**South Carolina General Assembly**

121st Session, 2015-2016

**S. 236**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Allen, Corbin and Thurmond

Document Path: l:\s-jud\bills\allen\jud0032.jjg.docx

Introduced in the Senate on January 13, 2015

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

Summary: Expungment of criminal records

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/10/2014 Senate Prefiled

12/10/2014 Senate Referred to Committee on **Judiciary**

1/13/2015 Senate Introduced and read first time ([Senate Journal‑page 146](file:///h:\SJ%20Archive\2015\01-13-15.docx))

1/13/2015 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 146](file:///h:\SJ%20Archive\2015\01-13-15.docx))

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**VERSIONS OF THIS BILL**

[12/10/2014](file:///p:\pprever\2015-16\236_20141210.docx)

**A** **BILL**

TO AMEND SECTION 8‑21‑310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO COURT FEES AND COSTS; SECTION 17‑1‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS; SECTION 17‑1‑45, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXPUNGEMENT NOTICE REQUIREMENTS; SECTION 17‑22‑150, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PRETRIAL INTERVENTION PROGRAMS; SECTION 17‑22‑170, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INFORMATION REGARDING PARTICIPATION IN PRETRIAL INTERVENTION PROGRAMS; SECTION 17‑22‑330, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TRAFFIC EDUCATION PROGRAMS; SECTION 17‑22‑530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ALCOHOL EDUCATION PROGRAMS; SECTION 17‑22‑910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXPUNGEMENT APPLICATIONS; SECTION 17‑22‑920, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXPUNGEMENT INQUIRIES; SECTION 17‑22‑930, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXPUNGEMENT FORMS; SECTION 17‑22‑940, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXPUNGEMENT PROCESSES; SECTION 17‑22‑950, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXPUNGEMENT IN SUMMARY COURTS; SECTION 22‑5‑910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS; SECTION 22‑5‑920, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO YOUTHFUL OFFENDERS; SECTION 23‑3‑660, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXPUNGEMENT OF DNA RECORDS; SECTION 24‑19‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO YOUTHFUL OFFENDERS; SECTION 24‑21‑930, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ORDERS OF PARDON; SECTION 24‑21‑940, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PARDONS; SECTION 34‑11‑90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FRAUDULENT CHECK OFFENSES; SECTION 34‑11‑95, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REPORTING FRAUDULENT CHECK CONVICTIONS; SECTION 4‑53‑450, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CONDITIONAL DISCHARGE OF CONTROLLED SUBSTANCE OFFENSES; SECTION 56‑5‑750, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FAILURE TO STOP A MOTOR VEHICLE WHEN SIGNALED BY LAW ENFORCEMENT; AND SECTION 63‑19‑2050, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DESTRUCTION OF JUVENILE RECORDS.

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

SECTION 1. Section 8‑21‑310 of the 1976 Code is amended to read:

“Section 8‑21‑310. Except as otherwise expressly provided, the following fees and costs must be collected on a uniform basis in each county by clerks of court and registers of deeds or county treasurers as may be determined by the governing body of the county:

(1) for recording a deed to or a mortgage on real estate, ten dollars; and an additional one dollar a page for any deed or mortgage containing more than four pages; for entry of a deed or mortgage that covers both real estate and personal property in the indexes for both real and personal property conveyances or mortgages, one dollar additional;

(2) for recording a chattel mortgage, conditional sale contract, lease or contract of sale of personal property, and any other document required to be recorded under the Uniform Commercial Code (Title 36), the fees provided in Title 36;

(3) for recording an instrument which assigns, transfers, or affects a single real estate mortgage or other instrument affecting title to real property or lien for the payment of money, unless it is part of the original instrument when initially filed, six dollars; and if the instrument assigns, transfers, or affects more than one real estate mortgage, instrument, or lien, six dollars for each mortgage, instrument, or lien assigned, transferred, or affected and referred to in the instrument and an additional one dollar for each page for any instrument exceeding one page;

(4) for recording any lease, contract of sale, trust indenture, or other document affecting title or possession of real property not otherwise provided for in this section, ten dollars, and an additional one dollar a page for a document containing more than four pages;

(5) for recording satisfaction on the record of a mortgage of real estate or a chattel mortgage or other recorded lien, and certifying the entry on the original or a copy, five dollars;

(6) for recording separate probates, affidavits, or certificates which are not part of or attached to another document to be recorded, ten dollars;

(7) for recording a plat larger than eight and one‑half by fourteen inches, ten dollars; for plats of ‘legal size’ dimensions, or smaller, five dollars;

(8) for recording decree of foreclosure or partition of real property in mortgage book or deed book, the same fee as for recording deed or mortgage of real estate;

(9) for recording any other paper affecting title or possession of real estate or personal property and required by law to be recorded, except judicial records, ten dollars, and an additional one dollar a page for a document containing more than four pages;

(10) for filing power of attorney, trustee qualification, or other appointment, fifteen dollars, and an additional one dollar a page for a document containing more than four pages. However, upon presentation of a copy of deployment orders to a combat zone by or on behalf of a member of the Armed Forces of the United States, the filing fee for a power of attorney for the person deployed is waived. In addition, the filing fee for a revocation of power of attorney filed by or on behalf of a member of the armed forces of the United States is waived if the revocation is filed: (i) within three years from the date of filing the power of attorney; and (ii) a copy of the deployment orders to a combat zone is presented. For purposes of this item, ‘combat zone’ has the meaning provided in Internal Revenue Service Publication 3 and includes service in a qualified hazardous duty area;

