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LEGISLATIVE ACTION

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

Senate Amendment (with title amendment)

Between lines 151 and 152
insert:

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

943.059 Court-ordered sealing of criminal history records.—
The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing,



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11 and correction of judicial records containing criminal history
12 information to the extent such procedures are not inconsistent
13 with the conditions, responsibilities, and duties established by
14 this section. Any court of competent jurisdiction may order a
15 criminal justice agency to seal the criminal history record of a
16 minor or an adult who complies with the requirements of this
17 section. The court shall not order a criminal justice agency to
18 seal a criminal history record until the person seeking to seal
19 a criminal history record has applied for and received a
20 certificate of eligibility for sealing pursuant to subsection
21 (2). A criminal history record that relates to a violation of s.
22 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
23 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
24 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
25 s. 916.1075, a violation enumerated in s. 907.041, or any
26 violation specified as a predicate offense for registration as a
27 sexual predator pursuant to s. 775.21, without regard to whether
28 that offense alone is sufficient to require such registration,
29 or for registration as a sexual offender pursuant to s.
30 943.0435, may not be sealed, without regard to whether
31 adjudication was withheld, if the defendant was found guilty of
32 or pled guilty or nolo contendere to the offense, or if the
33 defendant, as a minor, was found to have committed or pled
34 guilty or nolo contendere to committing the offense as a
35 delinquent act. The court may only order sealing of a criminal
36 history record pertaining to one arrest or one incident of
37 alleged criminal activity, except as provided in this section.
38 The court may, at its sole discretion, order the sealing of a
39 criminal history record pertaining to more than one arrest if



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40 the additional arrests directly relate to the original arrest.
41 If the court intends to order the sealing of records pertaining
42 to such additional arrests, such intent must be specified in the
43 order. A criminal justice agency may not seal any record
44 pertaining to such additional arrests if the order to seal does
45 not articulate the intention of the court to seal records
46 pertaining to more than one arrest. This section does not
47 prevent the court from ordering the sealing of only a portion of
48 a criminal history record pertaining to one arrest or one
49 incident of alleged criminal activity. Notwithstanding any law
50 to the contrary, a criminal justice agency may comply with laws,
51 court orders, and official requests of other jurisdictions
52 relating to sealing, correction, or confidential handling of
53 criminal history records or information derived therefrom. This
54 section does not confer any right to the sealing of any criminal
55 history record, and any request for sealing a criminal history
56 record may be denied at the sole discretion of the court.

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

60 (b) The petitioner's sworn statement attesting that the
61 petitioner:

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

67 2. Has not been adjudicated guilty of a misdemeanor offense
68 or been adjudicated delinquent for committing a misdemeanor



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69 offense specified in s. 943.051(3)(b) in the previous 10 years.

70 ~~3.2.~~ Has not been adjudicated guilty of or adjudicated
71 delinquent for committing any of the acts stemming from the
72 arrest or alleged criminal activity to which the petition to
73 seal pertains.

74 ~~4.3.~~ Has never secured a prior sealing or expunction of a
75 criminal history record under this section, s. 943.0585, former
76 s. 893.14, former s. 901.33, or former s. 943.058.

77 ~~5.4.~~ Is eligible for such a sealing to the best of his or
78 her knowledge or belief and does not have any other petition to
79 seal or any petition to expunge pending before any court.

80

81 Any person who knowingly provides false information on such
82 sworn statement to the court commits a felony of the third
83 degree, punishable as provided in s. 775.082, s. 775.083, or s.
84 775.084.

85 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to
86 petitioning the court to seal a criminal history record, a
87 person seeking to seal a criminal history record shall apply to
88 the department for a certificate of eligibility for sealing. The
89 department shall, by rule adopted pursuant to chapter 120,
90 establish procedures pertaining to the application for and
91 issuance of certificates of eligibility for sealing. A
92 certificate of eligibility for sealing is valid for 12 months
93 after the date stamped on the certificate when issued by the
94 department. After that time, the petitioner must reapply to the
95 department for a new certificate of eligibility. Eligibility for
96 a renewed certification of eligibility must be based on the
97 status of the applicant and the law in effect at the time of the



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98 renewal application. The department shall issue a certificate of
99 eligibility for sealing to a person who is the subject of a
100 criminal history record provided that such person:

101 (c)1. Has never, before ~~prior to~~ the date on which the
102 application for a certificate of eligibility is filed, been
103 adjudicated guilty of a felony ~~criminal~~ offense or comparable
104 ordinance violation, or been adjudicated delinquent for
105 committing any felony ~~or a misdemeanor specified in s.~~
106 ~~943.051(3)(b).~~

107 2. Has not been adjudicated guilty of a misdemeanor offense
108 or been adjudicated delinquent for committing a misdemeanor
109 offense specified in s. 943.051(3)(b) in the previous 10 years.
110

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

112 And the title is amended as follows:

113 Delete lines 2 - 8

114 and insert:

115 An act relating to criminal history records; amending
116 s. 943.0585, F.S.; revising the elements that must be
117 attested to by a petitioner in a statement submitted
118 in support of the expunction of a criminal history
119 record; revising the circumstances under which the
120 Department of Law Enforcement must issue a certificate
121 of eligibility for expunction of a criminal history
122 record; amending s. 943.059, F.S.; revising the
123 elements that must be attested to by a petitioner in a
124 statement submitted in support of the sealing of a
125 criminal history record; revising the circumstances
126 under which the Department of Law Enforcement must



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issue a certificate of eligibility for sealing of a