

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Adams offered the following:

2  
3 **Amendment (with title amendment)**

4 Between lines 148 and 149, insert:

5 Section 5. Paragraph (a) of subsection (4) of section  
6 943.0585, Florida Statutes, is amended to read:

7 943.0585 Court-ordered expunction of criminal history  
8 records.--The courts of this state have jurisdiction over their  
9 own procedures, including the maintenance, expunction, and  
10 correction of judicial records containing criminal history  
11 information to the extent such procedures are not inconsistent  
12 with the conditions, responsibilities, and duties established by  
13 this section. Any court of competent jurisdiction may order a  
14 criminal justice agency to expunge the criminal history record  
15 of a minor or an adult who complies with the requirements of  
16 this section. The court shall not order a criminal justice

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17 agency to expunge a criminal history record until the person  
18 seeking to expunge a criminal history record has applied for and  
19 received a certificate of eligibility for expunction pursuant to  
20 subsection (2). A criminal history record that relates to a  
21 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
22 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
23 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
24 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
25 any violation specified as a predicate offense for registration  
26 as a sexual predator pursuant to s. 775.21, without regard to  
27 whether that offense alone is sufficient to require such  
28 registration, or for registration as a sexual offender pursuant  
29 to s. 943.0435, may not be expunged, without regard to whether  
30 adjudication was withheld, if the defendant was found guilty of  
31 or pled guilty or nolo contendere to the offense, or if the  
32 defendant, as a minor, was found to have committed, or pled  
33 guilty or nolo contendere to committing, the offense as a  
34 delinquent act. The court may only order expunction of a  
35 criminal history record pertaining to one arrest or one incident  
36 of alleged criminal activity, except as provided in this  
37 section. The court may, at its sole discretion, order the  
38 expunction of a criminal history record pertaining to more than  
39 one arrest if the additional arrests directly relate to the  
40 original arrest. If the court intends to order the expunction of  
41 records pertaining to such additional arrests, such intent must  
42 be specified in the order. A criminal justice agency may not  
43 expunge any record pertaining to such additional arrests if the  
44 order to expunge does not articulate the intention of the court

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45 to expunge a record pertaining to more than one arrest. This  
46 section does not prevent the court from ordering the expunction  
47 of only a portion of a criminal history record pertaining to one  
48 arrest or one incident of alleged criminal activity.

49 Notwithstanding any law to the contrary, a criminal justice  
50 agency may comply with laws, court orders, and official requests  
51 of other jurisdictions relating to expunction, correction, or  
52 confidential handling of criminal history records or information  
53 derived therefrom. This section does not confer any right to the  
54 expunction of any criminal history record, and any request for  
55 expunction of a criminal history record may be denied at the  
56 sole discretion of the court.

57 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
58 criminal history record of a minor or an adult which is ordered  
59 expunged by a court of competent jurisdiction pursuant to this  
60 section must be physically destroyed or obliterated by any  
61 criminal justice agency having custody of such record; except  
62 that any criminal history record in the custody of the  
63 department must be retained in all cases. A criminal history  
64 record ordered expunged that is retained by the department is  
65 confidential and exempt from the provisions of s. 119.07(1) and  
66 s. 24(a), Art. I of the State Constitution and not available to  
67 any person or entity except upon order of a court of competent  
68 jurisdiction. A criminal justice agency may retain a notation  
69 indicating compliance with an order to expunge.