(11)(a) For filing first complaint or petition, including application for a remedial and prerogative writ and bond on attachment or other bond, in a civil action or proceeding, in a court of record, one hundred dollars. There is no further fee for filing an amended or supplemental complaint or petition nor for filing any other paper in the same action or proceeding. An original application for post conviction relief may be filed without fee upon permission of the court to which the application is addressed. There is no further fee for entering and filing a verdict, judgment, final decree, or order of dismissal, and enrolling a judgment thereon, for signing, sealing, and issuance of execution, or for entering satisfaction or partial satisfaction on a judgment:

(b) for filing, recording, and indexing lis pendens when not accompanied by summons and complaint, ten dollars;

(c) for receiving and enrolling transcripts of judgment from magistrate’s courts and federal district courts, ten dollars;

(d) for filing and enrolling a judgment by confession, ten dollars;

(12) no fee may be charged to a defendant or respondent for filing an answer, return, or other papers in any civil action or proceeding, in a court of record;

(13) for taking and filing an order for bail with or without bond, one dollar; with bond when surety must be justified, ten dollars;

(14) for taking and filing bond or security costs, one dollar; with bond when surety must be justified, ten dollars;

(15) for filing or recording any commission of notary public or other public office, license or permit to practice any profession or trade, notice of formation or dissolution of any partnership, five dollars;

(16) for filing the charter of any public or private corporation or association required by law to be recorded, ten dollars, and an additional one dollar a page for any such document containing more than four pages;

(17) for issuing an official certificate under seal of court not otherwise specified in this section, one dollar;

(18) for holding a hearing for condemnation proceedings, twenty‑five dollars a day;

(19) for filing notice of discharge in bankruptcy, fifteen dollars;

(20) for filing and enrolling and satisfaction of South Carolina and United States Government tax liens:

(a) for filing and enrolling and satisfying executions or warrants for distraint for the South Carolina Department of Employment and Workforce, the South Carolina Department of Revenue, or any other state agency, where costs of the executions or warrants for distraint are chargeable to the persons against whom such executions or warrants for distraint are issued, ten dollars;

(b) for filing and enrolling and satisfying any tax lien of any agency of the United States Government, where the costs of the executions are chargeable to the persons against whom such executions are issued, ten dollars;

The clerk shall mark ‘satisfied’ upon receipt of the fees provided in this item for any tax lien or warrant for distraint issued by any agency of this State or of the United States upon receipt of a certificate duly signed by an authorized officer of any agency of this State or the United States to the effect that the execution or warrant for distraint has been paid and satisfied.

(21) for filing and processing an ~~order~~ Order for the Destruction of Arrest Records, thirty‑five dollars, which fee must be for each order regardless of the number of cases contained in the order. The fee under the provisions of this item does not apply to cases where the defendant is found not guilty or where the underlying charge is dismissed or nol prossed unless that dismissal or nol prosse is the result of successful completion of a pretrial intervention program;

(22) for filing, indexing, enrolling, and entering a foreign judgment and an affidavit pursuant to Article 11, Chapter 35, Title 15 of the 1976 Code, one hundred dollars.

(23) for filing a notice of meter conservation charge as permitted by Section 58‑37‑50, ten dollars.

(24) for filing court documents by electronic means from an integrated electronic filing (e‑filing) system owned and operated by the South Carolina Judicial Department in an amount set by the Chief Justice of the South Carolina Supreme Court and all fees must be remitted to the South Carolina Judicial Department to be dedicated to the support of court technology.”

SECTION 2. Section 17‑1‑40 of the 1976 Code is amended to read:

“Section 17‑1‑40. (A) For purposes of this section, ‘under seal’ means not subject to disclosure other than to a law enforcement or prosecution agency, and attorneys representing a law enforcement or prosecution agency, unless disclosure is allowed by court order.

(B)(1) If a person’s record is expunged pursuant to Article 9, Title 17, Chapter 22, because the person was charged with a criminal offense, or was issued a courtesy summons pursuant to Section 22‑3‑330 or another provision of law, and the charge was discharged, proceedings against the person were dismissed, or the person was found not guilty of the charge, then the arrest and booking record, associated bench warrants, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge or associated bench warrants may be retained by any municipal, county, or state agency. Provided, however, that:

(a) Law enforcement and prosecution agencies shall retain the arrest and booking record, associated bench warrants, mug shots, and fingerprints of the person under seal for three years and one hundred twenty days. A law enforcement or prosecution agency may retain the information indefinitely for purposes of ongoing or future investigations and prosecution of the offense, and to defend the agency and the agency’s employees during litigation proceedings. The information must remain under seal. The information is not a public document and is exempt from disclosure, except by court order.

(b) Detention and correctional facilities shall retain booking records, identifying documentation and materials, and other institutional reports and files under seal, on all persons who have been processed, detained, or incarcerated, for a period not to exceed three years and one hundred twenty days from the date of the expungement order to manage the facilities’ statistical and professional information needs, and to defend the facilities and the facilities’ employees during litigation proceedings, except when an action, complaint, or inquiry has been initiated. The information is not a public document and is exempt from disclosure, except by court order.

(2) A municipal, county, or state agency, or an employee of a municipal, county, or state agency that intentionally violates this subsection is guilty of contempt of court.

(3) Nothing in this subsection requires the South Carolina Department of Probation, Parole and Pardon Services to expunge the probation records of persons whose charges were dismissed by conditional discharge pursuant to Section 44‑53‑450.

