

LEGISLATIVE ALERT

April 11, 2019



Aarrggggggghhhhhhhhhhh!!!!!!

Before I start *spewing*, a short history lesson: In 2017, the Legislature passed a bill, CS/SB 118, that created an automatic administrative seal for millions of criminal history records. Governor Scott signed the bill but because of a procedural glitch, the provision did not become law.

WELL, the House Judiciary Committee is trying again. On Tuesday, the Committee unanimously approved a proposed committee bill (PCB) euphemistically titled *Public Safety*. If you wade carefully through the 259 page (!) bill, on page 213 you will find Section 47 which creates a new section of law, s. 943.0595. Here's a link to the PCB: <http://bit.ly/2uWBRjO>

The newly created section of law requires the AUTOMATIC ADMINISTRATIVE SEALING of a criminal history record *if*:

- 1) A charging document isn't filed;
- 2) Charges weren't filed or were dropped or dismissed; or
- 3) The defendant was acquitted or found not guilty.

And there is *NO LIMIT* on the number of times a person can obtain an automatic seal of a criminal history record.

Think about this: a person could be charged and tried one or more times for a lewd and lascivious act on a child, for example, and if acquitted or found not guilty because of a lack of evidence, that person's criminal history record would be automatically administratively

sealed. That means that the person would not show up on FDLE's criminal background check webpage, and if that person then applies for a position with a school or day care center, there would be *no public record* of the previous charges.

PUBLIC SAFETY?????!!!!!!???????

Current law allows for expunction of a criminal history record under specified conditions and there is a statutory structure in place with clearly defined steps and requirements. All expunction applications are *manually reviewed* for compliance with those legal requirements. Importantly, a request for expunction can be denied after a manual review and a person can have a criminal history record expunged only once, ensuring that repeat offenders can't hide behind multiple expunctions.

According to the staff analysis for the Public Safety PCB, the automatic administrative sealing of criminal history records is needed to reduce the administrative burden of reviewing these records by the Florida Department of Law Enforcement.

WHAT?????!!!!!!???????

If you're as concerned as we are about the possibility this bill will become law, please let your local legislators know. <https://floridafaf.org/legislature/contact-your-legislator/>

As always, if you have any questions, please contact Barbara Petersen at sunshine@floridafaf.org or 800/337-3518.

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