

PETITION FOR EXPUNGEMENT
ADMINISTRATIVE FILING FEE: \$300.00

Code of Alabama Currentness

Title 15. Criminal Procedure. (Refs & Annos)

→ Chapter 27. Expungement. (Refs & Annos)

→ § 15-27-1. Petition to expunge records -- Misdemeanor criminal offense, traffic violation, municipal ordinance violation.

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

- (1) When the charge is dismissed with prejudice.
- (2) When the charge has been no billed by a grand jury.
- (3) When the person has been found not guilty of the charge.
- (4) When the charge was dismissed without prejudice more than two years ago, has not been refiled, and the person has not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous two years.

(b) The circuit court shall have exclusive jurisdiction of a petition filed under subsection (a).

→ § 15-27-2. Petition to expunge records -- Felony offense.

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

- (1) When the charge is dismissed with prejudice.
- (2) When the charge has been no billed by a grand jury.
- (3) When the person has been found not guilty of the charge.

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

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

(5) The charge was dismissed without prejudice more than five years ago, has not been refiled, and the person has not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous five years.

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

(5) The charge was dismissed without prejudice more than five years ago, has not been refiled, and the person has not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous five years.

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

(b) The circuit court shall have exclusive jurisdiction of a petition filed under subsection (a).

→ § 15-27-3. **Submission of sworn statement and records; service.**

(a) A petition filed under this chapter shall include a sworn statement made by the person seeking expungement under the penalty of perjury stating that the person has satisfied the requirements set out in this chapter and whether he or she has previously applied for an expungement in any jurisdiction and whether an expungement has been previously granted.

(b) The petitioner shall include a certified record of arrest, disposition, or the case action summary from the appropriate agency for the court record the petitioner seeks to have expunged as well as a certified official criminal record obtained from the Alabama Criminal Justice Information Center. In addition to setting forth grounds for the court to consider, the petitioner shall specify what criminal charges from the record are to be considered, further specify the agency or department that made the arrest and any agency or department where the petitioner was booked or was incarcerated or detained pursuant to the arrest or charge sought to be expunged.

(c) A petitioner shall serve the district attorney, the law enforcement agency, and clerk of court of the jurisdiction for which the records are sought to be expunged, a copy of the petition, and the sworn affidavit. The district attorney shall review the petition and may make reasonable efforts to notify the victim if the petition has been filed seeking an expungement under circumstances enumerated in paragraph a. of subdivision (4) of Section 15-27-2 involving a victim that is not a governmental entity. The district attorney and the victim shall have a period of 45 days to file a written objection to the granting of the petition or the district attorney shall be deemed to have waived the right to object. The district attorney shall serve the petitioner or the petitioner's counsel a copy of the written objection.

→ § 15-27-4. **Administrative filing fee; indigency.**

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

- (1) Seventy-five dollars (\$75) to the State Judicial Administrative Fund.
 - (2) Twenty-five dollars (\$25) to the Alabama Department of Forensic Sciences.
 - (3) Fifty dollars (\$50) to the district attorney's office.
 - (4) Fifty dollars (\$50) to the clerk's office of the circuit court having jurisdiction over the matter, for the use and benefit of the circuit court clerk.
 - (5) Fifty dollars (\$50) to the Public Safety Fund.
 - (6) Fifty dollars (\$50) to the general fund of the county where the arresting law enforcement agency is located if the arrest was made by the sheriff's office to be used for law enforcement purposes, or, if the arrest was made by another law enforcement agency, to the municipality or other entity or state agency funding the law enforcement activity.
- (b) Notwithstanding subsection (a), a person seeking relief under this chapter may apply for indigent status by completing an Affidavit of Substantial Hardship and Order which shall be submitted with the petition. If the court finds the petitioner is indigent, the court may set forth a payment plan for the petitioner to satisfy the filing fee over a period of time, which shall be paid in full, prior to any order granting an expungement.
- (c) If a petitioner seeks expungement of an arrest record and the court in the original case made a clear and unequivocal judicial finding on the record that the arrest had no foundation of probable cause, the court, in the expungement proceeding, shall waive all docket fees and court costs, except for the filing fee in subsection (a).