(C)(1) If a person’s record is expunged pursuant to Article 9, Title 17, Chapter 22, because the person was charged with a criminal offense, or was issued a courtesy summons pursuant to Section 22‑3‑330 or another provision of law, and the charge was discharged, proceedings against the person were dismissed, or the person was found not guilty of the charge, then law enforcement and prosecution agencies shall retain the evidence gathered, unredacted incident and supplemental reports, and investigative files under seal for three years and one hundred twenty days. A law enforcement or prosecution agency may retain the information indefinitely for purposes of ongoing or future investigations, other law enforcement or prosecution purposes, and to defend the agency and the agency’s employees during litigation proceedings. The information must remain under seal. The information is not a public document, is exempt from disclosure, except by court order, and is not subject to an order for destruction of arrest records.

(2) If a request is made to inspect or obtain the incident reports pursuant to the South Carolina Freedom of Information Act, the law enforcement agency shall redact the name of the person whose record is expunged and other information which specifically identifies the person from copies of the reports provided to the person or entity making the request.

(3) If a person other than the person whose record is expunged is charged with the offense, a prosecution agency may provide the attorney representing the other person with unredacted incident and supplemental reports. The attorney shall not provide copies of the reports to a person or entity nor share the contents of the reports with a person or entity, except during judicial proceedings or as allowed by court order.

(4) A person who intentionally violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days, or both.

(5) Nothing in this subsection prohibits evidence gathered or information contained in incident reports or investigation and prosecution files from being used for the investigation and prosecution of a criminal case or for the defense of a law enforcement or prosecution agency or agency employee.

(D) A municipal, county, or state agency may not collect a fee for the destruction of records pursuant to this section.

(E)(1) This section does not apply to a person who is charged with a violation of Title 50, Title 56, or an enactment pursuant to the authority of counties and municipalities provided in Titles 4 and 5.

(2) If a charge enumerated in item ~~(1)~~ (E)(1) is discharged, proceedings against the person are dismissed, the person is found not guilty of the charge, or the person’s record is expunged pursuant to Article 9, Title 17, Chapter 22, the charge must be removed from any Internet‑based public record no later than thirty days from the disposition date.

(F) The State Law Enforcement Division is authorized to promulgate regulations that allow for the electronic transmission of information pursuant to this section.

(G) Unless there is an act of gross negligence or intentional misconduct, nothing in this section gives rise to a claim for damages against the State, a state employee, a political subdivision of the State, an employee of a political subdivision of the State, a public officer, or other persons.”

SECTION 3. Section 17‑1‑45 of the 1976 Code is amended to read:

“Section 17‑1‑45. South Carolina Court Administration shall include on all criminal bond paperwork and courtesy summons the following notice: ‘If the charges that have been brought against you are discharged, dismissed, or nolle prossed or if you are found not guilty, you may have your record expunged.’”

SECTION 4. Section 17‑22‑150 of the 1976 Code is amended to read:

“Section 17‑22‑150. (a) In the event an offender successfully completes a pretrial intervention program, the solicitor shall effect a noncriminal disposition of the charge or charges pending against the offender. Upon such disposition, the offender may apply to the court for an order to destroy all official records relating to ~~his~~ the offender’s arrest and no evidence of the records pertaining to the charge may be retained by any municipal, county, or state entity or any individual, except as otherwise provided in Section 17‑22‑130. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest. No person as to whom the order has been entered may be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest in response to any inquiry made of him for any purpose.

(b) In the event the offender violates the conditions of the program agreement: (1) the solicitor may terminate the offender’s participation in the program, (2) the waiver executed pursuant to Section 17‑22‑90 shall be void on the date the offender is removed from the program for the violation and (3) the prosecution of pending criminal charges against the offender shall be resumed by the solicitor.”

SECTION 5. Section 17‑22‑170 of the 1976 Code is amended to read:

“Section 17‑22‑170. ~~Any~~ A municipal, county, or state entity or ~~any~~ individual who unlawfully retains or releases information on an offender’s participation in a pretrial intervention program is guilty of a misdemeanor and, upon conviction, must be punished by a fine not exceeding two thousand dollars or by imprisonment not to exceed one year.

The provisions of this section do not apply to circuit solicitors or their staff in the performance of their official duties.”

SECTION 6. Section 17‑22‑330 of the 1976 Code is amended to read:

“Section 17‑22‑330. (A) When a person successfully completes a traffic education program, the governmental agency administering the program shall effect a noncriminal disposition, as defined in this chapter, of the traffic‑related offense, and there must be no record maintained of the traffic‑related offense except by the appropriate traffic education program in order to ensure that a person does not benefit from the provisions of this article more than once.

(B) If applicable, the person may apply to the court for an order to destroy all official records relating to ~~his~~ the person’s arrest.

(C) If a person violates the conditions of a traffic education program, then the person may be terminated from the program and the traffic‑related offense reinstated by the governmental agency administering the program in the appropriate municipality or county.

(D) If a person receives a subsequent traffic violation during the six months following the issuance of the ticket for which he has entered the traffic education program, he must be terminated from the program and the traffic‑related offense must be reinstated by the governmental agency administering the program in the appropriate municipality or county.”

SECTION 7. Section 17‑22‑530 of the 1976 Code is amended to read:

“Section 17‑22‑530. (A) When a person successfully completes an alcohol education program, the circuit solicitor shall effect a noncriminal disposition, as defined in this chapter, of the alcohol‑related offense, and there must be no record maintained of the alcohol‑related offense except by the Commission on Prosecution Coordination in order to ensure that a person does not benefit from the provisions of this article more than once.

