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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2015	.	
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The Committee on Criminal Justice (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (b) of subsection (1) of section
943.0515, Florida Statutes, is amended to read:

943.0515 Retention of criminal history records of minors.—
(1)

(b) If the minor is not classified as a serious or habitual
juvenile offender or committed to a juvenile correctional



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11 facility or juvenile prison under chapter 985, the program shall
12 retain the minor's criminal history record for 2 5 years after
13 the date the minor reaches 19 years of age, at which time the
14 record must ~~shall~~ be expunged unless it meets the criteria of
15 paragraph (2) (a) or paragraph (2) (b).

16 Section 2. Section 943.0584, Florida Statutes, is created
17 to read:

18 943.0584 Nonjudicial expunction of criminal history
19 records.—

20 (1) NONJUDICIAL EXPUNCTION.—Notwithstanding any law dealing
21 generally with the preservation and destruction of public
22 records, the department may adopt a rule pursuant to chapter 120
23 for the nonjudicial expunction of any criminal history record of
24 a minor or an adult described in this section.

25 (2) ELIGIBILITY.—The department must approve the
26 nonjudicial expunction of a criminal history record if:

27 (a) An indictment, information, or other charging document
28 was not filed or issued in the case.

29 (b) An indictment, information, or other charging document
30 was filed or issued in the case, but was subsequently dismissed
31 or nolle prosequi by the state attorney or statewide prosecutor,
32 or was dismissed or discharged by a court of competent
33 jurisdiction; however, a person may not obtain an expunction
34 under this paragraph for a dismissal pursuant to s. 916.145 or
35 s. 985.19.

36 (c) An information, indictment, or other charging document
37 was not filed or was dismissed by the state attorney, or
38 dismissed by the court, because it was found that the person
39 acted in lawful self-defense pursuant to the provisions related



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40 to justifiable use of force in chapter 776.

41 (d) A not guilty verdict was rendered subsequent to a trial
42 or adjudicatory hearing; however, a person may not obtain an
43 expunction under this paragraph for a verdict of not guilty by
44 reason of insanity.

45
46 A person may not obtain a nonjudicial expunction under this
47 subsection unless all charges stemming from the arrest or
48 alleged criminal activity to which the application for
49 expunction pertains were not filed or issued, dismissed, or
50 discharged, or resulted in an acquittal, as provided herein.

51 (3) LIMITATION.—There is no limitation on the number of
52 times that a person may obtain a nonjudicial expunction for a
53 criminal history record described in paragraphs (2) (a)-(d). An
54 applicant seeking to have multiple records expunged may submit a
55 single application to the department for the expunction of all
56 such records. The department must approve the nonjudicial
57 expunction of all eligible records pertaining to the applicant.

58 (4) APPLICATION FOR NONJUDICIAL EXPUNCTION.—An adult or, in
59 the case of a minor child, his or her parent or legal guardian,
60 who is seeking to expunge a criminal history record under this
61 section shall apply to the department in the manner prescribed
62 by rule. Such applications must be accompanied by:

63 (a)1. For the expunction of a record described in
64 subsection (2), other than a record described in paragraph
65 (2) (c), a written, certified statement from the appropriate
66 state attorney or the statewide prosecutor which indicates that
67 the criminal history record sought to be expunged is eligible
68 under this section.



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69 2. For the expunction of a record described in paragraph
70 (2) (c), a written, certified statement from the appropriate
71 state attorney or the statewide prosecutor which indicates that
72 an information, indictment, or other charging document was not
73 filed or was dismissed by the state attorney or the court
74 because it was found that the person acted in lawful self-
75 defense pursuant to the provisions related to justifiable use of
76 force in chapter 776.

77 (b) A processing fee of \$75, payable to the department, for
78 placement in the Department of Law Enforcement Operating Trust
79 Fund, unless such fee is waived by the executive director.

80 (c) A certified copy of the disposition of the charge to
81 which the application to expunge pertains.

82 (d) A full set of fingerprints of the applicant, taken by a
83 law enforcement agency, for purposes of identity verification.

84 (5) PROCESSING OF A NONJUDICIAL EXPUNCTION.—If the
85 department approves an application for nonjudicial expunction, a
86 certified copy of the form approving the nonjudicial expunction
87 shall be forwarded to the appropriate state attorney or the
88 statewide prosecutor, the arresting agency, and the clerk of the
89 court. The arresting agency is responsible for forwarding the
90 form approving the nonjudicial expunction to any other agency to
91 which the arresting agency disseminated the pertinent criminal
92 history record information. The department shall forward the
93 form approving the nonjudicial expunction to the Federal Bureau
94 of Investigation. The clerk of the court shall forward a copy of
95 the form to any other agency that the records of the court
96 reflect received the criminal history record from the court.

97 (6) EFFECT OF NONJUDICIAL EXPUNCTION.—A confidential and



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98 exempt criminal history record expunged under this section has
99 the same effect, and such record may be disclosed by the
100 department in the same manner, as a record expunged under s.
101 943.0585.

102 (7) STATUTORY REFERENCES.—Any reference to any other
103 chapter, section, or subdivision of the Florida Statutes in this
104 section constitutes a general reference under the doctrine of
105 incorporation by reference.

106 Section 3. Section 943.0585, Florida Statutes, is amended
107 to read:

108 (Substantial rewording of section. See
109 s. 943.0585, F.S., for present text.)

