

1 SB117
2 210511-4
3 By Senator Coleman-Madison
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 01/28/2021

1 SB117

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4 ENROLLED, An Act,

5 Relating to expungement; to amend Sections 15-27-1,
6 15-27-2, 15-27-4, 15-27-5, 15-27-7, 15-27-8, 15-27-9,
7 15-27-10, and 15-27-19, Code of Alabama 1975, to expand the
8 expungement of criminal records to include convictions of
9 certain misdemeanor offenses, traffic violations, municipal
10 ordinances, and felony offenses; to increase the filing fee
11 for petitions for expungement; to add Section 15-27-2.1 to the
12 Code of Alabama 1975, to provide for the number of
13 expungements a person may be granted; to add Section 15-27-21
14 to the Code of Alabama 1975, to provide for the admissibility
15 of an expungement in a criminal trial in certain
16 circumstances; to make nonsubstantive, technical revisions to
17 update the existing code language to current style; and in
18 connection therewith would have as its purpose or effect the
19 requirement of a new or increased expenditure of local funds
20 within the meaning of Amendment 621 of the Constitution of
21 Alabama of 1901, as amended by Amendment 890, now appearing as
22 Section 111.05 of the Official ReCompilation of the
23 Constitution of Alabama of 1901, as amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. This act shall be known and may be cited
2 as the Record Expungement Designed to Enhance Employment and
3 Eliminate Recidivism (REDEEMER) Act.

4 Section 2. Sections 15-27-1, 15-27-2, 15-27-4,
5 15-27-5, 15-27-7, 15-27-8, 15-27-9, 15-27-10, and 15-27-19,
6 Code of Alabama 1975, are amended to read as follows:

7 "§15-27-1.

8 "(a) A person who has been charged with a
9 misdemeanor ~~criminal~~ offense, a violation, a traffic
10 violation, or a municipal ordinance violation may file a
11 petition in the criminal division of the circuit court in the
12 county in which the charges were filed, to expunge records
13 relating to the charge in any of the following circumstances:

14 "(1) When the charge ~~is~~ has been dismissed with
15 prejudice and more than 90 days have passed.

16 "(2) When the charge has been no billed by a grand
17 jury and more than 90 days have passed.

18 "(3) When the person has been found not guilty of
19 the charge and more than 90 days have passed.

20 "(4) When the charge has been nolle prossed without
21 conditions, more than 90 days have passed, and the charge or
22 charges have not been refiled.

23 "(5) When the indictment has been quashed and the
24 statute of limitations for refiling the charge or charges has

1 expired or the prosecuting agency confirms that the charge or
2 charges will not be refiled.

3 "(6)a. When the charge was dismissed after
4 successful completion of a drug court program, mental health
5 court program, diversion program, veteran's court, or any
6 court-approved deferred prosecution program.

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

9 "c. A petition for expungement may be filed one year
10 from the date of successful completion of a program listed in
11 paragraph a.

12 ~~"(4)~~ (7) When the charge was dismissed without
13 prejudice more than ~~two years~~ one year ago, has not been
14 refiled, and the person has not been convicted of any other
15 felony or misdemeanor crime, any violation, or any traffic
16 violation, excluding minor traffic violations, during the
17 previous two years.

18 ~~"(5)~~ (8) When the person proves by a preponderance
19 of the evidence that the person is a victim of human
20 trafficking, that the person committed the misdemeanor
21 ~~criminal~~ offense, violation, traffic violation, or municipal
22 ordinance violation during the period the person was being
23 trafficked, and that the person would not have committed the
24 offense or violation but for being trafficked. Evidence that a
25 person is a victim of human trafficking may include, but is

1 not limited to, evidence that the person's trafficker was
2 convicted of trafficking the person under Section 13A-6-152 or
3 Section 13A-6-153.