70 (a) The person who is the subject of a criminal history  
71 record that is expunged under this section or under other  
72 provisions of law, including former s. 893.14, former s. 901.33,  
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73 and former s. 943.058, may lawfully deny or fail to acknowledge  
74 the arrests covered by the expunged record, except when the  
75 subject of the record:

76 1. Is a candidate for employment with a criminal justice  
77 agency;

78 2. Is a defendant in a criminal prosecution;

79 3. Concurrently or subsequently petitions for relief under  
80 this section or s. 943.059;

81 4. Is a candidate for admission to The Florida Bar;

82 5. Is seeking to be employed or licensed by or to contract  
83 with the Department of Children and Family Services, the Agency  
84 for Health Care Administration, the Agency for Persons with  
85 Disabilities, or the Department of Juvenile Justice or to be  
86 employed or used by such contractor or licensee in a sensitive  
87 position having direct contact with children, the  
88 developmentally disabled, the aged, or the elderly as provided  
89 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
90 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),  
91 chapter 916, s. 985.644, chapter 400, or chapter 429;

92 6. Is seeking to be employed or licensed by the Department  
93 of Education, any district school board, any university  
94 laboratory school, any charter school, any private or parochial  
95 school, or any local governmental entity that licenses child  
96 care facilities; or

97 7. Is seeking authorization from a Florida seaport  
98 identified in s. 311.09 for employment within or access to one  
99 or more of such seaports pursuant to s. 311.12 or s. 311.125.

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100 Section 6. Subsection (4) of section 943.059, Florida  
101 Statutes, is amended to read:

102 943.059 Court-ordered sealing of criminal history  
103 records.--The courts of this state shall continue to have  
104 jurisdiction over their own procedures, including the  
105 maintenance, sealing, and correction of judicial records  
106 containing criminal history information to the extent such  
107 procedures are not inconsistent with the conditions,  
108 responsibilities, and duties established by this section. Any  
109 court of competent jurisdiction may order a criminal justice  
110 agency to seal the criminal history record of a minor or an  
111 adult who complies with the requirements of this section. The  
112 court shall not order a criminal justice agency to seal a  
113 criminal history record until the person seeking to seal a  
114 criminal history record has applied for and received a  
115 certificate of eligibility for sealing pursuant to subsection  
116 (2). A criminal history record that relates to a violation of s.  
117 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.  
118 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter  
119 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
120 916.1075, a violation enumerated in s. 907.041, or any violation  
121 specified as a predicate offense for registration as a sexual  
122 predator pursuant to s. 775.21, without regard to whether that  
123 offense alone is sufficient to require such registration, or for  
124 registration as a sexual offender pursuant to s. 943.0435, may  
125 not be sealed, without regard to whether adjudication was  
126 withheld, if the defendant was found guilty of or pled guilty or  
127 nolo contendere to the offense, or if the defendant, as a minor,

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128 was found to have committed or pled guilty or nolo contendere to  
129 committing the offense as a delinquent act. The court may only  
130 order sealing of a criminal history record pertaining to one  
131 arrest or one incident of alleged criminal activity, except as  
132 provided in this section. The court may, at its sole discretion,  
133 order the sealing of a criminal history record pertaining to  
134 more than one arrest if the additional arrests directly relate  
135 to the original arrest. If the court intends to order the  
136 sealing of records pertaining to such additional arrests, such  
137 intent must be specified in the order. A criminal justice agency  
138 may not seal any record pertaining to such additional arrests if  
139 the order to seal does not articulate the intention of the court  
140 to seal records pertaining to more than one arrest. This section  
141 does not prevent the court from ordering the sealing of only a  
142 portion of a criminal history record pertaining to one arrest or  
143 one incident of alleged criminal activity. Notwithstanding any  
144 law to the contrary, a criminal justice agency may comply with  
145 laws, court orders, and official requests of other jurisdictions  
146 relating to sealing, correction, or confidential handling of  
147 criminal history records or information derived therefrom. This  
148 section does not confer any right to the sealing of any criminal  
149 history record, and any request for sealing a criminal history  
150 record may be denied at the sole discretion of the court.

