

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: CS/SB 488

INTRODUCER: Criminal Justice Committee and Senator Detert

SUBJECT: Sealing/Expunction of Criminal History Records

DATE: March 24, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.	_____	_____	ACJ	_____
3.	_____	_____	FP	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 488 makes substantial changes to Florida’s expunge and seal laws by creating a nonjudicial process for the expunction and sealing of criminal history records. The bill retains the court-ordered expunction process, but limits its application to the expunction of a record related to a case in which a court issued a withhold of adjudication.

The bill allows a person to obtain:

- An unlimited number of “nonjudicial expunctions” for records that resulted in a no-information, a dismissal, a dismissal based on the lawful self-defense exception, or a not guilty verdict, regardless of whether the person has previous misdemeanor or felony convictions;
- One court-ordered expunction of a record that resulted in a withhold of adjudication, regardless of whether the person has a previous misdemeanor conviction; and either
- One “nonjudicial sealing” of a record that resulted in a withhold of adjudication, regardless of whether the person has a previous misdemeanor conviction, or
- One “nonjudicial sealing” of a record that resulted in a conviction for a specified “nonviolent misdemeanor,” regardless of whether the person has a previous misdemeanor conviction.

(Currently, a person may only expunge or seal one record, may not expunge or seal any record that resulted in a conviction, and may not expunge or seal a record if he or she has previous convictions. Additionally, only the court can order a record to be expunged or sealed.)

The bill also amends s. 943.0515, F.S., to require all records maintained by the Florida Department of Law Enforcement (FDLE) related to minors that are not classified as serious or habitual juvenile offenders to be automatically expunged when the minor reaches the age of 21 years with certain exceptions (currently this occurs when the minor reaches the age of 24 years).

## II. Present Situation:

### Criminal History Record Sealing and Expunging

Sections 943.0585 and 943.059, F.S., set forth procedures for sealing and expunging criminal history records. The courts have jurisdiction over their own judicial records containing criminal history information and over their procedures for maintaining and destroying those records. The FDLE can administratively expunge non-judicial records of arrest that are made contrary to law or by mistake.

When a record is expunged, it is physically destroyed and no longer exists if it is in the custody of a criminal justice agency<sup>1</sup> other than the FDLE. Criminal justice agencies are allowed to make a notation indicating compliance with an expunction order. The FDLE, on the other hand, is required to retain expunged records. When a record is sealed, it is not destroyed, but access is limited to the subject of the record, his or her attorney, criminal justice agencies for their respective criminal justice purposes, and certain other specified agencies for their respective licensing and employment purposes.<sup>2</sup>

Persons who have had their criminal history records sealed or expunged may lawfully deny or fail to acknowledge the arrests covered by their record, except when they are applying for certain types of licensure or employment,<sup>3</sup> petitioning the court for a record sealing or expunction, or are a defendant in a criminal prosecution.<sup>4</sup>

Records that have been sealed or expunged are confidential and exempt from the public records law. It is a first degree misdemeanor to divulge their existence, except to specified entities for licensing or employment purposes.<sup>5</sup>

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<sup>1</sup> Section 943.045(11), F.S., defines a criminal justice agency as follows: a court; the FDLE; the DJJ; the protective investigations component of the Department of Children and Families (DCF), which investigates the crimes of abuse and neglect; or any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice.

<sup>2</sup> Including the following: a criminal justice agency; the Florida Bar; working in a sensitive position involving direct contact with children, the developmentally disabled, or the elderly through the DCF, Division of Vocational Rehabilitation within the Department of Education (DOE), the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice; or persons seeking to be employed or licensed by the DOE, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity licensing child care facilities; a Florida seaport; the Division of Insurance Agent and Agency Services within the Department of Financial Services; or the Bureau of License Issuance of the Division of Licensing within the Department of Agriculture and Consumer Services. Sections 943.0585(4) and 985.059(4), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Section 943.0585(4)(a), F.S.

<sup>5</sup> Section 943.0585(4)(c), F.S.

In 1992, the Legislature amended the sealing and expunction statute to require a person seeking a sealing or expunction to first obtain a certificate of eligibility from FDLE and then, if the person meets the statutory criteria based on the department's criminal history check and receives a certificate, he or she can petition the court for a record sealing or expunction.<sup>6</sup> It is then up to the court to decide whether the sealing or expunction is appropriate.

