

HB 7107

2015

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 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:

23  
24           Section 1. Subsection (6) of section 943.0584, Florida  
25   Statutes, as created by HB 7105, is amended to read:

26           943.0584 Nonjudicial expunction of criminal history

27 records.—

28 (6) EFFECT OF NONJUDICIAL EXPUNCTION.—

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

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

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 40 repealed on October 2, 2020, unless reviewed and saved from  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

42 Section 2. Paragraphs (b), (c), and (d) of subsection (7)  
 43 of section 943.0585, Florida Statutes, as amended by HB 7105,  
 44 are redesignated as paragraphs (c), (d), and (f), respectively,  
 45 new paragraphs (b) and (e) are added to that subsection, and  
 46 present paragraph (c) is amended, to read:

47 943.0585 Court-ordered expunction of criminal history  
 48 records.—

49 (7) EFFECT OF EXPUNCTION.—

50 (b)1. A criminal history record that is ordered expunged  
 51 under this section and that is retained by the department is  
 52 confidential and exempt from the provisions of s. 119.07(1) and

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53 s. 24(a), Art. I of the State Constitution and is not available  
54 to any person or entity except upon order of a court of  
55 competent jurisdiction. A criminal justice agency may retain a  
56 notation indicating compliance with an order to expunge.

57 2. This paragraph is subject to the Open Government Sunset  
58 Review Act in accordance with s. 119.15 and shall stand repealed  
59 on October 2, 2020, unless reviewed and saved from repeal  
60 through reenactment by the Legislature.

61 (d)(e) Subject to the exceptions in paragraph (c) ~~(b)~~, a  
62 person who has been granted an expunction under this section, s.  
63 943.0584, former s. 893.14, former s. 901.33, or former s.  
64 943.058 may not be held under any law of this state to commit  
65 perjury or to be otherwise liable for giving a false statement  
66 by reason of such person's failure to recite or acknowledge an  
67 expunged criminal history record.

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

72 2. The existence of a confidential and exempt criminal  
73 history record expunged under this section may be disclosed by  
74 the department to the entities set forth in subparagraphs (c)1.,  
75 4., 5., 6., 7., and 8. for their respective licensing, access  
76 authorization, and employment purposes, and to criminal justice  
77 agencies for their respective criminal justice purposes. It is  
78 unlawful for any employee of an entity set forth in

79 subparagraphs (c)1., 4., 5., 6., 7., or 8. to disclose  
 80 information relating to the existence of an expunged criminal  
 81 history record of a person seeking employment, access  
 82 authorization, or licensure with such entity or contractor,  
 83 except to the person to whom the criminal history record relates  
 84 or to persons having direct responsibility for employment,  
 85 access authorization, or licensure decisions.

86 3. A person who violates this paragraph commits a  
 87 misdemeanor of the first degree, punishable as provided in s.  
 88 775.082 or s. 775.083.

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

93 Section 3. Paragraphs (a), (b), and (c) of subsection (7)  
 94 of section 943.059, Florida Statutes, as amended by HB 7105, are  
 95 redesignated as paragraphs (b), (c), and (e), respectively, new  
 96 paragraphs (a) and (d) are added to that subsection, and present  
 97 paragraph (b) is amended, to read:

98 943.059 Nonjudicial sealing of criminal history records.—

99 (7) EFFECT OF SEALING.—

100 (a)1. Any criminal history record of an adult or a minor  
 101 described in paragraph (2)(a) which is approved for nonjudicial  
 102 sealing by the department pursuant to this section is  
 103 confidential and exempt from the provisions of s. 119.07(1) and  
 104 s. 24(a), Art. I of the State Constitution.

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

107        a. The person who is the subject of the record or to the  
 108 subject's attorney.

109        b. To a criminal justice agency in the furtherance of its  
 110 lawful duties and responsibilities, which include conducting a  
 111 criminal history background check for approval of firearms  
 112 purchases or transfers as authorized by state or federal law.

113        c. To a judge in the state courts system for the purpose  
 114 of assisting in case-related decisionmaking responsibilities as  
 115 set forth in s. 943.053(5).

116        d. To those entities set forth in subparagraphs (c)1., 4.,  
 117 5., 6., 8., 9., and 10. for their respective licensing, access  
 118 authorization, and employment purposes.

119        3. This paragraph is subject to the Open Government Sunset  
 120 Review Act in accordance with s. 119.15 and shall stand repealed  
 121 on October 2, 2020, unless reviewed and saved from repeal  
 122 through reenactment by the Legislature.

123        (c) ~~(b)~~ Subject to the exceptions in paragraph (b) ~~(a)~~, a  
 124 person who has been granted a sealing under this section, former  
 125 s. 893.14, former s. 901.33, or former s. 943.058 may not be  
 126 held under any provision of law of this state to commit perjury  
 127 or to be otherwise liable for giving a false statement by reason  
 128 of such person's failure to recite or acknowledge a sealed  
 129 criminal history record.

130        (d) Information relating to the existence of a sealed

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131 criminal history record which is provided in accordance with  
132 paragraph (b) is confidential and exempt from the provisions of  
133 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
134 except that the department shall disclose the sealed criminal  
135 history record to the entities set forth in subparagraphs (b)1.,  
136 4., 5., 6., 8., 9., and 10. for their respective licensing,  
137 access authorization, and employment purposes, and to criminal  
138 justice agencies for their respective criminal justice purposes.  
139 It is unlawful for any employee of an entity set forth in  
140 subparagraphs (b)1., 4., 5., 6., 8., 9., or 10. to disclose  
141 information relating to the existence of a sealed criminal  
142 history record of a person seeking employment, access  
143 authorization, or licensure with such entity or contractor,  
144 except to the person to whom the criminal history record relates  
145 or to persons having direct responsibility for employment,  
146 access authorization, or licensure decisions. A person who  
147 violates this paragraph commits a misdemeanor of the first  
148 degree, punishable as provided in s. 775.082 or s. 775.083.

149       Section 4. The Legislature finds that it is a public  
150 necessity that the criminal history records of an adult or minor  
151 that have been expunged or sealed pursuant to s. 943.0584, s.  
152 943.0585, or s. 943.059, Florida Statutes, be made confidential  
153 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
154 Article I of the State Constitution. Many people whose  
155 prosecutions have been abandoned, were found not guilty  
156 subsequent to a jury trial, or who have completed any sanctions

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157 imposed by the court in the criminal or juvenile justice system  
158 have found it difficult to obtain employment. The presence of a  
159 criminal history record in these individuals' past creates an  
160 unnecessary barrier to becoming productive members of society  
161 and can jeopardize individuals' ability to achieve a safe  
162 livelihood. The Legislature therefore finds that it is in the  
163 best interest of the public that persons are given the  
164 opportunity to become contributing members of society.

165 Section 5. This act shall take effect on the same date  
166 that HB 7105 or similar legislation relating to expunging and  
167 sealing of criminal history records takes effect, if such  
168 legislation is adopted in the same legislative session or an  
169 extension thereof and becomes a law.