**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 4789**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Fry, McKnight, Pendarvis, Clyburn, Clary, Collins and Davis

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Introduced in the House on January 14, 2020

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

Summary: Criminal procedures

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/11/2019 House Prefiled

12/11/2019 House Referred to Committee on **Judiciary**

1/14/2020 House Introduced and read first time ([House Journal‑page 105](file:///h:\hj\20200114.docx))

1/14/2020 House Referred to Committee on **Judiciary** ([House Journal‑page 105](file:///h:\hj\20200114.docx))

1/29/2020 House Member(s) request name added as sponsor: Clary

1/30/2020 House Member(s) request name added as sponsor: Collins, Davis

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**VERSIONS OF THIS BILL**

[12/11/2019](file:///p:\pprever\2019-20\4789_20191211.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 17‑1‑70 SO AS TO ALLOW PERSONS CHARGED WITH SPECIFIC OFFENSES TO PETITION TO HAVE THEIR CHARGES DISMISSED IF THEY HAVE NOT BEEN ADJUDICATED OR OTHERWISE DISMISSED AFTER A PERIOD OF TIME AND OTHER DELINEATED CONDITIONS ARE MET, AND TO PROVIDE PROCEDURES FOR THE DESTRUCTION OF THE RECORDS.

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

SECTION 1. Chapter 1, Title 17 of the 1976 Code is amended by adding:

“Section 17‑1‑70. (A) A person charged with an offense listed in subsection (B) may petition the solicitor in the county in which the alleged offense occurred for dismissal of the alleged offense that has not been adjudicated by trial or guilty plea, or otherwise disposed of or dismissed, after five years from the date he was charged with the offense. If the petitioner has no other pending charges unrelated to the subject charge and no criminal convictions subsequent to the alleged offense, the solicitor must approve the dismissal of the offense charged and must do so within thirty days of receipt of the petition for dismissal.

(B) The following offenses are eligible for dismissal pursuant to the provisions of subsection (A):

(1) simple assault or assault and battery in the third degree pursuant to Section 16‑3‑600(E);

(2) public intoxication or disorderly conduct pursuant to Section 16‑17‑530;

(3) breach of trust with fraudulent intent pursuant to Section 16‑13‑230(1);

(4) open container in a motor vehicle pursuant to Section 61‑4‑110;

(5) trespassing pursuant to Section 16‑11‑600;

(6) misdemeanor drawing or uttering a fraudulent check pursuant to Sections 34‑11‑60 and 34‑11‑90;

(7) misdemeanor shoplifting pursuant to Section 16‑13‑110(B)(1);

(8) driving under suspension pursuant to Section 56‑1‑460(A)(1);

(9) simple possession of a controlled substance pursuant to Article 3, Chapter 53, Title 44; or

(10) a similar local or state offense for which, in the discretion of the solicitor, the elements are substantially similar as for any of the above listed offenses.

(C) Upon dismissal of the offense pursuant to the requirements of this section, the solicitor in the county in which the alleged offense occurred shall notify the State Law Enforcement Division (SLED) and SLED shall remove the pending charge from the petitioner’s criminal record within ten days of notification of dismissal. Additionally, any arrest and booking records, 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. 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.”

SECTION 2. This act takes effect upon approval of the Governor and applies retroactively to offenses charged before the effective date of this act which may be eligible for dismissal.

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