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Indicates New Matter

COMMITTEE REPORT

February 6, 2013

**H. 3184**

Introduced by Reps. Pope, R.L. Brown and Butler Garrick

S. Printed 2/6/13--H.

Read the first time January 8, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3184) to amend Section 22‑5‑910, as amended, Code of Laws of South Carolina, 1976, relating to expungement of criminal records, so as to provide that a person, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND SECTION 22‑5‑910, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS, SO AS TO PROVIDE THAT A PERSON MAY BE ELIGIBLE FOR EXPUNGEMENT OF A FIRST OFFENSE CRIME WHICH CARRIES A FINE OF ONE THOUSAND DOLLARS RATHER THAN FIVE HUNDRED DOLLARS.

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

SECTION 1. Section 22‑5‑910 of the 1976 Code, as last amended by Act 36 of 2009, is further 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 ~~five hundred~~ one thousand dollars, or both, the defendant after three years from the date of the conviction 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:

(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 ~~five hundred~~ one thousand dollars, or both, 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 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 ~~under~~ 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 2. This act takes effect upon approval by the Governor.

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