

By Senator Smith

14-176-03

1 A bill to be entitled
2 An act relating to the expunction of criminal
3 history records; amending s. 943.0585, F.S.;
4 prohibiting the expunction of a criminal
5 history record concerning a defendant who was
6 found guilty of, or who pled guilty or nolo
7 contendere to, the offense of voyeurism,
8 regardless of whether adjudication was
9 withheld; providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Paragraph (a) of subsection (2) of section
14 943.0585, Florida Statutes, is amended to read:

15 943.0585 Court-ordered expunction of criminal history
16 records.--The courts of this state have jurisdiction over
17 their own procedures, including the maintenance, expunction,
18 and 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
21 by this section. Any court of competent jurisdiction may order
22 a criminal justice agency to expunge the criminal history
23 record of a minor or an adult who complies with the
24 requirements of this section. The court shall not order a
25 criminal justice agency to expunge a criminal history record
26 until the person seeking to expunge a criminal history record
27 has applied for and received a certificate of eligibility for
28 expunction pursuant to subsection (2). A criminal history
29 record that relates to a violation of s. 787.025, chapter 794,
30 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
31 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.

1 893.135, or a violation enumerated in s. 907.041 may not be
2 expunged, without regard to whether adjudication was withheld,
3 if the defendant was found guilty of or pled guilty or nolo
4 contendere to the offense, or if the defendant, as a minor,
5 was found to have committed, or pled guilty or nolo contendere
6 to committing, the offense as a delinquent act. The court may
7 only order expunction of a criminal history record pertaining
8 to one arrest or one incident of alleged criminal activity,
9 except as provided in this section. The court may, at its sole
10 discretion, order the expunction of a criminal history record
11 pertaining to more than one arrest if the additional arrests
12 directly relate to the original arrest. If the court intends
13 to order the expunction of records pertaining to such
14 additional arrests, such intent must be specified in the
15 order. A criminal justice agency may not expunge any record
16 pertaining to such additional arrests if the order to expunge
17 does not articulate the intention of the court to expunge a
18 record pertaining to more than one arrest. This section does
19 not prevent the court from ordering the expunction of only a
20 portion of a criminal history record pertaining to one arrest
21 or one incident of alleged criminal activity. Notwithstanding
22 any law to the contrary, a criminal justice agency may comply
23 with laws, court orders, and official requests of other
24 jurisdictions relating to expunction, correction, or
25 confidential handling of criminal history records or
26 information derived therefrom. This section does not confer
27 any right to the expunction of any criminal history record,
28 and any request for expunction of a criminal history record
29 may be denied at the sole discretion of the court.

30 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
31 to petitioning the court to expunge a criminal history record,

1 a person seeking to expunge a criminal history record shall
2 apply to the department for a certificate of eligibility for
3 expunction. The department shall, by rule adopted pursuant to
4 chapter 120, establish procedures pertaining to the
5 application for and issuance of certificates of eligibility
6 for expunction. The department shall issue a certificate of
7 eligibility for expunction to a person who is the subject of a
8 criminal history record if that person:

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

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

14 2. That an indictment, information, or other charging
15 document, if filed or issued in the case, was dismissed or
16 nolle prosequi by the state attorney or statewide prosecutor,
17 or was dismissed by a court of competent jurisdiction.

18 3. That the criminal history record does not relate to
19 a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04,
20 s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839,
21 s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, or a
22 violation enumerated in s. 907.041, where the defendant was
23 found guilty of, or pled guilty or nolo contendere to any such
24 offense, or that the defendant, as a minor, was found to have
25 committed, or pled guilty or nolo contendere to committing,
26 such an offense as a delinquent act, without regard to whether
27 adjudication was withheld.

28 Section 2. This act shall take effect July 1, 2003.
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SENATE SUMMARY

Provides that the Department of Law Enforcement may not expunge a criminal history record that concerns a defendant who was found guilty of, or who pled guilty or nolo contendere to, a violation of s. 810.14, F.S., the offense of voyeurism.