

1 A bill to be entitled

2 An act relating to expunction of criminal history  
3 records relating to cannabis offenses; creating s.  
4 943.0586, F.S.; defining terms; authorizing certain  
5 courts to order criminal justice agencies to expunge  
6 the criminal history record of an individual with a  
7 qualified cannabis offense upon such individual filing  
8 a petition for expunction; authorizing an individual  
9 to petition for expunction of such criminal history  
10 records at any time; specifying petition requirements;  
11 requiring a court, upon receipt of a petition, to  
12 serve the appropriate state attorney and the arresting  
13 agency with a copy of the petition; providing  
14 requirements if the state attorney or the arresting  
15 agency object to the court granting the petition;  
16 requiring the court to grant the petition if no  
17 objection is filed; imposing duties on the clerk of  
18 the court and the arresting agency if a court grants  
19 such a petition; providing construction; requiring  
20 that a criminal justice agency that has custody of any  
21 criminal history record ordered expunged physically  
22 destroy or obliterate the record; providing for the  
23 effect of expunged criminal history records;  
24 prohibiting a court or criminal justice agency from  
25 charging the petitioner fees in connection with the

26 petition; providing a statement regarding certain  
 27 references and the doctrine of incorporation by  
 28 reference; providing an effective date.

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

31  
 32 Section 1. Section 943.0586, Florida Statutes, is created  
 33 to read:

34 943.0586 Expunction of criminal history records relating  
 35 to qualifying cannabis offenses.-

36 (1) As used in this section, the term:

37 (a) "Domestic violence" has the same meaning as in s.  
 38 741.28. The term includes any crime the underlying factual basis  
 39 of which has been found by a court to include an act of domestic  
 40 violence and any act of domestic violence between dating  
 41 partners as described in s. 784.046(1)(d).

42 (b) "Qualifying cannabis offense" means one or more  
 43 misdemeanor convictions of obtaining, purchasing, or possessing  
 44 20 grams or less of cannabis. The term does not include a  
 45 misdemeanor conviction of obtaining, purchasing, or possessing  
 46 20 grams or less of cannabis if, in connection with such  
 47 offense, the individual was found guilty or pled guilty or no  
 48 contest to a felony offense, to driving under the influence, or  
 49 to an act of domestic violence.

50 (2) Notwithstanding any other provision of law, upon the

51 filing of a petition for expunction as provided in this section,  
52 any court in the circuit in which the petitioner was arrested or  
53 in which the petitioner resides may order a criminal justice  
54 agency to expunge the criminal history record of an individual  
55 with a qualifying cannabis offense who complies with the  
56 requirements of this section. A petition need not be filed in  
57 the court where the petitioner's criminal proceedings in  
58 connection with the offense were conducted.

59 (3) An individual may petition for the expunction of a  
60 criminal history record resulting from a qualifying cannabis  
61 offense at any time.

62 (4) Each petition to a court to expunge a qualifying  
63 cannabis offense is complete only when accompanied by:

64 (a) The petitioner's sworn statement attesting that the  
65 petitioner is eligible for such an expunction to the best of his  
66 or her knowledge or belief; and

67 (b) A certified copy of the disposition of any charge to  
68 which the petition to expunge pertains.

69 (5) Upon a court receiving a petition under this section,  
70 the court shall, as soon as practicable, serve the appropriate  
71 state attorney and the arresting agency with a copy of the  
72 completed petition. The petitioner or the petitioner's attorney  
73 may appear at any hearing under this section telephonically, via  
74 video conference, or by other electronic means.

75 (a) If the state attorney or the arresting agency objects

76 | to the court granting the petition, a written objection must be  
77 | filed with the court within 10 days after the date on which the  
78 | request was received. If such an objection is filed, the court  
79 | must hold a hearing on the request. At the hearing, the court  
80 | must grant the petition unless the state attorney or the  
81 | arresting agency establishes by clear and convincing evidence  
82 | that there is good cause not to grant the request.

83 | (b) If the state attorney or the arresting agency does not  
84 | file a written objection with the court, the court must grant  
85 | the petition.

86 | (c) If the petition is granted by the court, the clerk of  
87 | the court shall certify copies of the order to the appropriate  
88 | state attorney and the arresting agency. The arresting agency is  
89 | responsible for forwarding the order to any other agency listed  
90 | in the court order to which the arresting agency disseminated  
91 | the criminal history record information covered by the order.  
92 | The clerk of the court shall certify a copy of the order to any  
93 | other agency that the records of the court reflect received the  
94 | criminal history record from the court.

95 | (6) (a) The courts of this state have jurisdiction over  
96 | their own procedures, including the maintenance, expunction, and  
97 | correction of judicial records containing criminal history  
98 | information, to the extent that such procedures are not  
99 | inconsistent with the conditions, responsibilities, and duties  
100 | established by this section.

101 (b) Any criminal history record of an individual which is  
102 ordered expunged pursuant to this section must be physically  
103 destroyed or obliterated by any criminal justice agency having  
104 custody of such record.

105 (c) The individual who is the subject of a criminal  
106 history record that is expunged under this section may lawfully  
107 deny or fail to acknowledge the arrests or convictions covered  
108 by the expunged records.

109 (d) The individual who has been granted an expunction  
110 under this section may not be held under any law of this state  
111 to commit perjury or to be otherwise liable for giving a false  
112 statement by reason of such individual's failure to recite or  
113 acknowledge an expunged criminal history record.

114 (7) A court or criminal justice agency may not charge an  
115 individual a fee to complete a petition under this section or to  
116 obtain the necessary documents to complete a petition under this  
117 section.

118 (8) Any reference to any other chapter, section, or  
119 subdivision of the Florida Statutes in this section constitutes  
120 a general reference under the doctrine of incorporation by  
121 reference.

122 Section 2. This act shall take effect July 1, 2021.