

1 SB162
2 203642-1
3 By Senator Whatley
4 RFD: Judiciary
5 First Read: 06-FEB-20

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8 SYNOPSIS: Under existing law, a person who has been
9 charged with a felony, misdemeanor, violation,
10 traffic violation, or municipal ordinance violation
11 may file a petition to expunge the records relating
12 to that charge under certain circumstances,
13 including when the charge is dismissed with
14 prejudice and when the person has been found not
15 guilty of the charge.

16 Also under existing law, when a person has
17 been charged with a crime that was committed while
18 the person was under the age of 19 and the charge
19 was not disposed of in juvenile court, the person
20 may be charged as tried as a youthful offender,
21 which has the effect of closing the case to the
22 public, sealing the record of the case, and
23 reducing the maximum time of incarceration.

24 This bill would provide that when a person
25 is charged with a crime that is not considered by
26 law to be driving under the influence or a violent
27 offense, and the person is charged as or adjudged a

1 youthful offender, the person would be eligible to
2 file a petition to expunge the records relating to
3 that charge under certain circumstances.

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5 A BILL
6 TO BE ENTITLED
7 AN ACT

8
9 Relating to expungement; to amend Sections 15-27-1
10 and 15-27-2, Code of Alabama 1975, to provide for the
11 expungement of the criminal records of a youthful offender
12 under certain circumstances.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 15-27-1 and 15-27-2, Code of
15 Alabama 1975, are amended to read as follows:

16 "§15-27-1.

17 "(a) A person who has been charged with a
18 misdemeanor criminal offense, a violation, a traffic
19 violation, or a municipal ordinance violation may file a
20 petition in the criminal division of the circuit court in the
21 county in which the charges were filed, to expunge records
22 relating to the charge in any of the following circumstances:

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

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

26 "(3) When the person has been found not guilty of
27 the charge.

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

6 "(5) When the person proves by a preponderance of
7 the evidence that the person is a victim of human trafficking,
8 that the person committed the misdemeanor criminal offense,
9 violation, traffic violation, or municipal ordinance violation
10 during the period the person was being trafficked, and that
11 the person would not have committed the offense or violation
12 but for being trafficked. Evidence that a person is a victim
13 of human trafficking may include, but is not limited to,
14 evidence that the person's trafficker was convicted of
15 trafficking the person under Section 13A-6-152 or Section
16 13A-6-153.

17 "(6) When the person has been charged as or adjudged
18 a youthful offender with regard to the offense and, if
19 applicable, the person has completed any sentence or period of
20 probation ordered by the court as part of that adjudication.

21 "(b) The circuit court shall have exclusive
22 jurisdiction of a petition filed under subsection (a).

23 "§15-27-2.

24 "(a) A person who has been charged with a felony
25 offense, except a violent offense as defined in Section
26 12-25-32, may file a petition in the criminal division of the
27 circuit court in the county in which the charges were filed,

1 to expunge records relating to the charge in any of the
2 following circumstances:

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

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

6 "(3)a. The charge was dismissed after successful
7 completion of a drug court program, mental health court
8 program, diversion program, veteran's court, or any
9 court-approved deferred prosecution program after one year
10 from successful completion of the program.

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

13 "(4) The charge was dismissed without prejudice more
14 than five years ago, has not been refiled, and the person has
15 not been convicted of any other felony or misdemeanor crime,
16 any violation, or any traffic violation, excluding minor
17 traffic violations, during the previous five years.

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

21 "(6) When the person proves by a preponderance of
22 the evidence that the person is a victim of human trafficking,
23 that the person committed the felony offense during the period
24 the person was being trafficked, and that the person would not
25 have committed the felony offense but for being trafficked.
26 Evidence that a person is a victim of human trafficking may
27 include, but is not limited to, evidence that the person's

1 trafficker was convicted of trafficking the person under
2 Section 13A-6-152 or Section 13A-6-153.

3 "(7) Except for a charge of driving under the
4 influence under Section 32-5A-191, when the person has been
5 charged as or adjudged a youthful offender with regard to the
6 offense and, if applicable, the person has completed any
7 sentence or period of probation ordered by the court as part
8 of that adjudication.

9 "(b) Subsection (a) notwithstanding, convictions for
10 the following offenses, which are defined as a violent offense
11 under ~~subdivision (15)~~ of Section 12-25-32, may be expunged
12 upon a showing that the person committed the felony offense
13 during the period the person was trafficked, and that the
14 person would not have committed the felony offense but for
15 being trafficked:

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

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

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

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

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

5 "(d) The circuit court shall have exclusive
6 jurisdiction of a petition filed under subsection (a) or
7 subsection (b)."

8 Section 2. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.