

SENATE BILL No. 169

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-38-9.

Synopsis: Expungement. Prohibits a sex or violent offender from expunging a misdemeanor conviction. Provides that arrest records may be expunged if a related conviction is expunged or if the person has completed a diversion program. Permits the expungement of civil forfeiture records if a related arrest or conviction is expunged.

Effective: July 1, 2017.

Young R Michael

January 4, 2017, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 169

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 35-38-9-1, AS AMENDED BY P.L.142-2015,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 1. (a) This section applies only to a person who
4 has been arrested, charged with an offense, or alleged to be a
5 delinquent child, if:
6 (1) the arrest, criminal charge, or juvenile delinquency allegation:
7 (A) did not result in a conviction or juvenile adjudication; or
8 (B) resulted in a conviction or juvenile adjudication and the
9 conviction or adjudication was **expunged or was** vacated on
10 appeal; and
11 (2) the person is not currently participating in a pretrial diversion
12 program.
13 (b) Not earlier than one (1) year after the date:
14 (1) of arrest, criminal charge, or juvenile delinquency allegation
15 (whichever is later), if the person:
16 (A) was not convicted or adjudicated a delinquent child; **and**
17 (B) **did not participate in a pretrial diversion program;**



- 1 **(2) the person completes a pretrial diversion program;**
 2 **(3) an order granting expungement becomes final;** or
 3 **(4) the date of the opinion vacating the conviction or adjudication**
 4 **becomes final; (unless the prosecuting attorney agrees in writing**
 5 **to an earlier time);**

6 the person may petition the court for expungement of the records
 7 related to the arrest, criminal charge, or juvenile delinquency
 8 allegation. **However, a person may petition the court for**
 9 **expungement at an earlier time if the prosecuting attorney agrees**
 10 **in writing to an earlier time.**

11 (c) A petition for expungement of records must be verified and filed
 12 in a circuit or superior court in the county where the criminal charges
 13 or juvenile delinquency allegation was filed, or if no criminal charges
 14 or juvenile delinquency allegation was filed, in the county where the
 15 arrest occurred. The petition must set forth:

- 16 (1) the date of the arrest, criminal charges, or juvenile
 17 delinquency allegation, and conviction (if applicable);
 18 (2) the county in which the arrest occurred, the county in which
 19 the information or indictment was filed, and the county in which
 20 the juvenile delinquency allegation was filed, if applicable;
 21 (3) the law enforcement agency employing the arresting officer,
 22 if known;
 23 (4) the court in which the criminal charges or juvenile
 24 delinquency allegation was filed, if applicable;
 25 (5) any other known identifying information, such as:
 26 (A) the name of the arresting officer;
 27 (B) case number or court cause number;
 28 (C) any aliases or other names used by the petitioner;
 29 (D) the petitioner's driver's license number; and
 30 (E) a list of each criminal charge and its disposition, if
 31 applicable;
 32 (6) the date of the petitioner's birth; and
 33 (7) the petitioner's Social Security number.

34 A person who files a petition under this section is not required to pay
 35 a filing fee.

36 (d) The court shall serve a copy of the petition on the prosecuting
 37 attorney.

38 (e) Upon receipt of a petition for expungement, the court:

- 39 (1) may summarily deny the petition if the petition does not meet
 40 the requirements of this section, or if the statements contained in
 41 the petition indicate that the petitioner is not entitled to relief; and
 42 (2) shall grant the petition unless:



- 1 (A) the conditions described in subsection (a) have not been
 2 met; or
 3 (B) criminal charges are pending against the person.
- 4 (f) Whenever the petition of a person under this section is granted:
 5 (1) no information concerning the arrest, criminal charges,
 6 juvenile delinquency allegation, vacated conviction, or vacated
 7 juvenile delinquency adjudication **(including information from**
 8 **a related seizure or civil forfeiture action that identifies the**
 9 **petitioner)** may be placed or retained in any state central
 10 repository for criminal history information or in any other
 11 alphabetically arranged criminal history information system
 12 maintained by a local, regional, or statewide law enforcement
 13 agency;
 14 (2) the clerk of the supreme court shall seal or redact any records
 15 in the clerk's possession that relate to the arrest, criminal charges,
 16 juvenile delinquency allegation, vacated conviction, or vacated
 17 juvenile delinquency adjudication;
 18 (3) the records of:
 19 (A) the sentencing court;
 20 **(B) a court that conducted a civil forfeiture proceeding**
 21 **with respect to property seized in connection with the**
 22 **arrest, criminal charges, juvenile delinquency allegation,**
 23 **vacated conviction, or vacated juvenile delinquency**
 24 **adjudication;**
 25 ~~(B)~~ (C) a juvenile court;
 26 ~~(C)~~ (D) a court of appeals; and
 27 ~~(D)~~ (E) the supreme court;
 28 concerning the person shall be redacted or permanently sealed;
 29 and
 30 (4) with respect to the records of a person who is named as an
 31 appellant or an appellee in an opinion or memorandum decision
 32 by the supreme court or the court of appeals, **or who is identified**
 33 **as the owner of property seized in a civil forfeiture action,** the
 34 court shall:
 35 (A) redact the opinion or memorandum decision as it appears
 36 on the computer gateway administered by the office of
 37 technology so that it does not include the petitioner's name (in
 38 the same manner that opinions involving juveniles are
 39 redacted); and
 40 (B) provide a redacted copy of the opinion to any publisher or
 41 organization to whom the opinion or memorandum decision is
 42 provided after the date of the order of expungement.



1 The supreme court and the court of appeals are not required to
2 redact, destroy, or otherwise dispose of any existing copy of an
3 opinion or memorandum decision that includes the petitioner's
4 name.

5 (g) If the court issues an order granting a petition for expungement
6 under this section, the order must include the information described in
7 subsection (c).

8 (h) This chapter does not require any change or alteration in:
9 (1) any internal record made by a law enforcement agency at the
10 time of the arrest and not intended for release to the public; or
11 (2) **nonpublic** records that relate to a diversion or deferral
12 program.

13 (i) If a person whose records are expunged brings an action that
14 might be defended with the contents of the expunged records, the
15 defendant is presumed to have a complete defense to the action. In
16 order for the plaintiff to recover, the plaintiff must show that the
17 contents of the expunged records would not exonerate the defendant.
18 The plaintiff may be required to state under oath whether the plaintiff
19 had records in the criminal justice system and whether those records
20 were expunged. If the plaintiff denies the existence of the records, the
21 defendant may prove their existence in any manner compatible with the
22 law of evidence.

23 SECTION 2. IC 35-38-9-2, AS AMENDED BY P.L.142-2015,
24 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2017]: Sec. 2. (a) Except as provided in subsection (b) and
26 section 8.5 of this chapter, this section applies only to a person
27 convicted of a misdemeanor, including a Class D felony (for a crime
28 committed before July 1, 2014) or a Level 6 felony (for a crime
29 committed after June 30, 2014) reduced to a misdemeanor.

30 (b) This section does not apply to **the following**:
31 (1) A person convicted of two (2) or more felony offenses that:
32 (†) (A) involved the unlawful use of a deadly weapon; and
33 (‡) (B) were not committed as part of the same episode of
34 criminal conduct.

35 (2) **A sex or violent offender (as defined in IC 11-8-8-5).**
36 (c) Not earlier than five (5) years after the date of conviction (unless
37 the prosecuting attorney consents in writing to an earlier period), the
38 person convicted of the misdemeanor may petition a court to expunge
39 all ~~conviction~~ records, including records contained in:

40 (1) a court's files;
41 (2) the files of the department of correction;
42 (3) the files of the bureau of motor vehicles; and



1 (4) the files of any other person who provided treatment or
 2 services to the petitioning person under a court order;
 3 that relate to the person's misdemeanor conviction, **including records**
 4 **of a civil forfeiture.**

5 (d) A person who files a petition to expunge conviction records shall
 6 file the petition in a circuit or superior court in the county of
 7 conviction.