110 943.0585 Court-ordered expunction of criminal history
111 records.—

112 (1) JURISDICTION.—The courts of this state have
113 jurisdiction over their own procedures, including the
114 maintenance, expunction, and correction of judicial records
115 containing criminal history information to the extent that such
116 procedures are not inconsistent with the conditions,
117 responsibilities, and duties established by this section. A
118 court of competent jurisdiction may order a criminal justice
119 agency to expunge the criminal history record of a minor or an
120 adult who complies with the requirements of this section.

121 (2) ELIGIBILITY.—

122 (a)1. Except as provided in paragraph (b), a court may
123 order the expunction of a criminal history record if the person
124 was found guilty of or found to have committed, or pled guilty
125 or pled nolo contendere to, an offense; and

126 2. None of the charges stemming from the arrest or alleged



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127 criminal activity to which the petition to expunge pertains
128 resulted in an adjudication of guilt or delinquency.

129 (b) A court may not order the expunction of a criminal
130 history record if:

131 1. The person has, at any time before the date on which the
132 application for a certificate of eligibility is filed, been
133 adjudicated guilty for a felony offense or adjudicated
134 delinquent for an offense that would be a felony if committed by
135 an adult before applying for a certificate of eligibility; or

136 2. The record relates to a serious offense in which the
137 person was found guilty of or adjudicated delinquent of, or pled
138 guilty or pled nolo contendere to, the offense, regardless of
139 whether adjudication was withheld. For purposes of this
140 subparagraph, the term "serious offense" means a violation of s.
141 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
142 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
143 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
144 s. 916.1075, a violation enumerated in s. 907.041, or any
145 violation specified as a predicate offense for registration as a
146 sexual predator pursuant to s. 775.21, without regard to whether
147 that offense, alone, is sufficient to require such registration,
148 or for registration as a sexual offender pursuant to s.
149 943.0435.

150 (3) LIMITATIONS.—A court may order the expunction of only
151 one criminal history record described in paragraph (2) (a). A
152 person seeking an expunction under this section is not barred
153 from relief if the same criminal history record has previously
154 been approved for a nonjudicial sealing pursuant to s. 943.059.
155 The record expunged must pertain to one arrest or one incident



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156 of alleged criminal activity. However, the court may, at its
157 sole discretion, order the expunction of a criminal history
158 record pertaining to more than one arrest or one incident of
159 alleged criminal activity if the additional arrests directly
160 relate to the original arrest. If the court intends to order the
161 expunction of records pertaining to such additional arrests,
162 such intent must be specified in the order. A criminal justice
163 agency may not expunge a record pertaining to such additional
164 arrests if the order to expunge does not articulate the
165 intention of the court to expunge a record pertaining to more
166 than one arrest. This subsection does not prevent the court from
167 ordering the expunction of only a portion of a criminal history
168 record pertaining to one arrest.

169 (4) CERTIFICATE OF ELIGIBILITY.—

170 (a) A person seeking to expunge a criminal history record
171 under this section shall apply to the department for a
172 certificate of eligibility for expunction before petitioning the
173 court for expunction. The department shall issue a certificate
174 of eligibility for expunction to a person who is the subject of
175 a criminal history record if that person:

176 1. Has obtained and submitted to the department a written,
177 certified statement from the appropriate state attorney or the
178 statewide prosecutor which indicates that the criminal history
179 record is eligible for expunction under subsection (2).

180 2. Remits a \$75 processing fee to the department, for
181 placement in the Department of Law Enforcement Operating Trust
182 Fund, unless such fee is waived by the executive director.

183 3. Has submitted to the department a certified copy of the
184 disposition of the charge to which the petition to expunge



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185 pertains.

186 4. Has never secured a prior sealing or expunction of a
187 criminal history record under this section, s. 943.059, former
188 s. 893.14, former s. 901.33, or former s. 943.058, unless
189 expunction is sought of a criminal history record that had been
190 previously sealed under former paragraph (2) (h) and the record
191 is otherwise eligible for expunction.

192 5. Is no longer under court supervision applicable to the
193 disposition of the arrest or alleged criminal activity to which
194 the petition to expunge pertains.

195 6. Has not been arrested for or charged with a criminal
196 offense in any jurisdiction of the state or within the United
197 States from the date the person completed all sentences of
198 imprisonment or supervisory sanctions imposed by the court for
199 the offense to which the petition to expunge pertains to the
200 date of the application for the certificate of eligibility,
201 which period of time must be at least 1 year.

202 7. Has submitted a full set of fingerprints taken by a law
203 enforcement agency for purposes of identity verification.

204 (b) A certificate of eligibility for expunction is valid
205 for 12 months after the date that the certificate is issued by
206 the department. After that time, the petitioner must reapply to
207 the department for a new certificate of eligibility. Eligibility
208 for a renewed certification of eligibility must be based on the
209 status of the applicant and the law in effect at the time of the
210 renewal application.

211 (c) The department shall, by rule adopted pursuant to
212 chapter 120, establish procedures pertaining to the application
213 for and issuance of certificates of eligibility for expunction.