(B) If applicable, the person may apply to the court for an order to destroy all official records relating to ~~his~~ the person’s arrest.

(C) If a person violates the conditions of an alcohol education program, the person may be terminated from the program and the alcohol‑related offense reinstated by the circuit solicitor in the appropriate municipality or county.”

SECTION 8. Section 17‑22‑910 of the 1976 Code is amended to read:

“17‑22‑910. Applications for expungement of ~~all~~ criminal records must be administered by the solicitor’s office in each circuit in the State as authorized pursuant to:

(1) Section 34‑11‑90(e), first offense misdemeanor fraudulent check;

(2) Section 44‑53‑450(b), conditional discharge;

(3) Section 22‑5‑910, first offense conviction in magistrates court;

(4) Section 22‑5‑920, youthful offender act;

(5) Section 56‑5‑750(f), first offense failure to stop when signaled by a law enforcement vehicle;

(6) Section 17‑22‑150(a), pretrial intervention;

(7) Section 17‑1‑40, criminal records destruction, except as provided in Section 17‑22‑950;

(8) Section 20‑7‑8525, juvenile expungements;

(9) Section 17‑22‑530(a), alcohol education program;

(10) Section 17‑22‑330(A), traffic education program; and

(11) any other statutory authorization.”

SECTION 9. Section 17‑22‑920 of the 1976 Code is amended to read:

“Section 17‑22‑920. The clerk of court shall direct ~~all~~ inquiries concerning the expungement process to the corresponding solicitor’s office to make application for expungement.”

SECTION 10. Section 17‑22‑930 of the 1976 Code is amended to read:

“Section 17‑22‑930. A person applying to expunge a criminal record shall obtain the appropriate blank expungement order form from the solicitor’s office in the judicial circuit where the charge originated. The use of this form is mandatory and to the exclusion of ~~all~~ other expungement forms.”

SECTION 11. Section 17‑22‑940 of the 1976 Code is amended to read:

“Section 17‑22‑940. (A) In exchange for an expungement service that is provided by the solicitor’s office, the applicant is responsible for payment to the solicitor’s office of an administrative fee in the amount of two hundred fifty dollars per individual order, which must be retained by that office and used to defray the costs associated with the expungement process, except as provided in subsection (B). The two hundred fifty dollar fee is nonrefundable, regardless of whether the offense is later determined to be statutorily ineligible for expungement or the solicitor or ~~his~~ the solicitor’s designee does not consent to the expungement.

(B) Any person who applies to the solicitor’s office for an expungement of general sessions charges pursuant to Section 17‑1‑40 is exempt from paying the administrative fee, unless the charge that is the subject of the expungement request was dismissed, discharged, or nolle prossed as part of a plea arrangement under which the defendant pled guilty and was sentenced on other charges.

(C) The solicitor’s office shall implement policies and procedures consistent with this section to ensure that the expungement process is properly conducted. This includes, but is not limited to:

(1) assisting the applicant in completing the expungement order form;

(2) collecting from the applicant and distributing to the appropriate agencies separate certified checks or money orders for charges prescribed by this article;

(3) coordinating with the South Carolina Law Enforcement Division (SLED) and, in the case of juvenile expungements, the Department of Juvenile Justice, to confirm that the criminal charge is statutorily appropriate for expungement;

(4) obtaining and verifying the presence of all necessary signatures;

(5) filing the completed expungement order with the clerk of court; and

(6) providing copies of the completed expungement order to all governmental agencies which must receive the order including, but not limited to, the:

(a) arresting law enforcement agency;

(b) detention facility or jail;

(c) solicitor’s office;

(d) magistrates or municipal court where the arrest warrant originated;

(e) magistrates or municipal court that was involved in any way in the criminal process of the charge sought to be expunged;

(f) Department of Juvenile Justice; and

(g) SLED.

(D) The solicitor or his designee also must provide a copy of the completed expungement order to the applicant or his retained counsel.

(E) In cases when charges are sought to be expunged pursuant to Section 17‑22‑150(a), 17‑22‑530(a), 22‑5‑910, or 44‑53‑450(b), the circuit pretrial intervention director, alcohol education program director, traffic education program director, or summary court judge shall attest by signature on the application to the eligibility of the charge for expungement before either the solicitor or his designee and then the circuit court judge, or the family court judge in the case of a juvenile, signs the application for expungement.

(F) SLED shall verify and document that the criminal charges in all cases, except in cases when charges are sought to be expunged pursuant to Section 17‑1‑40, are appropriate for expungement before the solicitor or his designee, and then a circuit court judge, or a family court judge in the case of a juvenile, signs the application for expungement. If the expungement is sought pursuant to Section 34‑11‑90(e), Section 22‑5‑910, Section 22‑5‑920, or Section 56‑5‑750(f), the conviction for any traffic‑related offense which is punishable only by a fine or loss of points will not be considered as a bar to expungement.

(1) SLED shall receive a twenty‑five dollar certified check or money order from the solicitor or his designee on behalf of the applicant made payable to SLED for each verification request, except that no verification fee may be charged when an expungement is sought pursuant to Section 17‑1‑40, 17‑22‑150(a), or 44‑53‑450(b). SLED then shall forward the necessary documentation back to the solicitor’s office involved in the process.

