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CS/HB 1065, Engrossed 1

2018 Legislature

1  
2 An act relating to expunction of criminal history  
3 records; amending s. 943.0585, F.S.; providing that a  
4 person receiving a judgment of acquittal or not guilty  
5 verdict is eligible to have his or her criminal record  
6 expunged; amending s. 943.059, F.S.; revising the  
7 circumstances under which the Department of Law  
8 Enforcement must issue a certificate of eligibility  
9 for the sealing of a criminal history record;  
10 providing an effective date.

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

13  
14 Section 1. Paragraphs (a) and (h) of subsection (2) of  
15 section 943.0585, Florida Statutes, are amended to read:

16 943.0585 Court-ordered expunction of criminal history  
17 records.—The courts of this state have jurisdiction over their  
18 own procedures, including the maintenance, expunction, and  
19 correction of judicial records containing criminal history  
20 information to the extent such procedures are not inconsistent  
21 with the conditions, responsibilities, and duties established by  
22 this section. Any court of competent jurisdiction may order a  
23 criminal justice agency to expunge the criminal history record  
24 of a minor or an adult who complies with the requirements of  
25 this section. The court shall not order a criminal justice

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26 | agency to expunge a criminal history record until the person  
27 | seeking to expunge a criminal history record has applied for and  
28 | received a certificate of eligibility for expunction pursuant to  
29 | subsection (2) or subsection (5). A criminal history record that  
30 | relates to a violation of s. 393.135, s. 394.4593, s. 787.025,  
31 | chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,  
32 | s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,  
33 | s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in  
34 | s. 907.041, or any violation specified as a predicate offense  
35 | for registration as a sexual predator pursuant to s. 775.21,  
36 | without regard to whether that offense alone is sufficient to  
37 | require such registration, or for registration as a sexual  
38 | offender pursuant to s. 943.0435, may not be expunged, without  
39 | regard to whether adjudication was withheld, if the defendant  
40 | was found guilty of or pled guilty or nolo contendere to the  
41 | offense, or if the defendant, as a minor, was found to have  
42 | committed, or pled guilty or nolo contendere to committing, the  
43 | offense as a delinquent act. The court may only order expunction  
44 | of a criminal history record pertaining to one arrest or one  
45 | incident of alleged criminal activity, except as provided in  
46 | this section. The court may, at its sole discretion, order the  
47 | expunction of a criminal history record pertaining to more than  
48 | one arrest if the additional arrests directly relate to the  
49 | original arrest. If the court intends to order the expunction of  
50 | records pertaining to such additional arrests, such intent must

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51 | be specified in the order. A criminal justice agency may not  
52 | expunge any record pertaining to such additional arrests if the  
53 | order to expunge does not articulate the intention of the court  
54 | to expunge a record pertaining to more than one arrest. This  
55 | section does not prevent the court from ordering the expunction  
56 | of only a portion of a criminal history record pertaining to one  
57 | arrest or one incident of alleged criminal activity.

58 | Notwithstanding any law to the contrary, a criminal justice  
59 | agency may comply with laws, court orders, and official requests  
60 | of other jurisdictions relating to expunction, correction, or  
61 | confidential handling of criminal history records or information  
62 | derived therefrom. This section does not confer any right to the  
63 | expunction of any criminal history record, and any request for  
64 | expunction of a criminal history record may be denied at the  
65 | sole discretion of the court.

66 |       (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to  
67 | petitioning the court to expunge a criminal history record, a  
68 | person seeking to expunge a criminal history record shall apply  
69 | to the department for a certificate of eligibility for  
70 | expunction. The department shall, by rule adopted pursuant to  
71 | chapter 120, establish procedures pertaining to the application  
72 | for and issuance of certificates of eligibility for expunction.  
73 | A certificate of eligibility for expunction is valid for 12  
74 | months after the date stamped on the certificate when issued by  
75 | the department. After that time, the petitioner must reapply to

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76 | the department for a new certificate of eligibility. Eligibility  
 77 | for a renewed certification of eligibility must be based on the  
 78 | status of the applicant and the law in effect at the time of the  
 79 | renewal application. The department shall issue a certificate of  
 80 | eligibility for expunction to a person who is the subject of a  
 81 | criminal history record if that person:

82 |       (a) Has obtained, and submitted to the department, a  
 83 | written, certified statement from the appropriate state attorney  
 84 | or statewide prosecutor which indicates:

85 |           1. That an indictment, information, or other charging  
 86 | document was not filed or issued in the case.

87 |           2. That an indictment, information, or other charging  
 88 | document, if filed or issued in the case, was dismissed or nolle  
 89 | prosequi by the state attorney or statewide prosecutor, ~~or~~ was  
 90 | dismissed by a court of competent jurisdiction, or that a  
 91 | judgment of acquittal was rendered by a judge, or that a verdict  
 92 | of not guilty was rendered by a judge or jury ~~and that none of~~  
 93 | ~~the charges related to the arrest or alleged criminal activity~~  
 94 | ~~to which the petition to expunge pertains resulted in a trial,~~  
 95 | ~~without regard to whether the outcome of the trial was other~~  
 96 | ~~than an adjudication of guilt.~~

97 |           3. That the criminal history record does not relate to a  
 98 | violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
 99 | former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,  
 100 | s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,

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101 s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,  
102 or any violation specified as a predicate offense for  
103 registration as a sexual predator pursuant to s. 775.21, without  
104 regard to whether that offense alone is sufficient to require  
105 such registration, or for registration as a sexual offender  
106 pursuant to s. 943.0435, where the defendant was found guilty  
107 of, or pled guilty or nolo contendere to any such offense, or  
108 that the defendant, as a minor, was found to have committed, or  
109 pled guilty or nolo contendere to committing, such an offense as  
110 a delinquent act, without regard to whether adjudication was  
111 withheld.