4 "(b) Subsection (a) notwithstanding, a person who
5 has been convicted of a misdemeanor offense, a violation, a
6 traffic violation, or a municipal ordinance violation may file
7 a petition in the criminal division of the circuit court in
8 the county in which the charges were filed to expunge records
9 relating to the charge and the conviction if all of the
10 following occur:

11 "(1) Except as provided in Section 15-27-4, all
12 probation or parole requirements have been completed,
13 including payment of all fines, costs, restitution, and other
14 court-ordered amounts, and are evidenced by the applicable
15 court or agency.

16 "(2) Three years have passed from the date of
17 conviction.

18 "(3) The person was not operating a commercial
19 vehicle at the time and convicted of any of the offenses
20 enumerated in 49 C.F.R. § 383.51.

21 "(4) The conviction is not a violent offense, as
22 provided in Section 12-25-32.

23 "(5) The conviction is not a sex offense, as
24 provided in Section 15-20A-5.

1 "(6) The conviction is not an offense involving
2 moral turpitude, as provided in Section 17-3-30.1. This
3 subdivision does not apply if the crime the person was
4 convicted of was classified as a felony at the time of the
5 conviction, but has been reclassified as a misdemeanor,
6 pursuant to Act 2015-185, and the person has not been arrested
7 for any offense, excluding minor traffic violations, 15 years
8 prior to the filing of the petition for expungement.

9 "(7) The conviction is not a serious traffic
10 offense, as provided in Article 9 of Chapter 5A of Title 32.

11 "(c) Subject to the provisions of 15-27-16, records
12 related to offenses and convictions may be disclosed to a
13 criminal justice agency, a district attorney, or a prosecuting
14 authority for criminal investigation purposes as provided in
15 Section 15-27-7, to a utility and its agents and affiliates,
16 to the Department of Human Resources for the purpose of
17 investigation or assessment in order to protect children or
18 vulnerable adults, or to any entities or services providing
19 information to banking, insurance, and other financial
20 institutions as required for various requirements as provided
21 in state and federal law. Further, any criminal charges that
22 are expunged or are pending expungement pursuant to 15-27-1
23 shall be available for use by any attorneys, officers of the
24 Court, or the Court itself in any civil matters related to the
25 criminal charges expunged or seeking to be expunged regardless

1 of the outcome of the petitioned expungement. At the
2 conclusion of the pending civil matter, all references to the
3 criminal charges expunged or to be expunged shall be redacted
4 in the event the criminal charges are expunged.

5 "~~(b)~~ (d) The circuit court shall have exclusive
6 jurisdiction of a petition filed under ~~subsection~~ subsections
7 (a) and (b).

8 "§15-27-2.

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

15 "(1) When the charge is dismissed with prejudice and
16 more than 90 days have passed.

17 "(2) When the charge has been no billed by a grand
18 jury and more than 90 days have passed.

19 "(3) When the person has been found not guilty of
20 the charge and more than 90 days have passed.

21 "(4) When the charge has been nolle prossed without
22 conditions, and more than 90 days have passed, and the charge
23 or charges have not been refiled.

24 "(5) When the indictment has been quashed and the
25 statute of limitations for refileing the charge or charges has

1 expired or the prosecuting agency confirms that the charge or
2 charges will not be refiled.

3 ~~"(3) (6)a. The~~ When the charge was dismissed after
4 successful completion of a drug court program, mental health
5 court program, diversion program, veteran's court, or any
6 court-approved deferred prosecution program ~~after one year~~
7 ~~from successful completion of the program.~~

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

10 "c. A petition for expungement may be filed one year
11 from the date of the successful completion of a program listed
12 in paragraph a.

13 ~~"(4) (7) The~~ When the charge was dismissed without
14 prejudice more than five years ago, has not been refiled, and
15 the person has not been convicted of any other felony or
16 misdemeanor crime, any violation, or any traffic violation,
17 excluding minor traffic violations, during the previous five
18 years.

19 ~~"(5) Ninety days have passed from the date of~~
20 ~~dismissal with prejudice, no bill, acquittal, or nolle~~
21 ~~prosequi and the charge has not been refiled.~~

22 ~~"(6) (8)~~ When the person proves by a preponderance
23 of the evidence that the person is a victim of human
24 trafficking, that the person committed the felony offense
25 during the period the person was being trafficked, and that

1 the person would not have committed the felony offense but for
2 being trafficked. Evidence that a person is a victim of human
3 trafficking may include, but is not limited to, evidence that
4 the person's trafficker was convicted of trafficking the
5 person under Section 13A-6-152 or Section 13A-6-153.