To receive a certificate of eligibility<sup>7</sup>, a person must:

- Submit to FDLE a written, certified statement from the appropriate state attorney or statewide prosecutor indicating that:
  - An indictment, information, or other charging document was not filed or issued in the case; or if filed, was dismissed or nolle prosequi by the state attorney or statewide prosecutor or was dismissed by a court of competent jurisdiction;<sup>8</sup>
  - None of the charges related to the record the person wishes to expunge resulted in a trial, without regard to whether the outcome of the trial was other than an adjudication of guilt;<sup>9</sup> and
  - The criminal history record does not relate to a violation of specified listed offenses regardless of whether adjudication was withheld<sup>10</sup>;
- Pay a \$75 processing fee;
- Submit a certified copy of the disposition of the record desired to be sealed or expunged;
- Have not previously been adjudicated guilty of any offense or adjudicated delinquent for any felony or misdemeanor specified in s. 943.051(3)(b), F.S.<sup>11</sup>;
- Have never been adjudicated guilty or delinquent for any of the acts stemming from the arrest or alleged criminal activity of the record desired to be sealed or expunged;
- Have never had a prior sealing or expunction of a criminal history record (unless it is the required ten year sealing for the offense desired to be expunged); and
- No longer be under any court supervision related to the disposition of the record desired to be sealed or expunged.

<sup>6</sup> Section 943.0585(2), F.S.

<sup>7</sup> A certificate of eligibility for expunction or sealing is valid for 12 months after the date stamped on the certificate. If the certificate expires then a person must reapply for a new certificate of eligibility. The new certificate of eligibility must be based on the status of the applicant and the law in effect at the time of the reapplication. Sections 943.0585(2) and 943.059(2), F.S.

<sup>8</sup> Only required for an expunction.

<sup>9</sup> *Id.*

<sup>10</sup> These listed offenses include the following: sexual misconduct with developmentally disabled clients, mental health patients, or forensic clients; luring or enticing a child; sexual battery; procuring a person under 18 years for prostitution; lewd, lascivious, or indecent assault upon a child; lewd or lascivious offenses committed on an elderly or disabled person; voyeurism; communications fraud; sexual performance by a child; unlawful distribution of obscene materials to a minor; unlawful activities involving computer pornography; selling or buying minors for the purpose of engaging in sex trafficking or prostitution, or sexually explicit conduct; offenses by public officers and employees; drug trafficking; and, other dangerous crimes such as arson, aggravated assault or battery, illegal use of explosives, child abuse or aggravated child abuse, elderly or disabled abuse, aggravated elderly or disabled abuse, aircraft piracy, sexual activity with a child, terrorism, manufacturing controlled substances, kidnapping, murder, manslaughter, robbery, home invasion robbery, carjacking, stalking, domestic violence, burglary and any violation specified as a predicate offense for sexual predator or sexual offender registration.

<sup>11</sup> These misdemeanors include: assault; battery; carrying a concealed weapon; unlawful use of destructive devices or bombs; negligent treatment of children; assault or battery on a law enforcement officer, firefighter, or other specified officers; open carrying of a weapon; exposure of sexual organs; unlawful possession of a firearm; petit theft; cruelty to animals; arson; and unlawful possession or discharge of a weapon or firearm at a school- sponsored event or on school property.

<sup>11</sup> Section 943.0585(1)(b), F.S.

In addition to the certificate, a petition to seal or expunge a criminal history record must also include the petitioner's sworn statement that he or she:

- Has not previously been adjudicated guilty of any offense or adjudicated delinquent for any felony or misdemeanor offense specified in s. 943.051(3)(b), F.S.;
- Has not been adjudicated guilty or delinquent for any of the charges he or she is currently trying to have sealed or expunged;
- Has not obtained a prior sealing or expunction (unless it is the required ten year sealing for the offense desired to be expunged); and
- Is eligible to the best of his or her knowledge and has no other pending expunction or sealing petitions before the court.<sup>12</sup>

The statute also requires that the record be sealed for 10 years before it can be expunged, unless charges were not filed or were dismissed by the prosecutor or court, regardless of the outcome of the trial.<sup>13</sup> In other words, if the formal adjudication of guilt is withheld by the court, or the applicant is acquitted, the record must first be sealed for ten years. If the charges are dropped, the record can be immediately expunged.<sup>14</sup>

Any person knowingly providing false information on the sworn statement commits a felony of the third degree.<sup>15</sup>

