

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

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

21
 22 Section 1. Paragraph (b) of subsection (1) of section
 23 943.0515, Florida Statutes, is amended to read:

24 943.0515 Retention of criminal history records of minors.—

25 (1)

26 (b)1. If the minor is not classified as a serious or

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

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

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

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

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

62
 63 A person who knowingly provides false information on the sworn
 64 statement required by this sub-subparagraph commits a felony of
 65 the third degree, punishable as provided in s. 775.082, s.
 66 775.083, or s. 775.084.

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

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

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

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

78 (a) Submits an application for prearrest or postarrest
79 diversion expunction, on a form prescribed by the department,
80 signed by the minor's parent or legal guardian, or by the minor
81 if he or she has reached the age of majority at the time of
82 applying.

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

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

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

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

102 (e)~~(f)~~ Has never, prior to filing the application for
103 expunction, been charged by the state attorney with or been

104 found to have committed any criminal offense or comparable
105 ordinance violation.

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

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

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

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

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

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

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