



110598

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2014	.	
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The Committee on Banking and Insurance (Hays) recommended the following:

**Senate Amendment**

Delete lines 1204 - 1393  
and insert:

Section 35. Paragraphs (a) and (c) of subsection (4) of section 943.0585, Florida Statutes, are amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history



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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  
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



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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  
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



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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,  
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, s. 943.0583, 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 Families, the Division of  
84 Vocational Rehabilitation within the Department of Education,  
85 the Agency for Health Care Administration, the Agency for  
86 Persons with Disabilities, the Department of Health, the  
87 Department of Elderly Affairs, or the Department of Juvenile  
88 Justice or to be employed or used by such contractor or licensee  
89 in a sensitive position having direct contact with children, the  
90 disabled, or the elderly; ~~or~~

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

96 7. Is seeking to be licensed by the Division of Insurance  
97 Agent and Agency Services within the Department of Financial



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98 Services.

99 (c) Information relating to the existence of an expunged  
100 criminal history record which is provided in accordance with  
101 paragraph (a) is confidential and exempt from the provisions of  
102 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
103 except that the department shall disclose the existence of a  
104 criminal history record ordered expunged to the entities set  
105 forth in subparagraphs (a)1., 4., 5., 6., and 7. ~~7.~~ for their  
106 respective licensing, access authorization, and employment  
107 purposes, and to criminal justice agencies for their respective  
108 criminal justice purposes. It is unlawful for any employee of an  
109 entity set forth in subparagraph (a)1., subparagraph (a)4.,  
110 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7.  
111 ~~subparagraph (a)7.~~ to disclose information relating to the  
112 existence of an expunged criminal history record of a person  
113 seeking employment, access authorization, or licensure with such  
114 entity or contractor, except to the person to whom the criminal  
115 history record relates or to persons having direct  
116 responsibility for employment, access authorization, or  
117 licensure decisions. Any person who violates this paragraph  
118 commits a misdemeanor of the first degree, punishable as  
119 provided in s. 775.082 or s. 775.083.

120 Section 36. Paragraphs (a) and (c) of subsection (4) of  
121 section 943.059, Florida Statutes, are amended to read:

122 943.059 Court-ordered sealing of criminal history records.-  
123 The courts of this state shall continue to have jurisdiction  
124 over their own procedures, including the maintenance, sealing,  
125 and correction of judicial records containing criminal history  
126 information to the extent such procedures are not inconsistent



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127 with the conditions, responsibilities, and duties established by  
128 this section. Any court of competent jurisdiction may order a  
129 criminal justice agency to seal the criminal history record of a  
130 minor or an adult who complies with the requirements of this  
131 section. The court shall not order a criminal justice agency to  
132 seal a criminal history record until the person seeking to seal  
133 a criminal history record has applied for and received a  
134 certificate of eligibility for sealing pursuant to subsection  
135 (2). A criminal history record that relates to a violation of s.  
136 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.  
137 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter  
138 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
139 916.1075, a violation enumerated in s. 907.041, or any violation  
140 specified as a predicate offense for registration as a sexual  
141 predator pursuant to s. 775.21, without regard to whether that  
142 offense alone is sufficient to require such registration, or for  
143 registration as a sexual offender pursuant to s. 943.0435, may  
144 not be sealed, without regard to whether adjudication was  
145 withheld, if the defendant was found guilty of or pled guilty or  
146 nolo contendere to the offense, or if the defendant, as a minor,  
147 was found to have committed or pled guilty or nolo contendere to  
148 committing the offense as a delinquent act. The court may only  
149 order sealing of a criminal history record pertaining to one  
150 arrest or one incident of alleged criminal activity, except as  
151 provided in this section. The court may, at its sole discretion,  
152 order the sealing of a criminal history record pertaining to  
153 more than one arrest if the additional arrests directly relate  
154 to the original arrest. If the court intends to order the  
155 sealing of records pertaining to such additional arrests, such



