

By Senator Burgess

23-00234-23

20231210__

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

23-00234-23

20231210__

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

23-00234-23

20231210__

59 October 2, 2028, 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, 2023, 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

23-00234-23

20231210__

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, 2028, 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

23-00234-23

20231210__

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

143 Section 3. This act shall take effect July 1, 2023.