(2) In the case of juvenile expungements, verification and documentation that the charge is statutorily appropriate for expungement must first be accomplished by the Department of Juvenile Justice and then SLED.

(3) Neither SLED, the Department of Juvenile Justice, nor any other official shall allow the applicant to take possession of the application for expungement during the expungement process.

(G) The applicant also is responsible to the clerk of court for the filing fee per individual order as required by Section 8‑21‑310(21), which must be forwarded to the clerk of court by the solicitor or his designee and deposited in the county general fund. If the charge is determined to be statutorily ineligible for expungement, this prepaid clerk of court filing fee must be refunded to the applicant by the solicitor or his designee.

(H) Each expungement order may contain only one charge sought to be expunged, except in those circumstances when expungement is sought for multiple charges occurring out of a single incident and subject to expungement pursuant to Section 17‑1‑40 or 17‑22‑150(a). Only in those circumstances may more than one charge be included on a single application for expungement and, when applicable, only one two hundred fifty‑dollar fee, one twenty‑five dollar SLED verification fee, and one thirty‑five dollar clerk of court filing fee may be charged.

(I) A filing fee may not be charged by the clerk’s office to an applicant seeking the expungement of a criminal record pursuant to Section 17‑1‑40, when the charge was discharged, dismissed, nolle prossed, or the applicant was acquitted.

(J) Nothing in this article precludes an applicant from retaining counsel to apply to the solicitor’s office on his behalf or precludes retained counsel from initiating an action in circuit court seeking a judicial determination of eligibility when the solicitor, in his discretion, does not consent to the expungement. In either event, retained counsel is responsible to the solicitor or his designee, when applicable, for the two hundred fifty‑dollar fee, the twenty‑five dollar SLED verification fee, and the thirty‑five dollar clerk of court filing fee which must be paid by retained counsel’s client.

(K) The solicitor or his designee has the discretion to waive the two hundred fifty‑dollar fee only in those cases when it is determined that a person has been falsely accused of a crime as a result of identity theft.

(L) Each solicitor’s office shall maintain a record of all fees collected related to the expungement of criminal records, which must be made available to the Chairmen of the House and Senate Judiciary Committees. Those records shall remain confidential otherwise.”

SECTION 12. Section 17‑22‑950 of the 1976 Code is amended to read:

“Section 17‑22‑950. (A)(1) 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, including any associated bench warrants, 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. Except as provided in item (2), 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 or bench warrant originated, the magistrates or municipal court that was involved in any way in the criminal process of the charge or bench warrant 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~~ the applicant’s 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. The prosecuting agency’s or the appropriate law enforcement agency’s reason for objecting must be that the:

(a) accused person has other charges pending;

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

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

(2) If criminal charges are brought in a summary court and the accused person is found not guilty, or the charges are dismissed or nolle prossed pursuant to Section 17‑1‑40, and the person was not fingerprinted for the violation, then, upon issuance of the order, the summary court shall coordinate with the arresting law enforcement agency to confirm that the person was not fingerprinted for the violation; obtain and verify all necessary signatures; and provide copies of the completed expungement order to the arresting law enforcement agency and all summary courts that were involved in the criminal process of the charges. The summary court is not required to provide copies of the completed expungement order to SLED. All summary courts that were involved in the criminal process of the charges shall destroy all documentation related to the charges, including, but not limited to, removing the charges from Internet‑based public records. All other provisions of subsection (A)(1) apply.

(B) If the prosecuting agency or the appropriate law enforcement agency objects to an expungement order being issued pursuant to subsection (A)(1)(b), the prosecuting agency or appropriate law enforcement agency must notify the accused person of the objection. This notice must be given in writing at the address listed on the accused person’s bond form, or through his attorney, no later than thirty days after the person is found not guilty or his charges are dismissed or nolle prossed.”

SECTION 13. Section 22‑5‑910 of the 1976 Code is amended to read:

“Section 22‑5‑910. (A) Following a first offense conviction for a crime carrying a penalty of not more than thirty days imprisonment or a fine of one thousand dollars, or both, the defendant after three years from the date of the conviction, including a conviction in magistrates or general sessions court, may apply, or cause someone acting on ~~his~~ the defendant’s behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction and any associated bench warrant. However, this section does not apply to:

(1) an offense involving the operation of a motor vehicle;

(2) a violation of Title 50 or the regulations promulgated pursuant to Title 50 for which points are assessed, suspension provided for, or enhanced penalties for subsequent offenses are authorized; or

(3) an offense contained in Chapter 25, Title 16, except first offense criminal domestic violence as contained in Section 16‑25‑20, which may be expunged five years from the date of the conviction.

(B) If the defendant has had no other conviction during the three‑year period, or during the five‑year period as provided in subsection (A)(3), following the first offense conviction for a crime carrying a penalty of not more than thirty days imprisonment or a fine of not more than one thousand dollars, or both, including a conviction in magistrates or general sessions court, the circuit court may issue an order expunging the records including any associated bench warrant. No person may have his records expunged under this section more than once. A person may have his record expunged even though the conviction occurred prior to June 1, 1992.

(C) After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of the expungement to ensure that no person takes advantage of the rights of this section more than once. This nonpublic record is not subject to release pursuant to Section 34‑11‑95, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this section from being taken advantage of more than once.

(D) As used in this section, ‘conviction’ includes a guilty plea, a plea of nolo contendere, or the forfeiting of bail.”

