



422842

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
10/23/2017	.	
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The Committee on Criminal Justice (Bracy) recommended the following:

1 **Senate Substitute for Amendment (631680) (with title**
2 **amendment)**

3
4 Delete lines 72 - 151

5 and insert:

6 petition is filed, been adjudicated guilty of a criminal offense
7 or comparable ordinance violation, or been adjudicated
8 delinquent for committing any felony ~~or a misdemeanor specified~~
9 ~~in s. 943.051(3)(b).~~

10 2. Has not been adjudicated delinquent for committing a



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11 misdemeanor offense specified in s. 943.051(3)(b) in the
12 previous 10 years.

13 ~~3.2.~~ Has not been adjudicated guilty of, or adjudicated
14 delinquent for committing, any of the acts stemming from the
15 arrest or alleged criminal activity to which the petition
16 pertains.

17 ~~4.3.~~ Has never secured a prior sealing or expunction of a
18 criminal history record under this section, s. 943.059, former
19 s. 893.14, former s. 901.33, or former s. 943.058, unless
20 expunction is sought of a criminal history record previously
21 sealed for 10 years pursuant to paragraph (2)(h) and the record
22 is otherwise eligible for expunction.

23 ~~5.4.~~ Is eligible for such an expunction to the best of his
24 or her knowledge or belief and does not have any other petition
25 to expunge or any petition to seal pending before any court.

26
27 Any person who knowingly provides false information on such
28 sworn statement to the court commits a felony of the third
29 degree, punishable as provided in s. 775.082, s. 775.083, or s.
30 775.084.

31 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
32 petitioning the court to expunge a criminal history record, a
33 person seeking to expunge a criminal history record shall apply
34 to the department for a certificate of eligibility for
35 expunction. The department shall, by rule adopted pursuant to
36 chapter 120, establish procedures pertaining to the application
37 for and issuance of certificates of eligibility for expunction.
38 A certificate of eligibility for expunction is valid for 12
39 months after the date stamped on the certificate when issued by



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40 the department. After that time, the petitioner must reapply to
41 the department for a new certificate of eligibility. Eligibility
42 for a renewed certification of eligibility must be based on the
43 status of the applicant and the law in effect at the time of the
44 renewal application. The department shall issue a certificate of
45 eligibility for expunction to a person who is the subject of a
46 criminal history record if that person:

47 (a) Has obtained, and submitted to the department, a
48 written, certified statement from the appropriate state attorney
49 or statewide prosecutor which indicates:

50 1. That an indictment, information, or other charging
51 document was not filed or issued in the case.

52 2. That an indictment, information, or other charging
53 document, if filed or issued in the case, was dismissed or nolle
54 prosequi by the state attorney or statewide prosecutor, or was
55 dismissed by a court of competent jurisdiction, that a judgment
56 of acquittal was rendered by a judge, or that a verdict of not
57 guilty was rendered by a judge or jury and that none of the
58 charges related to the arrest or alleged criminal activity to
59 which the petition to expunge pertains resulted in a trial,
60 without regard to whether the outcome of the trial was other
61 than an adjudication of guilt.

62 3. That the criminal history record does not relate to a
63 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
64 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
65 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
66 s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,
67 or any violation specified as a predicate offense for
68 registration as a sexual predator pursuant to s. 775.21, without



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69 regard to whether that offense alone is sufficient to require
70 such registration, or for registration as a sexual offender
71 pursuant to s. 943.0435, where the defendant was found guilty
72 of, or pled guilty or nolo contendere to any such offense, or
73 that the defendant, as a minor, was found to have committed, or
74 pled guilty or nolo contendere to committing, such an offense as
75 a delinquent act, without regard to whether adjudication was
76 withheld.

77 (d)1. Has never, before ~~prior to~~ the date on which the
78 application for a certificate of eligibility is filed, been
79 adjudicated guilty of a criminal offense or comparable ordinance
80 violation, or been adjudicated delinquent for committing any
81 felony ~~or a misdemeanor specified in s. 943.051(3)(b).~~

82 2. Has not been adjudicated delinquent for committing a
83 misdemeanor offense specified in s. 943.051(3)(b) in the
84 previous 10 years.

85 Section 2. Paragraph (b) of subsection (1) and paragraph
86 (c) of subsection (2) of section 943.059, Florida Statutes, are
87 amended to read:

88 943.059 Court-ordered sealing of criminal history records.—
89 The courts of this state shall continue to have jurisdiction
90 over their own procedures, including the maintenance, sealing,
91 and correction of judicial records containing criminal history
92 information to the extent such procedures are not inconsistent
93 with the conditions, responsibilities, and duties established by
94 this section. Any court of competent jurisdiction may order a
95 criminal justice agency to seal the criminal history record of a
96 minor or an adult who complies with the requirements of this
97 section. The court shall not order a criminal justice agency to



