**A** **BILL**

TO AMEND SECTION 22‑5‑910(F), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO APPLICATIONS FOR THE EXPUNGEMENT OF CRIMINAL RECORDS FOR CERTAIN OFFENSES, SO AS TO PROVIDE FOR ELIGIBILITY FOR EXPUNGEMENT EVEN WHEN A PERSON HAS HAD A PRIOR OFFENSE EXPUNGED PURSUANT TO SECTION 34‑11‑90; AND TO AMEND SECTION 34‑11‑90(e), RELATING TO JURISDICTION OF OFFENSES AND PENALTIES CONCERNING BANK DEPOSITS, SO AS TO PROVIDE FOR ELIGIBILITY FOR EXPUNGEMENT EVEN WHEN A PERSON HAS HAD A PRIOR OFFENSE EXPUNGED PURSUANT TO SECTION 22‑5‑910.

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

SECTION 1. Section 22-5-910(F) of the 1976 Code is amended to read:

“(F) No person may have the person’s record expunged under this section if the person has pending criminal charges of any kind unless the charges have been pending for more than five years; however, this five‑year time period is tolled for any time the defendant has been under a bench warrant for failure to appear. No person may have the person’s records expunged under this section more than once except that a person who has a prior expungement pursuant to Section 34‑11‑90(e) may still have an expungement under this section. A person may have the person’s record expunged even though the conviction occurred before the effective date of this section.”

SECTION 2. Section 34-11-90(e) of the 1976 Code is amended to read:

“(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 except that a person who has a prior expungement pursuant to Section 22‑5‑910 may still have an expungement under this section. After the expungement under this section, 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 except that a person who has a prior expungement pursuant to Section 22‑5‑910 may still have an expungement under this section.

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 3. This act takes effect upon approval by the Governor.

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