

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

11 The Committee on Crime Prevention, Corrections & Safety
12 offered the following:

14 **Amendment (with title amendment)**

15 On page 18, between lines 22, and 23, of the bill

17 insert:

18 Section 3. Section 943.0582, Florida Statutes, is
19 created to read:

20 Section 943.0582 Prearrest, Postarrest or Teen Court
21 Diversion Program Expunction.--

22 (1) Notwithstanding any law dealing generally with the
23 preservation and destruction of public records, the department
24 may provide, by rule adopted pursuant to chapter 120, for the
25 expunction of any nonjudicial record of the arrest of a minor
26 who has successfully completed a prearrest or postarrest
27 diversion program for minors as authorized by s. 985.3065.

28 (2) As used in this section, the term "expunction"
29 shall have the same meaning and effect as in s. 943.0585,
30 except that:

31 (a) The provisions of s. 943.0585(4)(a) shall not

Amendment No. 01 (for drafter's use only)

1 apply except that the criminal history record of a person
2 whose record is expunged pursuant to this section shall be
3 made available only to criminal justice agencies for the
4 purpose of determining eligibility for prearrest, postarrest
5 or Teen Court diversion programs, the record is sought as part
6 of a criminal investigation, or when the subject of the record
7 is a candidate for employment with a criminal justice agency.
8 For all other purposes, a person whose record is expunged
9 pursuant to this section, may lawfully deny or fail to
10 acknowledge the arrest and/or charge covered by the expunged
11 record.

12 (b) Records maintained by local criminal justice
13 agencies in the county in which the arrest occurred which are
14 eligible for expunction pursuant to this section shall be
15 sealed as the term is used in s. 943.059.

16
17 As used in this section, the term "non-violent misdemeanor"
18 shall be understood to include simple assault or battery when
19 prearrest or postarrest diversion expunction is approved in
20 writing by the state attorney for the county in which the
21 arrest occurred.

22 (3) The department shall expunge the nonjudicial
23 arrest record of a minor who has successfully completed a
24 prearrest or postarrest diversion program if that minor:

25 (a) Submits an application for prearrest or postarrest
26 diversion expunction, on a form promulgated by the department,
27 signed by the minor's parent or legal guardian, or by the
28 minor if he or she has reached the age of majority at the time
29 of applying;

30 (b) Submits the application for prearrest or
31 postarrest diversion expunction no later than six months after

Amendment No. 01 (for drafter's use only)

1 completion of the diversion program;

2 (c) Submits to the department, with the application,
3 an official written statement from the state attorney for the
4 county in which the arrest occurred certifying that he or she
5 has successfully completed that county's prearrest or
6 postarrest diversion program and that participation in the
7 program is strictly limited to minors arrested for a
8 non-violent misdemeanor who have not otherwise been charged
9 with or found to have committed any criminal offense or
10 comparable ordinance violation;

11 (d) Participated in a prearrest or postarrest
12 diversion program which expressly authorizes or permits such
13 expunction to occur;

14 (e) Participated in a prearrest or postarrest
15 diversion program based on an arrest for a nonviolent
16 misdemeanor which would not qualify as an act of "domestic
17 violence" as that term is defined in s. 741.28; and

18 (f) Has never, prior to filing the application for
19 expunction, been charged with or found to have committed any
20 criminal offense or comparable ordinance violation.

21 (4) The department is authorized to charge a \$75
22 processing fee for each request received for prearrest or
23 postarrest diversion program expunction, for placement in the
24 Department of Law Enforcement Operating Trust Fund, unless
25 such fee is waived by the executive director.

26 (5) This section shall operate retroactively to permit
27 the expunction of any nonjudicial record of the arrest of a
28 minor who has successfully completed a prearrest or postarrest
29 diversion program on or after July 1, 2000, provided that, in
30 the case of minor whose completion of the program occurred
31 before the effective date of this section, the application for

Amendment No. 01 (for drafter's use only)

1 prearrest or postarrest diversion expunction is submitted no
2 later than six months after the effective date of this
3 section.

4 (6) Expunction or sealing granted pursuant to this
5 section shall not preclude the minor who receives such relief
6 from petitioning for the expunction or sealing of a later
7 criminal history record as provided for in ss. 943.0585 and
8 943.059, F.S., provided he or she is otherwise eligible under
9 those sections.

10

11 (Renumber subsequent sections)

12

13

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

15 And the title is amended as follows:

16 On page 1, line 27

17

18 before the word "amending", insert:

19 creating s. 943.0582, F.S.; providing for
20 prearrest, postarrest, or Teen Court diversion
21 program expunction in certain circumstances;

22

23

24

25

26

27

28

29

30

31