SECTION 14. Section 22‑5‑920 of the 1976 Code is amended to read:

“Section 22‑5‑920. (A) As used in this section, ‘conviction’ includes a guilty plea, a plea of nolo contendere, or the forfeiting of bail.

(B) Following a first offense conviction as a youthful offender for which a defendant is sentenced pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, the defendant, after five years from the date of completion of ~~his~~ the defendant’s sentence, including probation and parole, may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction. However, this section does not apply to an offense involving the operation of a motor vehicle, to a violation of Title 50 or the regulations promulgated under it for which points are assessed, suspension provided for, or enhanced penalties for subsequent offenses authorized, to an offense classified as a violent crime in Section 16‑1‑60, or to an offense contained in Chapter 25, Title 16, except as otherwise provided in Section 16‑25‑30. If the defendant has had no other conviction during the five‑year period following completion of his sentence, including probation and parole, for a first offense conviction as a youthful offender for which the defendant was sentenced pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, the circuit court may issue an order expunging the records. No person may have his records expunged under this section more than once. A person may have his record expunged even though the conviction occurred before the effective date of this section. A person eligible for a sentence pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, and who is not sentenced pursuant to those provisions, is not eligible to have his record expunged pursuant to the provisions of this section.

(C) After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of its expungement to ensure that no person takes advantage of the rights permitted by this section more than once. This nonpublic record is not subject to release under Section 34‑11‑95, the Freedom of Information Act, or another provision of law, except to those authorized law enforcement or court officials who need this information in order to prevent the rights afforded by this section from being taken advantage of more than once.”

SECTION 15. Section 23‑3‑660 of the 1976 Code is amended to read:

“Section 23‑3‑660. (A) A person whose DNA record or DNA profile has been included in the State DNA Database must have ~~his~~ the person’s DNA record and ~~his~~ DNA profile expunged if:

(1) the charges pending against the person who has been arrested or ordered to submit a sample:

(a) have been nolle prossed;

(b) have been dismissed; or

(c) have been reduced below the requirement for inclusion in the State DNA Database; or

(2) the person has been found not guilty, or the person’s conviction has been reversed, set aside, or vacated.

(B) The solicitor in the county in which the person was charged must notify SLED when the person becomes eligible to have his DNA record and DNA profile expunged. Upon receiving this notification, SLED must begin the expungement procedure.

(C) SLED, at no cost to the person, must purge DNA and all other identifiable record information and the DNA profile from the State DNA Database if SLED receives either:

(1) a document certified:

(a) by a circuit court judge;

(b) by a prosecuting agency; or

(c) by a clerk of court;

that must be produced to the requestor at no charge within fourteen days after the request is made and after one of the events in subsection (A) has occurred, and no new trial has been ordered by a court of competent jurisdiction; or

(2) a certified copy of the court order finding the person not guilty, or reversing, setting aside, or vacating the conviction.

(D) The person’s entry in the State DNA Database shall not be removed if the person has another qualifying offense.

(E) The jail intake officer, sheriff’s office employee, courthouse employee, or detention facility intake officer shall provide written notification to the person of his right to have his DNA record and DNA profile expunged and the procedure for the expungement pursuant to this section at the time that the person’s saliva or tissue sample is taken. The written notification must include that the person is eligible to have his DNA record and his DNA profile expunged at no cost to the person when:

(1) the charges pending against the person are:

(a) nolle prossed;

(b) dismissed; or

(c) reduced below the requirement for inclusion in the State DNA Database; or

(2) when the person has been found not guilty, or the person’s conviction has been reversed, set aside, or vacated.

(F) When SLED completes the expungement process, SLED must notify the person whose DNA record and DNA profile have been expunged and inform him, in writing, that the expungement process has been completed.”

SECTION 16. Section 24‑19‑10 of the 1976 Code is amended to read:

“Section 24‑19‑10. As used herein:

(a) ‘Department’ means the Department of Corrections.

(b) ‘Division’ means the Youthful Offender Division.

(c) ‘Director’ means the Director of the Department of Corrections.

(d) ‘Youthful offender’ means an offender who is:

(i) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing an offense that is not a violent crime, as defined in Section 16‑1‑60, and that is a misdemeanor, a Class D, Class E, or Class F felony, as defined in Section 16‑1‑20, or a felony which provides for a maximum term of imprisonment of fifteen years or less;

(ii) seventeen but less than twenty‑five years of age at the time of conviction for an offense that is not a violent crime, as defined in Section 16‑1‑60, and that is a misdemeanor, a Class D, Class E, or Class F felony, or a felony which provides for a maximum term of imprisonment of fifteen years or less;

(iii) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing burglary in the second degree (Section 16‑11‑312). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three‑year minimum sentence;

(iv) seventeen but less than twenty‑one years of age at the time of conviction for burglary in the second degree (Section 16‑11‑312). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the ~~person~~ offender is not eligible for conditional release until the ~~person~~ offender has served the three‑year minimum sentence;

(v) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing criminal sexual conduct with a minor in the third degree, pursuant to Section 16‑3‑655(C), and the alleged offense involved consensual sexual conduct with a person who was at least fourteen years of age at the time of the act; or

(vi) seventeen but less than twenty‑five years of age at the time of conviction for committing criminal sexual conduct with a minor in the third degree, pursuant to Section 16‑3‑655(C), and the conviction resulted from consensual sexual conduct, provided the offender was eighteen years of age or less at the time of the act and the other person involved was at least fourteen years of age at the time of the act.

