

By Senator Soto

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1 A bill to be entitled
2 An act relating to criminal history records of minors;
3 amending s. 943.0515, F.S.; decreasing the time that
4 the Criminal Justice Information Program is required
5 to retain the criminal history record of a minor;
6 requiring that records maintained by certain entities
7 be immediately expunged under specific circumstances;
8 amending s. 943.0582, F.S.; revising the circumstances
9 under which the Department of Law Enforcement must
10 expunge the nonjudicial arrest record of a minor who
11 has successfully completed a prearrest or postarrest
12 diversion program; deleting a provision authorizing
13 the department to charge a processing fee; amending s.
14 985.04, F.S.; providing that all juvenile proceedings
15 are confidential; providing an exception; adding
16 persons and entities that are required to keep certain
17 information confidential; deleting provisions that
18 require entering into agreements between certain
19 persons and entities with the purpose of sharing
20 certain information; requiring that all records of
21 juvenile delinquency proceedings be sealed and kept
22 confidential from the public; revising the
23 circumstances under which certain information about a
24 child offender is not confidential or exempt from
25 public records requests; authorizing confidential
26 records to be released to a party under certain
27 circumstances; deleting a provision requiring
28 notification to the superintendent of schools that a
29 child is alleged to have committed a delinquent act in

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30 certain circumstances; authorizing a court to disclose
31 juvenile case files under certain circumstances;
32 deleting a provision that requires a state attorney to
33 notify the superintendent of the child's school of
34 certain information under certain circumstances;
35 requiring a court to make an order specifying the
36 information to be disclosed if the court determines
37 that all or part of the juvenile case file may be
38 disclosed; deleting a provision requiring the
39 superintendent to notify other school personnel in
40 certain circumstances; authorizing a court to issue
41 protective orders to accompany authorized disclosure
42 or discovery of, or access to, a juvenile case file;
43 deleting a provision requiring the Department of
44 Juvenile Justice to disclose to the school
45 superintendent specified information under certain
46 circumstances; deleting provisions providing for the
47 preservation for a certain time of certain documents
48 and information; deleting provisions limiting the
49 inspection by the public of certain records; deleting
50 a provision limiting how certain information may be
51 used; amending ss. 985.045, 985.11, 1006.08, and
52 1012.797, F.S.; conforming provisions to changes made
53 by the act; reenacting s. 985.125(3), F.S., to
54 incorporate the amendment made to s. 943.0582, F.S.,
55 in a reference thereto; providing an effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. Section 943.0515, Florida Statutes, is amended
60 to read:

61 943.0515 Retention of criminal history records of minors.-

62 (1)~~(a)~~ The Criminal Justice Information Program shall
63 retain the criminal history record of a minor until the minor is
64 at least 21 years of age and is no longer in the custody of the
65 Department of Juvenile Justice ~~who is classified as a serious or~~
66 ~~habitual juvenile offender or committed to a juvenile~~
67 ~~correctional facility or juvenile prison under chapter 985 for 5~~
68 ~~years after the date the offender reaches 21 years of age, at~~
69 which time the record shall be expunged unless it meets the
70 criteria of paragraph (2) (a) or paragraph (2) (b).

71 ~~(b) If the minor is not classified as a serious or habitual~~
72 ~~juvenile offender or committed to a juvenile correctional~~
73 ~~facility or juvenile prison under chapter 985, the program shall~~
74 ~~retain the minor's criminal history record for 5 years after the~~
75 ~~date the minor reaches 19 years of age, at which time the record~~
76 ~~shall be expunged unless it meets the criteria of paragraph~~
77 ~~(2) (a) or paragraph (2) (b).~~

78 (2) (a) If a person 18 years of age or older is charged with
79 or convicted of a forcible felony and the person's criminal
80 history record as a minor has not yet been destroyed, the
81 person's record as a minor must be merged with the person's
82 adult criminal history record and must be retained as a part of
83 the person's adult record.

84 (b) If, at any time, a minor is adjudicated as an adult for
85 a forcible felony, the minor's criminal history record before
86 ~~prior to~~ the time of the minor's adjudication as an adult must
87 be merged with his or her record as an adjudicated adult.