To summarize, a person is not currently eligible to have a record expunged or sealed if the person was convicted for any of the charges to which the petition to expunge or seal pertains. Similarly, a person who has a previous unrelated conviction is ineligible to have a record expunged or sealed. In addition, a court may not seal or expunge a record that relates to any of the prohibited listed offenses in which the defendant was found guilty of or pled guilty or nolo contendere to such offense, or if the defendant, as a minor, was found to have committed, or pled guilty or pled nolo contendere to committing the offense as a delinquent act.<sup>16</sup>

### **Automatic Expunction of Criminal History Records of Minors**

Section 943.0515, F.S., requires FDLE to automatically expunge the criminal history records of specified juveniles at age 24 or 26. For juveniles who are classified as serious or habitual juvenile offenders, or that have been committed to a juvenile correctional facility or juvenile prison, the FDLE must retain their record until the age of 26, at which time it is automatically expunged.<sup>17</sup> For all other juveniles, FDLE must retain the record until the juvenile reaches the age of 24, at which time it is automatically expunged.<sup>18</sup>

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<sup>12</sup> Section 943.0585(1)(b), F.S.

<sup>13</sup> Section 943.0585(2)(h), F.S.

<sup>14</sup> This also includes when an indictment, information, or other charging document is not filed or is dismissed by the state attorney, or dismissed by the court, because it was found that the person acted in lawful self-defense under the provisions related to justifiable use of force in ch. 776, F.S. Section 943.0585(5), F. S.

<sup>15</sup> Section 943.0585(1), F.S.

<sup>16</sup> This restriction applies regardless to whether adjudication was withheld on any of the listed offenses. Sections 943.0585(1) and 943.059(1), F.S.

<sup>17</sup> Section 943.0515(1)(a), F.S.

<sup>18</sup> Section 943.0515(1)(b), F.S.

A juvenile's record is prohibited from being automatically expunged if:

- A person 18 years of age or older is charged with or convicted of a forcible felony and the person's criminal history record as a minor has not yet been destroyed;
- At any time, a minor is adjudicated as an adult for a forcible felony; or
- The record relates to a minor who was adjudicated delinquent for a violation committed on or after July 1, 2007, as provided in s. 943.0435(1)(a)1.d., F.S.<sup>19,20</sup>

In these three instances, the person's record as a minor must be merged with and retained as part of their adult record.<sup>21</sup>

### III. Effect of Proposed Changes:

#### **Criminal History Record Sealing and Expunging**

The bill creates a nonjudicial process for the expunction and sealing of criminal history records. The bill retains the court-ordered expunction process, but limits its application to the expunction of a record related to a case where a court issued a withhold of adjudication.

The bill permits a person to obtain:

- An unlimited number of "nonjudicial expunctions" for records that resulted in a no-information, a dismissal, a dismissal based on the lawful self-defense exception, or a not guilty verdict, regardless of whether the person has previous misdemeanor or felony convictions;
- One court-ordered expunction of a record that resulted in a withhold of adjudication, regardless of whether the person has a previous misdemeanor conviction; and either
- One "nonjudicial sealing" of a record that resulted in a withhold of adjudication, regardless of whether the person has a previous misdemeanor conviction, or
- One "nonjudicial sealing" of a record that resulted in a conviction for a specified "nonviolent misdemeanor," regardless of whether the person has a previous misdemeanor conviction.

#### ***Nonjudicial Expunction***

The bill creates s. 943.0584, F.S., requiring specified records to be expunged without petitioning the court. The bill requires FDLE to approve the nonjudicial expunction of an unlimited number of criminal history records of a minor or adult relating to cases in which a:

- No-Information was issued;
- Dismissal was granted by the state attorney or statewide prosecutor, or by a court of competent jurisdiction;
- Dismissal was granted by the state attorney or court based on the lawful self-defense exception; or
- Not-guilty verdict was rendered subsequent to a trial or adjudicatory hearing.

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<sup>19</sup> Sections 943.0515(2) and (3), F.S.

<sup>20</sup> Section 943.0435, F.S., defines a "sexual offender" and proscribes when a sexual offender is required to register with FDLE.

<sup>21</sup> *Id.*

It should be noted that a person may not obtain a nonjudicial expunction unless all charges stemming from the arrest or alleged criminal activity to which the application for expunction pertains were not filed or issued, dismissed or discharged, or resulted in an acquittal.

Additionally, a record may not be approved for nonjudicial expunction if the:

- Case was dismissed pursuant to ss. 916.145 or 985.19, F.S., as a result of the person never being restored to competency; or
- Verdict at trial was not-guilty by reason of insanity.

