

By Senator Rodriguez

40-01281A-23

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1 A bill to be entitled
2 An act relating to expunction of criminal history
3 records; reenacting and amending s. 943.0585, F.S.;
4 revising an eligibility criterion under which a person
5 is eligible to petition a court to expunge a criminal
6 history record if an indictment, information, or other
7 charging document was dismissed by a court; expanding
8 an exception to an eligibility requirement for
9 expunction of a criminal history record to allow a
10 prior expunction of a criminal history record granted
11 for an offense committed when the person was a minor;
12 providing applicability; providing an effective date.

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

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16 Section 1. Paragraphs (b) and (g) of subsection (1) of
17 section 943.0585, Florida Statutes, are amended, and paragraph
18 (a) of subsection (2) and subsection (3) of that section are
19 reenacted, to read:

20 943.0585 Court-ordered expunction of criminal history
21 records.—

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

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

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30 or jury.

31 (g) The person has never secured a prior sealing or
32 expunction of a criminal history record under this section, s.
33 943.059, former s. 893.14, former s. 901.33, or former s.
34 943.058, unless:

35 1. Expunction is sought of a criminal history record
36 previously sealed for 10 years pursuant to paragraph (h) and the
37 record is otherwise eligible for expunction; or

38 2. The prior expunction was granted for a criminal history
39 record for an offense that was committed when he or she was a
40 minor and the record is otherwise eligible for expunction. This
41 subparagraph does not apply if the prior expunction was for an
42 offense in which the minor was charged as an adult. The
43 requirement for the record to have previously been sealed for a
44 minimum of 10 years under paragraph (h) does not apply to this
45 subparagraph.

46 (2) CERTIFICATE OF ELIGIBILITY.—Before petitioning a court
47 to expunge a criminal history record, a person seeking to
48 expunge a criminal history record must apply to the department
49 for a certificate of eligibility for expunction. The department
50 shall adopt rules to establish procedures for applying for and
51 issuing a certificate of eligibility for expunction.

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

55 1. Satisfies the eligibility criteria in paragraphs (1) (a)-
56 (h) and is not ineligible under s. 943.0584.

57 2. Has submitted to the department a written certified
58 statement from the appropriate state attorney or statewide

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59 prosecutor which confirms the criminal history record complies
60 with the criteria in paragraph (1) (a) or paragraphs (1) (b) and
61 (c).

62 3. Has submitted to the department a certified copy of the
63 disposition of the charge to which the petition to expunge
64 pertains.

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

68 (3) PETITION.—Each petition to expunge a criminal history
69 record must be accompanied by:

70 (a) A valid certificate of eligibility issued by the
71 department.

72 (b) The petitioner's sworn statement that he or she:

73 1. Satisfies the eligibility requirements for expunction in
74 subsection (1).

75 2. Is eligible for expunction to the best of his or her
76 knowledge and does not have any other petition to seal or
77 expunge a criminal history record pending before any court.

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79 A person who knowingly provides false information on such sworn
80 statement commits a felony of the third degree, punishable as
81 provided in s. 775.082, s. 775.083, or s. 775.084.

82 Section 2. This act shall take effect July 1, 2023.