

SENATE BILL 109

By Walley

AN ACT to amend Tennessee Code Annotated, Title 40,
relative to expunction of certain records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-32-101(a)(1)(A), is amended by deleting the subdivision and substituting instead the language:

(A) All public records of a person who has been charged with a misdemeanor or a felony shall be removed and destroyed without cost to the person and without the requirement that the person petition for destruction of such records, if:

(i) The charge has been dismissed, in which case the court shall notify the clerk that expunction is statutorily required;

(ii) A no true bill was returned by a grand jury, in which case the district attorney general shall notify the clerk that expunction is statutorily required;

(iii) The person was arrested and released without being charged and the statute of limitations for the offense for which the person was arrested has expired, in which case the arresting law enforcement agency shall notify the clerk that expunction is statutorily required; or

(iv) A verdict of not guilty is returned, whether by a judge following a bench trial or by a jury, on all charges for which the defendant was accused, in which case the court shall notify the clerk that expunction is statutorily required.

SECTION 2. Tennessee Code Annotated, Section 40-32-101(a)(1)(C), is amended by deleting the first sentence of the subdivision and substituting instead:

If a person's records must be expunged pursuant to subdivision (a)(1)(A) and the person was arrested or charged due to a case of mistaken identity, the person may provide evidence of the relevant circumstances in a petition to the court and request that the court order the expunction to be expedited.

SECTION 3. Tennessee Code Annotated, Section 40-32-101, is amended by deleting subdivisions (a)(1)(F).

SECTION 4. Tennessee Code Annotated, Section 40-32-101(a)(3), is amended by deleting the subdivision and substituting instead the following:

(3) When a court enters an order of nolle prosequi in a criminal case against a person, the court shall notify the clerk that expunction of the person's public records is statutorily required.

SECTION 5. Tennessee Code Annotated, Section 40-32-101(a), is amended by adding the following new subdivision:

(7) This subsection (a) applies to public records in criminal cases for which a qualifying event listed in subdivision (a)(1)(A) occurs on or after July 1, 2023. For any case in which a qualifying event listed in subdivision (a)(1)(A) occurred prior to July 1, 2023, a person may have the person's public records expunged pursuant to the law in effect at the time of the qualifying event.

SECTION 6. This act takes effect July 1, 2023, the public welfare requiring it.