



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; amending s. 943.059, F.S.; revising the
 7 circumstances under which the Department of Law
 8 Enforcement must issue a certificate of eligibility
 9 for the sealing of a criminal history record;
 10 providing an effective date.

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

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

16 943.0585 Court-ordered expunction of criminal history
 17 records.—The courts of this state have jurisdiction over their
 18 own procedures, including the maintenance, expunction, and
 19 correction of judicial records containing criminal history
 20 information to the extent such procedures are not inconsistent
 21 with the conditions, responsibilities, and duties established by
 22 this section. Any court of competent jurisdiction may order a
 23 criminal justice agency to expunge the criminal history record
 24 of a minor or an adult who complies with the requirements of
 25 this section. The court shall not order a criminal justice



26 | agency to expunge a criminal history record until the person
27 | seeking to expunge a criminal history record has applied for and
28 | received a certificate of eligibility for expunction pursuant to
29 | subsection (2) or subsection (5). A criminal history record that
30 | relates to a violation of s. 393.135, s. 394.4593, s. 787.025,
31 | chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,
32 | s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
33 | s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in
34 | s. 907.041, or any violation specified as a predicate offense
35 | for registration as a sexual predator pursuant to s. 775.21,
36 | without regard to whether that offense alone is sufficient to
37 | require such registration, or for registration as a sexual
38 | offender pursuant to s. 943.0435, may not be expunged, without
39 | regard to whether adjudication was withheld, if the defendant
40 | was found guilty of or pled guilty or nolo contendere to the
41 | offense, or if the defendant, as a minor, was found to have
42 | committed, or pled guilty or nolo contendere to committing, the
43 | offense as a delinquent act. The court may only order expunction
44 | of a criminal history record pertaining to one arrest or one
45 | incident of alleged criminal activity, except as provided in
46 | this section. The court may, at its sole discretion, order the
47 | expunction of a criminal history record pertaining to more than
48 | one arrest if the additional arrests directly relate to the
49 | original arrest. If the court intends to order the expunction of
50 | records pertaining to such additional arrests, such intent must



51 | be specified in the order. A criminal justice agency may not
52 | expunge any record pertaining to such additional arrests if the
53 | order to expunge does not articulate the intention of the court
54 | to expunge a record pertaining to more than one arrest. This
55 | section does not prevent the court from ordering the expunction
56 | of only a portion of a criminal history record pertaining to one
57 | arrest or one incident of alleged criminal activity.
58 | Notwithstanding any law to the contrary, a criminal justice
59 | agency may comply with laws, court orders, and official requests
60 | of other jurisdictions relating to expunction, correction, or
61 | confidential handling of criminal history records or information
62 | derived therefrom. This section does not confer any right to the
63 | expunction of any criminal history record, and any request for
64 | expunction of a criminal history record may be denied at the
65 | sole discretion of the court.

66 | (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
67 | petitioning the court to expunge a criminal history record, a
68 | person seeking to expunge a criminal history record shall apply
69 | to the department for a certificate of eligibility for
70 | expunction. The department shall, by rule adopted pursuant to
71 | chapter 120, establish procedures pertaining to the application
72 | for and issuance of certificates of eligibility for expunction.
73 | A certificate of eligibility for expunction is valid for 12
74 | months after the date stamped on the certificate when issued by
75 | the department. After that time, the petitioner must reapply to



76 | the department for a new certificate of eligibility. Eligibility
77 | for a renewed certification of eligibility must be based on the
78 | status of the applicant and the law in effect at the time of the
79 | renewal application. The department shall issue a certificate of
80 | eligibility for expunction to a person who is the subject of a
81 | criminal history record if that person:

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

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

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

97 | 3. That the criminal history record does not relate to a
98 | violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
99 | former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
100 | s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,



101 s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,
102 or any violation specified as a predicate offense for
103 registration as a sexual predator pursuant to s. 775.21, without
104 regard to whether that offense alone is sufficient to require
105 such registration, or for registration as a sexual offender
106 pursuant to s. 943.0435, where the defendant was found guilty
107 of, or pled guilty or nolo contendere to any such offense, or
108 that the defendant, as a minor, was found to have committed, or
109 pled guilty or nolo contendere to committing, such an offense as
110 a delinquent act, without regard to whether adjudication was
111 withheld.