The bill removes the current requirement that a record related to a not guilty verdict be sealed for ten years prior to such record being eligible for expunction.

The bill does not alter current law as it relates to obtaining an expunction when the dismissal was based on the lawful self-defense exception, but moves this from a court-ordered process to the newly-created nonjudicial expunction process.

To apply for nonjudicial expunction under s. 943.0584, F.S., the bill requires a person to include:

- A written, certified statement from the appropriate state attorney or statewide prosecutor indicating that the criminal history record sought to be expunged is eligible; or
- If applicable, a written, certified statement from the appropriate state attorney or statewide prosecutor indicating that the dismissal was based on the lawful self-defense exception;
- A \$75 processing fee to FDLE for placement in the FDLE Operating Trust Fund, unless such fee is waived by the executive director;
- A certified copy of the disposition of the charge to which the application to expunge pertains; and
- A full set of fingerprints of the applicant taken by a law enforcement agency for purposes of identity verification.

An applicant seeking the nonjudicial expunction of multiple eligible records only needs to submit one application and one fee to FDLE. Upon receiving a complete application, FDLE must approve the nonjudicial expunction of all records pertaining to the applicant that are eligible for the nonjudicial expunction.

Upon approval of a nonjudicial expunction, FDLE must serve a certified copy of the form approving the nonjudicial expunction to the state attorney or statewide prosecutor, the arresting agency, the clerk of the court, and the Federal Bureau of Investigation (FBI). The arresting agency must forward the approval form to any other agency that it disseminated the criminal history record information to which the form pertains. Lastly, the clerk of the court must forward a copy of the form to any other agency which the records of the court reflect has received the criminal history record from the court.

The bill provides that records that are approved for nonjudicial expunction pursuant to s. 943.0584, F.S., must have the same effect and be disclosed in the same manner as current law requires for records expunged pursuant to a court order under s. 943.0585, F.S. (i.e., that the record must be destroyed by all parties except FDLE, and a person may not lawfully deny the existence of the record to specified parties).

The bill provides FDLE with authority to adopt a rule pursuant to ch. 120, F.S., for the nonjudicial expunction of any criminal history record of a minor or an adult described in this section.

### *Court-Ordered Expunction*

Codified in s. 985.0585, F.S., the bill leaves the general process of court-ordered expunction intact. However, the bill limits its application to the expunction of a record related to a case in which a court issued a withhold of adjudication. A person must still obtain a certificate of eligibility from FDLE and petition the court to expunge the record. The bill does not alter current law as it relates to the processing of an order to expunge, how the record is treated once an order to expunge is granted, or the persons that have access to a record that has been expunged.

The bill amends s. 943.0585, F.S., to permit one record related to a withhold of adjudication to be expunged. A person no longer is required to first seal the withhold of adjudication for ten years to be eligible for an expunction. However, a court is prohibited from expunging a record pertaining to a withhold of adjudication if:

- The person seeking the expunction has, at any time prior to the date of filing the certificate of eligibility, been adjudicated guilty for a felony offense or adjudicated delinquent for an offense which, if committed by an adult, would be a felony; or
- The record relates to a prohibited listed offense where the person was convicted of, adjudicated delinquent of, or pled nolo contendere to the offense, regardless of whether adjudication was withheld.

To obtain a certificate of eligibility from FDLE, a person seeking to expunge a record pertaining to a withhold of adjudication must submit the above-described information required under current law for a court-ordered expunction and meet two additional requirements, including:

- That the person has not been arrested for or charged with a criminal offense, in any jurisdiction of the state or within the United States, from the date the person completed all sentences of imprisonment or supervisory sanctions imposed by the court for the offense to which the petition to expunge pertains to the date of the application for the certificate of eligibility;<sup>22</sup> and
- Submit a full set of fingerprints taken by a law enforcement agency for purposes of identity verification.

The bill retains current law regarding the length of time the certificate of eligibility is valid and the reapplication process.

The bill requires the petition to expunge such records to include:

- A valid certificate of eligibility issued by FDLE; and
- The petitioner's sworn statement<sup>23</sup> attesting that:
  - The criminal history record sought to be expunged is related to an eligible offense;

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<sup>22</sup> This provision is required to be no less than one year in length.

<sup>23</sup> The bill retains the criminal penalty for knowingly providing false information on this sworn statement to the court. Current law makes it a third degree felony to knowingly provide false information on this sworn statement. Section 943.0585(1)(b), F.S.

