

By Senator Sachs

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1 A bill to be entitled
2 An act relating to sealing of criminal history
3 records; amending s. 943.059, F.S.; providing that a
4 person with a single conviction of driving while under
5 the influence may seek the court-ordered sealing of a
6 criminal history record related to a subsequent
7 offense; providing an effective date.
8

9 Be It Enacted by the Legislature of the State of Florida:
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11 Section 1. Subsections (1) and (2) of section 943.059,
12 Florida Statutes, are amended to read:

13 943.059 Court-ordered sealing of criminal history records.—
14 The courts of this state shall continue to have jurisdiction
15 over their own procedures, including the maintenance, sealing,
16 and correction of judicial records containing criminal history
17 information to the extent such procedures are not inconsistent
18 with the conditions, responsibilities, and duties established by
19 this section. Any court of competent jurisdiction may order a
20 criminal justice agency to seal the criminal history record of a
21 minor or an adult who complies with the requirements of this
22 section. The court shall not order a criminal justice agency to
23 seal a criminal history record until the person seeking to seal
24 a criminal history record has applied for and received a
25 certificate of eligibility for sealing pursuant to subsection
26 (2). A criminal history record that relates to a violation of s.
27 393.135, s. 394.4593, s.787.025, chapter 794, former s. 796.03,
28 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
29 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
30 s. 916.1075, a violation enumerated in s. 907.041, or any
31 violation specified as a predicate offense for registration as a
32 sexual predator pursuant to s. 775.21, without regard to whether

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33 that offense alone is sufficient to require such registration,
34 or for registration as a sexual offender pursuant to s.
35 943.0435, may not be sealed, without regard to whether
36 adjudication was withheld, if the defendant was found guilty of
37 or pled guilty or nolo contendere to the offense, or if the
38 defendant, as a minor, was found to have committed or pled
39 guilty or nolo contendere to committing the offense as a
40 delinquent act. The court may only order sealing of a criminal
41 history record pertaining to one arrest or one incident of
42 alleged criminal activity, except as provided in this section.
43 The court may, at its sole discretion, order the sealing of a
44 criminal history record pertaining to more than one arrest if
45 the additional arrests directly relate to the original arrest.
46 If the court intends to order the sealing of records pertaining
47 to such additional arrests, such intent must be specified in the
48 order. A criminal justice agency may not seal any record
49 pertaining to such additional arrests if the order to seal does
50 not articulate the intention of the court to seal records
51 pertaining to more than one arrest. This section does not
52 prevent the court from ordering the sealing of only a portion of
53 a criminal history record pertaining to one arrest or one
54 incident of alleged criminal activity. Notwithstanding any law
55 to the contrary, a criminal justice agency may comply with laws,
56 court orders, and official requests of other jurisdictions
57 relating to sealing, correction, or confidential handling of
58 criminal history records or information derived therefrom. This
59 section does not confer any right to the sealing of any criminal
60 history record, and any request for sealing a criminal history
61 record may be denied at the sole discretion of the court.

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62 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each
63 petition to a court to seal a criminal history record is
64 complete only when accompanied by:

65 (a) A valid certificate of eligibility for sealing issued
66 by the department pursuant to subsection (2).

67 (b) The petitioner's sworn statement attesting that the
68 petitioner:

69 1. Has never, prior to the date on which the petition is
70 filed, been adjudicated guilty of a criminal offense or
71 comparable ordinance violation, excluding a single conviction
72 under s. 316.193(1), or been adjudicated delinquent for
73 committing any felony or a misdemeanor specified in s.
74 943.051(3)(b).

75 2. Has not been adjudicated guilty of or adjudicated
76 delinquent for committing any of the acts stemming from the
77 arrest or alleged criminal activity to which the petition to
78 seal pertains, excluding a single conviction under s.
79 316.193(1).

80 3. Has never secured a prior sealing or expunction of a
81 criminal history record under this section, s. 943.0585, former
82 s. 893.14, former s. 901.33, or former s. 943.058.

83 4. Is eligible for such a sealing to the best of his or her
84 knowledge or belief and does not have any other petition to seal
85 or any petition to expunge pending before any court.

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87 Any person who knowingly provides false information on such
88 sworn statement to the court commits a felony of the third
89 degree, punishable as provided in s. 775.082, s. 775.083, or s.
90 775.084.

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91 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to
92 petitioning the court to seal a criminal history record, a
93 person seeking to seal a criminal history record shall apply to
94 the department for a certificate of eligibility for sealing. The
95 department shall, by rule adopted pursuant to chapter 120,
96 establish procedures pertaining to the application for and
97 issuance of certificates of eligibility for sealing. A
98 certificate of eligibility for sealing is valid for 12 months
99 after the date stamped on the certificate when issued by the
100 department. After that time, the petitioner must reapply to the
101 department for a new certificate of eligibility. Eligibility for
102 a renewed certification of eligibility must be based on the
103 status of the applicant and the law in effect at the time of the
104 renewal application. The department shall issue a certificate of
105 eligibility for sealing to a person who is the subject of a
106 criminal history record provided that such person:

107 (a) Has submitted to the department a certified copy of the
108 disposition of the charge to which the petition to seal
109 pertains.

110 (b) Remits a \$75 processing fee to the department for
111 placement in the Department of Law Enforcement Operating Trust
112 Fund, unless such fee is waived by the executive director.

113 (c) Has never, prior to the date on which the application
114 for a certificate of eligibility is filed, been adjudicated
115 guilty of a criminal offense or comparable ordinance violation,
116 excluding a single conviction under s. 316.193(1), or been
117 adjudicated delinquent for committing any felony or a
118 misdemeanor specified in s. 943.051(3)(b).

119 (d) Has not been adjudicated guilty of or adjudicated

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120 delinquent for committing any of the acts stemming from the
121 arrest or alleged criminal activity to which the petition to
122 seal pertains, excluding a single conviction under s.
123 316.193(1).

124 (e) Has never secured a prior sealing or expunction of a
125 criminal history record under this section, s. 943.0585, former
126 s. 893.14, former s. 901.33, or former s. 943.058.

127 (f) Is no longer under court supervision applicable to the
128 disposition of the arrest or alleged criminal activity to which
129 the petition to seal pertains.

130 Section 2. This act shall take effect July 1, 2016.