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594-01812-16

Proposed Committee Substitute by the Committee on Fiscal Policy
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to expunction of records of minors;
amending s. 790.23, F.S.; creating an exception for
specified minors who, prior to attaining 21 years of
age, had a criminal history record expunged; amending
s. 943.0515, F.S.; decreasing the period of time that
a minor's criminal history record must be retained
before expunction; authorizing specified minors to
apply for expunction of a criminal history record
under certain circumstances; establishing an
application process and requiring that specified
documentation be submitted to the Department of Law
Enforcement; requiring that specified fees be
deposited into the Department of Law Enforcement
Operating Trust Fund; requiring a sworn written
statement from the applicant; providing a criminal
penalty for perjury on such sworn written statement;
amending s. 943.0582, F.S.; deleting a limitation on
the period of time within which a minor must submit an
application for prearrest or postarrest diversion
expunction to the Department of Law Enforcement after
successful completion of the diversion program;
reenacting s. 985.125(3), F.S., relating to prearrest
and postarrest diversion programs, to incorporate the
amendment made to s. 943.0582, F.S., in a reference
thereto; providing an effective date.



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28 Be It Enacted by the Legislature of the State of Florida:

29

30 Section 1. Subsection (2) of section 790.23, Florida
31 Statutes, is amended to read:

32 790.23 Felons and delinquents; possession of firearms,
33 ammunition, or electric weapons or devices unlawful.—

34 (2) This section shall not apply to a person:

35 (a) Convicted of a felony whose civil rights and firearm
36 authority have been restored.

37 (b) Whose criminal history record has been expunged
38 pursuant to s. 943.0515(1) (b).

39 Section 2. Paragraph (b) of subsection (1) of section
40 943.0515, Florida Statutes, is amended to read:

41 943.0515 Retention of criminal history records of minors.—

42 (1)

43 (b)1. If the minor is not classified as a serious or
44 habitual juvenile offender or committed to a juvenile
45 correctional facility or juvenile prison under chapter 985, the
46 program shall retain the minor's criminal history record for 2 ½
47 years after the date the minor reaches 19 years of age, at which
48 time the record shall be expunged unless it meets the criteria
49 of paragraph (2) (a) or paragraph (2) (b).

50 2. A minor described in subparagraph 1. may apply to the
51 department to have his or her criminal history record expunged
52 before the minor reaches 21 years of age. To be eligible for
53 expunction under this subparagraph, the minor must be 18 years
54 of age or older and less than 21 years of age and have not been
55 charged by the state attorney with or found to have committed
56 any criminal offense within the 5-year period before the



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57 application date. The only offenses eligible to be expunged
58 under this subparagraph are those that the minor committed
59 before the minor reached 18 years of age. A criminal history
60 record expunged under this subparagraph requires the approval of
61 the state attorney for each circuit in which an offense
62 specified in the criminal history record occurred. A minor
63 seeking to expunge a criminal history record under this
64 subparagraph shall apply to the department for expunction in the
65 manner prescribed by rule. An application for expunction under
66 this subparagraph shall include:

67 a. A processing fee of \$75 to the department for placement
68 in the Department of Law Enforcement Operating Trust Fund,
69 unless such fee is waived by the executive director.

70 b. A full set of fingerprints of the applicant taken by a
71 law enforcement agency for purposes of identity verification.

72 c. A sworn, written statement from the minor seeking relief
73 that he or she is no longer under court supervision applicable
74 to the disposition of the arrest or alleged criminal activity to
75 which the application to expunge pertains and that he or she has
76 not been charged with or found to have committed a criminal
77 offense, in any jurisdiction of the state or within the United
78 States, within the 5-year period before the application date.

79
80 A person who knowingly provides false information on the sworn
81 statement required by this sub-subparagraph commits a felony of
82 the third degree, punishable as provided in s. 775.082, s.
83 775.083, or s. 775.084.

84 3. A minor who applies, but who is not approved for early
85 expunction in accordance with subparagraph 2., shall have his or



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86 her criminal history record expunged at age 21 if eligible under
87 subparagraph 1.

88 Section 3. Subsection (3) of section 943.0582, Florida
89 Statutes, is amended to read:

90 943.0582 Prearrest, postarrest, or teen court diversion
91 program expunction.—

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

95 (a) Submits an application for prearrest or postarrest
96 diversion expunction, on a form prescribed by the department,
97 signed by the minor's parent or legal guardian, or by the minor
98 if he or she has reached the age of majority at the time of
99 applying.

100 ~~(b) Submits the application for prearrest or postarrest~~
101 ~~diversion expunction no later than 12 months after completion of~~
102 ~~the diversion program.~~

103 (b)~~(e)~~ Submits to the department, with the application, an
104 official written statement from the state attorney for the
105 county in which the arrest occurred certifying that he or she
106 has successfully completed that county's prearrest or postarrest
107 diversion program, that his or her participation in the program
108 was based on an arrest for a nonviolent misdemeanor, and that he
109 or she has not otherwise been charged by the state attorney
110 with, or found to have committed, any criminal offense or
111 comparable ordinance violation.

112 (c)~~(d)~~ Participated in a prearrest or postarrest diversion
113 program that expressly authorizes or permits such expunction to
114 occur.



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115 (d)~~(e)~~ Participated in a prearrest or postarrest diversion
116 program based on an arrest for a nonviolent misdemeanor that
117 would not qualify as an act of domestic violence as that term is
118 defined in s. 741.28.

119 (e)~~(f)~~ Has never been, prior to filing the application for
120 expunction, ~~been~~ charged by the state attorney with, or ~~been~~
121 found to have committed, any criminal offense or comparable
122 ordinance violation.

123 Section 4. For the purpose of incorporating the amendment
124 made by this act to section 943.0582, Florida Statutes, in a
125 reference thereto, subsection (3) of section 985.125, Florida
126 Statutes, is reenacted to read:

127 985.125 Prearrest or postarrest diversion programs.—

128 (3) The prearrest or postarrest diversion program may, upon
129 agreement of the agencies that establish the program, provide
130 for the expunction of the nonjudicial arrest record of a minor
131 who successfully completes such a program pursuant to s.
132 943.0582.

133 Section 5. This act shall take effect July 1, 2016.