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214 (5) PETITION.—

215 (a) The court may not order a criminal justice agency to
216 expunge a criminal history record under this section until the
217 person seeking to expunge the record has applied for and
218 received a certificate of eligibility for expunction pursuant to
219 subsection (4). A petition to a court to expunge a criminal
220 history record is complete only when accompanied by:

221 1. A valid certificate of eligibility for expunction issued
222 by the department pursuant to subsection (4).

223 2. The petitioner's sworn statement attesting that:

224 a. The criminal history record sought to be expunged is
225 eligible under subsection (2).

226 b. The petitioner is eligible for the expunction under
227 subsection (3).

228 c. The petitioner has not been arrested for or charged with
229 a criminal offense in any jurisdiction of the state or within
230 the United States from the date that the person completed all
231 sentences of imprisonment or supervisory sanctions imposed by
232 the court for the offense to which the petition to expunge
233 pertains to the date of the application for the certificate of
234 eligibility, which period of time must be at least 1 year.

235 (b) A person who knowingly provides false information on
236 the sworn statement required by subparagraph (a)2. commits a
237 felony of the third degree, punishable as provided in s.
238 775.082, s. 775.083, or s. 775.084.

239 (6) PROCESSING.—

240 (a) In judicial proceedings under this section, a copy of
241 the completed petition to expunge shall be served upon the
242 appropriate state attorney or the statewide prosecutor, and the



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243 arresting agency; however, it is not necessary to make any
244 agency other than the state a party. The appropriate state
245 attorney or the statewide prosecutor, and the arresting agency
246 may respond to the court regarding the completed petition to
247 expunge.

248 (b) If relief is granted by the court, the clerk of the
249 court shall certify copies of the order to the appropriate state
250 attorney or the statewide prosecutor, and the arresting agency.
251 The arresting agency is responsible for forwarding the order to
252 any other agency to which the arresting agency disseminated the
253 criminal history record information to which the order pertains.
254 The department shall forward the order to expunge to the Federal
255 Bureau of Investigation. The clerk of the court shall certify a
256 copy of the order to any other agency which the records of the
257 court reflect has received the criminal history record from the
258 court.

259 (c) The department or any other criminal justice agency is
260 not required to act on an order to expunge entered by a court if
261 it does not comply with this section. Upon receipt of such an
262 order, the department must notify the issuing court, the
263 appropriate state attorney or the statewide prosecutor; the
264 petitioner or the petitioner's attorney; and the arresting
265 agency of the reason for noncompliance. The appropriate state
266 attorney or the statewide prosecutor shall take action within 60
267 days after receiving the order to correct the record and
268 petition the court to void the order. A cause of action,
269 including contempt of court, does not arise against a criminal
270 justice agency for failure to comply with an order to expunge if
271 the petitioner failed to obtain the certificate of eligibility



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272 as required by this section or the order does not otherwise
273 comply with this section.

274 (7) EFFECT OF EXPUNCTION.—

275 (a) Any criminal history record of a minor or an adult
276 which is ordered expunged by a court of competent jurisdiction
277 pursuant to this section must be physically destroyed or
278 obliterated by any criminal justice agency having custody of the
279 record; however, any criminal history record in the custody of
280 the department must be retained in all cases.

281 (b) The person who is the subject of a criminal history
282 record that is expunged under this section or under other
283 provisions of law, including s. 943.0584, former s. 893.14,
284 former s. 901.33, and former s. 943.058, may lawfully deny or
285 fail to acknowledge the arrests covered by the expunged record,
286 unless the subject of the record:

- 287 1. Is a candidate for employment with a criminal justice
288 agency;
289 2. Is a defendant in a criminal prosecution;
290 3. Concurrently or subsequently seeks relief under this
291 section, s. 943.0583, or s. 943.059;
292 4. Is a candidate for admission to The Florida Bar;
293 5. Is seeking to be employed or licensed by or to contract
294 with the Department of Children and Families, the Division of
295 Vocational Rehabilitation within the Department of Education,
296 the Agency for Health Care Administration, the Agency for
297 Persons with Disabilities, the Department of Health, the
298 Department of Elderly Affairs, or the Department of Juvenile
299 Justice, or to be employed or used by such contractor or
300 licensee in a sensitive position having direct contact with



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301 children, the disabled, or the elderly;

302 6. Is seeking to be employed or licensed by the Department
303 of Education, any district school board, any university
304 laboratory school, any charter school, any private or parochial
305 school, or any local governmental entity that licenses child
306 care facilities;

307 7. Is seeking to be licensed by the Division of Insurance
308 Agent and Agency Services within the Department of Financial
309 Services; or

310 8. Is seeking to be appointed as a guardian pursuant to s.
311 744.3125.

312 (c) Subject to the exceptions in paragraph (b), a person
313 who has been granted an expunction under this section, s.
314 943.0584, former s. 893.14, former s. 901.33, or former s.
315 943.058 may not be held under any law of this state for
316 committing perjury or to be otherwise liable for giving a false
317 statement by reason of such person's failure to recite or
318 acknowledge an expunged criminal history record.

319 (d) Notwithstanding any law to the contrary, a criminal
320 justice agency may comply with laws, court orders, and official
321 requests of other jurisdictions relating to expunction,
322 correction, or confidential handling of criminal history records
323 or information derived therefrom.

324 (8) STATUTORY REFERENCES.—Any reference to any other
325 chapter, section, or subdivision of the Florida Statutes in this
326 section constitutes a general reference under the doctrine of
327 incorporation by reference.