151 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal  
152 history record of a minor or an adult which is ordered sealed by  
153 a court of competent jurisdiction pursuant to this section is  
154 confidential and exempt from the provisions of s. 119.07(1) and  
155 s. 24(a), Art. I of the State Constitution and is available only  
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156 to the person who is the subject of the record, to the subject's  
157 attorney, to criminal justice agencies for their respective  
158 criminal justice purposes, which include conducting a criminal  
159 history background check for approval of firearms purchases or  
160 transfers as authorized by state or federal law, to judges in  
161 the state courts system for the purpose of assisting them in  
162 their case-related decisionmaking responsibilities, as set forth  
163 in s. 943.053(5), or to those entities set forth in  
164 subparagraphs (a)1., 4., 5., 6., and 8. for their respective  
165 licensing, access authorization, and employment purposes.

166 (a) The subject of a criminal history record sealed under  
167 this section or under other provisions of law, including former  
168 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
169 deny or fail to acknowledge the arrests covered by the sealed  
170 record, except when the subject of the record:

- 171 1. Is a candidate for employment with a criminal justice  
172 agency;
- 173 2. Is a defendant in a criminal prosecution;
- 174 3. Concurrently or subsequently petitions for relief under  
175 this section or s. 943.0585;
- 176 4. Is a candidate for admission to The Florida Bar;
- 177 5. Is seeking to be employed or licensed by or to contract  
178 with the Department of Children and Family Services, the Agency  
179 for Health Care Administration, the Agency for Persons with  
180 Disabilities, or the Department of Juvenile Justice or to be  
181 employed or used by such contractor or licensee in a sensitive  
182 position having direct contact with children, the  
183 developmentally disabled, the aged, or the elderly as provided

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184 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
185 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
186 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;

187 6. Is seeking to be employed or licensed by the Department  
188 of Education, any district school board, any university  
189 laboratory school, any charter school, any private or parochial  
190 school, or any local governmental entity that licenses child  
191 care facilities;

192 7. Is attempting to purchase a firearm from a licensed  
193 importer, licensed manufacturer, or licensed dealer and is  
194 subject to a criminal history background check under state or  
195 federal law; or

196 8. Is seeking authorization from a Florida seaport  
197 identified in s. 311.09 for employment within or access to one  
198 or more of such seaports pursuant to s. 311.12 or s. 311.125.

199 (b) Subject to the exceptions in paragraph (a), a person  
200 who has been granted a sealing under this section, former s.  
201 893.14, former s. 901.33, or former s. 943.058 may not be held  
202 under any provision of law of this state to commit perjury or to  
203 be otherwise liable for giving a false statement by reason of  
204 such person's failure to recite or acknowledge a sealed criminal  
205 history record.

206 (c) Information relating to the existence of a sealed  
207 criminal record provided in accordance with the provisions of  
208 paragraph (a) is confidential and exempt from the provisions of  
209 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
210 except that the department shall disclose the sealed criminal  
211 history record to the entities set forth in subparagraphs (a)1.,

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212 4., 5., 6., and 8. for their respective licensing, access  
 213 authorization, and employment purposes. It is unlawful for any  
 214 employee of an entity set forth in subparagraph (a)1.,  
 215 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or  
 216 subparagraph (a)8. to disclose information relating to the  
 217 existence of a sealed criminal history record of a person  
 218 seeking employment, access authorization, or licensure with such  
 219 entity or contractor, except to the person to whom the criminal  
 220 history record relates or to persons having direct  
 221 responsibility for employment, access authorization, or  
 222 licensure decisions. Any person who violates the provisions of  
 223 this paragraph commits a misdemeanor of the first degree,  
 224 punishable as provided in s. 775.082 or s. 775.083.

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**T I T L E A M E N D M E N T**

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Remove line 24 and insert:

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application for an administrative expunction; amending

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s. 943.0585, F.S.; providing additional circumstances

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in which a person may not lawfully deny or fail to

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acknowledge the arrests covered by an expunged

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criminal history record; amending s. 943.059, F.S.;

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providing that sealed criminal history records may be

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available to judges in the state courts system for

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specified purposes; providing additional circumstances

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in which a person may not lawfully deny or fail to

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acknowledge the arrests covered by a sealed criminal

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history record; amending s.

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