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LEGISLATIVE ACTION

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

1 **Senate Substitute for Amendment (280316) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

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

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



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



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

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

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

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

65 1. Has never, prior to the date on which the petition is
66 filed, been adjudicated guilty of a criminal offense or
67 comparable ordinance violation, or been adjudicated delinquent
68 for committing any felony or a misdemeanor specified in s.
69 943.051(3)(b).



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70 2. Has not been adjudicated guilty of, or adjudicated
71 delinquent for committing, any of the acts stemming from the
72 arrest or alleged criminal activity to which the petition
73 pertains.

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

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

83
84 Any person who knowingly provides false information on such
85 sworn statement to the court commits a felony of the third
86 degree, punishable as provided in s. 775.082, s. 775.083, or s.
87 775.084.

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



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

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

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

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

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



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128 pursuant to s. 943.0435, where the defendant was found guilty
129 of, or pled guilty or nolo contendere to any such offense, or
130 that the defendant, as a minor, was found to have committed, or
131 pled guilty or nolo contendere to committing, such an offense as
132 a delinquent act, without regard to whether adjudication was
133 withheld.

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

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

154 Section 2. Effective upon this act becoming a law, present
155 paragraphs (c) through (f) of subsection (2) of section 943.059,
156 Florida Statutes, are redesignated as paragraphs (d) through



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157 (g), respectively, a new paragraph (c) is added to that
158 subsection, and paragraph (a) of subsection (1) of that section
159 is republished, to read:

160 943.059 Court-ordered sealing of criminal history records.-
161 The courts of this state shall continue to have jurisdiction
162 over their own procedures, including the maintenance, sealing,
163 and correction of judicial records containing criminal history
164 information to the extent such procedures are not inconsistent
165 with the conditions, responsibilities, and duties established by
166 this section. Any court of competent jurisdiction may order a
167 criminal justice agency to seal the criminal history record of a
168 minor or an adult who complies with the requirements of this
169 section. The court shall not order a criminal justice agency to
170 seal a criminal history record until the person seeking to seal
171 a criminal history record has applied for and received a
172 certificate of eligibility for sealing pursuant to subsection
173 (2). A criminal history record that relates to a violation of s.
174 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
175 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
176 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
177 s. 916.1075, a violation enumerated in s. 907.041, or any
178 violation specified as a predicate offense for registration as a
179 sexual predator pursuant to s. 775.21, without regard to whether
180 that offense alone is sufficient to require such registration,
181 or for registration as a sexual offender pursuant to s.
182 943.0435, may not be sealed, without regard to whether
183 adjudication was withheld, if the defendant was found guilty of
184 or pled guilty or nolo contendere to the offense, or if the
185 defendant, as a minor, was found to have committed or pled



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

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

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

214 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to



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

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



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244 adjudication was withheld.

245 Section 3. Except as otherwise expressly provided in this
246 act and except for this section, which shall take effect upon
247 becoming a law, this act shall take effect July 1, 2018.

248

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

250 And the title is amended as follows:

251 Delete everything before the enacting clause
252 and insert:

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