**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3896**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Simrill, Pope and D.C. Moss

Document Path: l:\council\bills\ms\7293ahb11.docx

Companion/Similar bill(s): 685

Introduced in the House on March 9, 2011

Currently residing in the House Committee on **Judiciary**

Summary: Expungement proceedings

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/9/2011 House Introduced and read first time ([House Journal‑page 13](file:///h:\hj%20archive\2011\03-09-11.docx))

3/9/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 13](file:///h:\hj%20archive\2011\03-09-11.docx))

**VERSIONS OF THIS BILL**

[3/9/2011](file:///p:\pprever\2011-12\3896_20110309.docx)

**A** **BILL**

TO AMEND SECTION 17‑22‑950, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMINAL CHARGES RESULTING IN A NOT GUILTY VERDICT OR DISMISSAL OF ALL CHARGES REQUIRING THE ISSUANCE OF AN EXPUNGEMENT ORDER BY A JUDGE, SO AS TO REQUIRE THAT THE EXPUNGEMENT PROCEEDING MUST BE HEARD BY THE JUDGE WHO PRESIDED OVER COURT WHEN THE FINDING OF NOT GUILTY, DISMISSAL, OR NOLLE PROSSE OF THE CHARGE WAS ENTERED RATHER THAN BY A JUDGE OF THE GENERAL SESSIONS COURT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 17‑22‑950(A) of the 1976 Code, as added by Act 36 of 2009, is amended to read:

“(A) When criminal charges are brought in a summary court and the accused person is found not guilty or if the charges are dismissed or nolle prossed, pursuant to Section 17‑1‑40, the presiding judge of the summary court, at no cost to the accused person, immediately shall issue an order to expunge the criminal records of the accused person unless the dismissal of the charges occurs at a preliminary hearing or unless the accused person has charges pending in summary court and a court of general sessions and such charges arise out of the same course of events. This expungement must occur no sooner than the appeal expiration date and no later than thirty days after the appeal expiration date. Upon issuance of the order, the judge of the summary court or a member of the summary court staff must coordinate with SLED to confirm that the criminal charge is statutorily appropriate for expungement; obtain and verify the presence of all necessary signatures; file the completed expungement order with the clerk of court; provide copies of the completed expungement order to all governmental agencies which must receive the order including, but not limited to, the arresting law enforcement agency, the detention facility or jail, the solicitor’s office, the magistrates or municipal court where the arrest warrant originated, the magistrates or municipal court that was involved in any way in the criminal process of the charge sought to be expunged, and SLED. The judge of the summary court or a member of the summary court staff also must provide a copy of the completed expungement order to the applicant or his retained counsel. The prosecuting agency or appropriate law enforcement agency may file an objection to a summary court expungement. If an objection is filed by the prosecuting agency or law enforcement agency, that expungement then must be heard by the judge ~~of a general sessions court~~ who presided over court when the finding of not guilty, dismissal, or nolle prosse of the charge was entered. The prosecuting agency’s or the appropriate law enforcement agency’s reason for objecting must be that the:

(1) accused person has other charges pending;

(2) prosecuting agency or the appropriate law enforcement agency believes that the evidence in the case needs to be preserved; or

(3) accused person’s charges were dismissed as a part of a plea agreement.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