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88 (3) A record maintained by a juvenile court, a juvenile
89 probation officer, or a law enforcement agency which is related
90 to a dismissed case, a case in which the minor was ruled not
91 involved, or a case in which charges were not substantiated
92 shall be expunged immediately following the court's discharge of
93 the case, without any application or action necessary on the
94 part of the minor.

95 ~~(4)~~ ~~(3)~~ Notwithstanding any other provision of this section,
96 the Criminal Justice Information Program shall retain the
97 criminal history record of a minor adjudicated delinquent for a
98 violation committed on or after July 1, 2007, as provided in s.
99 943.0435(1)(a)1.d. Such records may not be destroyed and must be
100 merged with the person's adult criminal history record and
101 retained as a part of the person's adult record.

102 Section 2. Subsections (3), (4), and (5) of section
103 943.0582, Florida Statutes, are amended to read:

104 943.0582 Prearrest, postarrest, or teen court diversion
105 program expunction.—

106 (3) The department shall expunge the nonjudicial arrest
107 record of a minor who has successfully completed a prearrest or
108 postarrest diversion program if ~~that minor~~:

109 ~~(a) Submits an application for prearrest or postarrest~~
110 ~~diversion expunction, on a form prescribed by the department,~~
111 ~~signed by the minor's parent or legal guardian, or by the minor~~
112 ~~if he or she has reached the age of majority at the time of~~
113 ~~applying.~~

114 ~~(b) Submits the application for prearrest or postarrest~~
115 ~~diversion expunction no later than 12 months after completion of~~
116 ~~the diversion program.~~

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117 ~~(c) Submits to the department, with the application, an~~
118 ~~official written statement from the state attorney for the~~
119 ~~county in which the arrest occurred certifying that he or she~~
120 ~~has successfully completed that county's prearrest or postarrest~~
121 ~~diversion program, that his or her participation in the program~~
122 ~~was based on an arrest for a nonviolent misdemeanor, and that he~~
123 ~~or she has not otherwise been charged by the state attorney with~~
124 ~~or found to have committed any criminal offense or comparable~~
125 ~~ordinance violation.~~

126 ~~(a)-(d) The~~ Participated in a prearrest or postarrest
127 diversion program ~~that~~ expressly authorizes or permits such
128 expunction to occur; or.

129 ~~(b)-(e) Participation in the~~ Participated in a prearrest or
130 postarrest diversion program was based on an arrest for a
131 nonviolent misdemeanor that would not qualify as an act of
132 domestic violence as that term is defined in s. 741.28.

133 ~~(f) Has never, prior to filing the application for~~
134 ~~expunction, been charged by the state attorney with or been~~
135 ~~found to have committed any criminal offense or comparable~~
136 ~~ordinance violation.~~

137 ~~(4) The department is authorized to charge a \$75 processing~~
138 ~~fee for each request received for prearrest or postarrest~~
139 ~~diversion program expunction, for placement in the Department of~~
140 ~~Law Enforcement Operating Trust Fund, unless such fee is waived~~
141 ~~by the executive director.~~

142 ~~(4)-(5)~~ Expunction or sealing granted under this section
143 does not prevent the minor who receives such relief from
144 petitioning for the expunction or sealing of a later criminal
145 history record as provided for in ss. 943.0583, 943.0585, and

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146 943.059, if the minor is otherwise eligible under those
147 sections.

