

By the Committee on Children, Families, and Elder Affairs; and
Senator Diaz

586-01944-22

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 943.0583, F.S.; expanding an existing public records
4 exemption relating to human trafficking victims
5 seeking expunction of certain records related to an
6 offense listed in s. 775.084(1)(b)1., F.S.; providing
7 for future review and repeal of the expanded
8 exemption; providing for the reversion of specified
9 provisions if the exemption is not saved from repeal;
10 providing that a petition for human trafficking victim
11 expunction and all pleadings and documents related to
12 the petition are confidential and exempt from public
13 records requirements; providing for future legislative
14 review and repeal of the exemption; providing a
15 statement of public necessity; providing an effective
16 date.

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

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20 Section 1. Subsection (3) of section 943.0583, Florida
21 Statutes, is amended, subsection (12) is added to that section,
22 and subsections (10) and (11) of that section are republished,
23 to read:

24 943.0583 Human trafficking victim expunction.—

25 (3) (a) A person who is a victim of human trafficking may
26 petition for the expunction of a criminal history record
27 resulting from the arrest or filing of charges for one or more
28 offenses committed or reported to have been committed while the
29 person was a victim of human trafficking, which offense was

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30 committed or reported to have been committed as a part of the
31 human trafficking scheme of which the person was a victim or at
32 the direction of an operator of the scheme, including, but not
33 limited to, violations under chapters 796 and 847, without
34 regard to the disposition of the arrest or of any charges.

35 (b) ~~However,~~ This section does not apply to any offense
36 listed in s. 775.084(1)(b)1. if the defendant was found guilty
37 of, or pled guilty or nolo contendere to, any such offense.

38 (c) Determination of the petition under this section should
39 be by a preponderance of the evidence. A conviction expunged
40 under this section is deemed to have been vacated due to a
41 substantive defect in the underlying criminal proceedings. If a
42 person is adjudicated not guilty by reason of insanity or is
43 found to be incompetent to stand trial for any such charge, the
44 expunction of the criminal history record may not prevent the
45 entry of the judgment or finding in state and national databases
46 for use in determining eligibility to purchase or possess a
47 firearm or to carry a concealed firearm, as authorized in s.
48 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), nor shall it prevent
49 any governmental agency that is authorized by state or federal
50 law to determine eligibility to purchase or possess a firearm or
51 to carry a concealed firearm from accessing or using the record
52 of the judgment or finding in the course of such agency's
53 official duties.

54 (d) The expansion of the public records exemption in
55 paragraph (b) to allow for the expunction of certain criminal
56 history records related to an offense listed in s.
57 775.084(1)(b)1. is subject to the Open Government Sunset Review
58 Act in accordance with s. 119.15 and shall stand repealed on

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59 October 2, 2027, unless reviewed and saved from repeal through
60 reenactment by the Legislature. If the expansion of the
61 exemption is not saved from repeal, this subsection shall revert
62 to that in existence on June 30, 2022, except that any
63 amendments to this subsection other than by this act shall be
64 preserved and continue to operate to the extent that such
65 amendments are not dependent upon the portions of this
66 subsection which expire pursuant to this paragraph.

67 (10) (a) A criminal history record ordered expunged under
68 this section that is retained by the department is confidential
69 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
70 Constitution, except that the record shall be made available:

71 1. To criminal justice agencies for their respective
72 criminal justice purposes.

73 2. To any governmental agency that is authorized by state
74 or federal law to determine eligibility to purchase or possess a
75 firearm or to carry a concealed firearm for use in the course of
76 such agency's official duties.

77 3. Upon order of a court of competent jurisdiction.

78 (b) A criminal justice agency may retain a notation
79 indicating compliance with an order to expunge.

80 (11) (a) The following criminal intelligence information or
81 criminal investigative information is confidential and exempt
82 from s. 119.07(1) and s. 24(a), Art. I of the State
83 Constitution:

84 1. Any information that reveals the identity of a person
85 who is a victim of human trafficking whose criminal history
86 record has been expunged under this section.

87 2. Any information that may reveal the identity of a person

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88 who is a victim of human trafficking whose criminal history
89 record has been ordered expunged under this section.

90 (b) Criminal investigative information and criminal
91 intelligence information made confidential and exempt under this
92 subsection may be disclosed by a law enforcement agency:

93 1. In the furtherance of its official duties and
94 responsibilities.

95 2. For print, publication, or broadcast if the law
96 enforcement agency determines that such release would assist in
97 locating or identifying a person that the agency believes to be
98 missing or endangered. The information provided should be
99 limited to that needed to identify or locate the victim.

100 3. To another governmental agency in the furtherance of its
101 official duties and responsibilities.

102 (c) This exemption applies to such confidential and exempt
103 criminal intelligence information or criminal investigative
104 information held by a law enforcement agency before, on, or
105 after the effective date of the exemption.

106 (12) (a) A petition filed pursuant to this section and all
107 pleadings and documents related to the petition are confidential
108 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
109 Constitution.

110 (b) This subsection is subject to the Open Government
111 Sunset Review Act in accordance with s. 119.15 and shall stand
112 repealed on October 2, 2027, unless reviewed and saved from
113 repeal through reenactment by the Legislature.

114 Section 2. The Legislature finds it is a public necessity
115 that criminal history records of human trafficking victims
116 related to any offense listed in s. 775.084(1)(b)1., Florida

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117 Statutes, that was dismissed or nolle prosequi by the state
118 attorney or statewide prosecutor or dismissed by a court of
119 competent jurisdiction, or for which a judgment of acquittal was
120 rendered by a judge or a verdict of not guilty was rendered by a
121 judge or jury, which records are ordered to be expunged under s.
122 943.0583, Florida Statutes, be made confidential and exempt from
123 119.07(1), Florida Statutes, and s. 24(a), Article I of the
124 State Constitution. Further, the Legislature finds that it is a
125 public necessity that a petition filed under s. 943.0583,
126 Florida Statutes, and all pleadings and documents related to the
127 petition be made confidential and exempt from s. 119.07(1),
128 Florida Statutes, and s. 24(a), Article I of the State
129 Constitution. Persons who are victims of human trafficking and
130 who have been arrested, charged, or convicted of crimes
131 committed at the behest of their traffickers are themselves
132 victims of crimes. These victims face barriers to employment and
133 loss of other life opportunities, and the fact that they are
134 seeking expungement, as well as the information contained in
135 related pleadings and documents, would expose these petitioners
136 to possible discrimination due to details of their past lives
137 becoming public knowledge. Therefore, it is necessary that such
138 specified criminal history records, even though such records are
139 related to certain serious offenses, and such petitions,
140 pleadings, and related documents be made confidential in order
141 for human trafficking victims to have the chance to rebuild
142 their lives and reenter society.

143 Section 3. This act shall take effect July 1, 2022.