(e) ‘Treatment’ means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youthful offenders; this may also include vocational and other training considered appropriate and necessary by the division.

(f) ‘Conviction’ means a judgment in a verdict or finding of guilty, plea of guilty, or plea of nolo contendere to a criminal charge where the imprisonment is at least one year, but excluding all offenses in which the maximum punishment provided by law is death or life imprisonment.”

SECTION 17. Section 24‑21‑930 of the 1976 Code is amended to read:

“Section 24‑21‑930. An order of pardon must be signed by at least two‑thirds of the members of the board. Upon the issue of the order by the board, the director, or one lawfully acting for ~~him~~ the director, must issue a pardon order which provides for the restoration of the pardon applicant’s civil rights.”

SECTION 18. Section 24‑21‑940 of the 1976 Code is amended to read:

“Section 24‑21‑940. A. ‘Pardon’ means that an individual is fully pardoned from all the legal consequences of ~~his~~ the individual’s crime and ~~of his~~ conviction, direct and collateral, including the punishment, whether of imprisonment, pecuniary penalty or whatever else the law has provided.

B. ‘Successful completion of supervision’ as used in this article shall mean free of conviction of any type other than minor traffic offenses.”

SECTION 19. Section 34‑11‑90 of the 1976 Code is amended to read:

“Section 34‑11‑90. A person who violates the provisions of this chapter, upon conviction, must be punished as follows:

If the amount of the instrument is one thousand dollars or less, ~~it~~ the case must be tried exclusively in a magistrates court. A municipal governing body, by ordinance, may adopt by reference the provisions of this chapter as an offense under its municipal ordinances and by so doing authorizes its municipal court to try violations of this chapter. If the amount of the instrument is over one thousand dollars, it must be tried in the court of general sessions or any other court having concurrent jurisdiction. Notwithstanding the provisions of this paragraph, a person who violates the provisions of this chapter, upon conviction for a third or subsequent conviction, may be tried in either a magistrates court or in the court of general sessions.

(a) Convictions in a magistrates court are punishable as follows:

(1) for a first conviction, if the amount of the instrument is five hundred dollars or less, by a fine of not less than fifty dollars nor more than two hundred dollars or by imprisonment for not more than thirty days;

(2) for a first conviction, if the amount of the instrument is more than five hundred dollars but not greater than one thousand dollars, by a fine of not less than three hundred nor more than five hundred dollars or by imprisonment for not more than thirty days, or both;

(3) for a second or subsequent conviction, if the amount of the instrument is five hundred dollars or less, by a fine of two hundred dollars or by imprisonment for not more than thirty days;

(4) for a second or subsequent conviction, if the amount of the instrument is more than five hundred dollars but not greater than one thousand dollars, by a fine of not more than five hundred dollars or by imprisonment for not more than thirty days, or both.

(b) Convictions in the court of general sessions or any other court having concurrent jurisdiction are punishable as follows: for a first conviction by a fine of not less than three hundred dollars nor more than one thousand dollars or by imprisonment for not more than two years, or both; and for a second or subsequent conviction by a fine of not less than five hundred dollars nor more than two thousand dollars and imprisonment for not less than thirty days nor more than ten years.

(c) After a first offense conviction for drawing and uttering a fraudulent check or other instrument in violation of Section 34‑11‑60 within its jurisdiction, the court shall, at the time of sentence, suspend the imposition or execution of a sentence upon a showing of satisfactory proof of restitution and payment by the defendant of all reasonable court costs accruing not to exceed forty‑one dollars. For a second or subsequent conviction for a violation of Section 34‑11‑60 , the suspension of the imposition or execution of the sentence is discretionary with the court.

(d) After a conviction or plea for drawing and uttering a fraudulent check or other instrument in violation of Section 34‑11‑60 and the defendant is charged or fined, he shall pay in addition to the fine all reasonable court costs accruing, not to exceed forty‑one dollars, and the service charge provided in Section 34‑11‑70.

(e) After a conviction under this section on a first offense, the defendant may, after one year from the date of the conviction, apply, or cause someone acting on his behalf to apply, to the court for an order expunging the records of the arrest and conviction. This provision does not apply to any crime classified as a felony. If the defendant has had no other conviction during the one‑year period following the conviction under this section, the court shall issue an order expunging the records. No person has any rights under this section more than one time. After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of its expungement to ensure that no person takes advantage of the rights permitted by this subsection more than once. This nonpublic record is not subject to release under Section 34‑11‑95, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need this information in order to prevent the rights afforded by this subsection from being taken advantage of more than once.

As used in this section the term ‘conviction’ shall include the entering of a guilty plea, the entering of a plea of nolo contendere, or the forfeiting of bail. A conviction is classified as a felony if the instrument drawn or uttered in violation of this chapter exceeds the amount of five thousand dollars.

Each instrument drawn or uttered in violation of this chapter constitutes a separate offense.”

SECTION 20. Section 34‑11‑95 of the 1976 Code is amended to read:

“Section 34‑11‑95. (a) A first offense prosecution or second offense resulting in a conviction for violation of Section 34‑11‑60 shall be reported by the court hearing the case to the Communications and Records Division of the South Carolina Law Enforcement Division which shall keep a record of such conviction.

(b)The South Carolina Law Enforcement Division, upon request, shall release all information collected ~~under~~ pursuant to this section to any law enforcement agency, court or other authorized person.”

