

By Senator Book

32-00556-20

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1                   A bill to be entitled  
2       An act relating to court-ordered expunction and  
3       sealing of certain records; reenacting and amending  
4       ss. 943.0585 and 943.059, F.S.; expanding the  
5       eligibility criteria for the expunction and sealing of  
6       criminal history records to allow for expunction and  
7       sealing for a conviction of possession of a certain  
8       amount of cannabis; providing an effective date.  
9

10 Be It Enacted by the Legislature of the State of Florida:  
11

12       Section 1. Subsection (1) of section 943.0585, Florida  
13       Statutes, is amended, and subsections (2) and (3) of that  
14       section are reenacted, to read:

15       943.0585 Court-ordered expunction of criminal history  
16       records.—

17       (1) ELIGIBILITY.—A person is eligible to petition a court  
18       to expunge a criminal history record if:

19       (a) Except for a conviction, as defined in s. 943.0584, of  
20       s. 893.13(6)(b), an indictment, information, or other charging  
21       document was not filed or issued in the case giving rise to the  
22       criminal history record.

23       (b) Except for a conviction, as defined in s. 943.0584, of  
24       s. 893.13(6)(b), an indictment, information, or other charging  
25       document was filed or issued in the case giving rise to the  
26       criminal history record, was dismissed or nolle prosequi by the  
27       state attorney or statewide prosecutor, or was dismissed by a  
28       court of competent jurisdiction or a judgment of acquittal was  
29       rendered by a judge, or a verdict of not guilty was rendered by

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30 a judge or jury.

31 (c) The person is not seeking to expunge a criminal history  
32 record that is ineligible for court-ordered expunction under s.  
33 943.0584.

34 (d) Except for a conviction, as defined in s. 943.0584, of  
35 s. 893.13(6)(b), the person has never, as of the date the  
36 application for a certificate of expunction is filed, been  
37 adjudicated guilty in this state of a criminal offense or been  
38 adjudicated delinquent in this state for committing any felony  
39 or any of the following misdemeanors, unless the record of such  
40 adjudication of delinquency has been expunged pursuant to s.  
41 943.0515:

42 1. Assault, as defined in s. 784.011;

43 2. Battery, as defined in s. 784.03;

44 3. Assault on a law enforcement officer, a firefighter, or  
45 other specified officers, as defined in s. 784.07(2)(a);

46 4. Carrying a concealed weapon, as defined in s. 790.01(1);

47 5. Open carrying of a weapon, as defined in s. 790.053;

48 6. Unlawful possession or discharge of a weapon or firearm  
49 at a school-sponsored event or on school property, as defined in  
50 s. 790.115;

51 7. Unlawful use of destructive devices or bombs, as defined  
52 in s. 790.1615(1);

53 8. Unlawful possession of a firearm, as defined in s.  
54 790.22(5);

55 9. Exposure of sexual organs, as defined in s. 800.03;

56 10. Arson, as defined in s. 806.031(1);

57 11. Petit theft, as defined in s. 812.014(3);

58 12. Neglect of a child, as defined in s. 827.03(1)(e); or

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59 13. Cruelty to animals, as defined in s. 828.12(1).

60 (e) Except for a conviction, as defined in s. 943.0584, of  
61 s. 893.13(6)(b), the person has not been adjudicated guilty of,  
62 or adjudicated delinquent for committing, any of the acts  
63 stemming from the arrest or alleged criminal activity to which  
64 the petition pertains.

65 (f) The person is no longer under court supervision  
66 applicable to the disposition of arrest or alleged criminal  
67 activity to which the petition to expunge pertains.

68 (g) Except for one prior sealing or expunction for a  
69 conviction, as defined in s. 943.0584, of s. 893.13(6)(b), the  
70 person has never secured a prior sealing or expunction of a  
71 criminal history record under this section, s. 943.059, former  
72 s. 893.14, former s. 901.33, or former s. 943.058, unless  
73 expunction is sought of a criminal history record previously  
74 sealed for 10 years pursuant to paragraph (h) and the record is  
75 otherwise eligible for expunction.

