

By Senator Steube

23-01315A-18

20181142__

1 A bill to be entitled
2 An act relating to expunction of criminal history
3 records; amending s. 943.0585, F.S.; revising the
4 eligibility requirements for expunction of criminal
5 history records to include instances in which a
6 verdict of not guilty was rendered; providing an
7 effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Paragraphs (a) and (h) of subsection (2) of
12 section 943.0585, Florida Statutes, are amended, and paragraph
13 (b) of subsection (1) and paragraph (f) of subsection (2) of
14 that section are republished, to read:

15 943.0585 Court-ordered expunction of criminal history
16 records.—The courts of this state have jurisdiction over their
17 own procedures, including the maintenance, expunction, and
18 correction of judicial records containing criminal history
19 information to the extent such procedures are not inconsistent
20 with the conditions, responsibilities, and duties established by
21 this section. Any court of competent jurisdiction may order a
22 criminal justice agency to expunge the criminal history record
23 of a minor or an adult who complies with the requirements of
24 this section. The court shall not order a criminal justice
25 agency to expunge a criminal history record until the person
26 seeking to expunge a criminal history record has applied for and
27 received a certificate of eligibility for expunction pursuant to
28 subsection (2) or subsection (5). A criminal history record that
29 relates to a violation of s. 393.135, s. 394.4593, s. 787.025,

23-01315A-18

20181142__

30 chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,
31 s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
32 s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in
33 s. 907.041, or any violation specified as a predicate offense
34 for registration as a sexual predator pursuant to s. 775.21,
35 without regard to whether that offense alone is sufficient to
36 require such registration, or for registration as a sexual
37 offender pursuant to s. 943.0435, may not be expunged, without
38 regard to whether adjudication was withheld, if the defendant
39 was found guilty of or pled guilty or nolo contendere to the
40 offense, or if the defendant, as a minor, was found to have
41 committed, or pled guilty or nolo contendere to committing, the
42 offense as a delinquent act. The court may only order expunction
43 of a criminal history record pertaining to one arrest or one
44 incident of alleged criminal activity, except as provided in
45 this section. The court may, at its sole discretion, order the
46 expunction of a criminal history record pertaining to more than
47 one arrest if the additional arrests directly relate to the
48 original arrest. If the court intends to order the expunction of
49 records pertaining to such additional arrests, such intent must
50 be specified in the order. A criminal justice agency may not
51 expunge any record pertaining to such additional arrests if the
52 order to expunge does not articulate the intention of the court
53 to expunge a record pertaining to more than one arrest. This
54 section does not prevent the court from ordering the expunction
55 of only a portion of a criminal history record pertaining to one
56 arrest or one incident of alleged criminal activity.
57 Notwithstanding any law to the contrary, a criminal justice
58 agency may comply with laws, court orders, and official requests

23-01315A-18

20181142__

59 of other jurisdictions relating to expunction, correction, or
60 confidential handling of criminal history records or information
61 derived therefrom. This section does not confer any right to the
62 expunction of any criminal history record, and any request for
63 expunction of a criminal history record may be denied at the
64 sole discretion of the court.

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

68 (b) The petitioner's sworn statement attesting that the
69 petitioner:

70 1. Has never, prior to the date on which the petition is
71 filed, been adjudicated guilty of a criminal offense or
72 comparable ordinance violation, or been adjudicated delinquent
73 for committing any felony or a misdemeanor specified in s.
74 943.051(3)(b).

75 2. Has not been adjudicated guilty of, or adjudicated
76 delinquent for committing, any of the acts stemming from the
77 arrest or alleged criminal activity to which the petition
78 pertains.

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

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

23-01315A-18

20181142__

88

89 Any person who knowingly provides false information on such
90 sworn statement to the court commits a felony of the third
91 degree, punishable as provided in s. 775.082, s. 775.083, or s.
92 775.084.

93 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
94 petitioning the court to expunge a criminal history record, a
95 person seeking to expunge a criminal history record shall apply
96 to the department for a certificate of eligibility for
97 expunction. The department shall, by rule adopted pursuant to
98 chapter 120, establish procedures pertaining to the application
99 for and issuance of certificates of eligibility for expunction.
100 A certificate of eligibility for expunction is valid for 12
101 months after the date stamped on the certificate when issued by
102 the department. After that time, the petitioner must reapply to
103 the department for a new certificate of eligibility. Eligibility
104 for a renewed certification of eligibility must be based on the
105 status of the applicant and the law in effect at the time of the
106 renewal application. The department shall issue a certificate of
107 eligibility for expunction to a person who is the subject of a
108 criminal history record if that person:

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

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

114 2. That an indictment, information, or other charging
115 document, if filed or issued in the case, was dismissed or nolle
116 prosequi by the state attorney or statewide prosecutor, ~~or~~ was

23-01315A-18

20181142__

117 dismissed by a court of competent jurisdiction, or that a
118 verdict of not guilty was rendered by a judge or jury and that
119 ~~none of the charges related to the arrest or alleged criminal~~
120 ~~activity to which the petition to expunge pertains resulted in a~~
121 ~~trial, without regard to whether the outcome of the trial was~~
122 ~~other than an adjudication of guilt.~~

123 3. That the criminal history record does not relate to a
124 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
125 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
126 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
127 s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,
128 or any violation specified as a predicate offense for
129 registration as a sexual predator pursuant to s. 775.21, without
130 regard to whether that offense alone is sufficient to require
131 such registration, or for registration as a sexual offender
132 pursuant to s. 943.0435, where the defendant was found guilty
133 of, or pled guilty or nolo contendere to any such offense, or
134 that the defendant, as a minor, was found to have committed, or
135 pled guilty or nolo contendere to committing, such an offense as
136 a delinquent act, without regard to whether adjudication was
137 withheld.

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

144 (h) Has previously obtained a court order sealing the
145 record under this section, former s. 893.14, former s. 901.33,

23-01315A-18

20181142__

146 or former s. 943.058 for a minimum of 10 years because
147 adjudication was withheld or because all charges related to the
148 arrest or alleged criminal activity to which the petition to
149 expunge pertains were not dismissed before ~~prior to~~ trial,
150 without regard to whether the outcome of the trial was other
151 than an adjudication of guilt. The requirement for the record to
152 have previously been sealed for a minimum of 10 years does not
153 apply when a plea was not entered or all charges related to the
154 arrest or alleged criminal activity to which the petition to
155 expunge pertains were dismissed before ~~prior to~~ trial or a
156 verdict of not guilty was rendered by a judge or jury.

157 Section 2. This act shall take effect July 1, 2018.