



954948

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/21/2014	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Dean) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 115 - 127

and insert:

(h) Has previously obtained a court order sealing the record under this section, former s. 893.14, former s. 901.33, or former s. 943.058 for a minimum of 10 years because adjudication was withheld ~~or because all charges related to the arrest or alleged criminal activity to which the petition to expunge pertains were not dismissed prior to trial, without~~



954948

11 ~~regard to whether the outcome of the trial was other than an~~
12 ~~adjudication of guilt.~~ The requirement for the record to have
13 previously been sealed for a minimum of 10 years does not apply
14 when a plea was not entered, when ~~or~~ all charges related to the
15 arrest or alleged criminal activity to which the petition to
16 expunge pertains were dismissed prior to trial, or when a judge
17 or jury rendered a verdict of not guilty. The records of a
18 person adjudicated not guilty by reason of insanity are not
19 eligible for expunction under this section.

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



954948

40 that is authorized by state or federal law to determine
41 eligibility to purchase or possess a firearm or to carry a
42 concealed firearm from accessing or using the record of the
43 judgment or finding in the course of such agency's official
44 duties.

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

- 51 1. Is a candidate for employment with a criminal justice
52 agency;
- 53 2. Is a defendant in a criminal prosecution;
- 54 3. Concurrently or subsequently petitions for relief under
55 this section, s. 943.0583, or s. 943.059;
- 56 4. Is a candidate for admission to The Florida Bar;
- 57 5. Is seeking to be employed or licensed by or to contract
58 with the Department of Children and Families, the Division of
59 Vocational Rehabilitation within the Department of Education,
60 the Agency for Health Care Administration, the Agency for
61 Persons with Disabilities, the Department of Health, the
62 Department of Elderly Affairs, or the Department of Juvenile
63 Justice or to be employed or used by such contractor or licensee
64 in a sensitive position having direct contact with children, the
65 disabled, or the elderly; or
- 66 6. Is seeking to be employed or licensed by the Department
67 of Education, any district school board, any university
68 laboratory school, any charter school, any private or parochial



954948

69 school, or any local governmental entity that licenses child
70 care facilities.

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

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



954948

98 authorization, or licensure with such entity or contractor,
99 except to the person to whom the criminal history record relates
100 or to persons having direct responsibility for employment,
101 access authorization, or licensure decisions. Any person who
102 violates this paragraph commits a misdemeanor of the first
103 degree, punishable as provided in s. 775.082 or s. 775.083.

104
105 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

106 And the directory clause is amended as follows:

107 Delete lines 15 - 17

108 and insert:

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

112
113 ===== T I T L E A M E N D M E N T =====

114 And the title is amended as follows:

115 Delete line 7

116 and insert:

117 criminal history record expunction; revising when a
118 certificate of eligibility for expunction shall be
119 issued; authorizing the Department of Law Enforcement
120 to enter certain expunged records in specified
121 databases; requiring the Department of Law Enforcement
122 to disclose certain expunged records to specified
123 governmental entities; requiring a person