

## **EXPUNGE A CRIMINAL HISTORY RECORD WILL BE DENIED REASONS AN APPLICATION FOR CERTIFICATE OF ELIGIBILITY TO SEAL OR**

Pursuant to Sections s.943.0585 and s.943.059 , Florida Statutes, a Certificate of Eligibility to expunge or seal a criminal history record **cannot** be issued under any of the following circumstances:

1. The criminal history record reflects that you have been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing any felony or a misdemeanor specified in s.943.051(3)b. **Certain driving violations are classified as criminal, such as DUI, reckless driving, and (with some exceptions) driving while license is suspended/canceled/revoked.**
2. The criminal history record reflects that you have been adjudicated guilty of or adjudicated delinquent for committing one or more of the acts stemming from the arrest or alleged criminal activity to which the application pertains.
3. The criminal history record reflects that you have received a prior sealing or expunction of a criminal history record under s.943.0585 , s.943.059 , former s.893.14, former s.901.33, former s.943.058, or from any jurisdiction outside the state.

with a finding of guilt, or a plea or guilty or nolo contendere (without regard to whether adjudication was withheld). . Stat., 4. The criminal history record to which the application pertains relates to a violation of 393.135, s s. 394.4593 , s.787.025 , chapter 794, s.796.03 , s.800.04 , s.810.14, s.817.034 , s.825.1025 , s.827.071 , chapter 839 , s.847.0133 , s.847.0135 , s.847.0145 , s.893.135 , s.916.1075, a violation enumerated in s.907.041 , or a violation of any offense qualifying for registration as a sexual predator under s.775.21 or for registration as a sexual offender under s.943.0435, Fla

4. The criminal history record reflects that you have another petition to seal or expunge pending before a court of competent jurisdiction.
5. The criminal history record reflects that the court supervision applicable to the disposition of the arrest or alleged criminal activity to which the application pertains has not been completed.
6. **[For expunction only]** The criminal history record reflects that some or all of the charges related to the arrest or criminal activity to which the application pertains were not dismissed prior to trial, adjudication, or the withholding of adjudication, If no other disqualification applies, the record would be eligible to be sealed.

**PLEASE NOTE:** The Governor and Cabinet of Florida, acting in the capacity of the Board of Executive Clemency, declared on June 10, 1999, that the granting of a full pardon does not remove any condition of ineligibility for sealing or expunging a criminal history record which would otherwise be imposed by a conviction or withholding of adjudication pursuant to Sections 943.0585 and 943.059 , Florida Statutes, and, acting in the capacity of agency head of the Department of Law Enforcement, the Board directed FDLE to deny a Certificate of Eligibility to any person receiving a pardon who is otherwise ineligible for the sealing or expunging of the person's criminal history record.

## DISQUALIFYING CHARGES FOR EXPUNCTION/SEALING

A request for a certificate of eligibility for an expunction or sealing of a criminal history record will be denied if the defendant was found guilty or pled guilty or nolo contendere, even if the adjudication was withheld, on any violation of the following:

### Offenses listed in S.907.041, F.S.

1. Arson
2. Aggravated Assault
3. Aggravated Battery
4. Illegal use of explosives
5. Child abuse or Aggravated Child Abuse
6. Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult
7. Aircraft piracy
8. Kidnapping
9. Homicide
10. Manslaughter
11. Sexual Battery
12. Robbery
13. Carjacking
14. Lewd, lascivious, or indecent assault or act upon or in the presence of a child under the age of 16 years
15. Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of a person in familial or custodial authority
16. Burglary of a dwelling
17. Stalking or Aggravated Stalking
18. Act of Domestic Violence, as defined in s.741.28
19. Home-invasion Robbery
20. Act of Terrorism as defined by s.775.30
21. Manufacturing any substances in violation of chapter 893
22. Attempting or conspiring to commit any of the above crimes

### S.393.135, F.S.

Sexual misconduct with developmentally disabled person and related offenses

### S.394.4593, F.S.

Sexual misconduct with mentally ill person and related offenses

### S.787.025, F.S.

Luring or enticing a child

**Chapter 794, F.S.** Sexual Battery and related offense

### S.796.03, F.S.

Procuring person under 18 for prostitution

### S.800.04, F.S.

Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age

### S.810.14, F.S.

Voyeurism

### S.817.034, F.S.

Florida Communication Fraud Act

(Scheme to Defraud or Organized Fraud, as defined in s.817.034, F.S.)

### S.825.1025, F.S.

Lewd or lascivious offense upon or in presence of elderly person or disabled adult

### S.827.071, F.S.

Sexual performance by a child

### Chapter 839, F.S.

Offenses by Public Officers and Employees

### S.847.0133, F.S.

Showing, etc., obscene literature to minor

### S.847.0135, F.S.

Computer pornography

### S.847.0145, F.S.

Selling or buying of minors

### S.893.135, F.S.

Trafficking in controlled substances

### S.916.1075

Sexual misconduct with mentally deficient or mentally ill defendant and related offenses A violation of any offense qualify for registration as a sexual predator under s.775.21 or for registration as a sexual offender under s.943.0435.

All references are from Florida Statutes