112 (h) Has previously obtained a court order sealing the  
113 record under this section, former s. 893.14, former s. 901.33,  
114 or former s. 943.058 for a minimum of 10 years because  
115 adjudication was withheld or because all charges related to the  
116 arrest or alleged criminal activity to which the petition to  
117 expunge pertains were not dismissed before ~~prior to~~ trial,  
118 without regard to whether the outcome of the trial was other  
119 than an adjudication of guilt. The requirement for the record to  
120 have previously been sealed for a minimum of 10 years does not  
121 apply when a plea was not entered or all charges related to the  
122 arrest or alleged criminal activity to which the petition to  
123 expunge pertains were dismissed before ~~prior to~~ trial or a  
124 judgment of acquittal was rendered by a judge or a verdict of  
125 not guilty was rendered by a judge or jury.

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126 Section 2. Paragraphs (c) through (f) of subsection (2) of  
127 section 943.059, Florida Statutes, are redesignated as  
128 paragraphs (d) through (g), respectively, and a new paragraph  
129 (c) is added to that subsection, to read:

130 943.059 Court-ordered sealing of criminal history  
131 records.—The courts of this state shall continue to have  
132 jurisdiction over their own procedures, including the  
133 maintenance, sealing, and correction of judicial records  
134 containing criminal history information to the extent such  
135 procedures are not inconsistent with the conditions,  
136 responsibilities, and duties established by this section. Any  
137 court of competent jurisdiction may order a criminal justice  
138 agency to seal the criminal history record of a minor or an  
139 adult who complies with the requirements of this section. The  
140 court shall not order a criminal justice agency to seal a  
141 criminal history record until the person seeking to seal a  
142 criminal history record has applied for and received a  
143 certificate of eligibility for sealing pursuant to subsection  
144 (2). A criminal history record that relates to a violation of s.  
145 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,  
146 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,  
147 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,  
148 s. 916.1075, a violation enumerated in s. 907.041, or any  
149 violation specified as a predicate offense for registration as a  
150 sexual predator pursuant to s. 775.21, without regard to whether

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151 that offense alone is sufficient to require such registration,  
152 or for registration as a sexual offender pursuant to s.  
153 943.0435, may not be sealed, without regard to whether  
154 adjudication was withheld, if the defendant was found guilty of  
155 or pled guilty or nolo contendere to the offense, or if the  
156 defendant, as a minor, was found to have committed or pled  
157 guilty or nolo contendere to committing the offense as a  
158 delinquent act. The court may only order sealing of a criminal  
159 history record pertaining to one arrest or one incident of  
160 alleged criminal activity, except as provided in this section.  
161 The court may, at its sole discretion, order the sealing of a  
162 criminal history record pertaining to more than one arrest if  
163 the additional arrests directly relate to the original arrest.  
164 If the court intends to order the sealing of records pertaining  
165 to such additional arrests, such intent must be specified in the  
166 order. A criminal justice agency may not seal any record  
167 pertaining to such additional arrests if the order to seal does  
168 not articulate the intention of the court to seal records  
169 pertaining to more than one arrest. This section does not  
170 prevent the court from ordering the sealing of only a portion of  
171 a criminal history record pertaining to one arrest or one  
172 incident of alleged criminal activity. Notwithstanding any law  
173 to the contrary, a criminal justice agency may comply with laws,  
174 court orders, and official requests of other jurisdictions  
175 relating to sealing, correction, or confidential handling of

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176 criminal history records or information derived therefrom. This  
 177 section does not confer any right to the sealing of any criminal  
 178 history record, and any request for sealing a criminal history  
 179 record may be denied at the sole discretion of the court.

180 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to  
 181 petitioning the court to seal a criminal history record, a  
 182 person seeking to seal a criminal history record shall apply to  
 183 the department for a certificate of eligibility for sealing. The  
 184 department shall, by rule adopted pursuant to chapter 120,  
 185 establish procedures pertaining to the application for and  
 186 issuance of certificates of eligibility for sealing. A  
 187 certificate of eligibility for sealing is valid for 12 months  
 188 after the date stamped on the certificate when issued by the  
 189 department. After that time, the petitioner must reapply to the  
 190 department for a new certificate of eligibility. Eligibility for  
 191 a renewed certification of eligibility must be based on the  
 192 status of the applicant and the law in effect at the time of the  
 193 renewal application. The department shall issue a certificate of  
 194 eligibility for sealing to a person who is the subject of a  
 195 criminal history record provided that such person:

196 (c) Is not seeking to seal a criminal history record that  
 197 relates to a violation of s. 393.135, s. 394.4593, s. 787.025,  
 198 chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,  
 199 s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,  
 200 s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in



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201 s. 907.041, or any violation specified as a predicate offense  
202 for registration as a sexual predator pursuant to s. 775.21,  
203 without regard to whether that offense alone is sufficient to  
204 require such registration, or for registration as a sexual  
205 offender pursuant to s. 943.0435, where the defendant was found  
206 guilty of, or pled guilty or nolo contendere to any such  
207 offense, or that the defendant, as a minor, was found to have  
208 committed, or pled guilty or nolo contendere to committing, such  
209 an offense as a delinquent act, without regard to whether  
210 adjudication was withheld.

211 Section 3. This act shall take effect October 1, 2018.