

By Senator Joyner

18-00212-11

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

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

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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 of
20 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

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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, except
40 that the criminal history record of a person whose record is
41 expunged pursuant to this section shall be made available only
42 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 in
52 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.

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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.

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

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88 domestic violence as that term is defined in s. 741.28.

89 (f) Has never, 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.