

SENATE BILL No. 47

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-38-9-2.

Synopsis: Expungement timing. Provides that if a court reduces a Class D or Level 6 felony to a misdemeanor, the five-year waiting period for expungement begins on the date of the felony conviction and not on the date the felony was converted to a misdemeanor.

Effective: Upon passage.

Freeman

January 6, 2020, read first time and referred to Committee on Corrections and Criminal Law.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

SENATE BILL No. 47

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-38-9-2, AS AMENDED BY P.L.219-2019,
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (b)
4 and section 8.5 of this chapter, this section applies only to a person
5 convicted of a misdemeanor, including a Class D felony (for a crime
6 committed before July 1, 2014) or a Level 6 felony (for a crime
7 committed after June 30, 2014) reduced to a misdemeanor.
8 (b) This section does not apply to the following:
9 (1) A person convicted of two (2) or more felony offenses that:
10 (A) involved the unlawful use of a deadly weapon; and
11 (B) were not committed as part of the same episode of criminal
12 conduct.
13 (2) A sex or violent offender (as defined in IC 11-8-8-5).
14 (c) **Unless the prosecuting attorney consents in writing to an**
15 **earlier period**, not earlier than five (5) years after the date of
16 conviction (~~unless the prosecuting attorney consents in writing to an~~
17 ~~earlier period~~); **for the misdemeanor (or, if the felony was reduced**



1 **to a misdemeanor, the date of conviction for the felony),** the person
 2 convicted of the misdemeanor may petition a court to expunge all
 3 conviction records, including records contained in:

- 4 (1) a court's files;
 5 (2) the files of the department of correction;
 6 (3) the files of the bureau of motor vehicles; and
 7 (4) the files of any other person who provided treatment or
 8 services to the petitioning person under a court order;

9 that relate to the person's misdemeanor conviction, including records
 10 of a collateral action.

11 (d) A person who files a petition to expunge conviction records,
 12 including any records relating to the conviction and any records
 13 concerning a collateral action, shall file the petition in a circuit or
 14 superior court in the county of conviction.

15 (e) If the court finds by a preponderance of the evidence that:

- 16 (1) the period required by this section has elapsed;
 17 (2) no charges are pending against the person;
 18 (3) the person has paid all fines, fees, and court costs, and
 19 satisfied any restitution obligation placed on the person as part of
 20 the sentence; and
 21 (4) the person has not been convicted of a crime within the
 22 previous five (5) years (or within a shorter period agreed to by the
 23 prosecuting attorney if the prosecuting attorney has consented to
 24 a shorter period under subsection (c));

25 the court shall order the conviction records described in subsection (c),
 26 including any records relating to the conviction and any records
 27 concerning a collateral action, expunged in accordance with section 6
 28 of this chapter.

29 **SECTION 2. An emergency is declared for this act.**

