

RULE 3.692 | PETITION TO SEAL OR EXPUNGE**(a) Requirements of Petition.**

(1) All relief sought by reason of sections 943.0585–943.059, Florida Statutes, shall be by written petition, filed with the clerk. The petition shall state the grounds on which it is based and the official records to which it is directed and shall be supported by an affidavit of the party seeking relief, which affidavit shall state with particularity the statutory grounds and the facts in support of the motion. A petition seeking to seal or expunge nonjudicial criminal history records must be accompanied by a certificate of eligibility issued to the petitioner by the Florida Department of Law Enforcement. A copy of the completed petition and affidavit shall be served on the prosecuting attorney and the arresting authority. Notice and hearing shall be as provided in rule 3.590(c).

(2) All relief sought by reason of section 943.0583, Florida Statutes, shall be by written petition, filed with the clerk. The petition shall state the grounds on which it is based and the official records to which it is directed; shall be supported by the petitioner's sworn statement attesting that the petitioner is eligible for such an expunction; and to the best of his or her knowledge or belief that the petitioner does not have any other petition to expunge or any petition to seal pending before any court; and shall be accompanied by official documentation of the petitioner's status as a victim of human trafficking, if any exists. A petition to expunge, filed under section 943.0583, Florida Statutes, is not required to be accompanied by a certificate of eligibility from the Florida Department of Law Enforcement. A copy of the completed petition, sworn statement, and any other official documentation of the petitioner's status as a victim of human trafficking, shall be served on the prosecuting attorney and the arresting authority. Notice and hearing shall be as provided in rule 3.590(c).

(b) State's Response; Evidence. The state may traverse or demur to the petition and affidavit. The court may receive evidence on any issue of fact necessary to the decision of the petition.



(c) Written Order. If the petition is granted, the court shall enter its written order so stating and further setting forth the records and agencies or departments to which it is directed.

(d) Copies of Order. On the receipt of an order sealing or expunging nonjudicial criminal history records, the clerk shall furnish a certified copy thereof to each agency or department named therein except the court.

(e) Clerk's Duties. In regard to the official records of the court, including the court file of the cause, the clerk shall:

(1) remove from the official records of the court, excepting the court file, all entries and records subject to the order, provided that, if it is not practical to remove the entries and records, the clerk shall make certified copies thereof and then expunge by appropriate means the original entries and records;

(2) seal the entries and records, or certified copies thereof, together with the court file and retain the same in a nonpublic index, subject to further order of the court (see *Johnson v. State*, 336 So.2d 93 (Fla. 1976));

(3) in multi-defendant cases, make a certified copy of the contents of the court file that shall be sealed under subdivision (2). Thereafter, all references to the petitioner shall be expunged from the original court file.

(f) Costs. All costs of certified copies involved herein shall be borne by the movant, unless the movant is indigent.

Committee Notes

1984 Amendment. Substantially the same as the former rule. The statutory reference in (1) was changed to cite the current statute and terminology was changed accordingly. Subdivision (f) of the former rule was deleted because it dealt with substantive matters covered by section 943.058, Florida Statutes (1981).

2000 Amendment. Substantially the same as the former rule, but references to certificate of eligibility for obtaining nonjudicial criminal history records were added pursuant to *State v. D.H.W.*, 686 So. 2d 1331 (Fla. 1996).

