

Committee on Children, Families, And Elder Affairs

CS/CS/HB 1325 — Victims of Human Trafficking

by Justice Appropriations Subcommittee; Criminal Justice Subcommittee; Rep. Spano and others (CS/CS/CS/SB 1644 by Appropriations Committee; Judiciary Committee; Children, Families, and Elder Affairs Committee and Senator Flores)

The bill authorizes a victim of human trafficking to petition the court for the expunction of a conviction for any offense, except an offense listed in s. 775.084(1)(b)1, F.S., committed while he or she was a victim of human trafficking. The bill specifies that an expunged conviction is deemed to have been vacated due to a substantive defect in the underlying criminal proceedings. The term “victim of human trafficking” is defined.

The bill requires that a petition can only be initiated after the victim has ceased to be a victim of human trafficking or has sought services for victims of human trafficking, subject to reasonable concerns for the safety of the victim, family members of the victim, or other victims of human trafficking that may be jeopardized by the bringing of such petition.

The bill requires the petition to include a sworn statement attesting that the victim is eligible for such expunction to the best of his or her knowledge or belief and does not have another petition to expunge or seal before any other court. Official documentation of the victim’s status as a victim of human trafficking must be provided, if any exists. However, a petition may be granted without official documentation.

The bill requires the court to grant the expunction when there is a preponderance of the evidence. A determination made without official documentation must be made by a showing of clear and convincing evidence. If a court grants an expunction the bill requires:

- The clerk of the court to certify copies of the order to the appropriate state attorney or the statewide prosecutor, the arresting agency, and to any other agency that has received the criminal history record from the court;
- The arresting agency to forward the order to any other agency listed in the court order to which the arresting agency disseminated the criminal history record information to which the order pertains;
- The Florida Department of Law Enforcement to forward the order to expunge to the Federal Bureau of Investigation; and
- Criminal justice agencies with custody of the expunged record, except FDLE, to physically destroy the record.

The bill also allows persons who have had their human trafficking criminal history records expunged to lawfully deny or fail to acknowledge the arrests covered by the expunged record. Such persons will not face perjury charges or otherwise be liable for giving a false statement for failing to acknowledge an expunged criminal record unless they are a candidate for employment with a criminal justice agency or is a defendant in a criminal prosecution. The bill requires

persons to acknowledge such arrests when applying for future sealing or expunctions under ss. 943.059, 943.0585, or 943.0583, F.S.

If approved by the Governor, except as otherwise expressly provided in the bill, these provisions take effect January 1, 2014, except that the Department of Law Enforcement or any other criminal justice agency is not required to comply with an order to expunge a criminal history record before March 1, 2014.

Vote: Senate 37-0; House 116-0