→ § 15-27-5. **Objections; hearing; ruling.**

- (a) If the prosecuting authority or victim files an objection to the granting of a petition under this chapter, the court having jurisdiction over the matter shall set a date for a hearing no sooner than 14 days from the filing of the objection. The court shall notify the prosecuting authority and the petitioner of the hearing date. In the discretion of the court, the court shall consider the following factors:
- (1) Nature and seriousness of the offense committed.
 - (2) Circumstances under which the offense occurred.
 - (3) Date of the offense.
 - (4) Age of the person when the offense was committed.
 - (5) Whether the offense was an isolated or repeated incident.

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

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

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

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

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

(b) A hearing under subsection (a) shall be conducted in a manner prescribed by the trial judge and shall include oral argument and review of relevant documentation in support of, or in objection to, the granting of the petition. The Alabama Rules of Evidence shall apply to the hearing. Leave of the court shall be obtained for the taking of witness testimony relating to any disputed fact.

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

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

→ § 15-27-6. **Order of expungement; certification; inspection of expunged records.**

(a) Except as provided in Section 15-27-10, upon the granting of a petition pursuant to this chapter, the court, pursuant to Section 15-27-9, shall order the expungement of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, except privileged presentence or postsentence investigation reports produced by the Alabama Board of Pardons and Paroles and its officers, records, documents, databases, and files of the district attorney and the Office of Prosecution Services. On July 7, 2014, and for 18 months thereafter, every agency with records relating to the arrest, charge, or other matters arising out of the

arrest or charge that is ordered to expunge the records shall certify to the court within 180 days of the entry of the expungement order that the required expungement action has been completed.

(b) After the expungement of records pursuant to subsection (a), the proceedings regarding the charge shall be deemed never to have occurred. Except as provided in this chapter, the court and other agencies shall reply to any inquiry that no record exists on the matter. The petitioner whose record was expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. However, the petitioner whose record was expunged shall have the duty to disclose the fact of the record and any matter relating thereto to any government regulatory or licensing agency, any utility and its agents and affiliates, or any bank or other financial institution. In these circumstances, the government regulatory or licensing agency, utility and its agents and affiliates, or the bank or other financial institution shall have the right to inspect the expunged records after filing notice with the court.

→ § 15-27-7. **Archive of records; withdrawal of records from national criminal records repository.**

(a) Upon receipt of the order of expungement, a criminal justice agency in possession of records subject to the order shall immediately forward the records to the Alabama Criminal Justice Information Center. The center shall digitally archive the records in a manner prescribed by the Alabama Criminal Justice Information Center Commission and designate the records as protected notwithstanding any other provisions of this chapter. Such records may not be used for any non-criminal justice purpose and may only be made available to criminal justice agencies upon acknowledgement of an investigation or other criminal matter involving the person related to the expungement. Any expunged records that were added to a federal database shall be requested to be removed and not made available within any interstate criminal database.

(b) Records expunged under this chapter may not be transmitted to the Federal Bureau of Investigation national criminal records repository. Any record subject to be expunged under this chapter and transmitted to the Federal Bureau of Investigation prior to the expungement of such record shall be requested for withdrawal within the national system by the Alabama Criminal Justice Information Center.

→ § 15-27-8. **Records forwarded to and retained by Alabama Criminal Justice Information Center.**

Once the records are expunged pursuant to this chapter, the records shall be forwarded to the Alabama Criminal Justice Information Center in a manner prescribed by the Alabama Criminal Justice Information Center Commission for purposes of archiving, and the records shall be stored in a manner prescribed by the Alabama Criminal Justice Information Center Commission. The records shall be retained by the Alabama Criminal Justice Information Center indefinitely.

→ § 15-27-9. **Records.**

For purposes of this chapter, the term record includes, but is not limited to, all of the following:

(1) Arrest records.

(2) Booking or arrest photographs of the petitioner.

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

(4) Other data, whether in documentary or electronic form, relating to the arrest or charge.

→ § 15-27-10. Maintenance of files, reports, etc., by law enforcement agencies, officials, etc.

Nothing in this chapter shall prohibit a law enforcement agency or official, district attorney or a prosecuting authority, the Alabama Department of Forensic Sciences, or the Department of Human Resources from maintaining an investigative file, report, case file, or log which may include any evidence, biological evidence, photographs, exhibits, or information in documentary or electronic form.

