal



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186 history record pertaining to one arrest or one incident of
187 alleged criminal activity, except as provided in this section.
188 The court may, at its sole discretion, order the sealing of a
189 criminal history record pertaining to more than one arrest if
190 the additional arrests directly relate to the original arrest.
191 If the court intends to order the sealing of records pertaining
192 to such additional arrests, such intent must be specified in the
193 order. A criminal justice agency may not seal any record
194 pertaining to such additional arrests if the order to seal does
195 not articulate the intention of the court to seal records
196 pertaining to more than one arrest. This section does not
197 prevent the court from ordering the sealing of only a portion of
198 a criminal history record pertaining to one arrest or one
199 incident of alleged criminal activity. Notwithstanding any law
200 to the contrary, a criminal justice agency may comply with laws,
201 court orders, and official requests of other jurisdictions
202 relating to sealing, correction, or confidential handling of
203 criminal history records or information derived therefrom. This
204 section does not confer any right to the sealing of any criminal
205 history record, and any request for sealing a criminal history
206 record may be denied at the sole discretion of the court.

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

210 (a) A valid certificate of eligibility for sealing issued
211 by the department pursuant to subsection (2).

212 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to
213 petitioning the court to seal a criminal history record, a
214 person seeking to seal a criminal history record shall apply to



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215 the department for a certificate of eligibility for sealing. The
216 department shall, by rule adopted pursuant to chapter 120,
217 establish procedures pertaining to the application for and
218 issuance of certificates of eligibility for sealing. A
219 certificate of eligibility for sealing is valid for 12 months
220 after the date stamped on the certificate when issued by the
221 department. After that time, the petitioner must reapply to the
222 department for a new certificate of eligibility. Eligibility for
223 a renewed certification of eligibility must be based on the
224 status of the applicant and the law in effect at the time of the
225 renewal application. The department shall issue a certificate of
226 eligibility for sealing to a person who is the subject of a
227 criminal history record provided that such person:

228 (c) Is not seeking to seal a criminal history record that
229 relates to a violation of s. 393.135, s. 394.4593, s. 787.025,
230 chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,
231 s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
232 s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in
233 s. 907.041, or any violation specified as a predicate offense
234 for registration as a sexual predator pursuant to s. 775.21,
235 without regard to whether that offense alone is sufficient to
236 require such registration, or for registration as a sexual
237 offender pursuant to s. 943.0435, where the defendant was found
238 guilty of, or pled guilty or nolo contendere to any such
239 offense, or which the defendant, as a minor, was found to have
240 committed, or pled guilty or nolo contendere to committing, such
241 an offense as a delinquent act, without regard to whether
242 adjudication was withheld.

243 Section 3. This act shall take effect July 1, 2018.



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244

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

246 And the title is amended as follows:

247 Delete everything before the enacting clause

248 and insert:

249 A bill to be entitled

250 An act relating to the expunction and sealing of
251 criminal history records; amending s. 943.0585, F.S.;
252 revising the eligibility requirements for expunction
253 of criminal history records to include instances in
254 which a judgment of acquittal or a verdict of not
255 guilty was rendered; amending s. 943.059, F.S.;
256 clarifying the circumstances under which the
257 Department of Law Enforcement must issue a certificate
258 of eligibility for the sealing of a criminal history
259 record; providing an effective date.