328 (9) NO RIGHT TO EXPUNCTION.—This section does not confer a
329 right to the expunction of a criminal history record, and a



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330 request for expunction of a criminal history record may be
331 denied at the sole discretion of the court.

332 Section 4. Section 943.059, Florida Statutes, is amended to
333 read:

334 (Substantial rewording of section. See
335 s. 943.059, F.S., for present text.)

336 943.059 Nonjudicial sealing of criminal history records.-

337 (1) NONJUDICIAL SEALING.-Notwithstanding any law dealing
338 generally with the preservation and destruction of public
339 records, the department may adopt a rule pursuant to chapter 120
340 for the nonjudicial sealing of any criminal history record of a
341 minor or an adult described in this section.

342 (2) ELIGIBILITY.-

343 (a) Except as provided in paragraph (b), the department
344 must approve the nonjudicial sealing of a criminal history
345 record if:

346 1.a. The person was found guilty of, found to have
347 committed, pled guilty to, or pled nolo contendere to an
348 offense;

349 b. None of the charges stemming from the arrest or alleged
350 criminal activity to which the application for nonjudicial
351 sealing pertains resulted in an adjudication of guilt or
352 delinquency; or

353 2. The person was adjudicated guilty or adjudicated
354 delinquent for a nonviolent misdemeanor. For purposes of this
355 subparagraph, the term "nonviolent misdemeanor" means a
356 misdemeanor violation of:

357 a. Section 562.11(2), s. 562.111, s. 806.101, s. 806.13, s.
358 810.08, s. 810.09, s. 810.10, s. 810.11, s. 810.115, s. 810.13,



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359 s. 812.014(3)(a), s. 823.01, s. 823.02, s. 856.011, s. 856.015,
360 s. 870.02, s. 893.13(3), s. 893.13(6)(b), or s. 893.147(1), in
361 which the petitioner was adjudicated guilty or adjudicated
362 delinquent; or

363 b. An offense found in chapters 316-324 for which the
364 petitioner was adjudicated guilty or adjudicated delinquent,
365 unless the violation of such offense directly caused serious
366 bodily injury or death to a person.

367 (b) A criminal history record may not be approved for a
368 nonjudicial sealing pursuant to this section if:

369 1. The person seeking the sealing has, at any time before
370 the date on which the application for nonjudicial sealing is
371 filed, been adjudicated guilty for a felony offense or
372 adjudicated delinquent for an offense which would be a felony if
373 committed by an adult; or

374 2. The record relates to a serious offense in which the
375 person was found guilty of or adjudicated delinquent of, or pled
376 guilty or pled nolo contendere to the offense, regardless of
377 whether adjudication was withheld. For purposes of this
378 subparagraph, the term "serious offense" means a violation of s.
379 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
380 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
381 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
382 s. 916.1075, a violation enumerated in s. 907.041, or any
383 violation specified as a predicate offense for registration as a
384 sexual predator pursuant to s. 775.21, without regard to whether
385 that offense, alone, is sufficient to require such registration,
386 or for registration as a sexual offender pursuant to s.
387 943.0435.



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388 (3) LIMITATIONS.—The department may approve the sealing of
389 only one criminal history record described in paragraph (2) (a).
390 Each record sealed must pertain to one arrest or one incident of
391 alleged criminal activity. However, if the department receives
392 supporting documentation as described in paragraph (4) (b)
393 stating that additional arrests are directly related to the
394 arrest sought to be expunged, the department must approve the
395 sealing of a criminal history record pertaining to the
396 additional arrests. If the department approves the sealing of
397 records pertaining to such additional arrests, such intent must
398 be specified in the approval form. A criminal justice agency may
399 not seal any record pertaining to such additional arrests if the
400 department has not approved sealing records pertaining to more
401 than one arrest.

402 (4) APPLICATION.—An adult or, in the case of a minor child,
403 his or her parent or legal guardian, who is seeking to seal a
404 criminal history record under this section shall apply to the
405 department in the manner prescribed by rule. An application for
406 nonjudicial sealing shall be accompanied by:

407 (a) A written, certified statement from the appropriate
408 state attorney or the statewide prosecutor which indicates that
409 the criminal history record sought to be sealed is eligible
410 under subsection (2).

411 (b) A written, certified statement from the appropriate
412 state attorney or the statewide prosecutor that indicates that
413 any additional arrests the applicant seeks to seal are directly
414 related to the original arrest, if applicable. If the state
415 attorney or statewide prosecutor does not confirm that the
416 additional arrests are directly related, the person applying for



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417 the sealing has the right to appeal this decision to the circuit
418 court.

419 (c) A processing fee of \$75 to the department, for
420 placement in the Department of Law Enforcement Operating Trust
421 Fund, unless the fee is waived by the executive director.

422 (d) A certified copy of the disposition of the charge to
423 which the application to seal pertains.

424 (e) A full set of fingerprints of the applicant, taken by a
425 law enforcement agency, for purposes of identity verification.

426 (f) A sworn, written statement from the person seeking the
427 sealing that he or she:

428 1. Is no longer under court supervision applicable to the
429 disposition of the arrest or alleged criminal activity to which
430 the application to seal pertains.

