

1 A bill to be entitled
 2 An act relating to expunction and sealing of criminal
 3 history records; amending s. 943.0585, F.S.; providing
 4 that a person may obtain expunction of a criminal
 5 history record if it has been more than a specified
 6 period since the person has been adjudicated guilty of
 7 specified offenses and meets specified requirements;
 8 amending s. 943.059, F.S.; providing that a person may
 9 obtain a sealing of a criminal history record if it
 10 has been more than a specified period since a prior
 11 sealing or expunction; providing an effective date.

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

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 15 Section 1. Subsection (1) and paragraph (a) of subsection
 16 (2) of section 943.0585, Florida Statutes, are amended to read:

17 943.0585 Court-ordered expunction of criminal history
 18 records.—

19 (1) ELIGIBILITY.—A person is eligible to petition a court
 20 to expunge a criminal history record if:

21 (a) An indictment, information, or other charging document
 22 was not filed or issued in the case giving rise to the criminal
 23 history record.

24 (b) An indictment, information, or other charging document
 25 was filed or issued in the case giving rise to the criminal

26 history record, was dismissed or nolle prosequi by the state
 27 attorney or statewide prosecutor, or was dismissed by a court of
 28 competent jurisdiction or a judgment of acquittal was rendered
 29 by a judge, or a verdict of not guilty was rendered by a judge
 30 or jury.

31 (c) The person is not seeking to expunge a criminal
 32 history record that is ineligible for court-ordered expunction
 33 under s. 943.0584.

34 (d) ~~The person has never,~~ As of the date the application
 35 for a certificate of expunction is filed:

36 1. The person has not, been adjudicated guilty in this
 37 state of a criminal offense; or

38 2. It has been at least 10 years since the person has been
 39 adjudicated guilty in this state of a criminal offense and the
 40 person has never been adjudicated guilty of an offense listed in
 41 s. 943.0584.

42 (e) As of the date the application for a certificate of
 43 expunction is filed, the person has not been adjudicated
 44 delinquent in this state for committing any felony or any of the
 45 following misdemeanors in the past 10 years, unless the record
 46 of such adjudication of delinquency has been expunged pursuant
 47 to s. 943.0515:

- 48 1. Assault, as defined in s. 784.011;
- 49 2. Battery, as defined in s. 784.03;
- 50 3. Assault on a law enforcement officer, a firefighter, or

51 other specified officers, as defined in s. 784.07(2)(a);
 52 4. Carrying a concealed weapon, as defined in s.
 53 790.01(1);
 54 5. Open carrying of a weapon, as defined in s. 790.053;
 55 6. Unlawful possession or discharge of a weapon or firearm
 56 at a school-sponsored event or on school property, as defined in
 57 s. 790.115;
 58 7. Unlawful use of destructive devices or bombs, as
 59 defined in s. 790.1615(1);
 60 8. Unlawful possession of a firearm, as defined in s.
 61 790.22(5);
 62 9. Exposure of sexual organs, as defined in s. 800.03;
 63 10. Arson, as defined in s. 806.031(1);
 64 11. Petit theft, as defined in s. 812.014(3);
 65 12. Neglect of a child, as defined in s. 827.03(1)(e); or
 66 13. Cruelty to animals, as defined in s. 828.12(1).
 67 (f)~~(e)~~ The person has not been adjudicated guilty of, or
 68 adjudicated delinquent for committing, any of the acts stemming
 69 from the arrest or alleged criminal activity to which the
 70 petition pertains.
 71 (g)~~(f)~~ The person is no longer under court supervision
 72 applicable to the disposition of arrest or alleged criminal
 73 activity to which the petition to expunge pertains.
 74 (h)~~(g)~~ The person has not ~~never~~ secured a prior sealing or
 75 expunction of a criminal history record under this section, s.

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76 943.059, former s. 893.14, former s. 901.33, or former s.
77 943.058 in the past 10 years, ~~unless expunction is sought of a~~
78 ~~criminal history record previously sealed for 10 years pursuant~~
79 ~~to paragraph (h) and the record is otherwise eligible for~~
80 ~~expunction.~~

81 (i) ~~(h)~~ The person has previously obtained a court-ordered
82 sealing the criminal history record under s. 943.059, former s.
83 893.14, former s. 901.33, or former s. 943.058 for a minimum of
84 10 years because adjudication was withheld or because all
85 charges related to the arrest or alleged criminal activity to
86 which the petition to expunge pertains were not dismissed before
87 trial, without regard to whether the outcome of the trial was
88 other than an adjudication of guilt. Notwithstanding paragraph
89 (h), the requirement for the record to have previously been
90 sealed for a minimum of 10 years does not apply if a plea was
91 not entered or all charges related to the arrest or alleged
92 criminal activity to which the petition to expunge pertains were
93 dismissed before trial or a judgment of acquittal was rendered
94 by a judge or a verdict of not guilty was rendered by a judge or
95 jury.

96 (2) CERTIFICATE OF ELIGIBILITY.—Before petitioning a court
97 to expunge a criminal history record, a person seeking to
98 expunge a criminal history record must apply to the department
99 for a certificate of eligibility for expunction. The department
100 shall adopt rules to establish procedures for applying for and

101 issuing a certificate of eligibility for expunction.

102 (a) The department shall issue a certificate of
 103 eligibility for expunction to a person who is the subject of a
 104 criminal history record if that person:

105 1. Satisfies the eligibility criteria in paragraphs
 106 (1)(a)-(i) ~~(1)(a)-(h)~~ and is not ineligible under s. 943.0584.

107 2. Has submitted to the department a written certified
 108 statement from the appropriate state attorney or statewide
 109 prosecutor which confirms the criminal history record complies
 110 with the criteria in paragraph (1)(a) or paragraphs (1)(b) and
 111 (c).

112 3. Has submitted to the department a certified copy of the
 113 disposition of the charge to which the petition to expunge
 114 pertains.

115 4. Remits a \$75 processing fee to the department for
 116 placement in the Department of Law Enforcement Operating Trust
 117 Fund, unless the executive director waives such fee.

118 Section 2. Paragraph (e) of subsection (1) of section
 119 943.059, Florida Statutes, is amended to read:

120 943.059 Court-ordered sealing of criminal history
 121 records.—

122 (1) ELIGIBILITY.—A person is eligible to petition a court
 123 to seal a criminal history record when:

124 (e) The person has never secured a prior sealing or
 125 expunction of a criminal history record under this section, s.

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126 | 943.0585, former s. 893.14, former s. 901.33, or former s.
127 | 943.058 or the person has one prior sealing or expunction and,
128 | as of the date of the application for a certificate of
129 | eligibility is filed, more than 10 years have passed since the
130 | prior sealing or expunction was ordered.

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