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98 seal a criminal history record until the person seeking to seal
99 a criminal history record has applied for and received a
100 certificate of eligibility for sealing pursuant to subsection
101 (2). A criminal history record that relates to a violation of s.
102 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
103 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
104 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
105 s. 916.1075, a violation enumerated in s. 907.041, or any
106 violation specified as a predicate offense for registration as a
107 sexual predator pursuant to s. 775.21, without regard to whether
108 that offense alone is sufficient to require such registration,
109 or for registration as a sexual offender pursuant to s.
110 943.0435, may not be sealed, without regard to whether
111 adjudication was withheld, if the defendant was found guilty of
112 or pled guilty or nolo contendere to the offense, or if the
113 defendant, as a minor, was found to have committed or pled
114 guilty or nolo contendere to committing the offense as a
115 delinquent act. The court may only order sealing of a criminal
116 history record pertaining to one arrest or one incident of
117 alleged criminal activity, except as provided in this section.
118 The court may, at its sole discretion, order the sealing of a
119 criminal history record pertaining to more than one arrest if
120 the additional arrests directly relate to the original arrest.
121 If the court intends to order the sealing of records pertaining
122 to such additional arrests, such intent must be specified in the
123 order. A criminal justice agency may not seal any record
124 pertaining to such additional arrests if the order to seal does
125 not articulate the intention of the court to seal records
126 pertaining to more than one arrest. This section does not



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127 prevent the court from ordering the sealing of only a portion of
128 a criminal history record pertaining to one arrest or one
129 incident of alleged criminal activity. Notwithstanding any law
130 to the contrary, a criminal justice agency may comply with laws,
131 court orders, and official requests of other jurisdictions
132 relating to sealing, correction, or confidential handling of
133 criminal history records or information derived therefrom. This
134 section does not confer any right to the sealing of any criminal
135 history record, and any request for sealing a criminal history
136 record may be denied at the sole discretion of the court.

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

140 (b) The petitioner's sworn statement attesting that the
141 petitioner:

142 1. Has never, before ~~prior to~~ the date on which the
143 petition is filed, been adjudicated guilty of a criminal offense
144 or comparable ordinance violation, or been adjudicated
145 delinquent for committing any felony ~~or a misdemeanor specified~~
146 ~~in s. 943.051(3)(b).~~

147 2. Has not been adjudicated delinquent for committing a
148 misdemeanor offense specified in s. 943.051(3)(b) in the
149 previous 10 years.

150 ~~3.2.~~ Has not been adjudicated guilty of or adjudicated
151 delinquent for committing any of the acts stemming from the
152 arrest or alleged criminal activity to which the petition to
153 seal pertains.

154 ~~4.3.~~ Has never secured a prior sealing or expunction of a
155 criminal history record under this section, s. 943.0585, former



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156 s. 893.14, former s. 901.33, or former s. 943.058.

157 ~~5.4.~~ Is eligible for such a sealing to the best of his or
158 her knowledge or belief and does not have any other petition to
159 seal or any petition to expunge pending before any court.

160

161 Any person who knowingly provides false information on such
162 sworn statement to the court commits a felony of the third
163 degree, punishable as provided in s. 775.082, s. 775.083, or s.
164 775.084.

165 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to
166 petitioning the court to seal a criminal history record, a
167 person seeking to seal a criminal history record shall apply to
168 the department for a certificate of eligibility for sealing. The
169 department shall, by rule adopted pursuant to chapter 120,
170 establish procedures pertaining to the application for and
171 issuance of certificates of eligibility for sealing. A
172 certificate of eligibility for sealing is valid for 12 months
173 after the date stamped on the certificate when issued by the
174 department. After that time, the petitioner must reapply to the
175 department for a new certificate of eligibility. Eligibility for
176 a renewed certification of eligibility must be based on the
177 status of the applicant and the law in effect at the time of the
178 renewal application. The department shall issue a certificate of
179 eligibility for sealing to a person who is the subject of a
180 criminal history record provided that such person:

181 (c)1. Has never, before ~~prior to~~ the date on which the
182 application for a certificate of eligibility is filed, been
183 adjudicated guilty of a criminal offense or comparable ordinance
184 violation, or been adjudicated delinquent for committing any



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185 ~~felony or a misdemeanor specified in s. 943.051(3)(b).~~

186 2. Has not been adjudicated delinquent for committing a
187 misdemeanor offense specified in s. 943.051(3)(b) in the
188 previous 10 years.

189

190 ===== T I T L E A M E N D M E N T =====

191 And the title is amended as follows:

192 Delete lines 2 - 8

193 and insert:

194 An act relating to criminal history records; amending
195 s. 943.0585, F.S.; revising the elements that must be
196 attested to by a petitioner in a statement submitted
197 in support of the expunction of a criminal history
198 record; revising the circumstances under which the
199 Department of Law Enforcement must issue a certificate
200 of eligibility for expunction of a criminal history
201 record; amending s. 943.059, F.S.; revising the
202 elements that must be attested to by a petitioner in a
203 statement submitted in support of the sealing of a
204 criminal history record; revising the circumstances
205 under which the Department of Law Enforcement must
206 issue a certificate of eligibility for sealing of a