431 2. Has never secured a prior sealing or expunction of a
432 criminal history record under this section, s. 943.0585, former
433 s. 893.14, former 901.33, or former 943.058.

434 3. Has not been arrested for or charged with a criminal
435 offense in any jurisdiction of the state or within the United
436 States from the date the person completed all sentences of
437 imprisonment or supervisory sanctions imposed by the court for
438 the offense to which the application for nonjudicial sealing
439 pertains to the date of the application for the nonjudicial
440 sealing, which period of time must be at least 1 year.

441 (g) A person who knowingly provides false information on
442 the sworn statement required by paragraph (f) commits a felony
443 of the third degree, punishable as provided in s. 775.082, s.
444 775.083, or s. 775.084.

445 (5) PROCESSING.—



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446 (a) If the department approves an application for a
447 nonjudicial sealing, a certified copy of the form approving the
448 nonjudicial sealing shall be forwarded to the appropriate state
449 attorney or the statewide prosecutor, the arresting agency, and
450 the clerk of the court. The arresting agency is responsible for
451 forwarding the form approving the nonjudicial sealing to any
452 other agency to which the arresting agency disseminated the
453 pertinent criminal history record information. The department
454 shall forward the form approving the nonjudicial sealing to the
455 Federal Bureau of Investigation. The clerk of the court shall
456 forward a copy of the form to any other agency that the records
457 of the court reflect received the criminal history record from
458 the court.

459 (b) The nonjudicial sealing of a criminal history record
460 pursuant to this section does not require that such record be
461 surrendered to the court, and the record must continue to be
462 maintained by the department and other criminal justice
463 agencies.

464 (6) EFFECT OF SEALING.—

465 (a) The person who is the subject of a criminal history
466 record that is sealed under this section or under other
467 provisions of law, including former s. 893.14, former s. 901.33,
468 and former s. 943.058, may lawfully deny or fail to acknowledge
469 the arrests covered by the sealed record, unless the subject of
470 the record:

- 471 1. Is a candidate for employment with a criminal justice
472 agency;
473 2. Is a defendant in a criminal prosecution;
474 3. Concurrently or subsequently seeks relief under this



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475 section, s. 943.0583, s. 943.0584, or s. 943.0585;
476 4. Is a candidate for admission to The Florida Bar;
477 5. Is seeking to be employed or licensed by or to contract
478 with the Department of Children and Families, the Division of
479 Vocational Rehabilitation within the Department of Education,
480 the Agency for Health Care Administration, the Agency for
481 Persons with Disabilities, the Department of Health, the
482 Department of Elderly Affairs, or the Department of Juvenile
483 Justice, or to be employed or used by such contractor or
484 licensee in a sensitive position having direct contact with
485 children, the disabled, or the elderly;
486 6. Is seeking to be employed or licensed by the Department
487 of Education, any district school board, any university
488 laboratory school, any charter school, any private or parochial
489 school, or any local governmental entity that licenses child
490 care facilities;
491 7. Is attempting to purchase a firearm from a licensed
492 importer, licensed manufacturer, or licensed dealer and is
493 subject to a criminal history check under state or federal law;
494 8. Is seeking to be licensed by the Division of Insurance
495 Agent and Agency Services within the Department of Financial
496 Services;
497 9. Is seeking to be appointed as a guardian pursuant to s.
498 744.3125; or
499 10. Is seeking to be licensed by the Bureau of License
500 Issuance of the Division of Licensing within the Department of
501 Agriculture and Consumer Services to carry a concealed weapon or
502 concealed firearm. This subparagraph applies only in the
503 determination of an applicant's eligibility under s. 790.06.



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504 (b) Subject to the exceptions in paragraph (a), a person
505 who has been granted a sealing under this section, former s.
506 893.14, former s. 901.33, or former s. 943.058 may not be held
507 under any provision of law of this state to commit perjury or to
508 be otherwise liable for giving a false statement by reason of
509 such person's failure to recite or acknowledge a sealed criminal
510 history record.

511 (c) Notwithstanding any law to the contrary, a criminal
512 justice agency may comply with laws, court orders, and official
513 requests of other jurisdictions relating to sealing, correction,
514 or confidential handling of criminal history records or
515 information derived therefrom.

516 (7) STATUTORY REFERENCES.—Any reference to any other
517 chapter, section, or subdivision of the Florida Statutes in this
518 section constitutes a general reference under the doctrine of
519 incorporation by reference.

520 Section 5. Subsection (3) of section 776.09, Florida
521 Statutes, is amended to read:

522 776.09 Retention of records pertaining to persons found to
523 be acting in lawful self-defense; expunction of criminal history
524 records.—

525 (3) Under either condition described in subsection (1) or
526 subsection (2), the person accused may apply for the nonjudicial
527 expunction of a certificate of eligibility to expunge the
528 associated criminal history record, pursuant to s.
529 943.0584(2)(c) ~~943.0585(5)~~, notwithstanding the eligibility
530 requirements prescribed in s. 943.0584(2) and (4)(a)2
531 ~~943.0585(1)(b) or (2)~~.