6 "(b) Subsection (a) notwithstanding, ~~convictions for~~
7 a person who has been convicted of any of the following
8 ~~offenses, which are defined as a violent offense under~~
9 ~~subdivision (15) of~~ violent offenses, as defined in Section
10 12-25-32, may be expunged upon a showing that the person
11 committed the felony offense during the period the person was
12 trafficked, and that the person would not have committed the
13 felony offense but for being trafficked:

14 "(1) Promoting prostitution in the first degree
15 pursuant to Section 13A-12-111.

16 "(2) Domestic violence in the third degree pursuant
17 to subsection (d) of Section 13A-6-132.

18 "(3) Production of obscene matter involving a person
19 under the age of 17 years pursuant to Section 13A-12-197.

20 "~~(c) (1) A person who has been charged with any~~
21 ~~felony offense, including a violent offense as defined in~~
22 ~~Section 12-25-32, may file a petition in the criminal division~~
23 ~~of the circuit court in the county in which the charges were~~
24 ~~filed to expunge records relating to the charge if the person~~
25 ~~has been found not guilty of the charge.~~

1 ~~"(2) Records related to violent offenses as defined~~
2 ~~in Section 12-25-32 may be disclosed to a law enforcement~~
3 ~~agency for criminal investigation purposes as provided in~~
4 ~~Section 15-27-7.~~

5 "(c) A person who has been convicted of a felony
6 offense may file a petition in the criminal division of the
7 circuit court in the county in which the charges were filed to
8 expunge records relating to the charge and the conviction if
9 all of the following occur:

10 "(1) The person has been granted a certificate of
11 pardon with restoration of civil and political rights for the
12 conviction from the Board of Pardons and Paroles.

13 "(2) All civil and political rights that were
14 forfeited as a result of the conviction have been restored.

15 "(3) One hundred eighty days have passed from the
16 date of the issuance of the certification of pardon.

17 "(4) Except as provided in subsection (b), the
18 conviction is not a violent offense, as provided in Section
19 12-25-32.

20 "(5) The conviction is not a sex offense, as
21 provided in Section 15-20A-5.

22 "(6) The conviction is not an offense involving
23 moral turpitude, as provided in Section 17-3-30.1. This
24 subdivision does not apply if the crime the person was
25 convicted of was classified as a felony at the time of the

1 conviction, but has been reclassified as a misdemeanor,
2 pursuant to Act 2015-185, and the person has not been arrested
3 for any offense, excluding minor traffic violations, 15 years
4 prior to the filing of the petition for expungement.

5 "(7) The conviction is not a serious traffic
6 offense, as provided in Article 9 of Chapter 5A of Title 32.

7 "(d) Subject to the provisions of Section 15-27-16,
8 records related to offenses and convictions may be disclosed
9 to a criminal justice agency, a district attorney, or a
10 prosecuting authority for criminal investigation purposes as
11 provided in Section 15-27-7, to a utility and its agents and
12 affiliates, to the Department of Human Resources for the
13 purpose of investigation or assessment in order to protect
14 children or vulnerable adults, or to any entities or services
15 providing information to banking, insurance, and other
16 financial institutions as required for various requirements as
17 provided in state and federal law. Further, any criminal
18 charges that are expunged or are pending expungement pursuant
19 to 15-27-2 shall be available for use by any attorneys,
20 officers of the Court, or the Court itself in any civil
21 matters related to the criminal charges expunged or seeking to
22 be expunged regardless of the outcome of the petitioned
23 expungement. At the conclusion of the pending civil matter,
24 all references to the criminal charges expunged or to be

1 expunged shall be redacted in the event the criminal charges
2 are expunged.