SECTION 21. Section 44‑53‑450 of the 1976 Code is amended to read:

“Section 44‑53‑450. (A) Whenever any person who has not previously been convicted of any offense ~~under~~ pursuant to this article or any offense under any state or federal statute relating to marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under Section 44‑53‑370(c) and (d), or Section 44‑53‑375(A), the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires, including the requirement that such person cooperate in a treatment and rehabilitation program of a state‑supported facility or a facility approved by the commission, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a nonpublic record shall be forwarded to and retained by the Department of Narcotic and Dangerous Drugs under the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this article. Discharge and dismissal under this section may occur only once with respect to any person.

(B) Upon the dismissal of the person and discharge of the proceedings against him pursuant to subsection (A), the person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained as provided in subsection (A)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

(C) Before a person may be discharged and the proceedings dismissed pursuant to this section, the person must pay a fee of three hundred fifty dollars if the person is in a general sessions court and one hundred fifty dollars if the person is in a summary court. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this subsection must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.”

SECTION 22. Section 56‑5‑750 of the 1976 Code is amended to read:

Section 56‑5‑750. (A) In the absence of mitigating circumstances, it is unlawful for a motor vehicle driver, while driving on a road, street, or highway of the State, to fail to stop when signaled by a law enforcement vehicle by means of a siren or flashing light. An attempt to increase the speed of a vehicle or in other manner avoid the pursuing law enforcement vehicle when signaled by a siren or flashing light is prima facie evidence of a violation of this section. Failure to see the flashing light or hear the siren does not excuse a failure to stop when the distance between the vehicles and other road conditions are such that it would be reasonable for a driver to hear or see the signals from the law enforcement vehicle.

(B) A person who violates the provisions of subsection (A):

(1) for a first offense where no great bodily injury or death resulted from the violation, is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars or imprisoned for not less than ninety days nor more than three years. The Department of Motor Vehicles must suspend the person’s driver’s license for at least thirty days; or

(2) for a second or subsequent offense where no great bodily injury or death resulted from the violation, is guilty of a felony and, upon conviction, must be imprisoned for not more than five years. The person’s driver’s license must be suspended by the department for a period of one year from the date of the conviction.

(C) A person who violates the provisions of subsection (A) and when driving performs an act forbidden by law or neglects a duty imposed by law in the driving of the vehicle:

(1) where great bodily injury resulted, is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years; or

(2) where death resulted, is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty‑five years.

(D) The department must revoke the driver’s license of ~~any~~ a person who is convicted pursuant to subsection (C)(1) or (C)(2) for a period to include any term of imprisonment, suspended sentence, parole, or probation, plus three years.

(E) ‘Great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss of or impairment of the function of a bodily member or organ.

(F) After a conviction pursuant to subsection (B)(1) for a first offense, the person may, after three years from the date of completion of all terms and conditions of his sentence for the first offense, apply, or cause someone acting on his behalf to apply, to the court for an order expunging the records of the arrest and conviction. This provision does not apply to any crime classified as a felony. If the person has had no other conviction during the three‑year period following the completion of the terms and conditions of the sentence, the court shall issue an order expunging the records. No person has any rights under this section more than one time. After the expungement, the South Carolina Law Enforcement Division and the Department of Motor Vehicles are required to keep a nonpublic record of the offense and the date of its expungement to ensure that no person takes advantage of the rights permitted by this subsection more than once. This nonpublic record is not subject to release under the Freedom of Information Act or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this subsection from being taken advantage of more than once.

(G)(1) If a person is employed or enrolled in a college or university at any time while his driver’s license is suspended pursuant to subsection (B) of this section, he may apply for a special restricted driver’s license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the special restricted driver’s license only upon a showing by the person that he is employed or enrolled in a college or university, and that he lives further than one mile from his place of employment or place of education.

(2) If the department issues a special restricted driver’s license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the department by the licensee.

(3) The fee for each special restricted driver’s license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee twenty dollars must be distributed to the general fund and eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles.

(4) The operation of a motor vehicle outside the time limits and route imposed by a special restricted license by the person issued that license is a violation of Section 56‑1‑460.”

SECTION 23. Section 63‑19‑2050 of the 1976 Code is amended to read:

“Section 63‑19‑2050. (A) A person who has been taken into custody for, charged with, or adjudicated delinquent for having committed a status or a nonviolent offense may petition the court for an order destroying all official records relating to:

(1) being taken into custody;

(2) the charges filed against the child;

(3) the adjudication; and

(4) disposition.

The granting of the order is in the court’s discretion. However, a person may not petition the court if ~~he~~ the person has a prior adjudication for an offense that would carry a maximum term of imprisonment of five years or more if committed by an adult. In addition, the court must not grant the order unless it finds that the person who is seeking to have the records destroyed is at least eighteen years of age, has successfully completed any dispositional sentence imposed, and has not been subsequently charged with any criminal offense.

(B) An adjudication for a violent crime, as defined in Section 16‑1‑60, must not be expunged.

(C) If the expungement order is granted by the court, no evidence of the records may be retained by any law enforcement agency or by any municipal, county, state agency, or department. The effect of the order is to restore the person in the contemplation of the law to the status the person occupied before being taken into custody. No person to whom the order has been entered may be held thereafter under any provision of any law to be guilty of perjury or otherwise giving false statement by reason of failing to recite or acknowledge the charge or adjudication in response to an inquiry made of the person for any purpose.

(D) For purposes of this section, an adjudication is considered a previous adjudication only if it occurred prior to the date the subsequent offense was committed.”

SECTION 24. This act takes effect upon approval by the Governor.

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