

1 in exchange for a guilty plea to another offense, may ~~make a motion~~
2 file a civil petition in the circuit court in which the charges
3 were filed to expunge all records relating to the arrest, charge or
4 other matters arising out of the arrest or charge: *Provided*, That
5 no record in the Division of Motor Vehicles may be expunged by
6 virtue of any order of expungement entered pursuant to section two-
7 b, article five, chapter seventeen-c of this code: *Provided*,
8 *further*, That any person who has previously been convicted of a
9 felony may not ~~make a motion~~ file a petition for expungement
10 pursuant to this section. The term records as used in this section
11 includes, but is not limited to, arrest records, fingerprints,
12 photographs, index references or other data whether in documentary
13 or electronic form, relating to the arrest, charge or other matters
14 arising out of the arrest or charge. Criminal investigation
15 reports and all records relating to offenses subject to the
16 provisions of article twelve, chapter fifteen of this code because
17 the person was found not guilty by reason of mental illness, mental
18 retardation or addiction are exempt from the provisions of this
19 section.

20 (b) The expungement ~~motion~~ petition shall be filed not sooner
21 than sixty days following the order of acquittal or dismissal by
22 the court. Any court entering an order of acquittal or dismissal
23 shall inform the person who has been found not guilty or against
24 whom charges have been dismissed of his or her rights to ~~make a~~

1 ~~motion~~ file a petition for expungement pursuant to this section.

2 (c) Following the filing of the ~~motion~~ petition, the court may
3 set a date for a hearing. If the court does so, it shall notify
4 the prosecuting attorney and the arresting agency of the ~~motion~~
5 petition and provide an opportunity for a response to the
6 expungement ~~motion~~ petition.

7 (d) If the court finds that there are no current charges or
8 proceedings pending relating to the matter for which the
9 expungement is sought, the court may grant the ~~motion~~ petition and
10 order the sealing of all records in the custody of the court and
11 expungement of any records in the custody of any other agency or
12 official including law enforcement records. Every agency with
13 records relating to the arrest, charge or other matters arising out
14 of the arrest or charge, that is ordered to expunge records, shall
15 certify to the court within sixty days of the entry of the
16 expungement order, that the required expungement has been
17 completed. All orders enforcing the expungement procedure shall
18 also be sealed.

19 (e) Upon expungement, the proceedings in the matter shall be
20 deemed never to have occurred. The court and other agencies shall
21 reply to any inquiry that no record exists on the matter. The
22 person whose record is expunged shall not have to disclose the fact
23 of the record or any matter relating thereto on an application for
24 employment, credit or other type of application.

1 (f) Inspection of the sealed records in the court's possession
2 may thereafter be permitted by the court only upon a motion by the
3 person who is the subject of the records or upon a petition filed
4 by a prosecuting attorney that inspection and possible use of the
5 records in question are necessary to the investigation or
6 prosecution of a crime in this state or another jurisdiction. If
7 the court finds that the interests of justice will be served by
8 granting the petition, it may be granted.

NOTE: The purpose of this bill is to amend the section so that a person seeking expungement of criminal records if found not guilty of the offense, or against whom charges have been dismissed, shall file a civil petition to expunge all records relating to the arrest, charge or other matters arising out of the arrest or charge.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.