- The petitioner is eligible for the expunction; and
- The petitioner has not been charged with a criminal offense, in any jurisdiction of the state or a foreign jurisdiction, from the date the person completed all sentences of imprisonment or supervisory sanctions imposed by the court for the offense to which the petition to expunge pertains to the date of the application for the certificate of eligibility. This period of time must be no less than one year in length.

The bill also retains the requirement that a court only expunge a record pertaining to one arrest or one incident of alleged criminal activity, unless the court finds that the additional arrests are directly related to the original arrest and provides written documentation of the intent to expunge such additional arrests.

### *Nonjudicial Sealing*

The bill amends s. 943.059, F.S., requiring specified records to be sealed without petitioning the court. A person may apply to FDLE for the nonjudicial sealing of one criminal history record of a minor or adult relating to cases in which a person:

- Received a withhold of adjudication from the court; or
- Was convicted of a “nonviolent misdemeanor.”

The bill defines “nonviolent misdemeanor” to include misdemeanor violations of the following offenses:

- Misrepresent or misstate one’s age or the age of any other person to induce another to sell, give, serve, or deliver alcoholic beverages to a minor, or for any person under 21 years of age to purchase or attempt to purchase alcoholic beverages;
- Possession of alcohol by a minor;
- Make or cause a false fire alarm;
- Criminal mischief;
- Trespass in structure or conveyance;
- Trespass on property other than structure or conveyance;
- Willful removal or destruction of a posted notice intended to legally enclose property;
- Unauthorized placement of signs upon land or trees adjacent to public highways;
- Breaking or injuring another property owner’s fences;
- Cave vandalism and other related offenses;
- Petit Theft;
- Nuisances;
- Building bonfires within specified distance to a home or building;
- Disorderly intoxication;
- Open house parties;
- Unlawful assemblies;
- Delivery of 20 grams or less of cannabis;
- Possession of 20 grams or less of cannabis;
- Possession of drug paraphernalia; or
- Any offense found in chs. 316-324, F.S., unless the violation of such offense directly caused serious bodily injury or death to a person.



A criminal history record may not be approved for nonjudicial sealing if the:

- Person seeking the sealing has, at any time prior to the date of the application for nonjudicial sealing, been adjudicated guilty or delinquent for a felony; or
- Record relates to a prohibited listed offense, regardless of whether the court withheld adjudication.

The bill authorizes FDLE to approve the nonjudicial sealing under s. 943.059, F.S., of a record related to one arrest or one incident of alleged criminal activity, unless the state attorney or statewide prosecutor provides supporting documentation that additional arrests are directly related to the arrest sought to be sealed. If FDLE approves the sealing of such additional arrests, the approval form must express the intent to do so. The bill provides the applicant the right to appeal to the circuit court if the state attorney or statewide prosecutor denies that the additional arrests are directly related.

To apply for a nonjudicial sealing under s. 943.059, F.S., the bill requires a person to include:

- A written, certified statement from the appropriate state attorney or statewide prosecutor which indicates that the criminal history record sought to be sealed is eligible;
- If applicable, a written, certified statement from the appropriate state attorney or statewide prosecutor which indicates that any additional arrests the applicant seeks to seal are directly related to the original arrest;
- A \$75 processing fee to FDLE for placement in the FDLE Operating Trust Fund, unless such fee is waived by the executive director;
- A certified copy of the disposition of the charge to which the application to seal pertains;
- A full set of fingerprints of the applicant taken by a law enforcement agency for purposes of identity verification; and
- A sworn, written statement<sup>24</sup> from the person seeking the sealing that he or she:
  - Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the application to seal pertains;
  - Has never secured a prior sealing or expunction of a criminal history record under ss. 943.0585 or 943.059, F.S., or former ss. 893.14, 901.33, or 943.058, F.S.; and
  - Has not been arrested for or charged with a criminal offense, in any jurisdiction of the state or within the United States, from the date the person completed all sentences of imprisonment or supervisory sanctions imposed by the court for the offense to which the petition to expunge pertains to the date of the application for the certificate of eligibility.<sup>25</sup>

Upon approval of a nonjudicial sealing, FDLE must forward a certified copy of the form approving the nonjudicial sealing to the state attorney or statewide prosecutor, the arresting agency, the clerk of the court, and the FBI. The arresting agency must forward the approval form to any other agency that it disseminated the criminal history record information to which the form pertains. Lastly, the clerk of the court must forward a copy of the form to any other agency which the records of the court reflect has received the criminal history record from the court.