76 (h) The person has previously obtained a court-ordered  
77 sealing of the criminal history record under s. 943.059, former  
78 s. 893.14, former s. 901.33, or former s. 943.058 for a minimum  
79 of 10 years because adjudication was withheld or because all  
80 charges related to the arrest or alleged criminal activity to  
81 which the petition to expunge pertains were not dismissed before  
82 trial, without regard to whether the outcome of the trial was  
83 other than an adjudication of guilt. The requirement for the  
84 record to have previously been sealed for a minimum of 10 years  
85 does not apply if a plea was not entered or all charges related  
86 to the arrest or alleged criminal activity to which the petition  
87 to expunge pertains were dismissed before trial or a judgment of

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88 acquittal was rendered by a judge or a verdict of not guilty was  
89 rendered by a judge or jury.

90 (2) CERTIFICATE OF ELIGIBILITY.—Before petitioning a court  
91 to expunge a criminal history record, a person seeking to  
92 expunge a criminal history record must apply to the department  
93 for a certificate of eligibility for expunction. The department  
94 shall adopt rules to establish procedures for applying for and  
95 issuing a certificate of eligibility for expunction.

96 (a) The department shall issue a certificate of eligibility  
97 for expunction to a person who is the subject of a criminal  
98 history record if that person:

99 1. Satisfies the eligibility criteria in paragraphs (1) (a)–  
100 (h) and is not ineligible under s. 943.0584.

101 2. Has submitted to the department a written certified  
102 statement from the appropriate state attorney or statewide  
103 prosecutor which confirms the criminal history record complies  
104 with the criteria in paragraph (1) (a) or paragraphs (1) (b) and  
105 (c).

106 3. Has submitted to the department a certified copy of the  
107 disposition of the charge to which the petition to expunge  
108 pertains.

109 4. Remits a \$75 processing fee to the department for  
110 placement in the Department of Law Enforcement Operating Trust  
111 Fund, unless the executive director waives such fee.

112 (b) A certificate of eligibility for expunction is valid  
113 for 12 months after the date stamped on the certificate when  
114 issued by the department. After that time, the petitioner must  
115 reapply to the department for a new certificate of eligibility.  
116 The petitioner's status and the law in effect at the time of the

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117 renewal application determine the petitioner's eligibility.

118 (3) PETITION.—Each petition to expunge a criminal history  
119 record must be accompanied by:

120 (a) A valid certificate of eligibility issued by the  
121 department.

122 (b) The petitioner's sworn statement that he or she:

123 1. Satisfies the eligibility requirements for expunction in  
124 subsection (1).

125 2. Is eligible for expunction to the best of his or her  
126 knowledge and does not have any other petition to seal or  
127 expunge a criminal history record pending before any court.

128  
129 A person who knowingly provides false information on such sworn  
130 statement commits a felony of the third degree, punishable as  
131 provided in s. 775.082, s. 775.083, or s. 775.084.

132 Section 2. Subsection (1) of section 943.059, Florida  
133 Statutes, is amended, and subsections (2) and (3) of that  
134 section are reenacted, to read:

135 943.059 Court-ordered sealing of criminal history records.—

136 (1) ELIGIBILITY.—A person is eligible to petition a court  
137 to seal a criminal history record when:

138 (a) The criminal history record is not ineligible for  
139 court-ordered sealing under s. 943.0584.

