

1 SB113
2 197444-2
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 19-MAR-19

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to expungement; to amend Sections 15-27-1
12 and 15-27-2, as last amended by Act 2018-506, 2018 Regular
13 Session, Code of Alabama 1975; to specify that a circuit court
14 judge may order the expungement of a criminal record and
15 conviction of a person subsequently pardoned for a conviction
16 of certain criminal offenses by the Alabama Board of Pardons
17 and Paroles, in certain circumstances; to provide for the
18 expungement of the criminal record and the conviction of the
19 pardoned individual; to provide that any person whose record
20 of conviction is expunged would not be relieved from effects
21 of the habitual felony offender law; and in connection
22 therewith would have as its purpose or effect the requirement
23 of a new or increased expenditure of local funds within the
24 meaning of Amendment 621 of the Constitution of Alabama of
25 1901, now appearing as Section 111.05 of the Official
26 Recompilation of the Constitution of Alabama of 1901, as
27 amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 15-27-1 and 15-27-2, as last
3 amended by Act 2018-506, 2018 Regular Session, Code of Alabama
4 1975, are amended to read as follows:

5 "§15-27-1.

6 "(a) A person who has been charged with a
7 misdemeanor criminal offense, a violation, a traffic
8 violation, or a municipal ordinance violation may file a
9 petition in the criminal division of the circuit court in the
10 county in which the charges were filed, to expunge records
11 relating to the charge in any of the following circumstances:

12 "(1) When the charge is dismissed with prejudice.

13 "(2) When the charge has been no billed by a grand
14 jury.

15 "(3) When the person has been found not guilty of
16 the charge.

17 "(4) When the charge was dismissed without prejudice
18 more than two years ago, has not been refiled, and the person
19 has not been convicted of any other felony or misdemeanor
20 crime, any violation, or any traffic violation, excluding
21 minor traffic violations, during the previous two years.

22 "(5) When the person proves by a preponderance of
23 the evidence that the person is a victim of human trafficking,
24 that the person committed the misdemeanor criminal offense,
25 violation, traffic violation, or municipal ordinance violation
26 during the period the person was being trafficked, and that
27 the person would not have committed the offense or violation

1 but for being trafficked. Evidence that a person is a victim
2 of human trafficking may include, but is not limited to,
3 evidence that the person's trafficker was convicted of
4 trafficking the person under Section 13A-6-152 or Section
5 13A-6-153.

6 "(b) (1) A person who has been charged with and
7 convicted for a misdemeanor criminal offense, a violation, a
8 traffic violation, or a municipal ordinance violation may file
9 a petition in the criminal division of the circuit court in
10 the county in which the charges were filed, to expunge all
11 records relating to the charge and the conviction, if all of
12 the following occur:

13 "a. The person has been subsequently pardoned for
14 the conviction by the Alabama Board of Pardons and Paroles.

15 "b. All civil and political rights which were
16 forfeited as a result of the conviction have been restored.

17 "c. Five years have passed from the date of the
18 conviction.

19 "d. The conviction is not a serious traffic offense,
20 as defined in Sections 32-5A-190 to 32-5A-195, inclusive.

21 "e. The conviction is not a sex offense, as defined
22 in Section 15-20A-5.

23 "f. The conviction is not an offense involving moral
24 turpitude, as defined in Section 17-3-30.1.

25 "g. The conviction is not a violent offense as
26 defined in Section 12-25-32.

1 "h. The conviction is not an offense involving
2 domestic violence.

3 "(2) Records related to offenses and convictions may
4 be disclosed to law enforcement agencies and prosecutorial
5 services for criminal investigation purposes, as provided in
6 Section 15-27-7.

7 "(3) Any person whose record of conviction is
8 expunged pursuant to this chapter is not relieved from the
9 effects of Section 13A-5-9, relating to habitual felony
10 offenders.

11 ~~"(b)~~ (c) The circuit court shall have exclusive
12 jurisdiction of a petition filed under subsection (a) or
13 subsection (b).

14 "§15-27-2.

15 "(a) A person who has been charged with a felony
16 offense, except a violent offense as defined in Section
17 12-25-32, may file a petition in the criminal division of the
18 circuit court in the county in which the charges were filed,
19 to expunge records relating to the charge in any of the
20 following circumstances:

21 "(1) When the charge is dismissed with prejudice.

22 "(2) When the charge has been no billed by a grand
23 jury.

24 "(3)a. The charge was dismissed after successful
25 completion of a drug court program, mental health court
26 program, diversion program, veteran's court, or any

1 court-approved deferred prosecution program after one year
2 from successful completion of the program.

