

FLORIDA

An adjudication will not impose any civil disabilities ordinarily imposed as a result of a conviction, nor will it disqualify or prejudice the juvenile in any civil service application or appointment. FLA. STAT. § 985.557(1).

Juvenile Record Contents

“Criminal history information” means information collected by criminal justice agencies on persons, which consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges and the disposition thereof. The term does not include identification information, such as biometric records, if the information does not indicate involvement of the person in the criminal justice system. FLA. STAT. § 943.045.

Confidentiality of Law Enforcement Records

No distinction is made between law enforcement and court records.

Confidentiality of Court Records

Juvenile records are not generally open to inspection by the public. FLA. STAT. § 985.045.

Exceptions (FLA. STAT. § 985.045):

- Law enforcement agencies
- Department of Juvenile Justice and its designees
- Parole Commission
- Department of Corrections
- Justice Administrative Commission
- Superintendent of the child’s school
- The child’s classroom teachers must be notified if the child has been placed in a probation or commitment program for a felony offense (FLA. STAT. §985.04(1))
- Child’s attorney
- Child’s parent or guardian
- Child
- Any person deemed to have a proper interest in inspecting the child’s records may be authorized to do so by court order

Exceptions to Confidentiality

Nature of Offense: Juvenile records are public if the juvenile has been charged with a crime that, if committed by an adult, would be a felony. FLA. STAT. § 985.04.

Number of Offenses: Juvenile records are public if the juvenile has committed three or more violations of the law that, if committed by an adult, would be misdemeanors. FLA. STAT. § 985.04.

Availability of Records Online or in Commercial Background Reports

No information found.

Consequences for Unlawfully Sharing Confidential Information

No information found.

Sealing and Expungement

Expunction: “Expunction of a criminal history record” means the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody thereof, or as prescribed by the court issuing the order, except that criminal history records in the custody of the department must be retained in all cases for purposes of evaluating subsequent requests by the subject of the record for sealing or expunction, or for purposes of recreating the record in the event an order to expunge is vacated by a court of competent jurisdiction. FLA. STAT. § 943.045(16). See also FLA. STAT. § 985.045(1); FLA. STAT. § 943.0515(1)(a).

Excluded Offenses

Under FLA. STAT. § 943.0515(3), any minor convicted after July 1, 2007 of certain sexual offenses (sexual battery, as defined in Section 794.011, lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age, as defined by section 800.04(4)(b), where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion; or where the court finds molestation involving unclothed genitals; or where the court finds the use of force or coercion and unclothed genitals) cannot have his or her records destroyed. Instead, the “Criminal Justice Information Program” retains the criminal history record of those minors, and the records will be merged with the person’s adult criminal history record and retained as a part of the person’s adult record.

Automatic (Without Application)

In Florida, most juvenile records are automatically destroyed after a period of time. *See, e.g.*, FLA. STAT. § 985.045(1). Juveniles classified as “serious or habitual delinquent offenders” will automatically have their records expunged when they reach the age of 26. Juveniles not classified as “serious or habitual offenders” will have their record automatically destroyed when they turn 24. Juvenile records can be kept until three years after the death of a child, if that date is earlier than the date the child turns 24 or 26. FLA. STAT. § 985.045(1). In addition, traffic offense records in which there is no allegation of delinquency may be destroyed as soon as this can reasonably be accomplished. *See also* FLA. STAT. § 943.0515(1)(a).

However, if an individual is charged with or convicted of a forcible felony after he or she turns 18 and prior to the destruction of his or her juvenile record, or is “adjudicated as an adult” for a forcible felony, his or her previous juvenile record is merged with the adult record and maintained as part of the adult record. FLA. STAT. § 943.0515(2)(a)-(b). Additionally, the Criminal Justice Information Program retains the criminal history record of a minor adjudicated delinquent for certain sexual offender crimes committed on or after July 1, 2007. FLA. STAT. § 943.0515(3). Those records cannot be destroyed and must be merged with and retained as part of the person’s adult criminal history record.