140 (b) Except for a conviction, as defined in s. 943.0584, of  
141 s. 893.13(6)(b), the person has never, before the date the  
142 application for a certificate of eligibility is filed, been  
143 adjudicated guilty in this state of a criminal offense, or been  
144 adjudicated delinquent in this state for committing any felony  
145 or any of the following misdemeanor offenses, unless the record

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146 of such adjudication of delinquency has been expunged pursuant  
147 to s. 943.0515:

- 148 1. Assault, as defined in s. 784.011;
- 149 2. Battery, as defined in s. 784.03;
- 150 3. Assault on a law enforcement officer, a firefighter, or  
151 other specified officers, as defined in s. 784.07(2)(a);
- 152 4. Carrying a concealed weapon, as defined in s. 790.01(1);
- 153 5. Open carrying of a weapon, as defined in s. 790.053;
- 154 6. Unlawful possession or discharge of a weapon or firearm  
155 at a school-sponsored event or on school property, as defined in  
156 s. 790.115;
- 157 7. Unlawful use of destructive devices or bombs, as defined  
158 in s. 790.1615(1);
- 159 8. Unlawful possession of a firearm by a minor, as defined  
160 in s. 790.22(5);
- 161 9. Exposure of sexual organs, as defined in s. 800.03;
- 162 10. Arson, as defined in s. 806.031(1);
- 163 11. Petit theft, as defined in s. 812.014(3);
- 164 12. Neglect of a child, as defined in s. 827.03(1)(e); or
- 165 13. Cruelty to animals, as defined in s. 828.12(10).

166 (c) Except for a conviction, as defined in s. 943.0584, of  
167 s. 893.13(6)(b), the person has not been adjudicated guilty of,  
168 or adjudicated delinquent for committing, any of the acts  
169 stemming from the arrest or alleged criminal activity to which  
170 the petition to seal pertains.

171 (d) The person is no longer under court supervision  
172 applicable to the disposition of arrest or alleged criminal  
173 activity to which the petition to seal pertains.

174 (e) Except for one prior sealing or expunction for a

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175 conviction, as defined in s. 943.0584, of s. 893.13(6)(b), the  
176 person has never secured a prior sealing or expunction of a  
177 criminal history record under this section, s. 943.0585, former  
178 s. 893.14, former s. 901.33, or former s. 943.058.

179 (2) CERTIFICATE OF ELIGIBILITY.—Before petitioning the  
180 court to seal a criminal history record, a person seeking to  
181 seal a criminal history record must apply to the department for  
182 a certificate of eligibility for sealing. The department shall  
183 adopt rules relating to the application for and issuance of  
184 certificates of eligibility for sealing.

185 (a) The department shall issue a certificate of eligibility  
186 for sealing to a person who is the subject of a criminal history  
187 record if that person:

188 1. Satisfies the eligibility criteria in paragraphs (1)(a)-  
189 (e) and is not ineligible for court-ordered sealing under s.  
190 943.0584.

191 2. Has submitted to the department a certified copy of the  
192 disposition of charge to which the petition pertains.

193 3. Remits a \$75 processing fee to the department for  
194 placement in the Department of Law Enforcement Operating Trust  
195 Fund, unless the executive director waives such fee.

196 (b) A certificate of eligibility for sealing is valid for  
197 12 months after the date stamped on the certificate when issued  
198 by the department. After that time, the petitioner must reapply  
199 to the department for a new certificate of eligibility. The  
200 status of the applicant and the law in effect at the time of the  
201 renewal application determine the petitioner's eligibility.

202 (3) PETITION.—Each petition to a court to seal a criminal  
203 history record is complete only when accompanied by:

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204 (a) A valid certificate of eligibility issued by the  
205 department pursuant to this section.

206 (b) The petitioner's sworn statement that the petitioner:

207 1. Satisfies the eligibility requirements for sealing in  
208 subsection (1).

209 2. Is eligible for sealing to the best of his or her  
210 knowledge and does not have any other petition to seal or  
211 expunge a criminal history record pending before any court.

212

213 Any person who knowingly provides false information on such  
214 sworn statement to the court commits a felony of the third  
215 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
216 775.084.

217 Section 3. This act shall take effect July 1, 2020.