

1 A bill to be entitled
2 An act relating to expunction of criminal history
3 records; amending s. 943.0585, F.S.; providing that a
4 person receiving a judgment of acquittal or not guilty
5 verdict is eligible to have his or her criminal record
6 expunged; providing an effective date.

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

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10 Section 1. Paragraphs (a) and (h) of subsection (2) of
11 section 943.0585, Florida Statutes, are amended to read:

12 943.0585 Court-ordered expunction of criminal history
13 records.—The courts of this state have jurisdiction over their
14 own procedures, including the maintenance, expunction, and
15 correction of judicial records containing criminal history
16 information to the extent such procedures are not inconsistent
17 with the conditions, responsibilities, and duties established by
18 this section. Any court of competent jurisdiction may order a
19 criminal justice agency to expunge the criminal history record
20 of a minor or an adult who complies with the requirements of
21 this section. The court shall not order a criminal justice
22 agency to expunge a criminal history record until the person
23 seeking to expunge a criminal history record has applied for and
24 received a certificate of eligibility for expunction pursuant to
25 subsection (2) or subsection (5). A criminal history record that

26 | relates to a violation of s. 393.135, s. 394.4593, s. 787.025,
27 | chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,
28 | s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
29 | s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in
30 | s. 907.041, or any violation specified as a predicate offense
31 | for registration as a sexual predator pursuant to s. 775.21,
32 | without regard to whether that offense alone is sufficient to
33 | require such registration, or for registration as a sexual
34 | offender pursuant to s. 943.0435, may not be expunged, without
35 | regard to whether adjudication was withheld, if the defendant
36 | was found guilty of or pled guilty or nolo contendere to the
37 | offense, or if the defendant, as a minor, was found to have
38 | committed, or pled guilty or nolo contendere to committing, the
39 | offense as a delinquent act. The court may only order expunction
40 | of a criminal history record pertaining to one arrest or one
41 | incident of alleged criminal activity, except as provided in
42 | this section. The court may, at its sole discretion, order the
43 | expunction of a criminal history record pertaining to more than
44 | one arrest if the additional arrests directly relate to the
45 | original arrest. If the court intends to order the expunction of
46 | records pertaining to such additional arrests, such intent must
47 | be specified in the order. A criminal justice agency may not
48 | expunge any record pertaining to such additional arrests if the
49 | order to expunge does not articulate the intention of the court
50 | to expunge a record pertaining to more than one arrest. This

51 section does not prevent the court from ordering the expunction
52 of only a portion of a criminal history record pertaining to one
53 arrest or one incident of alleged criminal activity.

54 Notwithstanding any law to the contrary, a criminal justice
55 agency may comply with laws, court orders, and official requests
56 of other jurisdictions relating to expunction, correction, or
57 confidential handling of criminal history records or information
58 derived therefrom. This section does not confer any right to the
59 expunction of any criminal history record, and any request for
60 expunction of a criminal history record may be denied at the
61 sole discretion of the court.

62 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
63 petitioning the court to expunge a criminal history record, a
64 person seeking to expunge a criminal history record shall apply
65 to the department for a certificate of eligibility for
66 expunction. The department shall, by rule adopted pursuant to
67 chapter 120, establish procedures pertaining to the application
68 for and issuance of certificates of eligibility for expunction.
69 A certificate of eligibility for expunction is valid for 12
70 months after the date stamped on the certificate when issued by
71 the department. After that time, the petitioner must reapply to
72 the department for a new certificate of eligibility. Eligibility
73 for a renewed certification of eligibility must be based on the
74 status of the applicant and the law in effect at the time of the
75 renewal application. The department shall issue a certificate of

76 | eligibility for expunction to a person who is the subject of a
77 | criminal history record if that person:

78 | (a) Has obtained, and submitted to the department, a
79 | written, certified statement from the appropriate state attorney
80 | or statewide prosecutor which indicates:

81 | 1. That an indictment, information, or other charging
82 | document was not filed or issued in the case.

83 | 2. That an indictment, information, or other charging
84 | document, if filed or issued in the case, was dismissed or nolle
85 | prosequi by the state attorney or statewide prosecutor, ~~or~~ was
86 | dismissed by a court of competent jurisdiction, or that a
87 | judgment of acquittal was rendered by a judge, or that a verdict
88 | of not guilty was rendered by a judge or jury ~~and that none of~~
89 | ~~the charges related to the arrest or alleged criminal activity~~
90 | ~~to which the petition to expunge pertains resulted in a trial,~~
91 | ~~without regard to whether the outcome of the trial was other~~
92 | ~~than an adjudication of guilt.~~

93 | 3. That the criminal history record does not relate to a
94 | violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
95 | former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
96 | s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
97 | s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,
98 | or any violation specified as a predicate offense for
99 | registration as a sexual predator pursuant to s. 775.21, without
100 | regard to whether that offense alone is sufficient to require

101 such registration, or for registration as a sexual offender
102 pursuant to s. 943.0435, where the defendant was found guilty
103 of, or pled guilty or nolo contendere to any such offense, or
104 that the defendant, as a minor, was found to have committed, or
105 pled guilty or nolo contendere to committing, such an offense as
106 a delinquent act, without regard to whether adjudication was
107 withheld.

108 (h) Has previously obtained a court order sealing the
109 record under this section, former s. 893.14, former s. 901.33,
110 or former s. 943.058 for a minimum of 10 years because
111 adjudication was withheld or because all charges related to the
112 arrest or alleged criminal activity to which the petition to
113 expunge pertains were not dismissed before ~~prior to~~ trial,
114 without regard to whether the outcome of the trial was other
115 than an adjudication of guilt. The requirement for the record to
116 have previously been sealed for a minimum of 10 years does not
117 apply when a plea was not entered or all charges related to the
118 arrest or alleged criminal activity to which the petition to
119 expunge pertains were dismissed before ~~prior to~~ trial or a
120 judgment of acquittal was rendered by a judge or a verdict of
121 not guilty was rendered by a judge or jury.

122 Section 2. This act shall take effect October 1, 2018.