

1 A bill to be entitled

2 An act relating to expunging criminal history records
3 of minors; amending s. 943.0515, F.S.; providing for
4 the nonjudicial expunction of the criminal history of
5 an offense after a specified period for a minor who is
6 not a serious or habitual juvenile offender; providing
7 an exception for specified minors to apply for
8 expunction before attaining 21 years of age;
9 establishing an application process and requiring
10 submission of specified documentation; requiring a
11 sworn statement from an applicant; providing a
12 criminal penalty for perjury on such sworn statement;
13 amending s. 943.0582, F.S.; eliminating a deadline for
14 submission of an application by a minor for a
15 prearrest or postarrest diversion expunction; amending
16 s. 790.23, F.S.; conforming provisions to changes made
17 by the act; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:
20

21 Section 1. Paragraph (b) of subsection (1) of section
22 943.0515, Florida Statutes, is amended to read:

23 943.0515 Retention of criminal history records of minors.—

24 (1)

25 (b)1. If the minor is not classified as a serious or
26 habitual juvenile offender or committed to a juvenile

27 | correctional facility or juvenile prison under chapter 985, the
28 | program shall retain the minor's criminal history record for 2 ~~5~~
29 | years after the date the minor reaches 19 years of age, at which
30 | time the record shall be expunged unless it meets the criteria
31 | of paragraph (2) (a) or paragraph (2) (b).

32 | 2. A minor described in subparagraph 1. may apply to the
33 | department to have his or her criminal history record expunged
34 | before the minor reaches 21 years of age. To be eligible for
35 | expunction under this subparagraph, the minor must be 18 years
36 | of age or older but less than 21 years of age and have not been
37 | charged by the state attorney with or found to have committed a
38 | criminal offense within the 5-year period before the application
39 | date. The only offenses eligible for expunction under this
40 | subparagraph are those that the minor committed before reaching
41 | 18 years of age. Expunction of a criminal history record under
42 | this subparagraph requires the approval of the state attorney
43 | for each circuit in which an offense specified in the criminal
44 | history record occurred. A minor seeking to expunge a criminal
45 | history record under this subparagraph must apply to the
46 | department for expunction in the manner prescribed by rule. An
47 | application for expunction under this subparagraph must include:

48 | a. A processing fee of \$75 to the department for deposit
49 | into the Department of Law Enforcement Operating Trust Fund,
50 | unless such fee is waived by the executive director.

51 | b. A full set of the applicant's fingerprints taken by a
52 | law enforcement agency for purposes of identity verification.

53 c. A sworn, written statement from the minor seeking
54 relief that he or she is no longer under court supervision
55 applicable to the disposition of the arrest or alleged criminal
56 activity to which the application to expunge pertains and that
57 he or she has not been charged with or found to have committed a
58 criminal offense, in any jurisdiction of the state or within the
59 United States, within the 5-year period before the application
60 date.

61
62 A person who knowingly provides false information on the sworn
63 statement required by this sub-subparagraph commits a
64 misdemeanor of the first degree, punishable as provided in s.
65 775.082 or s. 775.083.

66 3. A minor who applies, but who is not approved for early
67 expunction in accordance with subparagraph 2., shall have his or
68 her criminal history record expunged at age 21 if eligible under
69 subparagraph 1.

70 Section 2. Subsections (3) and (4) of section 943.0582,
71 Florida Statutes, are amended to read:

72 943.0582 Prearrest, postarrest, or teen court diversion
73 program expunction.—

74 (3) The department shall expunge the nonjudicial arrest
75 record of a minor who has successfully completed a prearrest or
76 postarrest diversion program if that minor:

77 (a) Submits an application for prearrest or postarrest
78 diversion expunction, on a form prescribed by the department,

79 signed by the minor's parent or legal guardian, or by the minor
80 if he or she has reached the age of majority at the time of
81 applying.

82 ~~(b) Submits the application for prearrest or postarrest~~
83 ~~diversion expunction no later than 12 months after completion of~~
84 ~~the diversion program.~~

85 (b)~~(e)~~ Submits to the department, with the application, an
86 official written statement from the state attorney for the
87 county in which the arrest occurred certifying that he or she
88 has successfully completed that county's prearrest or postarrest
89 diversion program, that his or her participation in the program
90 was based on an arrest for a nonviolent misdemeanor, and that he
91 or she has not otherwise been charged by the state attorney with
92 or found to have committed any criminal offense or comparable
93 ordinance violation.

94 (c)~~(d)~~ Participated in a prearrest or postarrest diversion
95 program that expressly authorizes or permits such expunction to
96 occur.

97 (d)~~(e)~~ Participated in a prearrest or postarrest diversion
98 program based on an arrest for a nonviolent misdemeanor that
99 would not qualify as an act of domestic violence as that term is
100 defined in s. 741.28.

101 (e)~~(f)~~ Has never, prior to filing the application for
102 expunction, been charged by the state attorney with or been
103 found to have committed any criminal offense or comparable
104 ordinance violation.

105 (4) The department may ~~is authorized to~~ charge a \$75
 106 processing fee for each request received for prearrest or
 107 postarrest diversion program expunction, for placement in the
 108 Department of Law Enforcement Operating Trust Fund, unless such
 109 fee is waived by the executive director.

110 Section 3. Subsection (2) of section 790.23, Florida
 111 Statutes, is amended to read:

112 790.23 Felons and delinquents; possession of firearms,
 113 ammunition, or electric weapons or devices unlawful.-

114 (2) This section does ~~shall~~ not apply to a person:

115 (a) Convicted of a felony whose civil rights and firearm
 116 authority have been restored.

117 (b) Whose criminal history record has been expunged
 118 pursuant to s. 943.0515(1)(b).

119 Section 4. This act shall take effect July 1, 2016.