

By the Committee on Judiciary; and Senator Bracy

590-02873-21

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 943.0586, F.S.; providing an exemption from public
4 records requirements for specified expunged criminal
5 history records; providing exceptions; providing
6 criminal penalties; providing for future legislative
7 review and repeal of the exemption; providing a
8 statement of public necessity; providing a contingent
9 effective date.

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

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13 Section 1. Subsection (8) is added to section 943.0586,
14 Florida Statutes, as created by SB 468 or similar legislation,
15 2021 Regular Session, to read:

16 943.0586 Expunction of criminal history records relating to
17 qualifying cannabis offenses.—

18 (8) PUBLIC RECORDS.—A criminal history record ordered
19 expunged under this section which is retained by the department
20 is confidential and exempt from s. 119.07(1) and s. 24(a), Art.
21 I of the State Constitution, except that the department shall
22 disclose the existence of a criminal history record ordered
23 expunged to the entities set forth in subparagraphs (6) (a)1. and
24 3.-7. for their respective licensing, access authorization, and
25 employment purposes and to criminal justice agencies for their
26 respective criminal justice purposes. It is unlawful for any
27 employee of an entity set forth in subparagraph (6) (a)1.,
28 subparagraph (6) (a)3., subparagraph (6) (a)4., subparagraph
29 (6) (a)5., subparagraph (6) (a)6., or subparagraph (6) (a)7. to

590-02873-21

2021470c1

30 disclose information relating to the existence of an expunged
31 criminal history record of a person seeking employment, access
32 authorization, or licensure with such entity or contractor,
33 except to the person to whom the criminal history record relates
34 or to persons having direct responsibility for employment,
35 access authorization, or licensure decisions. A person who
36 violates this subsection commits a misdemeanor of the first
37 degree, punishable as provided in s. 775.082 or s. 775.083. This
38 section is subject to the Open Government Sunset Review Act in
39 accordance with s. 119.15 and shall stand repealed on October 2,
40 2026, unless reviewed and saved from repeal through reenactment
41 by the Legislature.

42 Section 2. The Legislature finds that it is a public
43 necessity that individuals who petition a court and are granted
44 expunction of certain low-level and nonviolent criminal history
45 records have such criminal history records made confidential and
46 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
47 Article I of the State Constitution. The Legislature recognizes
48 the disproportionate harm that criminalizing the purchase or
49 possession of small amounts of cannabis has had on minorities
50 and disadvantaged communities. The Legislature further
51 recognizes the trends in this state, and nationally, of counties
52 and localities decriminalizing the purchase or possession of
53 small amounts of cannabis. The Legislature also recognizes the
54 need for certain limited exceptions are necessary for public
55 safety. Without this public records exemption, individuals
56 having such low-level and nonviolent criminal history records
57 who are granted expunction of such records might not be able to
58 seek gainful employment and become productive, contributing

590-02873-21

2021470c1

59 members of this state. For these reasons, the Legislature finds
60 that it is a public necessity that such records be made
61 confidential and exempt.

62 Section 3. This act shall take effect on the same date that
63 SB 468 or similar legislation takes effect, if such legislation
64 is adopted in the same legislative session or an extension
65 thereof and becomes a law.