**A** **BILL**

TO AMEND SECTION 17‑1‑40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS WHEN A CHARGE IS DISMISSED OR A PERSON IS FOUND NOT GUILTY OF A CHARGE, SO AS TO INCLUDE A PERSON WHO RECEIVED A PARDON IN THE PURVIEW OF THE STATUTE.

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

SECTION 1. Section 17‑1‑40(A) of the 1976 Code, as last amended by Act 36 of 2009, is further amended to read:

“(A) A person who after being charged with a criminal offense and the charge is discharged, proceedings against the person are dismissed, ~~or~~ the person is found not guilty of the charge, or the person is pardoned, the arrest and booking record, files, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge may be retained by any municipal, county, or state law enforcement agency. Provided, however, that local and state detention and correctional facilities may 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 from the date of the expungement order to manage their statistical and professional information needs and, ~~where~~ when necessary, to defend ~~such~~ the facilities during litigation proceedings except when an action, complaint, or inquiry has been initiated. Information retained by a local or state detention or correctional facility as permitted ~~under~~ pursuant to this section after an expungement order has been issued is not a public document and is exempt from disclosure. ~~Such~~ This information only may be disclosed by judicial order, pursuant to a subpoena filed in a civil action, or as needed during litigation proceedings. A person who otherwise intentionally retains the arrest and booking record, files, mug shots, fingerprints, or any evidence of the record pertaining to a charge discharged or dismissed pursuant to this section is guilty of contempt of court.”

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

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