

By Senator Davis

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 943.0579, F.S.; providing for the effect of criminal
4 history records ordered expunged; providing an
5 exemption from public records requirements for
6 criminal history records ordered expunged which are
7 retained by the department; providing criminal
8 penalties for the disclosure of information relating
9 to expunged criminal history records; providing for
10 future legislative review and repeal of the exemption;
11 providing a statement of public necessity; providing a
12 contingent effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Present subsection (5) of section 943.0579,
17 Florida Statutes, as created by SB 1026, 2025 Regular Session,
18 is redesignated as subsection (6), and a new subsection (5) is
19 added to that section, to read:

20 943.0579 Expunction of a qualifying marijuana offense.—

21 (5) EFFECT OF EXPUNCTION ORDER.—

22 (a) A criminal history record of a minor or an adult which
23 is ordered expunged by a court of competent jurisdiction
24 pursuant to this section must be physically destroyed or
25 obliterated by any criminal justice agency having custody of
26 such record, except that the department shall retain all
27 criminal history records in its custody in all cases. A criminal
28 history record ordered expunged which is retained by the
29 department is confidential and exempt from s. 119.07(1) and s.

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30 24(a), Art. I of the State Constitution and is not available to
31 any person or entity except upon order of a court of competent
32 jurisdiction. A criminal justice agency may retain a notation
33 indicating compliance with an order to expunge.

34 (b) The person who is the subject of a criminal history
35 record expunged under this section or under other provisions of
36 law, including former ss. 893.14, 901.33, and 943.058, may
37 lawfully deny or fail to acknowledge the arrests covered by the
38 expunged record, except when the subject of the record:

39 1. Is a candidate for employment with a criminal justice
40 agency;

41 2. Is a defendant in a criminal prosecution;

42 3. Concurrently or subsequently petitions for relief under
43 this section, s. 943.0583, or s. 943.059;

44 4. Is a candidate for admission to The Florida Bar;

45 5. Is seeking to be employed or licensed by or to contract
46 with the Department of Children and Families, the Division of
47 Vocational Rehabilitation within the Department of Education,
48 the Agency for Health Care Administration, the Agency for
49 Persons with Disabilities, the Department of Health, the
50 Department of Elderly Affairs, or the Department of Juvenile
51 Justice or to be employed or used by such contractor or licensee
52 in a sensitive position having direct contact with children, the
53 disabled, or the elderly;

54 6.a. Is seeking to be employed or licensed by, or contract
55 with, the Department of Education, any district unit under s.
56 1001.30, any special district unit under s. 1011.24, the Florida
57 School for the Deaf and the Blind under s. 1002.36, the Florida
58 Virtual School under s. 1002.37, a virtual instruction program

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59 under s. 1002.45, a charter school under s. 1002.33, a hope
60 operator under s. 1002.333, an alternative school under s.
61 1008.341, a private or parochial school, or any local
62 governmental entity that licenses child care facilities;

63 b. Is seeking to be employed or used by a contractor or
64 licensee under sub-subparagraph a.; or

65 c. Is a person screened under s. 1012.467;

66 7. Is seeking to be licensed by the Division of Insurance
67 Agent and Agency Services within the Department of Financial
68 Services; or

69 8. Is seeking to be appointed as a guardian pursuant to s.
70 744.3125.

71 (c) Subject to the exceptions in paragraph (b), a person
72 who has been granted an expunction under this section, former s.
73 893.14, former s. 901.33, or former s. 943.058 may not be held
74 under any provision of law of this state to have committed
75 perjury or to be otherwise liable for giving a false statement
76 by reason of such person's failure to recite or acknowledge an
77 expunged criminal history record.

78 (d) Information relating to the existence of an expunged
79 criminal history record which is provided in accordance with
80 paragraph (a) is confidential and exempt from s. 119.07(1) and
81 s. 24(a), Art. I of the State Constitution, except that the
82 department shall disclose the existence of a criminal history
83 record ordered expunged to the entities set forth in
84 subparagraphs (b)1. and 4.-8. for their respective licensing,
85 access authorization, and employment purposes and to criminal
86 justice agencies for their respective criminal justice purposes.
87 It is unlawful for an employee of an entity set forth in

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88 subparagraph (b)1., subparagraph (b)4., subparagraph (b)5.,
89 subparagraph (b)6., subparagraph (b)7., or subparagraph (b)8. to
90 disclose information relating to the existence of an expunged
91 criminal history record of a person seeking employment, access
92 authorization, or licensure with such entity or contractor,
93 except to the person to whom the criminal history record relates
94 or to persons having direct responsibility for employment,
95 access authorization, or licensure decisions. A person who
96 violates this paragraph commits a misdemeanor of the first
97 degree, punishable as provided in s. 775.082 or s. 775.083.

98 (e) This subsection is subject to the Open Government
99 Sunset Review Act in accordance with s. 119.15 and shall stand
100 repealed on October 2, 2030, unless reviewed and saved from
101 repeal through reenactment by the Legislature.

102 Section 2. The Legislature finds that it is a public
103 necessity that criminal history records relating to qualifying
104 marijuana offenses be made confidential and exempt from s.
105 119.07(1), Florida Statutes, and s. 24(a), Article I of the
106 State Constitution. Criminal history records for small amounts
107 of marijuana or paraphernalia that meets the definition of
108 marijuana delivery devices are low-level, nonviolent offenses
109 for which persons with such criminal history records should not
110 have job or housing challenges as a result of for the rest of
111 their lives. Focusing on marijuana diverts limited resources and
112 prevents police from focusing on real crime, and marijuana laws
113 have historically been disproportionately enforced against
114 persons from minority groups. For these reasons, the Legislature
115 finds that it is a public necessity that the exempt status of
116 such information received by the department be maintained.

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117 Section 3. This act shall take effect on the same date that
118 SB 1026 or similar legislation takes effect, if such legislation
119 is adopted in the same legislative session or an extension
120 thereof and becomes a law.