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<sup>24</sup> The bill provides it is a third degree felony for a person to knowingly provide false information on this sworn statement.

<sup>25</sup> This period of time must be no less than one year in length.

The bill does not alter current law as it relates to how the record is treated once an order to seal is granted, or the persons that have access to the record that has been sealed (i.e. that the record continues to be maintained by FDLE and other criminal justice agencies, specified persons can access the sealed record, and the list of entities to which the person may not lawfully deny the existence of the sealed record).

It should be noted that a person whose record related to a withhold of adjudication that is nonjudicially sealed under s. 943.059, F.S., is not barred from subsequently obtaining a court-ordered expunction of that same record.

The bill provides FDLE with authority to adopt a rule pursuant to ch. 120, F.S., for the nonjudicial sealing of any criminal history record of a minor or an adult described in this section.

### **Automatic Expunction of Criminal History Records of Minors**

The bill amends s. 943.0515, F.S., to require all records maintained by FDLE related to minors that are not classified as serious or habitual juvenile offenders to be automatically expunged when the minor reaches the age of 21, so long as one of the following exceptions does not apply:

- A person 18 years of age or older is charged with or convicted of a forcible felony and the person's criminal history record as a minor has not yet been destroyed;
- At any time, a minor is adjudicated as an adult for a forcible felony; or
- The record relates to a minor who was adjudicated delinquent for a violation committed on or after July 1, 2007, as provided in s. 943.0435(1)(a)1.d., F.S.<sup>26</sup>

The automatic expunction of records related to juveniles who are classified as serious or habitual juvenile offenders remains at 26 years of age.

The bill takes effect on October 1, 2015.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

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<sup>26</sup> See *supra* note 20.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

More persons will be eligible to have their criminal history records sealed or expunged under the bill, resulting in a potentially positive economic benefit to them as they look for employment.

**C. Government Sector Impact:**

The bill expands the expunction and sealing process by making more offenses eligible for expunction and sealing. The bill also increases the number of times a person may have a record expunged or sealed. To the extent that this results in more people submitting the \$75 fee to FDLE to obtain a certificate of eligibility, the bill may result in a positive fiscal impact on FDLE.

The bill creates a nonjudicial process for expunction and sealing. FDLE will have to train staff on how to conduct these programs in accordance with the provision of the bill. Additionally, the expansion of the expunction and sealing laws will likely result in an increased workload to FDLE as it will require staff to process more applications for certificates of eligibility. To the extent that expanding these provisions results in an increased workload, the bill will likely result in a negative fiscal impact on FDLE.

FDLE will also be required to update the CJIP program where criminal history information is stored to update the new age requirements for expunction of juvenile records under s. 943.0515, F.S. This will likely result in a negative fiscal impact on FDLE.

By creating the nonjudicial expunction and sealing process, courts will no longer need to conduct as many hearings to determine if it is appropriate to grant a petition. To the extent that the bill results in less court hearings, the decreased workload will likely result in a positive fiscal impact on the court system.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 943.0515, 943.0585 and 943.059.

This bill creates the following section of the Florida Statutes: 943.0584.

The bill makes conforming and technical changes to the following sections of the Florida Statutes: 776.09, 790.23, 943.0582, 948.08, 948.16, 961.06, 985.04, 985.045, and 985.345.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on March 23, 2015:**

- Deletes the original expunction provisions in the bill.
- Deletes the juvenile diversion expunction provisions in the bill.
- Creates a nonjudicial process for the expunction and sealing of criminal history records.
- Allows a person to obtain:
  - An unlimited number of “nonjudicial expunctions” for records that resulted in a no-information, a dismissal, a dismissal based on the lawful self-defense exception, or a not guilty verdict, regardless of whether the person has previous misdemeanor or felony convictions;
  - One court-ordered expunction of a record that resulted in a withhold of adjudication, regardless of whether the person has a previous misdemeanor conviction; and either
  - One “nonjudicial sealing” of a record that resulted in a withhold of adjudication, regardless of whether the person has a previous misdemeanor conviction, or
  - One “nonjudicial sealing” of a record that resulted in a conviction for a specified “nonviolent misdemeanor,” regardless of whether the person has a previous misdemeanor conviction.

Requires all criminal history records maintained by FDLE related to minors that are not classified as serious or habitual juvenile offenders to be automatically expunged when the minor reaches the age of 21 years with certain exceptions.

**B. Amendments:**

None.