532 Section 6. Subsection (1) of section 790.23, Florida



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533 Statutes, is amended to read:

534 790.23 Felons and delinquents; possession of firearms,
535 ammunition, or electric weapons or devices unlawful.—

536 (1) It is unlawful for any person to own or to have in his
537 or her care, custody, possession, or control any firearm,
538 ammunition, or electric weapon or device, or to carry a
539 concealed weapon, including a tear gas gun or chemical weapon or
540 device, if that person has been:

541 (a) Convicted of a felony in the courts of this state;

542 (b)1. Found, in the courts of this state, to have committed
543 a delinquent act that would be a felony if committed by an
544 adult, meets the description of s. 943.0515(1)(a), and ~~such~~
545 person is under 24 years of age; or

546 2. Found, in the courts of this state, to have committed a
547 delinquent act that would be a felony if committed by an adult,
548 meets the description of s. 943.0515(1)(b), and is under 21
549 years of age;

550 (c) Convicted of or found to have committed a crime against
551 the United States which is designated as a felony;

552 (d)1. Found to have committed a delinquent act in another
553 state, territory, or country that was punishable by imprisonment
554 for a term exceeding 1 year and would be a felony if committed
555 by an adult, meets the description of s. 943.0515(1)(a), ~~and~~
556 which was punishable by imprisonment for a term exceeding 1 year
557 and ~~such person~~ is under 24 years of age; ~~or~~

558 2. Found to have committed a delinquent act in another
559 state, territory, or country that was punishable by imprisonment
560 for a term exceeding 1 year and would be a felony if committed
561 by an adult, meets the description of s. 943.0515(1)(b), and is



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562 under 21 years of age; or

563 (e) Found guilty of an offense that is a felony in another
564 state, territory, or country and which was punishable by
565 imprisonment for a term exceeding 1 year.

566 Section 7. Section 943.0582, Florida Statutes, is amended
567 to read:

568 943.0582 Prearrest, postarrest, or teen court diversion
569 program expunction.—

570 (1) Notwithstanding any law dealing generally with the
571 preservation and destruction of public records, the department
572 may provide, by rule adopted pursuant to chapter 120, for the
573 expunction of any nonjudicial record of the arrest of a minor
574 who has successfully completed a prearrest or postarrest
575 diversion program for minors as authorized by s. 985.125.

576 (2) (a) As used in this section, the term "expunction" has
577 the same meaning ascribed in and effect as ss. 943.0584 and s.
578 943.0585, except that:

579 1. The provisions of s. 943.0585(7)(b) ~~943.0585(4)(a)~~ do
580 not apply, except that the criminal history record of a person
581 whose record is expunged pursuant to this section shall be made
582 available only to criminal justice agencies for the purpose of
583 determining eligibility for prearrest, postarrest, or teen court
584 diversion programs; when the record is sought as part of a
585 criminal investigation; or when the subject of the record is a
586 candidate for employment with a criminal justice agency. For all
587 other purposes, a person whose record is expunged under this
588 section may lawfully deny or fail to acknowledge the arrest and
589 the charge covered by the expunged record.

590 2. Records maintained by local criminal justice agencies in



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591 the county in which the arrest occurred that are eligible for
592 expunction pursuant to this section shall be sealed as the term
593 is used in s. 943.059.

594 (b) As used in this section, the term "nonviolent
595 misdemeanor" includes simple assault or battery when prearrest
596 or postarrest diversion expunction is approved in writing by the
597 state attorney for the county in which the arrest occurred.

598 (3) The department shall expunge the nonjudicial arrest
599 record of a minor who has successfully completed a prearrest or
600 postarrest diversion program if that minor:

601 (a) Submits an application for prearrest or postarrest
602 diversion expunction, on a form prescribed by the department,
603 signed by the minor's parent or legal guardian, or by the minor
604 if he or she has reached the age of majority at the time of
605 applying.

606 (b) Submits the application for prearrest or postarrest
607 diversion expunction no later than 12 months after completion of
608 the diversion program.

609 (c) Submits to the department, with the application, an
610 official written statement from the state attorney for the
611 county in which the arrest occurred certifying that he or she
612 has successfully completed that county's prearrest or postarrest
613 diversion program, that his or her participation in the program
614 was based on an arrest for a nonviolent misdemeanor, and that he
615 or she has not otherwise been charged by the state attorney with
616 or found to have committed any criminal offense or comparable
617 ordinance violation.

618 (d) Participated in a prearrest or postarrest diversion
619 program that expressly authorizes or permits such expunction to



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620 occur.

621 (e) Participated in a prearrest or postarrest diversion
622 program based on an arrest for a nonviolent misdemeanor that
623 would not qualify as an act of domestic violence as that term is
624 defined in s. 741.28.

625 (f) Has never, prior to filing the application for
626 expunction, been charged by the state attorney with or been
627 found to have committed any criminal offense or comparable
628 ordinance violation.

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

634 (5) Expunction or sealing granted under this section does
635 not prevent the minor who receives such relief from seeking
636 ~~petitioning for~~ the expunction or sealing of a later criminal
637 history record as provided for in ss. 943.0583, 943.0584,
638 943.0585, and 943.059, if the minor is otherwise eligible under
639 those sections.

