

By Senator Bracy

11-01549-22

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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 ____ or similar legislation,
15 to read:

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

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

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30 subparagraph (6)(a)7. to disclose information relating to the
31 existence of an expunged criminal history record of a person
32 seeking employment, access authorization, or licensure with such
33 entity or contractor, except to the person to whom the criminal
34 history record relates or to persons having direct
35 responsibility for employment, access authorization, or
36 licensure decisions. A person who violates this subsection
37 commits a misdemeanor of the first degree, punishable as
38 provided in s. 775.082 or s. 775.083. This section is subject to
39 the Open Government Sunset Review Act in accordance with s.
40 119.15 and shall stand repealed on October 2, 2027, unless
41 reviewed and saved from repeal through reenactment by the
42 Legislature.

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

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

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