148 Section 3. Section 985.04, Florida Statutes, is amended to
149 read:

150 985.04 Oaths; records; confidential information.—

151 (1) Except as provided in subsection (3), all juvenile
152 proceedings are confidential. ~~subsections (2), (3), (6), and (7)~~
153 ~~and s. 943.053,~~ All information obtained under this chapter in
154 the discharge of official duty by any judge, any employee of the
155 court, any authorized agent of the department, the Florida
156 Commission on Offender Review, the Department of Corrections,
157 the juvenile justice circuit boards, any law enforcement agent,
158 any officer of the court, the district school superintendent and
159 his or her designees, and any treatment provider or agency
160 participating in any aspect of a child's involvement in the
161 juvenile justice system is confidential and may be released only
162 to authorized court personnel and law enforcement agencies,
163 including the department, for the execution of their duties.
164 Confidential information may be released by court order, for
165 good cause, and by the authorization of the individual who is
166 the subject of the proceeding, ~~or any licensed professional or~~
167 ~~licensed community agency representative participating in the~~
168 ~~assessment or treatment of a juvenile is confidential and may be~~
169 ~~disclosed only to the authorized personnel of the court, the~~
170 ~~department and its designees, the Department of Corrections, the~~
171 ~~Florida Commission on Offender Review, law enforcement agents,~~
172 ~~school superintendents and their designees, any licensed~~
173 ~~professional or licensed community agency representative~~
174 ~~participating in the assessment or treatment of a juvenile, and~~

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175 ~~others entitled under this chapter to receive that information,~~
176 ~~or upon order of the court. Within each county, the sheriff, the~~
177 ~~chiefs of police, the district school superintendent, and the~~
178 ~~department shall enter into an interagency agreement for the~~
179 ~~purpose of sharing information about juvenile offenders among~~
180 ~~all parties. The agreement must specify the conditions under~~
181 ~~which summary criminal history information is to be made~~
182 ~~available to appropriate school personnel, and the conditions~~
183 ~~under which school records are to be made available to~~
184 ~~appropriate department personnel. Such agreement shall require~~
185 ~~notification to any classroom teacher of assignment to the~~
186 ~~teacher's classroom of a juvenile who has been placed in a~~
187 ~~probation or commitment program for a felony offense. The~~
188 ~~agencies entering into such agreement must comply with s.~~
189 ~~943.0525, and must maintain the confidentiality of information~~
190 ~~that is otherwise exempt from s. 119.07(1), as provided by law.~~

191 (2) All records of juvenile delinquency proceedings must be
192 sealed and kept confidential from the public. Notwithstanding
193 ~~any other provisions of this chapter, the name, photograph,~~
194 ~~address, and crime or arrest report of a child:~~

195 ~~(a) Taken into custody if the child has been taken into~~
196 ~~eustody by a law enforcement officer for a violation of law~~
197 ~~which, if committed by an adult, would be a felony;~~

198 ~~(b) Found by a court to have committed three or more~~
199 ~~violations of law which, if committed by an adult, would be~~
200 ~~misdemeanors;~~

201 ~~(c) Transferred to the adult system under s. 985.557,~~
202 ~~indicted under s. 985.56, or waived under s. 985.556;~~

203 ~~(d) Taken into custody by a law enforcement officer for a~~

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204 ~~violation of law subject to s. 985.557(2) (b) or (d); or~~

205 ~~(e) Transferred to the adult system but sentenced to the~~
206 ~~juvenile system under s. 985.565~~

207 (3) Notwithstanding any other provision of this chapter,
208 the name, photograph, address, and crime or arrest report of a
209 child are shall not be considered confidential and exempt from
210 s. 119.07(1) solely because of the child's age if the child:-

211 (a) Is found to have committed a forcible felony;

212 (b) Is found to have committed juvenile sexual abuse as
213 defined s. 39.01; or

214 (c) Has pled guilty or nolo contendere to, or has been
215 found to have committed, a violation of chapter 794, chapter
216 796, chapter 800, s. 827.071, or s. 847.0133.

217 ~~(3) A law enforcement agency may release a copy of the~~
218 ~~juvenile offense report to the victim of the offense. However,~~
219 ~~information gained by the victim under this chapter, including~~
220 ~~the next of kin of a homicide victim, regarding any case handled~~
221 ~~in juvenile court, must not be revealed to any outside party,~~
222 ~~except as is reasonably necessary in pursuit of legal remedies.~~

223 (4) Confidential records may be released to a party by
224 court order if the party can show a legitimate interest in the
225 records.

