

1                                   A bill to be entitled  
 2           An act relating to expunction and sealing of judicial  
 3           records; creating s. 741.301, F.S.; providing for  
 4           sealing of a petition for a domestic violence  
 5           injunction and related documents if the petition was  
 6           withdrawn or dismissed, or if there was a ruling in  
 7           favor of the respondent; reenacting and amending s.  
 8           943.0585, F.S.; exempting expunctions sought for cases  
 9           dismissed or nolle prosequi or that resulted in an  
 10          acquittal from the limit on the number of expunctions  
 11          that may be sought; expanding an exception to an  
 12          eligibility requirement for expunction of a criminal  
 13          history record to allow expunction for an offense  
 14          committed when the person was a minor; providing an  
 15          exception; requiring the Department of Law Enforcement  
 16          to act on applications for certificates of eligibility  
 17          within a specified time; providing an effective date.

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

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 21           Section 1.   Section 741.301, Florida Statutes, is created  
 22           to read:

23           741.301   Sealing of domestic violence injunction petitions  
 24           not granted.-

25           (1)   A respondent to a petition made under s. 741.30 may

26 | petition the court to seal the petition for injunction and all  
27 | records and documents related to it if the petition for  
28 | injunction was withdrawn or dismissed or if there was a ruling  
29 | in favor of the respondent. A petition for sealing under this  
30 | section may be filed at any time.

31 | Section 2. Subsections (1) and (2) of section 943.0585,  
32 | Florida Statutes, are amended, and subsection (3) of that  
33 | section is reenacted, to read:

34 | 943.0585 Court-ordered expunction of criminal history  
35 | records.—

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

38 | (a) An indictment, information, or other charging document  
39 | was not filed or issued in the case giving rise to the criminal  
40 | history record.

41 | (b) An indictment, information, or other charging document  
42 | was filed or issued in the case giving rise to the criminal  
43 | history record, was dismissed or nolle prosequi by the state  
44 | attorney or statewide prosecutor, or was dismissed by a court of  
45 | competent jurisdiction or a judgment of acquittal was rendered  
46 | by a judge, or a verdict of not guilty was rendered by a judge  
47 | or jury. Paragraph (g) does not apply to an expunction sought  
48 | under this paragraph.

49 | (c) The person is not seeking to expunge a criminal  
50 | history record that is ineligible for court-ordered expunction

51 under s. 943.0584.

52 (d) The person has never, as of the date the application  
53 for a certificate of expunction is filed, been adjudicated  
54 guilty in this state of a criminal offense or been adjudicated  
55 delinquent in this state for committing any felony or any of the  
56 following misdemeanors, unless the record of such adjudication  
57 of delinquency has been expunged pursuant to s. 943.0515:

- 58 1. Assault, as defined in s. 784.011;
- 59 2. Battery, as defined in s. 784.03;
- 60 3. Assault on a law enforcement officer, a firefighter, or  
61 other specified officers, as defined in s. 784.07(2)(a);
- 62 4. Carrying a concealed weapon, as defined in s.  
63 790.01(1);
- 64 5. Open carrying of a weapon, as defined in s. 790.053;
- 65 6. Unlawful possession or discharge of a weapon or firearm  
66 at a school-sponsored event or on school property, as defined in  
67 s. 790.115;
- 68 7. Unlawful use of destructive devices or bombs, as  
69 defined in s. 790.1615(1);
- 70 8. Unlawful possession of a firearm, as defined in s.  
71 790.22(5);
- 72 9. Exposure of sexual organs, as defined in s. 800.03;
- 73 10. Arson, as defined in s. 806.031(1);
- 74 11. Petit theft, as defined in s. 812.014(3);
- 75 12. Neglect of a child, as defined in s. 827.03(1)(e); or

76 | 13. Cruelty to animals, as defined in s. 828.12(1).

77 | (e) The person has not been adjudicated guilty of, or  
 78 | adjudicated delinquent for committing, any of the acts stemming  
 79 | from the arrest or alleged criminal activity to which the  
 80 | petition pertains.

81 | (f) The person is no longer under court supervision  
 82 | applicable to the disposition of arrest or alleged criminal  
 83 | activity to which the petition to expunge pertains.

84 | (g) Except for an expunction sought under paragraph (b),  
 85 | the person has never secured a prior sealing or expunction of a  
 86 | criminal history record under this section, s. 943.059, former  
 87 | s. 893.14, former s. 901.33, or former s. 943.058, unless:

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

91 | 2. The prior expunction of a criminal history record was  
 92 | granted for an offense that was committed when the person was a  
 93 | minor and the record is otherwise eligible for expunction. This  
 94 | subparagraph does not apply if the prior expunction was for an  
 95 | offense in which the minor was charged as an adult.

96 | (h) The person has previously obtained a court-ordered  
 97 | sealing of a ~~the~~ criminal history record under s. 943.059,  
 98 | former s. 893.14, former s. 901.33, or former s. 943.058 for a  
 99 | minimum of 10 years because adjudication was withheld or because  
 100 | all charges related to the arrest or alleged criminal activity

101 to which the petition to expunge pertains were not dismissed  
102 before trial, without regard to whether the outcome of the trial  
103 was other than an adjudication of guilt. The requirement for the  
104 record to have previously been sealed for a minimum of 10 years  
105 does not apply if a plea was not entered or all charges related  
106 to the arrest or alleged criminal activity to which the petition  
107 to expunge pertains were dismissed before trial or a judgment of  
108 acquittal was rendered by a judge or a verdict of not guilty was  
109 rendered by a judge or jury.

110 (2) CERTIFICATE OF ELIGIBILITY.—Before petitioning a court  
111 to expunge a criminal history record, a person seeking to  
112 expunge a criminal history record must apply to the department  
113 for a certificate of eligibility for expunction. The department  
114 shall issue a certificate or deny the request for a certificate  
115 no later than 6 months after the application is submitted. The  
116 department shall adopt rules to establish procedures for  
117 applying for and issuing a certificate of eligibility for  
118 expunction.

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

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

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

126 prosecutor which confirms the criminal history record complies  
 127 with the criteria in paragraph (1)(a) or paragraphs (1)(b) and  
 128 (c).

129 3. Has submitted to the department a certified copy of the  
 130 disposition of the charge to which the petition to expunge  
 131 pertains.

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

135 (b) A certificate of eligibility for expunction is valid  
 136 for 12 months after the date stamped on the certificate when  
 137 issued by the department. After that time, the petitioner must  
 138 reapply to the department for a new certificate of eligibility.  
 139 The petitioner's status and the law in effect at the time of the  
 140 renewal application determine the petitioner's eligibility.

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

143 (a) A valid certificate of eligibility issued by the  
 144 department.

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

146 1. Satisfies the eligibility requirements for expunction  
 147 in subsection (1).

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

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151  
152 A person who knowingly provides false information on such sworn  
153 statement commits a felony of the third degree, punishable as  
154 provided in s. 775.082, s. 775.083, or s. 775.084.

155 Section 3. This act shall take effect July 1, 2021.