

1                                   A bill to be entitled  
 2           An act relating to expunction of criminal history  
 3           records; reenacting and amending s. 943.0585, F.S.;  
 4           expanding an exception to an eligibility requirement  
 5           for expunction of a criminal history record to allow a  
 6           prior expunction of a criminal history record granted  
 7           for an offense committed when the person was a minor;  
 8           providing an exception; providing an effective date.

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

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 12           Section 1. Subsection (1) of section 943.0585, Florida  
 13 Statutes, is amended, and paragraph (a) of subsection (2) and  
 14 subsection (3) of that 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) An indictment, information, or other charging document  
 20 was not filed or issued in the case giving rise to the criminal  
 21 history record.

22           (b) An indictment, information, or other charging document  
 23 was filed or issued in the case giving rise to the criminal  
 24 history record, was dismissed or nolle prosequi by the state  
 25 attorney or statewide prosecutor, or was dismissed by a court of

26 competent jurisdiction or a judgment of acquittal was rendered  
27 by a judge, or a verdict of not guilty was rendered by a judge  
28 or jury.

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

32 (d) The person has never, as of the date the application  
33 for a certificate of expunction is filed, been adjudicated  
34 guilty in this state of a criminal offense or been adjudicated  
35 delinquent in this state for committing any felony or any of the  
36 following misdemeanors, unless the record of such adjudication  
37 of delinquency has been expunged pursuant to s. 943.0515:

- 38 1. Assault, as defined in s. 784.011;
- 39 2. Battery, as defined in s. 784.03;
- 40 3. Assault on a law enforcement officer, a firefighter, or  
41 other specified officers, as defined in s. 784.07(2)(a);
- 42 4. Carrying a concealed weapon, as defined in s.  
43 790.01(1);
- 44 5. Open carrying of a weapon, as defined in s. 790.053;
- 45 6. Unlawful possession or discharge of a weapon or firearm  
46 at a school-sponsored event or on school property, as defined in  
47 s. 790.115;
- 48 7. Unlawful use of destructive devices or bombs, as  
49 defined in s. 790.1615(1);
- 50 8. Unlawful possession of a firearm, as defined in s.

51 790.22(5);

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

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

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

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

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

57 (e) The person has not been adjudicated guilty of, or  
 58 adjudicated delinquent for committing, any of the acts stemming  
 59 from the arrest or alleged criminal activity to which the  
 60 petition pertains.

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

64 (g) The person has never secured a prior sealing or  
 65 expunction of a criminal history record under this section, s.  
 66 943.059, former s. 893.14, former s. 901.33, or former s.  
 67 943.058, unless:

68 1. Expunction is sought of a criminal history record  
 69 previously sealed for 10 years pursuant to paragraph (h) and the  
 70 record is otherwise eligible for expunction; or

71 2. The prior expunction of a criminal history record was  
 72 granted for an offense that was committed when he or she was a  
 73 minor and the record is otherwise eligible for expunction. This  
 74 subparagraph does not apply when the prior expunction was for an  
 75 offense in which the minor was charged as an adult.

76 (h) The person has previously obtained a court-ordered  
77 sealing of a ~~the~~ criminal history record under s. 943.059,  
78 former s. 893.14, former s. 901.33, or former s. 943.058 for a  
79 minimum of 10 years because adjudication was withheld or because  
80 all charges related to the arrest or alleged criminal activity  
81 to which the petition to expunge pertains were not dismissed  
82 before trial, without regard to whether the outcome of the trial  
83 was 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  
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  
97 eligibility for expunction to a person who is the subject of a  
98 criminal history record if that person:

99 1. Satisfies the eligibility criteria in paragraphs  
100 (1) (a)-(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           (3) PETITION.—Each petition to expunge a criminal history  
113 record must be accompanied by:

114           (a) A valid certificate of eligibility issued by the  
115 department.

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

117           1. Satisfies the eligibility requirements for expunction  
118 in subsection (1).

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

122

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

126 |       Section 2.   This act shall take effect July 1, 2020.       |