Eligibility

In Florida, courts have jurisdiction over their own records, including sealing and expunction of judicial records containing criminal history information. A court may order sealing or expunction of any other agency’s criminal history record provided that: (a) the subject of the record has not previously been adjudicated guilty of a criminal offense or comparable violation; and (b) the subject of the record has not been adjudicated guilty of any of charge stemming from the arrest or alleged criminal activity to which the records expunction petition pertains. *State v. Pena*, 593 So. 2d 282 (Fla. Ct. App. 1992).

Although Florida offers automatic expungement at age 24 or 26 (as described above), it is possible to petition the court to have the juvenile record sealed or expunged earlier. Under the “teen court diversion program expunction,” FLA. STAT. § 943.0582, an individual must demonstrate that he or she has: (1) successfully completed a prearrest or postarrest diversion program; (2) submitted an application for prearrest or postarrest diversion expunction, on a form prescribed by the department, signed by the minor’s parent or legal guardian, or by the minor if he or she has reached the age of majority at the time of applying; (3) submitted the application for prearrest or postarrest diversion expunction no later than 6 months after completion of the diversion program; (4) submitted to the department, with the application, an

official written statement from the state attorney for the county in which the arrest occurred certifying that he or she has successfully completed that county’s prearrest or postarrest diversion program and that participation in the program is strictly limited to minors arrested for a nonviolent misdemeanor who have not otherwise been charged with or found to have committed any criminal offense or comparable ordinance violation; (5) participated in a prearrest or postarrest diversion program that expressly authorizes or permits such expunction to occur; (6) participated in a prearrest or postarrest diversion program based on an arrest for a nonviolent misdemeanor that would not qualify as an act of domestic violence; (7) never, prior to filing the application for expunction, been charged with or been found to have committed any criminal offense or comparable ordinance violation. FLA. STAT. § 943.0582. He or she must have completed the program on or after July 1, 2000. Additionally, the individual may pay a \$75 processing fee for each request received for prearrest or postarrest diversion program expunction, for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director. Expunction under this program does not prevent an individual from later petitioning for the expungement of records under the typical process. FLA. STAT. § 943.0582.

Notification

No information found.

Petition/Application

FLORIDA DEPARTMENT OF LAW ENFORCEMENT, *Application for Juvenile Diversion Expunction*, [http://www.fdle.state.fl.us/Content/getdoc/7041a831-f6e3-4415-8e6f-e35e94da50e9/JuvenileDiversionExpunctionApplication\(Final2013\).aspx](http://www.fdle.state.fl.us/Content/getdoc/7041a831-f6e3-4415-8e6f-e35e94da50e9/JuvenileDiversionExpunctionApplication(Final2013).aspx).

Hearing

No information found.

Court Process

According to the typical expungement process, an individual must first obtain a certificate of eligibility for expungement from the Department, and must have completed all court supervision applicable to the criminal activity. The certificate must be submitted with the completed application for expungement. FLA. STAT. § 943.0585(1).

Effect

If the petition is approved, the criminal history record must be physically destroyed by any criminal justice agency maintaining a copy, but the Department may retain a copy, which will only be made available under court order. Agencies required to expunge their records may keep a notation that the record was expunged. FLA. STAT. § 943.0585(4).

Once a record is expunged, individuals are generally not required to reveal information regarding that proceeding and may treat the act as if it never occurred. FLA. STAT. § 943.0585(4)(a). However, there are several exceptions to this rule. An individual must reveal information pertaining to the expunged record if the person is (FLA. STAT. § 943.0585(4)):

- A candidate for employment with a criminal justice agency
- A defendant in a criminal prosecution
- Petitioning for the sealing of criminal records
- Applying for admission to the Florida Bar
- Seeking to work with or in an agency that serves children, the disabled, or the elderly, including schools
- Seeking employment at a seaport

Violation of this provision is a first-degree misdemeanor. FLA. STAT. § 943.0585(4)(c).

Fee

Diversion program expunction: the individual may be asked to pay a \$75 processing fee for each request received for pre-arrest or post-arrest diversion program expunction, to be placed in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director of the Fund. FLA. STAT. § 943.0582

Consequences for Sharing Sealed/Expunged Information

Revealing information about expunged records is a first-degree misdemeanor. FLA. STAT. § 943.0585(4)(c).