3 "~~(d)~~ (e) The circuit court shall have exclusive
4 jurisdiction of a petition filed under ~~subsection (a) or~~
5 ~~subsection (b)~~ subsection (a), (b), or (c).

6 "§15-27-4.

7 "(a) In addition to any cost of court or docket fee
8 for filing the petition in circuit court, an administrative
9 filing fee of ~~three~~ five hundred dollars ~~(\$300)~~ (\$500) shall
10 be paid at the time the petition is filed and is a condition
11 precedent to any ruling of the court pursuant to this chapter.
12 The administrative filing fee ~~shall not be waived by the court~~
13 ~~and~~ shall be distributed as follows:

14 "(1) Seventy-five dollars (\$75) to the State
15 Judicial Administrative Fund.

16 "(2) Twenty-five dollars (\$25) to the Alabama
17 Department of Forensic Sciences.

18 "(3) Fifty dollars (\$50) to the district attorney's
19 office.

20 "(4) Fifty dollars (\$50) to the clerk's office of
21 the circuit court having jurisdiction over the matter, for the
22 use and benefit of the circuit court clerk.

23 "(5) Fifty dollars (\$50) to the Public Safety Fund.

24 "(6) Fifty dollars (\$50) to the general fund of the
25 county where the arresting law enforcement agency is located

1 if the arrest was made by the sheriff's office to be used for
2 law enforcement purposes, or, if the arrest was made by
3 another law enforcement agency, to the municipality or other
4 entity or state agency funding the law enforcement activity.

5 "(7) One hundred dollars (\$100) to the State General
6 Fund.

7 "(8) Fifty dollars (\$50) to the Education Trust
8 Fund.

9 "(9) Fifty dollars (\$50) to the Fair Trial Tax Fund.

10 "(b) (1) When a petitioner is seeking the expungement
11 of multiple charges arising from one arrest, the petitioner
12 shall only be required to pay one filing fee pursuant to
13 subsection (a).

14 "(2) When a petitioner is seeking the expungement of
15 multiple charges arising from multiple arrests, the petitioner
16 shall be required to pay a filing fee for each arrest pursuant
17 to subsection (a).

18 ~~"(b) (c)~~ (c) Notwithstanding subsection (a), a person
19 seeking relief under this chapter may apply for indigent
20 status by completing an Affidavit of Substantial Hardship and
21 Order which shall be submitted with the petition. If the court
22 finds the petitioner is indigent, the court ~~may set forth a~~
23 ~~payment plan for the petitioner to satisfy~~ shall waive the
24 filing fee ~~over a period of time, which shall be paid in full,~~

1 ~~prior to any order granting an expungement~~ provided in
2 subsection (a).

3 ~~"(c)~~ (d) If a petitioner seeks expungement of an
4 arrest or conviction record and the court in the original case
5 made a clear and unequivocal judicial finding on the record
6 that the arrest had no foundation of probable cause, the
7 court, in the expungement proceeding, shall waive all docket
8 fees and court costs, except for the filing fee in subsection
9 (a).

10 "§15-27-5.

11 "(a) If the prosecuting authority or victim files an
12 objection to the granting of a petition under this chapter,
13 the court having jurisdiction over the matter shall set a date
14 for a hearing no sooner than 14 days from the filing of the
15 objection. The court shall notify the prosecuting authority
16 and the petitioner of the hearing date. In ~~the discretion of~~
17 ~~the court~~ making its determination, the court shall consider
18 all of the following factors:

19 "(1) Nature and seriousness of the offense
20 committed.

21 "(2) Circumstances under which the offense occurred.

22 "(3) Date of the offense.

23 "(4) Age of the person when the offense was
24 committed.

1 "(5) Whether the offense was an isolated or repeated
2 incident.

3 "(6) Other conditions which may have contributed to
4 the offense.

5 "(7) An available probation or parole record,
6 report, or recommendation.

7 "(8) Whether the offense was dismissed or nolle
8 prossed as part of a negotiated plea agreement and the
9 petitioner ~~plead~~ pleaded guilty to another related or lesser
10 offense.

