

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>    </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice  
 2 Subcommittee

3 Representative Steube offered the following:

4  
 5 **Amendment (with directory and title amendments)**

6 Remove lines 115-127 and insert:

7 (h) Has previously obtained a court order sealing the  
 8 record under this section, former s. 893.14, former s. 901.33,  
 9 or former s. 943.058 for a minimum of 10 years because  
 10 adjudication was withheld ~~or because all charges related to the~~  
 11 ~~arrest or alleged criminal activity to which the petition to~~  
 12 ~~expunge pertains were not dismissed prior to trial, without~~  
 13 ~~regard to whether the outcome of the trial was other than an~~  
 14 ~~adjudication of guilt.~~ The requirement for the record to have  
 15 previously been sealed for a minimum of 10 years does not apply  
 16 when a plea was not entered, when ~~or~~ all charges related to the  
 17 arrest or alleged criminal activity to which the petition to

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18 expunge pertains were dismissed prior to trial, or when a judge  
19 or jury rendered a verdict of not guilty. The records of a  
20 person adjudicated not guilty by reason of insanity are not  
21 eligible for expunction under this section.

22 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any  
23 criminal history record of a minor or an adult which is ordered  
24 expunged by a court of competent jurisdiction pursuant to this  
25 section must be physically destroyed or obliterated by any  
26 criminal justice agency having custody of such record; except  
27 that any criminal history record in the custody of the  
28 department must be retained in all cases. A criminal history  
29 record ordered expunged that is retained by the department is  
30 confidential and exempt from the provisions of s. 119.07(1) and  
31 s. 24(a), Art. I of the State Constitution and not available to  
32 any person or entity except upon order of a court of competent  
33 jurisdiction. A criminal justice agency may retain a notation  
34 indicating compliance with an order to expunge. If a person is  
35 adjudicated not guilty by reason of insanity or is found to be  
36 incompetent to stand trial, the expunction of the criminal  
37 history record shall not prevent the entry of the judgment or  
38 finding in state and national databases for use in determining  
39 eligibility to purchase or possess a firearm or to carry a  
40 concealed firearm, as authorized at s. 790.065(2)(a)4.c., and 18  
41 U.S.C. s. 922(t), nor shall it prevent any governmental agency  
42 that is authorized by state or federal law to determine  
43 eligibility to purchase or possess a firearm or to carry a

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44 concealed firearm from accessing or using the record of the  
45 judgment or finding in the course of such agency's official  
46 duties.

47 (a) The person who is the subject of a criminal history  
48 record that is expunged under this section or under other  
49 provisions of law, including former s. 893.14, former s. 901.33,  
50 and former s. 943.058, may lawfully deny or fail to acknowledge  
51 the arrests covered by the expunged record, except when the  
52 subject of the record:

53 1. Is a candidate for employment with a criminal justice  
54 agency;

55 2. Is a defendant in a criminal prosecution;

56 3. Concurrently or subsequently petitions for relief under  
57 this section, s. 943.0583, or s. 943.059;

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

59 5. Is seeking to be employed or licensed by or to contract  
60 with the Department of Children and Families, the Division of  
61 Vocational Rehabilitation within the Department of Education,  
62 the Agency for Health Care Administration, the Agency for  
63 Persons with Disabilities, the Department of Health, the  
64 Department of Elderly Affairs, or the Department of Juvenile  
65 Justice or to be employed or used by such contractor or licensee  
66 in a sensitive position having direct contact with children, the  
67 disabled, or the elderly; or

68 6. Is seeking to be employed or licensed by the Department  
69 of Education, any district school board, any university

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70 laboratory school, any charter school, any private or parochial  
71 school, or any local governmental entity that licenses child  
72 care facilities.

73 (b) Subject to the exceptions in paragraph (a), a person  
74 who has been granted an expunction under this section, former s.  
75 893.14, former s. 901.33, or former s. 943.058 may not be held  
76 under any provision of law of this state to commit perjury or to  
77 be otherwise liable for giving a false statement by reason of  
78 such person's failure to recite or acknowledge an expunged  
79 criminal history record.

80 (c) Information relating to the existence of an expunged  
81 criminal history record which is provided in accordance with  
82 paragraph (a) is confidential and exempt from the provisions of  
83 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
84 except that the department shall disclose the existence of a  
85 criminal history record ordered expunged to the entities set  
86 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their  
87 respective licensing, access authorization, and employment  
88 purposes, ~~and~~ to criminal justice agencies for their respective  
89 criminal justice purposes, and with respect to any governmental  
90 agency that is authorized by state or federal law to determine  
91 eligibility to purchase or possess a firearm or to carry a  
92 concealed firearm, the department shall disclose the record of  
93 an adjudication of not guilty by reason of insanity or a finding  
94 of incompetence to stand trial for use in the course of such  
95 agency's official duties. It is unlawful for any employee of an

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96 entity set forth in subparagraph (a)1., subparagraph (a)4.,  
97 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to  
98 disclose information relating to the existence of an expunged  
99 criminal history record of a person seeking employment, access  
100 authorization, or licensure with such entity or contractor,  
101 except to the person to whom the criminal history record relates  
102 or to persons having direct responsibility for employment,  
103 access authorization, or licensure decisions. Any person who  
104 violates this paragraph commits a misdemeanor of the first  
105 degree, punishable as provided in s. 775.082 or s. 775.083.  
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**D I R E C T O R Y   A M E N D M E N T**

109 Remove lines 15-17 and insert:

111 Section 1. Paragraphs (a) and (h) of subsection (2) and  
112 subsection (4) of section 943.0585, Florida Statutes, are  
113 amended to read:  
114  
115

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**T I T L E   A M E N D M E N T**

118 Remove line 7 and insert:

119 criminal history record expunction; revising when a certificate  
120 of eligibility for expunction shall be issued; authorizing the  
121 Department of Law Enforcement to enter certain expunged records

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122 | in specified databases; requiring the Department of Law  
123 | Enforcement to disclose certain expunged records to specified  
124 | governmental entities; requiring a person  
125 |