

1 A bill to be entitled

2 An act relating to court-ordered expunction of  
3 criminal history records; amending s. 943.0585, F.S.;  
4 revising the information that must be provided in the  
5 written statement from the state attorney or statewide  
6 prosecutor in order for a person to be eligible for a  
7 criminal history record expunction; requiring a person  
8 or entity that publishes, displays, or disseminates  
9 information regarding an arrest that has been expunged  
10 to remove such information under certain  
11 circumstances; providing an effective date.

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

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15 Section 1. Paragraph (a) of subsection (2) of section  
16 943.0585, Florida Statutes, is amended, and paragraph (d) is  
17 added to subsection (4) of that section, to read:

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

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

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

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

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

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

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

87 1. That an indictment, information, or other charging  
 88 document was not filed or issued in the case.

89 2. That an indictment, information, or other charging  
 90 document, if filed or issued in the case, was dismissed or nolle  
 91 prosequi ~~prosequi~~ by the state attorney or statewide  
 92 prosecutor, ~~or was dismissed by a court of competent~~  
 93 jurisdiction, or a judge or jury rendered a verdict of not  
 94 guilty. The records of a person adjudicated not guilty by reason  
 95 of insanity are not eligible for expunction under this section  
 96 ~~and that none of the charges related to the arrest or alleged~~  
 97 ~~criminal activity to which the petition to expunge pertains~~  
 98 ~~resulted in a trial, without regard to whether the outcome of~~  
 99 ~~the trial was other than an adjudication of guilt.~~

100 3. That the criminal history record does not relate to a  
 101 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
 102 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
 103 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
 104 893.135, s. 916.1075, a violation enumerated in s. 907.041, or

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

115 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any  
116 criminal history record of a minor or an adult which is ordered  
117 expunged by a court of competent jurisdiction pursuant to this  
118 section must be physically destroyed or obliterated by any  
119 criminal justice agency having custody of such record; except  
120 that any criminal history record in the custody of the  
121 department must be retained in all cases. A criminal history  
122 record ordered expunged that is retained by the department is  
123 confidential and exempt from the provisions of s. 119.07(1) and  
124 s. 24(a), Art. I of the State Constitution and not available to  
125 any person or entity except upon order of a court of competent  
126 jurisdiction. A criminal justice agency may retain a notation  
127 indicating compliance with an order to expunge.

128 (d) A person or entity that publishes, displays, or in any  
129 way disseminates information regarding an arrest that has been  
130 expunged shall remove such information from any publication,

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131 Internet posting, or credit report upon receipt of a certified  
132 copy of an order granting a petition to expunge without further  
133 notice or cost to the individual who is the subject of the  
134 order.

135       Section 2. This act shall take effect July 1, 2014.