

By Senator Detert

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 943.0584, F.S., relating to nonjudicial expunction of
4 criminal history records; providing an exemption from
5 public records requirements for specified records that
6 have been approved for nonjudicial expunction;
7 amending s. 943.0585, F.S., relating to court-ordered
8 expunction of criminal history records; providing an
9 exemption from public records requirements for
10 criminal history records related to a withhold of
11 adjudication that have been expunged; amending s.
12 943.059, F.S., relating to nonjudicial sealing of
13 criminal history records; providing an exemption from
14 public records requirements for a record related to a
15 withhold of adjudication or nonviolent misdemeanor
16 conviction that has been approved for a nonjudicial
17 sealing; providing for future legislative review and
18 repeal of the exemptions; providing a statement of
19 public necessity; providing a contingent effective
20 date.

21
22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Subsection (6) of section 943.0584, Florida
25 Statutes, as created by SB 488 of the 2015 Regular Session, is
26 amended to read:

27 943.0584 Nonjudicial expunction of criminal history
28 records.—

29 (6) EFFECT OF NONJUDICIAL EXPUNCTION.—

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30 (a) A criminal history record of an adult or a minor
31 eligible for expunction under subsection (2) which is approved
32 for nonjudicial expunction by the department pursuant to this
33 section is confidential and exempt from s. 119.07(1) and s.
34 24(a), Art. I of the State Constitution.

35 (b) A confidential and exempt criminal history record
36 expunged under this section has the same effect, and such record
37 may be disclosed by the department in the same manner, as a
38 record expunged under s. 943.0585.

39 (c) This subsection is subject to the Open Government
40 Sunset Review Act in accordance with s. 119.15 and shall stand
41 repealed on October 2, 2020, unless reviewed and saved from
42 repeal through reenactment by the Legislature.

43 Section 2. Present paragraphs (b), (c), and (d) of
44 subsection (7) of section 943.0585, Florida Statutes, as amended
45 by SB 488, are redesignated as paragraphs (c), (d), and (f),
46 respectively, and new paragraphs (b) and (e) are added to that
47 subsection, to read:

48 943.0585 Court-ordered expunction of criminal history
49 records.—

50 (7) EFFECT OF EXPUNCTION.—

51 (b)1. A criminal history record that is ordered expunged
52 under this section and that is retained by the department is
53 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
54 of the State Constitution and is not available to any person or
55 entity except upon order of a court of competent jurisdiction. A
56 criminal justice agency may retain a notation indicating
57 compliance with an order to expunge.

58 2. This paragraph is subject to the Open Government Sunset

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59 Review Act in accordance with s. 119.15 and shall stand repealed
60 on October 2, 2020, unless reviewed and saved from repeal
61 through reenactment by the Legislature.

62 (e)1. Information relating to the existence of an expunged
63 criminal history record which is provided in accordance with
64 paragraph (c) is confidential and exempt from s. 119.07(1) and
65 s. 24(a), Art. I of the State Constitution.

66 2. The existence of a confidential and exempt criminal
67 history record expunged under this section may be disclosed by
68 the department to the entities set forth in subparagraphs (c)1.,
69 4., 5., 6., 7., and 8. for their respective licensing, access
70 authorization, and employment purposes, and to criminal justice
71 agencies for their respective criminal justice purposes. It is
72 unlawful for any employee of an entity set forth in subparagraph
73 (c)1., subparagraph (c)4., subparagraph (c)5., subparagraph
74 (c)6., subparagraph (c)7., or subparagraph (c)8. to disclose
75 information relating to the existence of an expunged criminal
76 history record of a person seeking employment, access
77 authorization, or licensure with such entity or contractor,
78 except to the person to whom the criminal history record relates
79 or to persons having direct responsibility for employment,
80 access authorization, or licensure decisions.

81 3. A person who violates this paragraph commits a
82 misdemeanor of the first degree, punishable as provided in s.
83 775.082 or s. 775.083.