→ § 15-27-11. Personal information subject to expungement.

An order of expungement, pursuant to this chapter may include, but is not limited to, the petitioner's true name, all aliases, current physical address, date of birth, Social Security number, or any other vital identifier sufficient to notify the record keeper of the records to be expunged.

→ § 15-27-12. Prerequisites to expungement.

No order of expungement shall be granted unless all terms and conditions, including court ordered restitution, are satisfied and paid in full, including interest, to any victim, or the Alabama Crime Victim's Compensation Commission, as well as court costs, fines, or statutory fees ordered by the sentencing court to have been paid, absent a finding of indigency by the court.

→ § 15-27-13. Annual report.

Upon request, the Administrative Office of Courts shall provide an annual report to the Legislature specifying the number of applicants requesting expungement, the number of expungements granted, a list of the offenses expunged, and a list of the offenses not expunged. The report shall not include any case specific identifying information.

→ § 15-27-14. Applicability -- Alabama Securities Commission.

Nothing in this chapter shall be applicable to the Alabama Securities Commission, its statutes, rules, regulations, policies, information repository, or records, nor shall any expungement information, record, document, whether

printed, electronic, or otherwise, or file which is expunged under this chapter be considered nondisclosable or nonreportable to or by the Alabama Securities Commission. Any requirement for licensing or registration which includes information that has been otherwise expunged under this chapter shall remain reportable as required by the Alabama Securities Commission, applicable federal law, or adopted rules and regulations or as required by any securities-related self-regulatory organization rules, policies, or procedures.

→ § 15-27-15. **Applicability -- Right to ship, transport, possess, or receive firearm.**

An expungement order shall not entitle an individual to ship, transport, possess, or receive a firearm. Any person whose record of conviction is expunged pursuant to this chapter may have his or her right to ship, transport, possess, or receive a firearm restored by a Certificate of Pardon with Restoration of Civil and Political Rights from the Alabama Board of Pardons and Paroles.

→ § 15-27-16. **Disclosure of information from expunged file without a court order; liability.**

(a) Notwithstanding any other provision of this chapter, an individual who knows an expungement order was granted pursuant to this chapter and who intentionally and maliciously divulges, makes known, reveals, gives access to, makes public, uses, or otherwise discloses the contents of an expunged file without a court order, or pursuant to a provision of this chapter, shall be guilty of a Class B misdemeanor.

(b) In addition to any other immunity or other civil protection or legal remedy available that an individual or entity may rightfully claim, an agency, department, custodian of records, corporation, business entity, or individual that makes public or disseminates a record that has been judicially expunged pursuant to this chapter shall be immune from civil liability absent unreasonable, wanton, willful, or intentional conduct.

(c) In addition to any other immunity or other civil protection or legal remedy available that an individual or entity may rightfully claim, an agency, department, custodian of records, corporation, business entity, or individual that employs, hires, contracts with, or holds any business or contractual relationship with an individual and is unaware of the existence of a criminal record due to an expungement pursuant to this chapter shall be immune from civil liability for damages caused by the person, absent unreasonable, wanton, willful, or intentional conduct.

→ § 15-27-17. **Filing under false pretenses.**

Upon determination by the court that a petition for expungement was filed under false pretenses and was granted, the order of expungement shall be reversed and the criminal history record shall be restored to reflect the original charges.

→ § 15-27-18. **Applicants for position in law enforcement, etc.**

Notwithstanding any other provision of this chapter, an applicant for a position in law enforcement or corrections or a law enforcement or correctional officer shall disclose and produce any expunged record pursuant to this chapter or

→ § 15-27-18. Applicants for position in law enforcement, etc.

Notwithstanding any other provision of this chapter, an applicant for a position in law enforcement or corrections or a law enforcement or correctional officer shall disclose and produce any expunged record pursuant to this chapter or any other state law to the Alabama Peace Officers' Standards and Training Commission, and the commission shall have access to any expunged records sealed or archived pursuant to this chapter for purposes of certification and regulation of persons as correctional and law enforcement officers.

→ § 15-27-19. Adoption of rules.

The Alabama Criminal Justice Information Center Commission shall adopt rules for the submission of data from criminal justice agencies necessary to complete the criminal history record within the state criminal history repository. Data within the repository shall include all records allowed by federal regulation of state repositories.

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