

By Senator Brandes

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 943.0586, F.S.; specifying requirements for certain
4 agencies in the disposition of expunged criminal
5 history records; providing an exemption from public
6 records requirements for certain expunged criminal
7 history records and related information of persons who
8 possessed 4 ounces or less of cannabis, with
9 exceptions; providing for future review and repeal of
10 the exemption; providing a statement of public
11 necessity; providing a contingent effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Paragraphs (c) and (d) are added to subsection
16 (8) of section 943.0586, Florida Statutes, as created by SB ____,
17 to read:

18 943.0586 Cannabis expunction.—

19 (8)

20 (c) Any criminal history record of a person which is
21 ordered expunged by a court of competent jurisdiction under this
22 section must be physically destroyed or obliterated by any
23 criminal justice agency having custody of such record, except
24 that any criminal history record in the custody of the
25 department must be retained in all cases. A criminal history
26 record ordered expunged which is retained by the department is
27 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
28 of the State Constitution and may not be made available to any
29 person or entity except upon order of the court. A criminal

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30 justice agency may retain a notation indicating compliance with
31 an order to expunge. This paragraph is subject to the Open
32 Government Sunset Review Act in accordance with s. 119.15 and
33 shall stand repealed on October 2, 2025, unless reviewed and
34 saved from repeal through reenactment by the Legislature.

35 (d) Information relating to the existence of an expunged
36 criminal history record which is retained in accordance with
37 paragraph (c) is confidential and exempt from s. 119.07(1) and
38 s. 24(a), Art. I of the State Constitution, except that the
39 department shall disclose the existence of a criminal history
40 record ordered expunged to the entities set forth in paragraph
41 (a) for their respective licensing, access authorization, and
42 employment purposes and to criminal justice agencies for their
43 respective criminal justice purposes. It is unlawful for an
44 employee of any entity set forth in paragraph (a) to disclose
45 information relating to the existence of an expunged criminal
46 history record of a person seeking employment, access
47 authorization, or licensure with such entity or contractor,
48 except to the person to whom the criminal history record relates
49 or to persons having direct responsibility for employment,
50 access authorization, or licensure decisions. This paragraph is
51 subject to the Open Government Sunset Review Act in accordance
52 with s. 119.15 and shall stand repealed on October 2, 2025,
53 unless reviewed and saved from repeal through reenactment by the
54 Legislature.

55 Section 2. The Legislature finds that it is a public
56 necessity that criminal history records resulting from a
57 person's possession of 4 ounces or less of cannabis which are
58 expunged be made confidential and exempt from s. 119.07(1),

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59 Florida Statutes, and s. 24(a), Article I of the State
60 Constitution. The Legislature further finds that it is a public
61 necessity that any information relating to the existence of an
62 expunged criminal history record resulting from a person's
63 possession of 4 ounces or less of cannabis be made confidential
64 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
65 Article I of the State Constitution. An individual's criminal
66 history record, or any information relating to a criminal
67 history record that has been expunged, can jeopardize his or her
68 ability to obtain education, employment, housing, and other
69 opportunities necessary to being a productive, contributing,
70 self-sustaining member of society. Such negative consequences
71 are unwarranted for past actions that the State of Florida no
72 longer considers a criminal act. Under s. 893.13, Florida
73 Statutes, possession of 4 ounces or less of cannabis by a person
74 21 years of age or older is not a criminal act. The Legislature
75 therefore finds that it is in the best interest of the public
76 that individuals with criminal history records that have been
77 expunged under s. 943.0586, Florida Statutes, are given the
78 opportunity to become contributing members of society.
79 Therefore, making such expunged criminal history records and any
80 information relating to the expunction confidential and exempt
81 from public records requirements is of greater importance than
82 any public benefit that may be derived from the full disclosure
83 and release of such records and information.

84 Section 3. This act shall take effect on the same date that
85 SB ____ or similar legislation takes effect, if such legislation
86 is adopted in the same legislative session or an extension
87 thereof and becomes a law.