84 4. This paragraph is subject to the Open Government Sunset
85 Review Act in accordance with s. 119.15 and shall stand repealed
86 on October 2, 2020, unless reviewed and saved from repeal
87 through reenactment by the Legislature.

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88 Section 3. Present paragraphs (a), (b), and (c) of
89 subsection (6) of section 943.059, Florida Statutes, as amended
90 by SB 488 of the 2015 Regular Session, are redesignated as
91 paragraphs (b), (c), and (e), respectively, and new paragraphs
92 (a) and (d) are added to that subsection, to read:

93 943.059 Nonjudicial sealing of criminal history records.—

94 (6) EFFECT OF SEALING.—

95 (a)1. Any criminal history record of an adult or a minor
96 described in paragraph (2)(a) which is approved for nonjudicial
97 sealing by the department pursuant to this section is
98 confidential and exempt from of s. 119.07(1) and s. 24(a), Art.
99 I of the State Constitution.

100 2. A confidential and exempt criminal history record may be
101 disclosed by the department to:

102 a. The person who is the subject of the record or to the
103 subject's attorney.

104 b. A criminal justice agency in the furtherance of its
105 lawful duties and responsibilities, which include conducting a
106 criminal history background check for approval of firearms
107 purchases or transfers as authorized by state or federal law.

108 c. A judge in the state courts system for the purpose of
109 assisting in case-related decisionmaking responsibilities as set
110 forth in s. 943.053(5).

111 d. Those entities set forth in subparagraphs (b)1., 4., 5.,
112 6., 8., 9., and 10. for their respective licensing, access
113 authorization, and employment purposes.

114 3. This paragraph is subject to the Open Government Sunset
115 Review Act in accordance with s. 119.15 and shall stand repealed
116 on October 2, 2020, unless reviewed and saved from repeal

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117 through reenactment by the Legislature.

118 (d) Information relating to the existence of a sealed
119 criminal history record which is provided in accordance with
120 paragraph (b) is confidential and exempt from s. 119.07(1) and
121 s. 24(a), Art. I of the State Constitution, except that the
122 department shall disclose the sealed criminal history record to
123 the entities set forth in subparagraphs (b)1., 4., 5., 6., 8.,
124 9., and 10. for their respective licensing, access
125 authorization, and employment purposes and to criminal justice
126 agencies for their respective criminal justice purposes. It is
127 unlawful for any employee of an entity set forth in subparagraph
128 (b)1., subparagraph (b)4., subparagraph (b)5., subparagraph
129 (b)6., subparagraph (b)8., subparagraph (b)9., or subparagraph
130 (b)10. to disclose information relating to the existence of a
131 sealed criminal history record of a person seeking employment,
132 access authorization, or licensure with such entity or
133 contractor, except to the person to whom the criminal history
134 record relates or to persons having direct responsibility for
135 employment, access authorization, or licensure decisions. A
136 person who violates this paragraph commits a misdemeanor of the
137 first degree, punishable as provided in s. 775.082 or s.
138 775.083.

139 Section 4. The Legislature finds that it is a public
140 necessity that the criminal history records of an adult or minor
141 that have been expunged or sealed pursuant to s. 943.0584, s.
142 943.0585, or s. 943.059, Florida Statutes, be made confidential
143 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
144 Article I of the State Constitution. Many people whose
145 prosecutions have been abandoned, who were found not guilty

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146 subsequent to a jury trial, or who have completed any sanctions
147 imposed by the court in the criminal or juvenile justice system
148 find it difficult to obtain employment. The presence of a
149 criminal history record in these individuals' past creates an
150 unnecessary barrier to becoming productive members of society
151 and may jeopardize their ability to achieve a safe livelihood.
152 The Legislature therefore finds that it is in the best interest
153 of the public that persons be given the opportunity to become
154 contributing members of society.

155 Section 5. This act shall take effect on the same date that
156 SB 488 or similar legislation relating to expunging and sealing
157 of criminal history records takes effect, if such legislation is
158 adopted in the same legislative session or an extension thereof
159 and becomes a law.