640 Section 8. Paragraph (b) of subsection (6) and paragraph
641 (b) of subsection (7) of section 948.08, Florida Statutes, are
642 amended to read:

643 948.08 Pretrial intervention program.—

644 (6)

645 (b) While enrolled in a pretrial intervention program
646 authorized by this subsection, the participant is subject to a
647 coordinated strategy developed by a drug court team under s.
648 397.334(4). The coordinated strategy may include a protocol of



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649 sanctions that may be imposed upon the participant for
650 noncompliance with program rules. The protocol of sanctions may
651 include, but is not limited to, placement in a substance abuse
652 treatment program offered by a licensed service provider as
653 defined in s. 397.311 or in a jail-based treatment program or
654 serving a period of incarceration within the time limits
655 established for contempt of court. The coordinated strategy must
656 be provided in writing to the participant before the participant
657 agrees to enter into a pretrial treatment-based drug court
658 program or other pretrial intervention program. Any person whose
659 charges are dismissed after successful completion of the
660 treatment-based drug court program, if otherwise eligible, may
661 have his or her arrest record and plea of nolo contendere to the
662 dismissed charges expunged under s. 943.0584 ~~943.0585~~.

663 (7)

664 (b) While enrolled in a pretrial intervention program
665 authorized by this subsection, the participant shall be subject
666 to a coordinated strategy developed by a veterans' treatment
667 intervention team. The coordinated strategy should be modeled
668 after the therapeutic jurisprudence principles and key
669 components in s. 397.334(4), with treatment specific to the
670 needs of servicemembers and veterans. The coordinated strategy
671 may include a protocol of sanctions that may be imposed upon the
672 participant for noncompliance with program rules. The protocol
673 of sanctions may include, but need not be limited to, placement
674 in a treatment program offered by a licensed service provider or
675 in a jail-based treatment program or serving a period of
676 incarceration within the time limits established for contempt of
677 court. The coordinated strategy must be provided in writing to



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678 the participant before the participant agrees to enter into a
679 pretrial veterans' treatment intervention program or other
680 pretrial intervention program. Any person whose charges are
681 dismissed after successful completion of the pretrial veterans'
682 treatment intervention program, if otherwise eligible, may have
683 his or her arrest record of the dismissed charges expunged under
684 s. 943.0584 ~~943.0585~~.

685 Section 9. Paragraph (b) of subsection (1) and paragraph
686 (b) of subsection (2) of section 948.16, Florida Statutes, are
687 amended to read:

688 948.16 Misdemeanor pretrial substance abuse education and
689 treatment intervention program; misdemeanor pretrial veterans'
690 treatment intervention program.-

691 (1)

692 (b) While enrolled in a pretrial intervention program
693 authorized by this section, the participant is subject to a
694 coordinated strategy developed by a drug court team under s.
695 397.334(4). The coordinated strategy may include a protocol of
696 sanctions that may be imposed upon the participant for
697 noncompliance with program rules. The protocol of sanctions may
698 include, but is not limited to, placement in a substance abuse
699 treatment program offered by a licensed service provider as
700 defined in s. 397.311 or in a jail-based treatment program or
701 serving a period of incarceration within the time limits
702 established for contempt of court. The coordinated strategy must
703 be provided in writing to the participant before the participant
704 agrees to enter into a pretrial treatment-based drug court
705 program or other pretrial intervention program. Any person whose
706 charges are dismissed after successful completion of the



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707 treatment-based drug court program, if otherwise eligible, may
708 have his or her arrest record and plea of nolo contendere to the
709 dismissed charges expunged under s. 943.0584 ~~943.0585~~.

710 (2)

711 (b) While enrolled in a pretrial intervention program
712 authorized by this section, the participant shall be subject to
713 a coordinated strategy developed by a veterans' treatment
714 intervention team. The coordinated strategy should be modeled
715 after the therapeutic jurisprudence principles and key
716 components in s. 397.334(4), with treatment specific to the
717 needs of veterans and servicemembers. The coordinated strategy
718 may include a protocol of sanctions that may be imposed upon the
719 participant for noncompliance with program rules. The protocol
720 of sanctions may include, but need not be limited to, placement
721 in a treatment program offered by a licensed service provider or
722 in a jail-based treatment program or serving a period of
723 incarceration within the time limits established for contempt of
724 court. The coordinated strategy must be provided in writing to
725 the participant before the participant agrees to enter into a
726 misdemeanor pretrial veterans' treatment intervention program or
727 other pretrial intervention program. Any person whose charges
728 are dismissed after successful completion of the misdemeanor
729 pretrial veterans' treatment intervention program, if otherwise
730 eligible, may have his or her arrest record of the dismissed
731 charges expunged under s. 943.0584 ~~943.0585~~.

732 Section 10. Paragraph (e) of subsection (1) of section
733 961.06, Florida Statutes, is amended to read:

734 961.06 Compensation for wrongful incarceration.—

735 (1) Except as otherwise provided in this act and subject to



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736 the limitations and procedures prescribed in this section, a
737 person who is found to be entitled to compensation under the
738 provisions of this act is entitled to:

739 (e) Notwithstanding any provision to the contrary in s.
740 943.0583, 943.0584, or s. 943.0585, immediate administrative
741 expunction of the person's criminal record resulting from his or
742 her wrongful arrest, wrongful conviction, and wrongful
743 incarceration. The Department of Legal Affairs and the
744 Department of Law Enforcement shall, upon a determination that a
745 claimant is entitled to compensation, immediately take all
746 action necessary to administratively expunge the claimant's
747 criminal record arising from his or her wrongful arrest,
748 wrongful conviction, and wrongful incarceration. All fees for
749 this process shall be waived.