3 "b. Expungement may be a court-ordered condition of
4 a program listed in paragraph a.

5 "(4) The charge was dismissed without prejudice more
6 than five years ago, has not been refiled, and the person has
7 not been convicted of any other felony or misdemeanor crime,
8 any violation, or any traffic violation, excluding minor
9 traffic violations, during the previous five years.

10 "(5) Ninety days have passed from the date of
11 dismissal with prejudice, no-bill, acquittal, or nolle
12 prosequi and the charge has not been refiled.

13 "(6) When the person proves by a preponderance of
14 the evidence that the person is a victim of human trafficking,
15 that the person committed the felony offense during the period
16 the person was being trafficked, and that the person would not
17 have committed the felony offense but for being trafficked.
18 Evidence that a person is a victim of human trafficking may
19 include, but is not limited to, evidence that the person's
20 trafficker was convicted of trafficking the person under
21 Section 13A-6-152 or Section 13A-6-153.

22 "(b) Subsection (a) notwithstanding, convictions for
23 the following offenses, which are defined as a violent offense
24 under subdivision (15) of Section 12-25-32, may be expunged
25 upon a showing that the person committed the felony offense
26 during the period the person was trafficked, and that the

1 person would not have committed the felony offense but for
2 being trafficked:

3 "(1) Promoting prostitution in the first degree
4 pursuant to Section 13A-12-111.

5 "(2) Domestic violence in the third degree pursuant
6 to subsection (d) of Section 13A-6-132.

7 "(3) Production of obscene matter involving a person
8 under the age of 17 years pursuant to Section 13A-12-197.

9 "(c) (1) A person who has been charged with any
10 felony offense, including a violent offense as defined in
11 Section 12-25-32, may file a petition in the criminal division
12 of the circuit court in the county in which the charges were
13 filed to expunge records relating to the charge if the person
14 has been found not guilty of the charge.

15 "(2) Records related to violent offenses as defined
16 in Section 12-25-32 may be disclosed to a law enforcement
17 agency for criminal investigation purposes as provided in
18 Section 15-27-7.

19 "(d) (1) A person who has been charged with and
20 convicted for a nonviolent felony offense may file a petition
21 in the criminal division of the circuit court in the county in
22 which the charges were filed, to expunge all records relating
23 to the charge and the conviction, if all of the following
24 occur:

25 "a. The person has been subsequently pardoned for
26 the conviction by the Alabama Board of Pardons and Paroles.

1 "b. All civil and political rights which were
2 forfeited as a result of the conviction have been restored.

3 "c. Fifteen years have passed from the date of the
4 conviction.

5 "d. The conviction is not a violent felony offense,
6 as defined in Section 12-25-32.

7 "e. The conviction is not a sex offense, as defined
8 in Section 15-20A-5.

9 "f. The conviction is not an offense involving moral
10 turpitude, as defined in Section 17-3-30.1.

11 "g. The conviction is not an offense involving
12 domestic violence.

13 "(2) Records related to offenses and convictions may
14 be disclosed to law enforcement agencies and prosecutorial
15 services for criminal investigation purposes as provided in
16 Section 15-27-7.

17 "(3) Any person whose record of conviction is
18 expunged pursuant to this chapter is not relieved from the
19 effects of Section 13A-5-9, relating to habitual felony
20 offenders.

21 ~~"(d)~~ (e) The circuit court shall have exclusive
22 jurisdiction of a petition filed under subsection (a) or,
23 subsection (b), or subsection (c).

24 "§15-27-9.

25 "For purposes of this chapter, the term record
26 includes, but is not limited to, all the following:

27 "(1) Arrest records.

1 "(2) Booking or arrest photographs of the
2 petitioner.

3 "(3) Index references such as the Judicial
4 Information System or any other governmental index references
5 for public record search.

6 "(4) Records relating to administrative suspensions
7 pursuant to Article 14 of Chapter 5A of Title 32, including
8 driver license records.

9 "~~(4)~~ (5) other data, whether in documentary or
10 electronic form, relating to the arrest or charge."

11 Section 2. Although this bill would have as its
12 purpose or effect the requirement of a new or increased
13 expenditure of local funds, the bill is excluded from further
14 requirements and application under Amendment 621, now
15 appearing as Section 111.05 of the Official Recompilation of
16 the Constitution of Alabama of 1901, as amended, because the
17 bill defines a new crime or amends the definition of an
18 existing crime.

19 Section 3. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate committee on Judiciary.....	19-MAR-19
Read for the second time and placed on the calen- dar 1 amendment.....	25-APR-19
Read for the third time and passed as amended	16-MAY-19

Yeas 29
Nays 0

Patrick Harris,
Secretary.