226 (a) In determining whether to authorize inspection or
227 release of a juvenile case file, in whole or in part, the court
228 must balance the interests of the child and other parties to the
229 juvenile court proceeding, the interests of the petitioner, and
230 the interests of the public. In order to grant the petition, the
231 court must find that the need for discovery outweighs the policy
232 considerations favoring confidentiality of juvenile case files

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233 ~~Notwithstanding any other provision of this section, when a~~
234 ~~child of any age is taken into custody by a law enforcement~~
235 ~~officer for an offense that would have been a felony if~~
236 ~~committed by an adult, or a crime of violence, the law~~
237 ~~enforcement agency must notify the superintendent of schools~~
238 ~~that the child is alleged to have committed the delinquent act.~~

239 (b) The court may permit disclosure of a juvenile case file
240 only insofar as is necessary and only if the petitioner shows by
241 a preponderance of the evidence that the record requested is
242 necessary and has substantial relevance to the legitimate need
243 of the petitioner ~~Notwithstanding paragraph (a) or any other~~
244 ~~provision of this section, when a child of any age is formally~~
245 ~~charged by a state attorney with a felony or a delinquent act~~
246 ~~that would be a felony if committed by an adult, the state~~
247 ~~attorney shall notify the superintendent of the child's school~~
248 ~~that the child has been charged with such felony or delinquent~~
249 ~~act. The information obtained by the superintendent of schools~~
250 ~~under this section must be released within 48 hours after~~
251 ~~receipt to appropriate school personnel, including the principal~~
252 ~~of the school of the child and the director of transportation.~~
253 ~~The principal must immediately notify the child's immediate~~
254 ~~classroom teachers, the child's assigned bus driver, and any~~
255 ~~other school personnel whose duties include direct supervision~~
256 ~~of the child. Upon notification, the principal is authorized to~~
257 ~~begin disciplinary actions under s. 1006.09(1)-(4).~~

258 (c) If, after in camera review of a juvenile case file and
259 after review of any objection to the disclosure of all or a
260 portion of the file, the court determines that all or a portion
261 of the juvenile case file may be disclosed, the court must make

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262 appropriate orders, specifying the information to be disclosed
263 and the procedure for providing access to it ~~The superintendent~~
264 ~~must notify the other school personnel whose duties include~~
265 ~~direct supervision of the child of the disposition of the~~
266 ~~charges against the child.~~

267 (d) The court may issue protective orders to accompany
268 authorized disclosure or discovery of, or access to, a juvenile
269 case file ~~The department shall disclose to the school~~
270 ~~superintendent the presence of any child in the care and custody~~
271 ~~or under the jurisdiction or supervision of the department who~~
272 ~~has a known history of criminal sexual behavior with other~~
273 ~~juveniles; is alleged to have committed juvenile sexual abuse as~~
274 ~~defined in s. 39.01; or has pled guilty or nolo contendere to,~~
275 ~~or has been found to have committed, a violation of chapter 794,~~
276 ~~chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless~~
277 ~~of adjudication. Any employee of a district school board who~~
278 ~~knowingly and willfully discloses such information to an~~
279 ~~unauthorized person commits a misdemeanor of the second degree,~~
280 ~~punishable as provided in s. 775.082 or s. 775.083.~~

281 (5) ~~Authorized agents of the department may administer~~
282 ~~oaths and affirmations.~~

283 (6) (a) ~~Records maintained by the department, including~~
284 ~~copies of records maintained by the court, which pertain to a~~
285 ~~child found to have committed a delinquent act which, if~~
286 ~~committed by an adult, would be a crime specified in s. 435.04~~
287 ~~may not be destroyed under this section for 25 years after the~~
288 ~~youth's final referral to the department, except in cases of the~~
289 ~~death of the child. Such records, however, shall be sealed by~~
290 ~~the court for use only in meeting the screening requirements for~~

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291 ~~personnel in s. 402.3055 and the other sections cited above, or~~
292 ~~under departmental rule; however, current criminal history~~
293 ~~information must be obtained from the Department of Law~~
294 ~~Enforcement in accordance with s. 943.053. The information shall~~
295 ~~be released to those persons specified in the above cited~~
296 ~~sections for the purposes of complying with those sections. The~~
297 ~~court may punish by contempt any person who releases or uses the~~
298 ~~records for any unauthorized purpose.~~

