

1 HB497
2 176399-1
3 By Representatives Baker and Jones
4 RFD: Judiciary
5 First Read: 05-APR-16

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8 SYNOPSIS: Under existing law, a person charged with a
9 misdemeanor criminal offense, traffic violation, or
10 municipal ordinance violation and felony offenses,
11 excluding violent offenses, may petition the
12 circuit court to have the criminal record expunged
13 if the charge was dismissed or if he or she meets
14 other limited conditions.

15 This bill would expand the expungement of
16 criminal records to include all felony charges,
17 including violent offenses, that are the subject of
18 successful malicious or frivolous prosecution civil
19 claims.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT
24

25 To amend Section 15-27-2, Code of Alabama 1975,
26 relating to the expungement of criminal records, to expand the
27 expungement of criminal records to include charges that are

1 the subject of successful malicious prosecution civil claims,
2 including violent felony offenses.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 15-27-2, Code of Alabama 1975, is
5 amended to read as follows:

6 "§15-27-2.

7 "(a) A person who has been charged with a felony
8 offense, except a violent offense as defined in Section
9 12-25-32(14), may file a petition in the criminal division of
10 the circuit court in the county in which the charges were
11 filed, to expunge records relating to the charge in any of the
12 following circumstances:

13 "(1) When the charge is dismissed with prejudice.

14 "(2) When the charge has been no billed by a grand
15 jury.

16 "(3) When the person has been found not guilty of
17 the charge.

18 "(4)a. The charge was dismissed after successful
19 completion of a drug court program, mental health court
20 program, diversion program, veteran's court, or any
21 court-approved deferred prosecution program after one year
22 from successful completion of the program.

23 "b. Expungement may be a court-ordered condition of
24 a program listed in paragraph a.

25 "(5) The charge was dismissed without prejudice more
26 than five years ago, has not been refiled, and the person has
27 not been convicted of any other felony or misdemeanor crime,

1 any violation, or any traffic violation, excluding minor
2 traffic violations, during the previous five years.

3 "(6) Ninety days have passed from the date of
4 dismissal with prejudice, no-bill, acquittal, or nolle
5 prosequi and the charge has not been refiled.

6 "(b) A person who has been charged with any felony
7 offense, including a violent offense as defined in Section
8 12-25-32(14), may file a petition in the criminal division of
9 the circuit court in the county in which the charges were
10 filed to expunge records relating to the charge if the charge
11 is the subject of a successful cause of action of malicious or
12 frivolous prosecution in which a final judgment has been
13 entered by a court and in which all of the following have been
14 proven:

15 "a. A criminal prosecution was instituted or
16 continued with malice and without probable cause.

17 "b. The prosecution was terminated in the favor of
18 the person subject to the criminal charge.

19 "c. Damage was caused to the person subject to the
20 criminal charge.

21 "~~(b)~~ (c) The circuit court shall have exclusive
22 jurisdiction of a petition filed under subsection (a) or
23 subsection (b)."

24 Section 2. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.