11 "(9) Evidence of rehabilitation, including good
12 conduct in prison or jail, in the community, counseling or
13 psychiatric treatment received, acquisition of additional
14 academic or vocational schooling, successful business or
15 employment history, and the recommendation of his or her
16 supervisors or other persons in the community.

17 "(10) Any other matter the court deems relevant,
18 which may include, but is not limited to, a prior expungement
19 of the petitioner's records.

20 "(b) A hearing under subsection (a) shall be
21 conducted in a manner prescribed by the trial judge and shall
22 include oral argument and review of relevant documentation in
23 support of, or in objection to, the granting of the petition.
24 The Alabama Rules of Evidence shall apply to the hearing.

1 Leave of the court shall be obtained for the taking of witness
2 testimony relating to any disputed fact.

3 "(c) There is no right to the expungement of any
4 criminal record, and any request for expungement of a criminal
5 record may be denied at the sole discretion of the court. The
6 court shall grant the petition if it is reasonably satisfied
7 from the evidence that the petitioner has complied with and
8 satisfied the requirements of this chapter. The court shall
9 have discretion over the number of cases that may be expunged
10 pursuant to this chapter after the first case is expunged. The
11 ruling of the court shall be subject to certiorari review and
12 ~~shall~~ may not be reversed absent a showing of an abuse of
13 discretion.

14 "(d) If no objection to a petition is filed by the
15 prosecuting authority or victim, the court having jurisdiction
16 over the matter ~~may~~ shall rule on the merits of the petition
17 without setting the matter for hearing. In such cases, the
18 court shall grant the petition if it is reasonably satisfied
19 from the evidence that the petitioner has complied with and
20 satisfied the requirements of this chapter. ~~The court shall~~
21 ~~have discretion over the number of cases that may be expunged~~
22 ~~pursuant to this chapter after the first case is expunged.~~

23 "§15-27-7.

24 "(a) Upon receipt of the order of expungement, a
25 criminal justice agency in possession of records subject to

1 the order shall immediately forward the records to the Alabama
2 ~~Criminal Justice Information Center~~ State Law Enforcement
3 Agency. The center shall digitally archive the records in a
4 manner prescribed by the Alabama ~~Criminal~~ Justice Information
5 ~~Center~~ Commission and designate the records as protected
6 ~~notwithstanding any,~~ except as provided in other provisions of
7 this chapter. ~~Such~~ The records may not be used for any
8 non-criminal justice purpose, except as otherwise provided in
9 this chapter, and may ~~only~~ be made available to criminal
10 justice agencies, a district attorney, or a prosecuting
11 authority upon acknowledgement of an investigation or other
12 criminal matter involving the person related to the
13 expungement. Any expunged records that were added to a federal
14 database shall be requested to be removed and not made
15 available within any interstate criminal database. Records may
16 also be made available to the Department of Human Resources
17 for the purpose of investigation or assessment in order to
18 protect children or vulnerable adults. Expungement under this
19 chapter does not expunge reports that are indicated, as
20 defined in Section 26-14-8.

21 "(b) Records expunged under this chapter may not be
22 transmitted to the Federal Bureau of Investigation national
23 criminal records repository. Any record subject to be expunged
24 under this chapter and transmitted to the Federal Bureau of
25 Investigation prior to the expungement of ~~such~~ the record

1 shall be requested for withdrawal within the national system
2 by the Alabama ~~Criminal Justice Information Center~~ State Law
3 Enforcement Agency.

4 "§15-27-8.

5 "Once the records are expunged pursuant to this
6 chapter, the records shall be forwarded to the Alabama
7 ~~Criminal Justice Information Center~~ State Law Enforcement
8 Agency in a manner prescribed by the Alabama ~~Criminal~~ Justice
9 Information ~~Center~~ Commission for purposes of archiving, and
10 the records shall be stored in a manner prescribed by the
11 Alabama ~~Criminal~~ Justice Information ~~Center~~ Commission. The
12 records shall be retained by the Alabama ~~Criminal Justice~~
13 ~~Information Center~~ State Law Enforcement Agency indefinitely.

14 "§15-27-9.