299 ~~(b) Sexual offender and predator registration information~~
300 ~~as required in ss. 775.21, 943.0435, 944.606, 944.607, 985.481,~~
301 ~~and 985.4815 is a public record pursuant to s. 119.07(1) and as~~
302 ~~otherwise provided by law.~~

303 ~~(7)(a) Records in the custody of the department regarding~~
304 ~~children are not open to inspection by the public. Such records~~
305 ~~may be inspected only upon order of the Secretary of Juvenile~~
306 ~~Justice or his or her authorized agent by persons who have~~
307 ~~sufficient reason and upon such conditions for their use and~~
308 ~~disposition as the secretary or his or her authorized agent~~
309 ~~deems proper. The information in such records may be disclosed~~
310 ~~only to other employees of the department who have a need~~
311 ~~therefor in order to perform their official duties; to other~~
312 ~~persons as authorized by rule of the department; and, upon~~
313 ~~request, to the Department of Corrections. The secretary or his~~
314 ~~or her authorized agent may permit properly qualified persons to~~
315 ~~inspect and make abstracts from records for statistical purposes~~
316 ~~under whatever conditions upon their use and disposition the~~
317 ~~secretary or his or her authorized agent deems proper, provided~~
318 ~~adequate assurances are given that children's names and other~~
319 ~~identifying information will not be disclosed by the applicant.~~

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320 ~~(b) The destruction of records pertaining to children~~
321 ~~committed to or supervised by the department pursuant to a court~~
322 ~~order, which records are retained until a child reaches the age~~
323 ~~of 24 years or until a serious or habitual delinquent child~~
324 ~~reaches the age of 26 years, shall be subject to chapter 943.~~

325 ~~(8) Criminal history information made available to~~
326 ~~governmental agencies by the Department of Law Enforcement or~~
327 ~~other criminal justice agencies shall not be used for any~~
328 ~~purpose other than that specified in the provision authorizing~~
329 ~~the releases.~~

330 Section 4. Subsection (2) of section 985.045, Florida
331 Statutes, is amended to read:

332 985.045 Court records.—

333 (2) The clerk shall keep all official records required by
334 this section separate from other records of the circuit court,
335 except those records pertaining to motor vehicle violations,
336 which shall be forwarded to the Department of Highway Safety and
337 Motor Vehicles. Except as provided in s. 943.053 ~~ss. 943.053 and~~
338 ~~985.04(6)(b) and (7)~~, official records required by this chapter
339 are not open to inspection by the public, but may be inspected
340 only upon order of the court by persons deemed by the court to
341 have a proper interest therein, except that a child and the
342 parents, guardians, or legal custodians of the child and their
343 attorneys, law enforcement agencies, the Department of Juvenile
344 Justice and its designees, the Florida Commission on Offender
345 Review, the Department of Corrections, and the Justice
346 Administrative Commission shall always have the right to inspect
347 and copy any official record pertaining to the child. Public
348 defender offices shall have access to official records of

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349 juveniles on whose behalf they are expected to appear in
350 detention or other hearings before an appointment of
351 representation. The court may permit authorized representatives
352 of recognized organizations compiling statistics for proper
353 purposes to inspect, and make abstracts from, official records
354 under whatever conditions upon the use and disposition of such
355 records the court may deem proper and may punish by contempt
356 proceedings any violation of those conditions.

357 Section 5. Paragraph (b) of subsection (1) of section
358 985.11, Florida Statutes, is amended to read:

359 985.11 Fingerprinting and photographing.—

360 (1)

361 (b) Unless the child is issued a civil citation or is
362 participating in a similar diversion program pursuant to s.
363 985.12, a child who is charged with or found to have committed
364 one of the following offenses shall be fingerprinted, and the
365 fingerprints shall be submitted to the Department of Law
366 Enforcement as provided in s. 943.051(3)(b):

367 1. Assault, as defined in s. 784.011.

368 2. Battery, as defined in s. 784.03.

369 3. Carrying a concealed weapon, as defined in s. 790.01(1).

370 4. Unlawful use of destructive devices or bombs, as defined
371 in s. 790.1615(1).