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



126 Section 2. Paragraphs (c) through (f) of subsection (2) of
127 section 943.059, Florida Statutes, are redesignated as
128 paragraphs (d) through (g), respectively, and a new paragraph
129 (c) is added to that subsection, to read:

130 943.059 Court-ordered sealing of criminal history
131 records.—The courts of this state shall continue to have
132 jurisdiction over their own procedures, including the
133 maintenance, sealing, and correction of judicial records
134 containing criminal history information to the extent such
135 procedures are not inconsistent with the conditions,
136 responsibilities, and duties established by this section. Any
137 court of competent jurisdiction may order a criminal justice
138 agency to seal the criminal history record of a minor or an
139 adult who complies with the requirements of this section. The
140 court shall not order a criminal justice agency to seal a
141 criminal history record until the person seeking to seal a
142 criminal history record has applied for and received a
143 certificate of eligibility for sealing pursuant to subsection
144 (2). A criminal history record that relates to a violation of s.
145 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
146 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
147 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
148 s. 916.1075, a violation enumerated in s. 907.041, or any
149 violation specified as a predicate offense for registration as a
150 sexual predator pursuant to s. 775.21, without regard to whether



151 that offense alone is sufficient to require such registration,
152 or for registration as a sexual offender pursuant to s.
153 943.0435, may not be sealed, without regard to whether
154 adjudication was withheld, if the defendant was found guilty of
155 or pled guilty or nolo contendere to the offense, or if the
156 defendant, as a minor, was found to have committed or pled
157 guilty or nolo contendere to committing the offense as a
158 delinquent act. The court may only order sealing of a criminal
159 history record pertaining to one arrest or one incident of
160 alleged criminal activity, except as provided in this section.
161 The court may, at its sole discretion, order the sealing of a
162 criminal history record pertaining to more than one arrest if
163 the additional arrests directly relate to the original arrest.
164 If the court intends to order the sealing of records pertaining
165 to such additional arrests, such intent must be specified in the
166 order. A criminal justice agency may not seal any record
167 pertaining to such additional arrests if the order to seal does
168 not articulate the intention of the court to seal records
169 pertaining to more than one arrest. This section does not
170 prevent the court from ordering the sealing of only a portion of
171 a criminal history record pertaining to one arrest or one
172 incident of alleged criminal activity. Notwithstanding any law
173 to the contrary, a criminal justice agency may comply with laws,
174 court orders, and official requests of other jurisdictions
175 relating to sealing, correction, or confidential handling of



176 criminal history records or information derived therefrom. This
177 section does not confer any right to the sealing of any criminal
178 history record, and any request for sealing a criminal history
179 record may be denied at the sole discretion of the court.

180 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to
181 petitioning the court to seal a criminal history record, a
182 person seeking to seal a criminal history record shall apply to
183 the department for a certificate of eligibility for sealing. The
184 department shall, by rule adopted pursuant to chapter 120,
185 establish procedures pertaining to the application for and
186 issuance of certificates of eligibility for sealing. A
187 certificate of eligibility for sealing is valid for 12 months
188 after the date stamped on the certificate when issued by the
189 department. After that time, the petitioner must reapply to the
190 department for a new certificate of eligibility. Eligibility for
191 a renewed certification of eligibility must be based on the
192 status of the applicant and the law in effect at the time of the
193 renewal application. The department shall issue a certificate of
194 eligibility for sealing to a person who is the subject of a
195 criminal history record provided that such person:

196 (c) Is not seeking to seal a criminal history record that
197 relates to a violation of s. 393.135, s. 394.4593, s. 787.025,
198 chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,
199 s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
200 s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in



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201 s. 907.041, or any violation specified as a predicate offense
202 for registration as a sexual predator pursuant to s. 775.21,
203 without regard to whether that offense alone is sufficient to
204 require such registration, or for registration as a sexual
205 offender pursuant to s. 943.0435, where the defendant was found
206 guilty of, or pled guilty or nolo contendere to any such
207 offense, or that the defendant, as a minor, was found to have
208 committed, or pled guilty or nolo contendere to committing, such
209 an offense as a delinquent act, without regard to whether
210 adjudication was withheld.

211 Section 3. This act shall take effect October 1, 2018.