15 "For purposes of this chapter, the ~~term record~~
16 ~~includes, but is not limited to, all of the~~ following terms
17 shall have the following meanings:

18 "(1) CRIMINAL JUSTICE AGENCIES. As defined in
19 Section 41-9-590.

20 "(2) RECORD. The term shall include, but is not
21 limited to, all of the following:

22 "~~(1)~~ a. Arrest and conviction records.

23 "~~(2)~~ b. Booking or arrest photographs of the
24 petitioner.

1 "~~(3)~~ c. Index references such as the State Judicial
2 Information System or any other governmental index references
3 for public records search.

4 "d. Records relating to administrative suspension
5 pursuant to Article 14 of Chapter 5A of Title 32, including
6 driver license suspension records.

7 "~~(4)~~ e. Other data, whether in documentary or
8 electronic form, relating to the arrest ~~or,~~ charge, or
9 conviction.

10 "§15-27-10.

11 "(a) Nothing in this chapter shall prohibit a
12 criminal justice agency, a law enforcement agency or official,
13 district attorney or a prosecuting authority, the Alabama
14 Department of Forensic Sciences, or the Department of Human
15 Resources from maintaining an investigative file, report, case
16 file, or log which may include any evidence, biological
17 evidence, photographs, exhibits, or information in documentary
18 or electronic form.

19 "(b) Nothing in this chapter shall prohibit the
20 Department of Human Resources from continuing to maintain any
21 documentation, reports, case files, or evidence needed for the
22 protection of children or vulnerable adults.

23 "§15-27-19.

24 "The Alabama ~~Criminal~~ Justice Information ~~Center~~
25 Commission shall adopt rules for the submission of data from

1 criminal justice agencies necessary to complete the criminal
2 history record within the state criminal history repository.
3 Data within the repository shall include all records allowed
4 by federal regulation of state repositories."

5 Section 3. Sections 15-27-2.1 and 15-27-21 are added
6 to the Code of Alabama 1975, to read as follows:

7 §15-27-2.1.

8 (a) (1) A person may be granted unlimited
9 expungements pursuant to subdivisions (a) (1) through (a) (5)
10 and (a) (7) and (a) (8) of Section 15-27-1, subdivisions (a) (1)
11 through (a) (5) and (a) (7) and (a) (8) of Section 15-27-2, and
12 subsection (b) of Section 15-27-2.

13 (2) A person may only be granted one expungement
14 pursuant to subsection (c) of Section 15-27-2.

15 (3) A person may only be granted two expungements
16 pursuant to subdivision (a) (6) of Section 15-27-1, subsection
17 (b) of Section 15-27-1, and subdivision (a) (6) of Section
18 15-27-2.

19 (b) For the purposes of subsection (a), one
20 expungement shall include all charges or convictions stemming
21 from the same arrest or incident.

22 (c) The Administrative Office of Courts, in
23 consultation with the Alabama State Law Enforcement Agency,
24 shall adopt procedures relating to prior expungements for the
25 purposes of the limitations in this section.

1 §15-27-21.

2 A certified record of an expungement is admissible
3 in a criminal trial, subject to the Alabama Rules of Criminal
4 Procedure and the Alabama Rules of Evidence. Prior to the
5 introduction of an expungement by any party, the court shall
6 conduct an in-camera hearing to determine its admissibility.

7 Section 4. This act may not be interpreted to
8 supersede, modify, or otherwise affect the application of
9 Sections 15-27-14 or 15-27-20, Code of Alabama 1975.

10 Section 5. Although this bill would have as its
11 purpose or effect the requirement of a new or increased
12 expenditure of local funds, the bill is excluded from further
13 requirements and application under Amendment 621, as amended
14 by Amendment 890, now appearing as Section 111.05 of the
15 Official Recompilation of the Constitution of Alabama of 1901,
16 as amended, because the bill defines a new crime or amends the
17 definition of an existing crime.

18 Section 6. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB117

Senate 03-MAR-21

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 13-APR-21

Senate concurred in House amendment 15-APR-21

By: Senator Coleman-Madison