750
751 The total compensation awarded under paragraphs (a), (c), and
752 (d) may not exceed \$2 million. No further award for attorney
753 ~~attorney's~~ fees, lobbying fees, costs, or other similar expenses
754 shall be made by the state.

755 Section 11. Paragraph (b) of subsection (7) of section
756 985.04, Florida Statutes, is amended to read:

757 985.04 Oaths; records; confidential information.-

758 (7)

759 (b) The destruction of records pertaining to children
760 committed to or supervised by the department pursuant to a court
761 order, which records are retained until a child reaches the age
762 of 21 ~~24~~ years or until a serious or habitual delinquent child
763 reaches the age of 26 years, shall be subject to chapter 943.

764 Section 12. Subsection (1) of section 985.045, Florida



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765 Statutes, is amended to read:

766 985.045 Court records.—

767 (1) The clerk of the court shall make and keep records of
768 all cases brought before it under this chapter. The court shall
769 preserve the records pertaining to a child charged with
770 committing a delinquent act or violation of law until the child
771 reaches 21 ~~24~~ years of age or reaches 26 years of age if he or
772 she is a serious or habitual delinquent child, until 5 years
773 after the last entry was made, or until 3 years after the death
774 of the child, whichever is earlier, and may then destroy them,
775 except that records made of traffic offenses in which there is
776 no allegation of delinquency may be destroyed as soon as this
777 can be reasonably accomplished. The court shall make official
778 records of all petitions and orders filed in a case arising
779 under this chapter and of any other pleadings, certificates,
780 proofs of publication, summonses, warrants, and writs that are
781 filed pursuant to the case.

782 Section 13. Subsection (2) of section 985.345, Florida
783 Statutes, is amended to read:

784 985.345 Delinquency pretrial intervention program.—

785 (2) While enrolled in a delinquency pretrial intervention
786 program authorized by this section, a child is subject to a
787 coordinated strategy developed by a drug court team under s.
788 397.334(4). The coordinated strategy may include a protocol of
789 sanctions that may be imposed upon the child for noncompliance
790 with program rules. The protocol of sanctions may include, but
791 is not limited to, placement in a substance abuse treatment
792 program offered by a licensed service provider as defined in s.
793 397.311 or serving a period of secure detention under this



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794 chapter. The coordinated strategy must be provided in writing to
795 the child before the child agrees to enter the pretrial
796 treatment-based drug court program or other pretrial
797 intervention program. Any child whose charges are dismissed
798 after successful completion of the treatment-based drug court
799 program, if otherwise eligible, may have his or her arrest
800 record and plea of nolo contendere to the dismissed charges
801 expunged under s. 943.0584 ~~943.0585~~.

802 Section 14. This act shall take effect October 1, 2015.

803

804 ===== T I T L E A M E N D M E N T =====

805 And the title is amended as follows:

806 Delete everything before the enacting clause
807 and insert:

808 A bill to be entitled
809 An act relating to expunging and sealing criminal
810 history records; amending s. 943.0515, F.S.; reducing
811 the number of years that the Criminal Justice
812 Information Program must retain certain minor
813 offenders' criminal history records; creating s.
814 943.0584, F.S.; establishing a nonjudicial expunction
815 process within the Department of Law Enforcement for
816 specified criminal history records; specifying types
817 of records eligible for the process; providing
818 exceptions to eligibility; establishing an application
819 process and requiring that specified documentation be
820 submitted; requiring a sworn statement from the
821 petitioner; providing a criminal penalty for perjury
822 on such sworn statement; specifying how the



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823 nonjudicial expunction must be processed; providing
824 that an expunction under this section has the same
825 effect as an expunction under s. 943.0585, F.S.;

826 amending s. 943.0585, F.S.; providing jurisdiction of
827 the courts over expunction procedures; specifying
828 types of records that are eligible for court-ordered
829 expunction; providing limitations as to when a court
830 may expunge specified records; requiring specified
831 documentation be submitted to the Department of Law
832 Enforcement when seeking a certificate of eligibility
833 for court-ordered expunction; specifying the
834 documentation that must be submitted to the court with
835 a petition to expunge; requiring a sworn statement
836 from the petitioner; providing a criminal penalty for
837 perjury on such sworn statements; providing guidelines
838 for the processing of an order to expunge; providing
839 the effect of the order to expunge on the criminal
840 history record; requiring criminal justice agencies to
841 destroy copies of records that have been expunged;
842 specifying exceptions to the confidential and exempt
843 status of an expunged criminal history record;
844 specifying that a right to expunction is not created
845 under this act; amending s. 943.059, F.S.;

846 establishing a nonjudicial process within the
847 Department of Law Enforcement for the sealing of
848 specified records; specifying records that are
849 eligible for the process; providing exceptions to
850 eligibility and limitations on sealing of records;
851 establishing an application process and requiring the



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852 submission of specified documentation; requiring a
853 sworn statement from the petitioner; providing a
854 criminal penalty for perjury on such sworn statement;
855 specifying how the nonjudicial sealing must be
856 processed; providing for the effect of a record that
857 has been sealed under this section; amending ss.
858 776.09, 790.23, 943.0582, 948.08, 948.16, 961.06,
859 985.04, 985.045, and 985.345, F.S.; conforming
860 provisions to changes made by the act; providing an
861 effective date.