372 5. Neglect of a child, as defined in s. 827.03(1)(e).

373 6. Assault on a law enforcement officer, a firefighter, or
374 other specified officers, as defined in s. 784.07(2)(a).

375 7. Open carrying of a weapon, as defined in s. 790.053.

376 8. Exposure of sexual organs, as defined in s. 800.03.

377 9. Unlawful possession of a firearm, as defined in s.

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378 790.22(5).

379 10. Petit theft, as defined in s. 812.014.

380 11. Cruelty to animals, as defined in s. 828.12(1).

381 12. Arson, resulting in bodily harm to a firefighter, as
382 defined in s. 806.031(1).383 13. Unlawful possession or discharge of a weapon or firearm
384 at a school-sponsored event or on school property as defined in
385 s. 790.115.

386

387 A law enforcement agency may fingerprint and photograph a child
388 taken into custody upon probable cause that such child has
389 committed any other violation of law, as the agency deems
390 appropriate. Such fingerprint records and photographs shall be
391 retained by the law enforcement agency in a separate file, and
392 these records and all copies thereof must be marked "Juvenile
393 Confidential." These records are not available for public
394 disclosure and inspection under s. 119.07(1) except as provided
395 in s. 943.053 ~~ss. 943.053 and 985.04(2)~~, but shall be available
396 to other law enforcement agencies, criminal justice agencies,
397 state attorneys, the courts, the child, the parents or legal
398 custodians of the child, their attorneys, and any other person
399 authorized by the court to have access to such records. In
400 addition, such records may be submitted to the Department of Law
401 Enforcement for inclusion in the state criminal history records
402 and used by criminal justice agencies for criminal justice
403 purposes. These records may, in the discretion of the court, be
404 open to inspection by anyone upon a showing of cause. The
405 fingerprint and photograph records shall be produced in the
406 court whenever directed by the court. Any photograph taken

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407 pursuant to this section may be shown by a law enforcement
408 officer to any victim or witness of a crime for the purpose of
409 identifying the person who committed such crime.

410 Section 6. Subsection (2) of section 1006.08, Florida
411 Statutes, is amended to read:

412 1006.08 District school superintendent duties relating to
413 student discipline and school safety.—

414 (2) Notwithstanding ~~the provisions of s. 985.04(7) or any~~
415 other provision of law to the contrary, the court shall, within
416 48 hours of the finding, notify the appropriate district school
417 superintendent of the name and address of any student found to
418 have committed a delinquent act, or who has had adjudication of
419 a delinquent act withheld which, if committed by an adult, would
420 be a felony, or the name and address of any student found guilty
421 of a felony. Notification shall include the specific delinquent
422 act found to have been committed or for which adjudication was
423 withheld, or the specific felony for which the student was found
424 guilty.

425 Section 7. Subsection (1) of section 1012.797, Florida
426 Statutes, is amended to read:

427 1012.797 Notification of district school superintendent of
428 certain charges against or convictions of employees.—

429 (1) Notwithstanding ~~the provisions of s. 985.04(7) or any~~
430 other provision of law to the contrary, a law enforcement agency
431 shall, within 48 hours, notify the appropriate district school
432 superintendent of the name and address of any employee of the
433 school district who is charged with a felony or with a
434 misdemeanor involving the abuse of a minor child or the sale or
435 possession of a controlled substance. The notification shall

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436 include the specific charge for which the employee of the school
437 district was arrested. Such notification shall include other
438 education providers such as the Florida School for the Deaf and
439 the Blind, university lab schools, and private elementary and
440 secondary schools.

441 Section 8. For the purpose of incorporating the amendment
442 made by this act to section 943.0582, Florida Statutes, in a
443 reference thereto, subsection (3) of section 985.125, Florida
444 Statutes, is reenacted to read:

445 985.125 Prearrest or postarrest diversion programs.—

446 (3) The prearrest or postarrest diversion program may, upon
447 agreement of the agencies that establish the program, provide
448 for the expunction of the nonjudicial arrest record of a minor
449 who successfully completes such a program pursuant to s.
450 943.0582.

451 Section 9. This act shall take effect July 1, 2015.