

By Senator Detert

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1 A bill to be entitled
2 An act relating to court-ordered expunction of
3 criminal history records; amending s. 943.0585, F.S.;
4 revising the information that must be provided in the
5 written statement from the state attorney or statewide
6 prosecutor in order for a person to be eligible for a
7 criminal history record expunction; requiring a person
8 or entity that publishes, displays, or disseminates
9 information regarding an arrest that has been expunged
10 to remove such information under certain
11 circumstances; providing an effective date.

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

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15 Section 1. Paragraph (a) of subsection (2) of section
16 943.0585, Florida Statutes, is amended, and paragraph (d) is
17 added to subsection (4) of that section, to read:

18 943.0585 Court-ordered expunction of criminal history
19 records.—The courts of this state have jurisdiction over their
20 own procedures, including the maintenance, expunction, and
21 correction of judicial records containing criminal history
22 information to the extent such procedures are not inconsistent
23 with the conditions, responsibilities, and duties established by
24 this section. Any court of competent jurisdiction may order a
25 criminal justice agency to expunge the criminal history record
26 of a minor or an adult who complies with the requirements of
27 this section. The court shall not order a criminal justice
28 agency to expunge a criminal history record until the person
29 seeking to expunge a criminal history record has applied for and

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30 received a certificate of eligibility for expunction pursuant to
31 subsection (2). A criminal history record that relates to a
32 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
33 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
34 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
35 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
36 any violation specified as a predicate offense for registration
37 as a sexual predator pursuant to s. 775.21, without regard to
38 whether that offense alone is sufficient to require such
39 registration, or for registration as a sexual offender pursuant
40 to s. 943.0435, may not be expunged, without regard to whether
41 adjudication was withheld, if the defendant was found guilty of
42 or pled guilty or nolo contendere to the offense, or if the
43 defendant, as a minor, was found to have committed, or pled
44 guilty or nolo contendere to committing, the offense as a
45 delinquent act. The court may only order expunction of a
46 criminal history record pertaining to one arrest or one incident
47 of alleged criminal activity, except as provided in this
48 section. The court may, at its sole discretion, order the
49 expunction of a criminal history record pertaining to more than
50 one arrest if the additional arrests directly relate to the
51 original arrest. If the court intends to order the expunction of
52 records pertaining to such additional arrests, such intent must
53 be specified in the order. A criminal justice agency may not
54 expunge any record pertaining to such additional arrests if the
55 order to expunge does not articulate the intention of the court
56 to expunge a record pertaining to more than one arrest. This
57 section does not prevent the court from ordering the expunction
58 of only a portion of a criminal history record pertaining to one

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59 arrest or one incident of alleged criminal activity.
60 Notwithstanding any law to the contrary, a criminal justice
61 agency may comply with laws, court orders, and official requests
62 of other jurisdictions relating to expunction, correction, or
63 confidential handling of criminal history records or information
64 derived therefrom. This section does not confer any right to the
65 expunction of any criminal history record, and any request for
66 expunction of a criminal history record may be denied at the
67 sole discretion of the court.

68 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
69 petitioning the court to expunge a criminal history record, a
70 person seeking to expunge a criminal history record shall apply
71 to the department for a certificate of eligibility for
72 expunction. The department shall, by rule adopted pursuant to
73 chapter 120, establish procedures pertaining to the application
74 for and issuance of certificates of eligibility for expunction.
75 A certificate of eligibility for expunction is valid for 12
76 months after the date stamped on the certificate when issued by
77 the department. After that time, the petitioner must reapply to
78 the department for a new certificate of eligibility. Eligibility
79 for a renewed certification of eligibility must be based on the
80 status of the applicant and the law in effect at the time of the
81 renewal application. The department shall issue a certificate of
82 eligibility for expunction to a person who is the subject of a
83 criminal history record if that person:

84 (a) Has obtained, and submitted to the department, a
85 written, certified statement from the appropriate state attorney
86 or statewide prosecutor which indicates:

87 1. That an indictment, information, or other charging

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88 document was not filed or issued in the case.

89 2. That an indictment, information, or other charging
90 document, if filed or issued in the case, was dismissed or nolle
91 prossed ~~prosequi~~ by the state attorney or statewide prosecutor,
92 or was dismissed by a court of competent jurisdiction, or a
93 judge or jury rendered a verdict of not guilty. The records of a
94 person adjudicated not guilty by reason of insanity are not
95 eligible for expunction under this section ~~and that none of the~~
96 ~~charges related to the arrest or alleged criminal activity to~~
97 ~~which the petition to expunge pertains resulted in a trial,~~
98 ~~without regard to whether the outcome of the trial was other~~
99 ~~than an adjudication of guilt.~~

100 3. That the criminal history record does not relate to a
101 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
102 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
103 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
104 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
105 any violation specified as a predicate offense for registration
106 as a sexual predator pursuant to s. 775.21, without regard to
107 whether that offense alone is sufficient to require such
108 registration, or for registration as a sexual offender pursuant
109 to s. 943.0435, where the defendant was found guilty of, or pled
110 guilty or nolo contendere to any such offense, or that the
111 defendant, as a minor, was found to have committed, or pled
112 guilty or nolo contendere to committing, such an offense as a
113 delinquent act, without regard to whether adjudication was
114 withheld.

115 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
116 criminal history record of a minor or an adult which is ordered

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117 expunged by a court of competent jurisdiction pursuant to this
118 section must be physically destroyed or obliterated by any
119 criminal justice agency having custody of such record; except
120 that any criminal history record in the custody of the
121 department must be retained in all cases. A criminal history
122 record ordered expunged that is retained by the department is
123 confidential and exempt from the provisions of s. 119.07(1) and
124 s. 24(a), Art. I of the State Constitution and not available to
125 any person or entity except upon order of a court of competent
126 jurisdiction. A criminal justice agency may retain a notation
127 indicating compliance with an order to expunge.

128 (d) A person or entity that publishes, displays, or in any
129 way disseminates information regarding an arrest that has been
130 expunged shall remove such information from any publication,
131 Internet posting, or credit report upon receipt of a certified
132 copy of an order granting a petition to expunge without further
133 notice or cost to the individual who is the subject of the
134 order.

135 Section 2. This act shall take effect July 1, 2014.