

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 943.0585, F.S.; providing an exemption from public
 4 records requirements for an adult's or minor's
 5 criminal history records related to a not-guilty
 6 verdict that have been expunged pursuant to s.
 7 943.0585, F.S.; providing for future legislative
 8 review and repeal of the exemption; amending s.
 9 943.059, F.S.; providing an exemption from public
 10 records requirements for an adult's or minor's record
 11 related to a withhold of adjudication or nonviolent
 12 misdemeanor conviction that has been sealed pursuant
 13 to s. 943.059, F.S.; providing for future legislative
 14 review and repeal of the exemption; amending s.
 15 943.0595, F.S.; providing an exemption from public
 16 records requirements for an adult's or minor's
 17 specified records that have been approved for
 18 nonjudicial sealing pursuant to s. 943.0595, F.S.;
 19 providing for future legislative review and repeal of
 20 the exemption; amending s. 943.0582, F.S.; conforming
 21 cross-references; providing a statement of public
 22 necessity; providing a contingent effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Paragraphs (b), (c), and (d) of subsection (7)

27 of section 943.0585, Florida Statutes, as amended by PCB CRJS
 28 16-03, are redesignated as paragraphs (c), (d), and (f),
 29 respectively, new paragraphs (b) and (e) are added to that
 30 subsection, and present paragraph (c) of that subsection is
 31 amended, to read:

32 943.0585 Court-ordered expunction of criminal history
 33 records.—

34 (7) EFFECT OF COURT-ORDERED EXPUNCTION.—

35 (b) A criminal history record that is ordered expunged and
 36 that is retained by the department is confidential and exempt
 37 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the
 38 State Constitution and is not available to any person or entity
 39 except upon order of a court of competent jurisdiction. A
 40 criminal justice agency may retain a notation indicating
 41 compliance with an order to expunge. This paragraph is subject
 42 to the Open Government Sunset Review Act in accordance with s.
 43 119.15 and shall stand repealed on October 2, 2021, unless
 44 reviewed and saved from repeal through reenactment by the
 45 Legislature.

46 (d) ~~(e)~~ Subject to the exceptions in paragraph (c) ~~(b)~~, a
 47 person who has been granted an expunction under this section,
 48 former s. 893.14, former s. 901.33, or former s. 943.058 may not
 49 be held under a law of this state to commit perjury or to be
 50 otherwise liable for giving a false statement by reason of such
 51 person's failure to recite or acknowledge an expunged criminal
 52 history record.

53 (e) Information relating to the existence of an expunged
 54 criminal history record which is provided in accordance with
 55 paragraph (c) is confidential and exempt from the provisions of
 56 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

57 1. The existence of a confidential and exempt criminal
 58 history record expunged under this section may be disclosed by
 59 the department to the entities set forth in subparagraphs (c)1.,
 60 4., 5., 6., 7., and 8. for their respective licensing, access
 61 authorization, and employment purposes, and to criminal justice
 62 agencies for their respective criminal justice purposes. It is
 63 unlawful for an employee of an entity set forth in subparagraph
 64 (c)1., subparagraph (c)4., subparagraph (c)5., subparagraph
 65 (c)6., subparagraph (c)7., or subparagraph(c)8. to disclose
 66 information relating to the existence of an expunged criminal
 67 history record of a person seeking employment, access
 68 authorization, or licensure with such entity or contractor,
 69 except to the person to whom the criminal history record relates
 70 or to a person having direct responsibility for employment,
 71 access authorization, or licensure decisions.

72 2. A person who violates this paragraph commits a
 73 misdemeanor of the first degree, punishable as provided in s.
 74 775.082 or s. 775.083.

75 3. This paragraph is subject to the Open Government Sunset
 76 Review Act in accordance with s. 119.15 and shall stand repealed
 77 on October 2, 2021, unless reviewed and saved from repeal
 78 through reenactment by the Legislature.

79 Section 2. Paragraphs (a), (b), and (c) of subsection (7)
 80 of section 943.059, Florida Statutes, as amended by PCB CRJS 16-
 81 03, are redesignated as paragraphs (b), (c), and (e),
 82 respectively, new paragraphs (a) and (d) are added to that
 83 subsection, and present paragraph (b) of that subsection is
 84 amended, to read:

85 943.059 Court-ordered sealing of criminal history
 86 records.—

87 (7) EFFECT OF COURT-ORDERED SEALING.—

88 (a) A criminal history record that is ordered sealed by a
 89 court is confidential and exempt from the provisions of s.
 90 119.07(1) and s. 24(a), Art. I of the State Constitution.

91 1. A confidential and exempt criminal history record may
 92 be disclosed by the department to:

93 a. The person who is the subject of the record or to the
 94 subject's attorney.

95 b. A criminal justice agency in the furtherance of its
 96 lawful duties and responsibilities, which include conducting a
 97 criminal history background check for approval of firearms
 98 purchases or transfers as authorized by state or federal law.

99 c. A judge in the state courts system for the purpose of
 100 assisting in case-related decisionmaking responsibilities as set
 101 forth in s. 943.053(5).

102 d. Those entities set forth in subparagraphs (c)1., 4.,
 103 5., 6., 8., 9., 10. and 11. for their respective licensing,
 104 access authorization, and employment purposes.

