

By Senator Pizzo

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1 A bill to be entitled
2 An act relating to expunction and sealing of judicial
3 records; creating s. 741.301, F.S.; providing for
4 sealing of a petition for a domestic violence
5 injunction and related documents if the petition was
6 withdrawn or dismissed, or if there was a ruling in
7 favor of the respondent; reenacting and amending s.
8 943.0585, F.S.; exempting expunctions sought for cases
9 dismissed or nolle prosequi or that resulted in an
10 acquittal from the limit on the number of expunctions
11 that may be sought; expanding an exception to an
12 eligibility requirement for expunction of a criminal
13 history record to allow expunction for an offense
14 committed when the person was a minor; providing an
15 exception; requiring the Department of Law Enforcement
16 to act on applications for certificates of eligibility
17 within a specified timeframe; providing an effective
18 date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Section 741.301, Florida Statutes, is created to
23 read:

24 741.301 Sealing of domestic violence injunction petitions
25 not granted.—A respondent to a petition made under s. 741.30 may
26 petition the court to seal the petition for injunction and all
27 records and documents related to it if the petition for
28 injunction was withdrawn or dismissed or if there was a ruling
29 in favor of the respondent. A petition for sealing under this

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30 section may be filed at any time.

31 Section 2. Subsections (1) and (2) of section 943.0585,
32 Florida Statutes, are amended, and subsection (3) of that
33 section is reenacted, to read:

34 943.0585 Court-ordered expunction of criminal history
35 records.—

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

38 (a) An indictment, information, or other charging document
39 was not filed or issued in the case giving rise to the criminal
40 history record.

41 (b) An indictment, information, or other charging document
42 was filed or issued in the case giving rise to the criminal
43 history record, was dismissed or nolle prosequi by the state
44 attorney or statewide prosecutor, or was dismissed by a court of
45 competent jurisdiction or a judgment of acquittal was rendered
46 by a judge, or a verdict of not guilty was rendered by a judge
47 or jury. Paragraph (g) does not apply to an expunction sought
48 under this paragraph.

49 (c) The person is not seeking to expunge a criminal history
50 record that is ineligible for court-ordered expunction under s.
51 943.0584.

52 (d) The person has never, as of the date the application
53 for a certificate of expunction is filed, been adjudicated
54 guilty in this state of a criminal offense or been adjudicated
55 delinquent in this state for committing any felony or any of the
56 following misdemeanors, unless the record of such adjudication
57 of delinquency has been expunged pursuant to s. 943.0515:

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

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- 59 2. Battery, as defined in s. 784.03;
- 60 3. Assault on a law enforcement officer, a firefighter, or
61 other specified officers, as defined in s. 784.07(2)(a);
- 62 4. Carrying a concealed weapon, as defined in s. 790.01(1);
- 63 5. Open carrying of a weapon, as defined in s. 790.053;
- 64 6. Unlawful possession or discharge of a weapon or firearm
65 at a school-sponsored event or on school property, as defined in
66 s. 790.115;
- 67 7. Unlawful use of destructive devices or bombs, as defined
68 in s. 790.1615(1);
- 69 8. Unlawful possession of a firearm, as defined in s.
70 790.22(5);
- 71 9. Exposure of sexual organs, as defined in s. 800.03;
- 72 10. Arson, as defined in s. 806.031(1);
- 73 11. Petit theft, as defined in s. 812.014(3);
- 74 12. Neglect of a child, as defined in s. 827.03(1)(e); or
- 75 13. Cruelty to animals, as defined in s. 828.12(1).
- 76 (e) The person has not been adjudicated guilty of, or
77 adjudicated delinquent for committing, any of the acts stemming
78 from the arrest or alleged criminal activity to which the
79 petition pertains.
- 80 (f) The person is no longer under court supervision
81 applicable to the disposition of arrest or alleged criminal
82 activity to which the petition to expunge pertains.
- 83 (g) Except for an expunction sought under paragraph (b),
84 the person has never secured a prior sealing or expunction of a
85 criminal history record under this section, s. 943.059, former
86 s. 893.14, former s. 901.33, or former s. 943.058, unless:
- 87 1. Expunction is sought of a criminal history record

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88 previously sealed for 10 years pursuant to paragraph (h) and the
89 record is otherwise eligible for expunction; or

90 2. The prior expunction of a criminal history record was
91 granted for an offense that was committed when the person was a
92 minor and the record is otherwise eligible for expunction. This
93 subparagraph does not apply if the prior expunction was for an
94 offense in which the minor was charged as an adult.

95 (h) The person has previously obtained a court-ordered
96 sealing of a ~~the~~ criminal history record under s. 943.059,
97 former s. 893.14, former s. 901.33, or former s. 943.058 for a
98 minimum of 10 years because adjudication was withheld or because
99 all charges related to the arrest or alleged criminal activity
100 to which the petition to expunge pertains were not dismissed
101 before trial, without regard to whether the outcome of the trial
102 was other than an adjudication of guilt. The requirement for the
103 record to have previously been sealed for a minimum of 10 years
104 does not apply if a plea was not entered or all charges related
105 to the arrest or alleged criminal activity to which the petition
106 to expunge pertains were dismissed before trial or a judgment of
107 acquittal was rendered by a judge or a verdict of not guilty was
108 rendered by a judge or jury.

109 (2) CERTIFICATE OF ELIGIBILITY.—Before petitioning a court
110 to expunge a criminal history record, a person seeking to
111 expunge a criminal history record must apply to the department
112 for a certificate of eligibility for expunction. The department
113 shall issue a certificate or deny the request for a certificate
114 no later than 6 months after the application is submitted. The
115 department shall adopt rules to establish procedures for
116 applying for and issuing a certificate of eligibility for

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117 expunction.

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

121 1. Satisfies the eligibility criteria in paragraphs (1) (a)-
122 (h) and is not ineligible under s. 943.0584.

123 2. Has submitted to the department a written certified
124 statement from the appropriate state attorney or statewide
125 prosecutor which confirms the criminal history record complies
126 with the criteria in paragraph (1) (a) or paragraphs (1) (b) and
127 (c).

128 3. Has submitted to the department a certified copy of the
129 disposition of the charge to which the petition to expunge
130 pertains.

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

134 (b) A certificate of eligibility for expunction is valid
135 for 12 months after the date stamped on the certificate when
136 issued by the department. After that time, the petitioner must
137 reapply to the department for a new certificate of eligibility.
138 The petitioner's status and the law in effect at the time of the
139 renewal application determine the petitioner's eligibility.

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

142 (a) A valid certificate of eligibility issued by the
143 department.

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

145 1. Satisfies the eligibility requirements for expunction in

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146 subsection (1).

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

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

154 Section 3. This act shall take effect July 1, 2021.