



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

22 (b) The expungement ~~motion~~ petition shall be filed not sooner  
23 than sixty days following the order of acquittal or dismissal by

1 the court. Any court entering an order of acquittal or dismissal  
2 shall inform the person who has been found not guilty or against  
3 whom charges have been dismissed of his or her rights to ~~make a~~  
4 ~~motion~~ file a petition for expungement pursuant to this section.

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

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

22 (e) Upon expungement, the proceedings in the matter shall be  
23 deemed never to have occurred. The court and other agencies shall

1 reply to any inquiry that no record exists on the matter. The  
2 person whose record is expunged shall not have to disclose the fact  
3 of the record or any matter relating thereto on an application for  
4 employment, credit or other type of application.

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

13 (g) There shall be no filing fees charged or costs assessed  
14 for filing an action pursuant to this section.

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.