105 2. This paragraph is subject to the Open Government Sunset
106 Review Act in accordance with s. 119.15 and shall stand repealed
107 on October 2, 2021, unless reviewed and saved from repeal
108 through reenactment by the Legislature.

109 (c) ~~(b)~~ Subject to the exceptions in paragraph (b) ~~(a)~~, a
110 person who has been granted a sealing under this section, former
111 s. 893.14, former s. 901.33, or former s. 943.058 may not be
112 held under any provision of law of this state to commit perjury
113 or to be otherwise liable for giving a false statement by reason
114 of such person's failure to recite or acknowledge a sealed
115 criminal history record.

116 (d) Information relating to the existence of a sealed
117 criminal history record which is provided in accordance with
118 paragraph (b) is confidential and exempt from the provisions of
119 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
120 except that the department shall disclose the sealed criminal
121 history record to the entities set forth in subparagraphs (b)1.,
122 4., 5., 6., 8., 9., 10., and 11. for their respective licensing,
123 access authorization, and employment purposes, and to criminal
124 justice agencies for their respective criminal justice purposes.

125 1. It is unlawful for an employee of an entity set forth
126 in subparagraph (b)1., subparagraph (b)4., subparagraph (b)5.,
127 subparagraph (b)6., subparagraph (b)8., subparagraph (b)9.,
128 subparagraph (b)10., or subparagraph (b)11. to disclose
129 information relating to the existence of a sealed criminal
130 history record of a person seeking employment, access

131 authorization, or licensure with such entity or contractor,
 132 except to the person to whom the criminal history record relates
 133 or to persons having direct responsibility for employment,
 134 access authorization, or licensure decisions.

135 2. A person who violates this paragraph commits a
 136 misdemeanor of the first degree, punishable as provided in s.
 137 775.082 or s. 775.083.

138 3. This paragraph is subject to the Open Government Sunset
 139 Review Act in accordance with s. 119.15 and shall stand repealed
 140 on October 2, 2021, unless reviewed and saved from repeal
 141 through reenactment by the Legislature.

142 Section 3. Subsection (6) of section 943.0595, Florida
 143 Statutes, as created by PCB CRJS 16-03, is amended to read:

144 943.0595 Nonjudicial sealing of criminal history records.—

145 (6) EFFECT OF NONJUDICIAL SEALING.—

146 (a) A criminal history record of an adult or a minor
 147 described under paragraph (2) (a) which is approved for
 148 nonjudicial sealing by the department pursuant to this section
 149 is confidential and exempt from the provisions of s. 119.07(1)
 150 and s. 24(a), Art. I of the State Constitution.

151 (b) The sealing of a record under this section shall have
 152 the same effect, and such record may be disclosed by the
 153 department in the same manner, as a record sealed under s.
 154 943.059, except that a record sealed under this section shall
 155 not be made available to the Department of Highway Safety and
 156 Motor Vehicles.

157 (c) This subsection is subject to the Open Government
 158 Sunset Review Act in accordance with s. 119.15 and shall stand
 159 repealed on October 2, 2021, unless reviewed and saved from
 160 repeal through reenactment by the Legislature.

161 Section 4. Paragraph (a) of subsection (2) of section
 162 943.0582, Florida Statutes, as amended by PCB CRJS 16-03, is
 163 amended to read:

164 943.0582 Prearrest, postarrest, or teen court diversion
 165 program expunction.—

166 (2) (a) As used in this section, the term "expunction" has
 167 the same meaning ascribed in and effect as s. 943.0585, except
 168 that:

169 1. The provisions of s. 943.0585(7)(c) ~~943.0585(7)(b)~~ do
 170 not apply, except that the criminal history record of a person
 171 whose record is expunged pursuant to this section shall be made
 172 available only to criminal justice agencies for the purpose of
 173 determining eligibility for prearrest, postarrest, or teen court
 174 diversion programs; when the record is sought as part of a
 175 criminal investigation; or when the subject of the record is a
 176 candidate for employment with a criminal justice agency. For all
 177 other purposes, a person whose record is expunged under this
 178 section may lawfully deny or fail to acknowledge the arrest and
 179 the charge covered by the expunged record.

180 2. Records maintained by local criminal justice agencies
 181 in the county in which the arrest occurred that are eligible for
 182 expunction pursuant to this section shall be sealed as the term

183 is used in s. 943.059.

184 Section 5. The Legislature finds that it is a public
 185 necessity that the criminal history records of an adult or minor
 186 which have been expunged or sealed be made confidential and
 187 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
 188 Article I of the State Constitution. Many people whose
 189 prosecutions have been abandoned, were found not guilty
 190 subsequent to a jury trial, or who have completed any sanctions
 191 imposed by the court in the criminal or juvenile justice system
 192 have found it difficult to obtain employment. The presence of a
 193 criminal history record in these individuals' pasts creates an
 194 unnecessary barrier to becoming productive members of society
 195 and can jeopardize individuals' ability to achieve a safe
 196 livelihood. The Legislature therefore finds that it is in the
 197 best interest of the public that persons are given the
 198 opportunity to become contributing members of society.

199 Section 6. This act shall take effect on the same date
 200 that PCB CRJS 16-03 or similar legislation relating to expunging
 201 and sealing of criminal history records takes effect, if such
 202 legislation is adopted in the same legislative session or an
 203 extension thereof and becomes law.