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156 intent must be specified in the order. A criminal justice agency  
157 may not seal any record pertaining to such additional arrests if  
158 the order to seal does not articulate the intention of the court  
159 to seal records pertaining to more than one arrest. This section  
160 does not prevent the court from ordering the sealing of only a  
161 portion of a criminal history record pertaining to one arrest or  
162 one incident of alleged criminal activity. Notwithstanding any  
163 law to the contrary, a criminal justice agency may comply with  
164 laws, court orders, and official requests of other jurisdictions  
165 relating to sealing, correction, or confidential handling of  
166 criminal history records or information derived therefrom. This  
167 section does not confer any right to the sealing of any criminal  
168 history record, and any request for sealing a criminal history  
169 record may be denied at the sole discretion of the court.

170 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal  
171 history record of a minor or an adult which is ordered sealed by  
172 a court of competent jurisdiction pursuant to this section is  
173 confidential and exempt from the provisions of s. 119.07(1) and  
174 s. 24(a), Art. I of the State Constitution and is available only  
175 to the person who is the subject of the record, to the subject's  
176 attorney, to criminal justice agencies for their respective  
177 criminal justice purposes, which include conducting a criminal  
178 history background check for approval of firearms purchases or  
179 transfers as authorized by state or federal law, to judges in  
180 the state courts system for the purpose of assisting them in  
181 their case-related decisionmaking responsibilities, as set forth  
182 in s. 943.053(5), or to those entities set forth in  
183 subparagraphs (a)1., 4., 5., 6., and 8. ~~8.~~ for their respective  
184 licensing, access authorization, and employment purposes.



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185           (a) The subject of a criminal history record sealed under  
186 this section or under other provisions of law, including former  
187 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
188 deny or fail to acknowledge the arrests covered by the sealed  
189 record, except when the subject of the record:

190           1. Is a candidate for employment with a criminal justice  
191 agency;

192           2. Is a defendant in a criminal prosecution;

193           3. Concurrently or subsequently petitions for relief under  
194 this section, s. 943.0583, or s. 943.0585;

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

196           5. Is seeking to be employed or licensed by or to contract  
197 with the Department of Children and Families, the Division of  
198 Vocational Rehabilitation within the Department of Education,  
199 the Agency for Health Care Administration, the Agency for  
200 Persons with Disabilities, the Department of Health, the  
201 Department of Elderly Affairs, or the Department of Juvenile  
202 Justice or to be employed or used by such contractor or licensee  
203 in a sensitive position having direct contact with children, the  
204 disabled, or the elderly;

205           6. Is seeking to be employed or licensed by the Department  
206 of Education, any district school board, any university  
207 laboratory school, any charter school, any private or parochial  
208 school, or any local governmental entity that licenses child  
209 care facilities; ~~or~~

210           7. Is attempting to purchase a firearm from a licensed  
211 importer, licensed manufacturer, or licensed dealer and is  
212 subject to a criminal history check under state or federal law;  
213 or





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214       8. Is seeking to be licensed by the Division of Insurance  
215 Agent and Agency Services within the Department of Financial  
216 Services.

217       (c) Information relating to the existence of a sealed  
218 criminal record provided in accordance with the provisions of  
219 paragraph (a) is confidential and exempt from the provisions of  
220 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
221 except that the department shall disclose the sealed criminal  
222 history record to the entities set forth in subparagraphs (a)1.,  
223 4., 5., 6., and 8. ~~8.~~ for their respective licensing, access  
224 authorization, and employment purposes. It is unlawful for any  
225 employee of an entity set forth in subparagraph (a)1.,  
226 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or  
227 subparagraph (a)8. ~~subparagraph (a)8.~~ to disclose information  
228 relating to the existence of a sealed criminal history record of  
229 a person seeking employment, access authorization, or licensure  
230 with such entity or contractor, except to the person to whom the  
231 criminal history record relates or to persons having direct  
232 responsibility for employment, access authorization, or  
233 licensure decisions. Any person who violates the provisions of  
234 this paragraph commits a misdemeanor of the first degree,  
235 punishable as provided in s. 775.082 or s. 775.083.