

1 A bill to be entitled
 2 An act relating to civil citations; amending s. 985.12,
 3 F.S.; requiring the expunction of the nonjudicial arrest
 4 record of a minor who successfully completes a civil
 5 citation program; amending s. 943.0582, F.S.; requiring
 6 the Department of Law Enforcement to expunge the
 7 nonjudicial record of the arrest of a minor who
 8 successfully completes a civil citation program; setting
 9 forth the conditions that apply in order for the
 10 department to expunge the record; authorizing the
 11 department to charge a processing fee; providing for
 12 retroactive effect; providing an effective date.

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

15
 16 Section 1. Subsection (6) is added to section 985.12,
 17 Florida Statutes, to read:

18 985.12 Civil citation.—

19 (6) A civil citation program shall, with the concurrence
 20 of the agencies that established the program, provide for the
 21 expunction of a nonjudicial arrest record, pursuant to s.
 22 943.0582, of a minor who successfully completes the civil
 23 citation program.

24 Section 2. Section 943.0582, Florida Statutes, is amended
 25 to read:

26 943.0582 Prearrest, postarrest, or teen court diversion
 27 program expunction; civil citation expunction.—

28 (1) Notwithstanding any law dealing generally with the

29 preservation and destruction of public records, the department
 30 shall adopt a ~~may provide, by rule to provide~~ adopted pursuant
 31 ~~to chapter 120,~~ for the expunction of any nonjudicial record of
 32 the arrest of a minor who has successfully completed a prearrest
 33 or postarrest diversion program for minors as authorized by s.
 34 985.125 or a civil citation program for minors as authorized by
 35 s. 985.12.

36 (2) (a) As used in this section, the term "expunction" has
 37 the same meaning ascribed in and effect as s. 943.0585, except
 38 that:

39 1. The provisions of s. 943.0585(4) (a) do not apply,
 40 except that the criminal history record of a person whose record
 41 is expunged pursuant to this section shall be made available
 42 only to criminal justice agencies for the purpose of determining
 43 eligibility for prearrest, postarrest, or teen court diversion
 44 programs, or for determining eligibility for a civil citation
 45 program; when the record is sought as part of a criminal
 46 investigation; or when the subject of the record is a candidate
 47 for employment with a criminal justice agency. For all other
 48 purposes, a person whose record is expunged under this section
 49 may lawfully deny or fail to acknowledge the arrest and the
 50 charge covered by the expunged record.

51 2. Records maintained by local criminal justice agencies
 52 in the county where ~~in which~~ the arrest occurred which ~~that~~ are
 53 eligible for expunction pursuant to this section shall be sealed
 54 as the term is used in s. 943.059.

55 (b) As used in this section, the term "nonviolent
 56 misdemeanor" includes simple assault or battery when prearrest

57 | or postarrest diversion expunction is approved in writing by the
 58 | state attorney for the county in which the arrest occurred.

59 | (3) The department shall expunge the nonjudicial arrest
 60 | record of a minor who has successfully completed a prearrest or
 61 | postarrest diversion program or a minor who has successfully
 62 | completed a civil citation program if that minor:

63 | (a) Submits an application to expunge the nonjudicial
 64 | record of ~~for~~ prearrest or postarrest diversion or participation
 65 | in a civil citation program expunction, on a form prescribed by
 66 | the department, signed by the minor's parent or legal guardian,
 67 | or by the minor if he or she has reached the age of majority at
 68 | the time of applying.

69 | (b) Submits the application to expunge the record of ~~for~~
 70 | prearrest or postarrest diversion or participation in a civil
 71 | citation program expunction no later than 6 months after
 72 | completion of the diversion program or civil citation program.

73 | (c) Submits to the department, with the application, an
 74 | official written statement from the state attorney for the
 75 | county in which the arrest occurred certifying that he or she
 76 | has successfully completed that county's prearrest or postarrest
 77 | diversion program or civil citation program and that
 78 | participation in the applicable program is strictly limited to
 79 | minors arrested for a nonviolent misdemeanor who have not
 80 | otherwise been charged with or found to have committed any
 81 | criminal offense or comparable ordinance violation.

82 | (d) Participated in a prearrest or postarrest diversion
 83 | program or civil citation program that expressly authorizes or
 84 | permits such expunction to occur.

HB 263

2011

85 (e) Participated in a prearrest or postarrest diversion
86 program or civil citation program based on an arrest for a
87 nonviolent misdemeanor that would not qualify as an act of
88 domestic violence as that term is defined in s. 741.28.

89 (f) Has never, before ~~prior to~~ filing the application for
90 expunction, been charged with or been found to have committed
91 any criminal offense or comparable ordinance violation.

92 (4) The department may ~~is authorized to~~ charge a \$75
93 processing fee for each request received to expunge a ~~for~~
94 prearrest or postarrest diversion program record or a civil
95 citation program record expunction, which shall be placed ~~for~~
96 ~~placement~~ in the Department of Law Enforcement Operating Trust
97 Fund, unless such fee is waived by the executive director.

98 (5) This section operates retroactively to permit the
99 expunction of any nonjudicial record of the arrest of a minor
100 who has successfully completed a prearrest or postarrest
101 diversion program or civil citation program on or after July 1,
102 2000; ~~however, in the case of a minor whose completion of the~~
103 ~~program occurred before the effective date of this section, the~~
104 ~~application for prearrest or postarrest diversion expunction~~
105 ~~must be submitted within 6 months after the effective date of~~
106 ~~this section.~~

107 (6) Expunction or sealing granted under this section does
108 not prevent the minor who receives such relief from petitioning
109 for the expunction or sealing of a later criminal history record
110 as provided for in ss. 943.0585 and 943.059, if the minor is
111 otherwise eligible under those sections.

112 Section 3. This act shall take effect July 1, 2011.