

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H3/11/19

A Bill

HOUSE BILL 1540

5 By: Representatives Boyd, Richardson, L. Johnson, Crawford, D. Whitaker, B. Smith, K. Ferguson
6 By: Senator M. Pitsch
7

For An Act To Be Entitled

9 AN ACT TO ESTABLISH A PROCESS BY WHICH RECORDS OF
10 CERTAIN CRIMINAL OFFENSES ARE AUTOMATICALLY REMOVED
11 AFTER A CERTAIN PERIOD OF TIME; CONCERNING THE
12 RECORDS OF A PERSON'S CRIMINAL HISTORY; AND FOR OTHER
13 PURPOSES.
14
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Subtitle

16 TO ESTABLISH A PROCESS BY WHICH RECORDS
17 OF CERTAIN CRIMINAL OFFENSES ARE
18 AUTOMATICALLY REMOVED AFTER A CERTAIN
19 PERIOD OF TIME; AND CONCERNING THE
20 RECORDS OF A PERSON'S CRIMINAL HISTORY.
21
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23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. DO NOT CODIFY. Legislative intent.

27 (a) It is the intent of the General Assembly to implement the
28 automatic record sealing process under this act for all circuit courts in
29 this 2019 Regular Session.

30 (b) It is further the intent of the General Assembly to study and
31 address the mechanisms and technical requirements necessary to implement
32 automatic record sealing for the state's district courts during the interim,
33 with the express goal of implementing a similar system for the state's
34 district courts in the 2021 Regular Session.
35

36 SECTION 2. Arkansas Code § 16-90-1404, concerning definitions used in



1 conjunction with the Comprehensive Criminal Record Sealing Act of 2013, is
2 amended to add additional subdivisions to read as follows:

3 (9) "Offense eligible for automatic sealing" means an offense
4 for which a person was convicted in circuit court and is one (1) of the
5 following offenses:

6 (A) A violation;

7 (B) A misdemeanor, except for the following misdemeanors:

8 (i) Negligent homicide, § 5-10-105, if it was a
9 Class A misdemeanor;

10 (ii) Battery in the third degree, § 5-13-203;

11 (iii) Public sexual indecency, § 5-14-111;

12 (iv) Indecent exposure, § 5-14-112;

13 (v) Sexual assault in the fourth degree, § 5-14-127;

14 or

15 (vi) Domestic battering in the third degree, § 5-26-
16 305; or

17 (C) A Class C felony or Class D felony that is not:

18 (i) A felony involving violence as defined in § 5-4-
19 501(d)(2); or

20 (ii) An offense for which a person is required to
21 register as a sex offender under the Sex Offender Registration Act of 1997, §
22 12-12-901 et seq.; and

23 (10)(A) "Relevant state agency database or other publicly
24 operated or administered repository" means a publically operated or
25 administered electronic database, computer file, compilation of physical
26 documents, or other method of holding organized information that lists a
27 person's criminal history information, criminal background, sentencing
28 information, or information concerning a criminal offense adjudication that
29 indicates that the person pleaded guilty or nolo contendere to, or was found
30 guilty of, a criminal offense.

31 (B) "Relevant state agency database or other publicly
32 operated or administered repository" includes physical court records in the
33 possession of a circuit court clerk or district court clerk.

34 (C) "Relevant state agency database or other publicly
35 operated or administered repository" does not include a database or
36 repository operated or administered by:

1 (i) The Department of Arkansas State Police;
2 (ii) The Department of Correction;
3 (iii) The Department of Community Correction; or
4 (iv) The Arkansas Commission on Law Enforcement
5 Standards and Training.

6
7 SECTION 3. Arkansas Code Title 16, Chapter 90, Subchapter 14, is
8 amended to add an additional section to read as follows:

9 16-90-1420. Automatic sealing of information concerning certain
10 convictions after specified time period.

11 (a) A record of an offense eligible for automatic sealing shall be
12 automatically sealed from a relevant state agency database or other
13 publically operated or administered repository under procedures set out in
14 this section if the following conditions apply:

15 (1) The person would otherwise be eligible to have all records
16 of the offense sealed by a sentencing court under this subchapter;

17 (2) A period of five (5) years has elapsed from the date of the
18 person's conviction for the offense and from the person's completion of a
19 person's sentence; and

20 (3) The person has not been convicted of a felony or a Class A
21 misdemeanor since the date of the person's conviction for the offense
22 eligible for automatic sealing, even if that subsequent conviction was
23 sealed.

24 (b) This section does not prohibit a person from having his or her
25 record otherwise sealed under this subchapter.

26 (c)(1) On a monthly basis the circuit court clerk shall compile and
27 provide a list of convictions in the circuit court for an offense eligible
28 for automatic sealing in this section and transmit the list of convictions in
29 the circuit court to the prosecuting attorney.

30 (2)(A) The prosecuting attorney shall verify that the
31 convictions on the list of convictions in the circuit court are eligible for
32 automatic sealing under this section and that the persons who were convicted
33 have completed the terms and conditions of their sentences.

34 (B) The prosecuting attorney shall verify the information
35 described in subdivision (c)(2)(A) of this section within thirty (30) days of
36 the receipt of the list of convictions in the circuit court and transmit back

1 to the circuit court clerk a list of ineligible convictions based on whether
2 a period of five (5) years has elapsed since the date of the person's
3 conviction for a misdemeanor offense or whether the person has completed the
4 terms and conditions of his or her sentence for a felony conviction.

5 (C) The prosecuting attorney may object to the automatic
6 sealing of a conviction by filing a petition in the circuit court and
7 providing notice to the circuit court clerk and to the person whose
8 conviction is eligible for automatic sealing at the person's last known
9 address.

10 (D) The circuit court may grant a hearing on the
11 prosecuting attorney's objection or may decide the petition without a
12 hearing.

13 (3)(A) Upon receiving the list of ineligible convictions back
14 from the prosecuting attorney, the circuit court clerk shall remove those
15 convictions from the list of eligible convictions he or she originally
16 compiled and then transmit that revised list of eligible convictions to the
17 circuit court.

18 (B) The circuit court shall enter an order within ten (10)
19 days of receiving the list of eligible convictions from the circuit court
20 clerk ordering the circuit court clerk to seal the record of the convictions.

21 (4) The circuit court clerk shall enter into an electronic
22 database provided by the Administrative Office of the Courts that the
23 convictions have been sealed.

24 (d)(1) The office shall transmit to the Arkansas Crime Information
25 Center a record of any conviction eligible under this section for automatic
26 sealing from a relevant state agency database or other publically operated or
27 administered repository the office receives from the circuit court clerks.

28 (2) If the record transmitted from the office to the center
29 cannot be validated and sealed automatically, the center shall contact the
30 circuit court clerk concerning the specific conviction for additional
31 information that can be used in the center's validation process.

32 (3) If the information transmitted to the center by the office
33 is validated, the center shall then seal the record from the center's own
34 database or other repository and transmit that validation to other relevant
35 state agency databases or other publically operated or administered
36 repositories that the center knows to contain that information.

