

By Senator Bracy

11-00957-19

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 943.059, F.S.; expanding an existing public records
4 exemption to include the administrative sealing of
5 specified criminal history records; conforming
6 provisions to changes made by the act; providing for
7 future review and repeal of the expanded exemption;
8 providing for reversion of specified language if the
9 exemption is not saved from repeal; providing a
10 statement of public necessity; providing a contingent
11 effective date.

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

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15 Section 1. Subsection (4) of section 943.059, Florida
16 Statutes, is amended to read:

17 943.059 Court-ordered sealing of criminal history records.—
18 The courts of this state shall continue to have jurisdiction
19 over their own procedures, including the maintenance, sealing,
20 and correction of judicial records containing criminal history
21 information to the extent such procedures are not inconsistent
22 with the conditions, responsibilities, and duties established by
23 this section. Any court of competent jurisdiction may order a
24 criminal justice agency to seal the criminal history record of a
25 minor or an adult who complies with the requirements of this
26 section. The court shall not order a criminal justice agency to
27 seal a criminal history record until the person seeking to seal
28 a criminal history record has applied for and received a
29 certificate of eligibility for sealing pursuant to subsection

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

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59 to the contrary, a criminal justice agency may comply with laws,
60 court orders, and official requests of other jurisdictions
61 relating to sealing, correction, or confidential handling of
62 criminal history records or information derived therefrom. This
63 section does not confer any right to the sealing of any criminal
64 history record, and any request for sealing a criminal history
65 record may be denied at the sole discretion of the court.

66 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
67 history record of a minor sealed administratively pursuant to s.
68 943.0586 or a criminal history record of a minor or an adult
69 which is ordered sealed by a court pursuant to this section is
70 confidential and exempt from the provisions of s. 119.07(1) and
71 s. 24(a), Art. I of the State Constitution and is available only
72 to the person who is the subject of the record, to the subject's
73 attorney, to criminal justice agencies for their respective
74 criminal justice purposes, which include conducting a criminal
75 history background check for approval of firearms purchases or
76 transfers as authorized by state or federal law, to judges in
77 the state courts system for the purpose of assisting them in
78 their case-related decisionmaking responsibilities, as set forth
79 in s. 943.053(5), or to those entities set forth in
80 subparagraphs (a)1., 4., 5., 6., 8., 9., and 10. for their
81 respective licensing, access authorization, and employment
82 purposes.

83 (a) The subject of a criminal history record sealed under
84 s. 943.0586 or this section or under other provisions of law,
85 including former s. 893.14, former s. 901.33, and former s.
86 943.058, may lawfully deny or fail to acknowledge the arrests
87 covered by the sealed record, except when the subject of the

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88 record:

89 1. Is a candidate for employment with a criminal justice
90 agency;

91 2. Is a defendant in a criminal prosecution;

92 3. Concurrently or subsequently petitions for relief under
93 this section, s. 943.0583, or s. 943.0585;

94 4. Is a candidate for admission to The Florida Bar;

95 5. Is seeking to be employed or licensed by or to contract
96 with the Department of Children and Families, the Division of
97 Vocational Rehabilitation within the Department of Education,
98 the Agency for Health Care Administration, the Agency for
99 Persons with Disabilities, the Department of Health, the
100 Department of Elderly Affairs, or the Department of Juvenile
101 Justice or to be employed or used by such contractor or licensee
102 in a sensitive position having direct contact with children, the
103 disabled, or the elderly;104 6. Is seeking to be employed or licensed by the Department
105 of Education, a district school board, a university laboratory
106 school, a charter school, a private or parochial school, or a
107 local governmental entity that licenses child care facilities;108 7. Is attempting to purchase a firearm from a licensed
109 importer, licensed manufacturer, or licensed dealer and is
110 subject to a criminal history check under state or federal law;111 8. Is seeking to be licensed by the Division of Insurance
112 Agent and Agency Services within the Department of Financial
113 Services;114 9. Is seeking to be appointed as a guardian pursuant to s.
115 744.3125; or

116 10. Is seeking to be licensed by the Bureau of License

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117 Issuance of the Division of Licensing within the Department of
118 Agriculture and Consumer Services to carry a concealed weapon or
119 concealed firearm. This subparagraph applies only in the
120 determination of an applicant's eligibility under s. 790.06.

121 (b) Subject to the exceptions in paragraph (a), a person
122 who has been granted a sealing under s. 943.0586, this section,
123 former s. 893.14, former s. 901.33, or former s. 943.058 may not
124 be held under any provision of law of this state to commit
125 perjury or to be otherwise liable for giving a false statement
126 by reason of such person's failure to recite or acknowledge a
127 sealed criminal history record.

128 (c) Information relating to the existence of a sealed
129 criminal record provided in accordance with the provisions of
130 paragraph (a) is confidential and exempt from the provisions of
131 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
132 except that the department shall disclose the sealed criminal
133 history record to the entities set forth in subparagraphs (a)1.,
134 4., 5., 6., 8., 9., and 10. for their respective licensing,
135 access authorization, and employment purposes. An employee of an
136 entity set forth in subparagraph (a)1., subparagraph (a)4.,
137 subparagraph (a)5., subparagraph (a)6., subparagraph (a)8.,
138 subparagraph (a)9., or subparagraph (a)10. may not disclose
139 information relating to the existence of a sealed criminal
140 history record of a person seeking employment, access
141 authorization, or licensure with such entity or contractor,
142 except to the person to whom the criminal history record relates
143 or to persons having direct responsibility for employment,
144 access authorization, or licensure decisions. A person who
145 violates the provisions of this paragraph commits a misdemeanor

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146 of the first degree, punishable as provided in s. 775.082 or s.
147 775.083.

148 (d) The expansion of the public records exemption under
149 this subsection to include records sealed administratively
150 pursuant to s. 943.0586 is subject to the Open Government Sunset
151 Review Act in accordance with s. 119.15 and shall stand repealed
152 on October 2, 2024, unless reviewed and saved from repeal
153 through reenactment by the Legislature. If the expansion of the
154 exemption is not saved from repeal, this subsection shall revert
155 to that in existence on June 30, 2019, except that any
156 amendments to this subsection other than by this act shall be
157 preserved and continue to operate to the extent that such
158 amendments are not dependent upon the portions of this
159 subsection which expire pursuant to this paragraph.

160 Section 2. The Legislature finds that it is a public
161 necessity that the criminal history records of a minor which
162 have been administratively sealed pursuant to s. 943.0586,
163 Florida Statutes, because a case was not filed, was dismissed or
164 nolle prosequi, or resulted in the granting of a judgment of
165 acquittal or verdict of not guilty be made confidential and
166 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
167 Article I of the State Constitution. The presence of a criminal
168 history record in a minor's past which has not been validated
169 through criminal proceedings can jeopardize his or her ability
170 to obtain education, employment, and other opportunities
171 necessary to becoming a productive, contributing, self-
172 sustaining member of society. Such negative consequences are
173 unwarranted in cases in which the minor was not found to have
174 committed the offense that is the subject of the sealed criminal

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175 history record. For these reasons, the Legislature finds that it
176 is a public necessity that the criminal history records of
177 minors which have been administratively sealed be confidential
178 and exempt from public records requirements.

179 Section 3. This act shall take effect on the same date that
180 SB ___ or similar legislation takes effect, if such legislation
181 is adopted in the same legislative session or an extension
182 thereof and becomes a law.