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

9 (1) the period required by this section has elapsed;

10 (2) no charges are pending against the person;

11 (3) the person has paid all fines, fees, and court costs, and
 12 satisfied any restitution obligation placed on the person as part of
 13 the sentence; and

14 (4) the person has not been convicted of a crime within the
 15 previous five (5) years (or within a shorter period agreed to by the
 16 prosecuting attorney if the prosecuting attorney has consented to
 17 a shorter period under subsection (c));

18 the court shall order the conviction records described in subsection (c)
 19 expunged in accordance with section 6 of this chapter.

20 SECTION 3. IC 35-38-9-3, AS AMENDED BY P.L.142-2015,
 21 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2017]: Sec. 3. (a) Except as provided in subsection (b) and
 23 section 8.5 of this chapter, this section applies only to a person
 24 convicted of a Class D felony (for a crime committed before July 1,
 25 2014) or a Level 6 felony (for a crime committed after June 30, 2014).
 26 This section does not apply to a person if the person's Class D felony
 27 or Level 6 felony was reduced to a Class A misdemeanor.

28 (b) This section does not apply to the following:

29 (1) An elected official convicted of an offense while serving the
 30 official's term or as a candidate for public office.

31 (2) A sex or violent offender (as defined in IC 11-8-8-5).

32 (3) A person convicted of a felony that resulted in bodily injury to
 33 another person.

34 (4) A person convicted of perjury (IC 35-44.1-2-1) or official
 35 misconduct (IC 35-44.1-1-1).

36 (5) A person convicted of an offense described in:

37 (A) IC 35-42-1;

38 (B) IC 35-42-3.5; or

39 (C) IC 35-42-4.

40 (6) A person convicted of two (2) or more felony offenses that:

41 (A) involved the unlawful use of a deadly weapon; and

42 (B) were not committed as part of the same episode of criminal



1 conduct.

2 (c) Not earlier than eight (8) years after the date of conviction
3 (unless the prosecuting attorney consents in writing to an earlier
4 period), the person convicted of the Class D felony or Level 6 felony
5 may petition a court to expunge all ~~conviction~~ records, including
6 records contained in:

- 7 (1) a court's files;
8 (2) the files of the department of correction;
9 (3) the files of the bureau of motor vehicles; and
10 (4) the files of any other person who provided treatment or
11 services to the petitioning person under a court order;
12 that relate to the person's Class D or Level 6 felony conviction,
13 **including records of a civil forfeiture.**

14 (d) A person who files a petition to expunge conviction records shall
15 file the petition in a circuit or superior court in the county of
16 conviction.

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

- 18 (1) the period required by this section has elapsed;
19 (2) no charges are pending against the person;
20 (3) the person has paid all fines, fees, and court costs, and
21 satisfied any restitution obligation placed on the person as part of
22 the sentence; and
23 (4) the person has not been convicted of a crime within the
24 previous eight (8) years (or within a shorter period agreed to by
25 the prosecuting attorney if the prosecuting attorney has consented
26 to a shorter period under subsection (c));

27 the court shall order the conviction records described in subsection (c)
28 expunged in accordance with section 6 of this chapter.

29 SECTION 4. IC 35-38-9-4, AS AMENDED BY P.L.142-2015,
30 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2017]: Sec. 4. (a) Except as provided in subsection (b) and
32 section 8.5 of this chapter, this section applies only to a person
33 convicted of a felony who may not seek expungement of that felony
34 under section 3 of this chapter.

35 (b) This section does not apply to the following:

- 36 (1) An elected official convicted of an offense while serving the
37 official's term or as a candidate for public office.
38 (2) A sex or violent offender (as defined in IC 11-8-8-5).
39 (3) A person convicted of a felony that resulted in serious bodily
40 injury to another person.
41 (4) A person convicted of official misconduct (IC 35-44.1-1-1).
42 (5) A person convicted of an offense described in:



- 1 (A) IC 35-42-1;
 2 (B) IC 35-42-3.5; or
 3 (C) IC 35-42-4.
- 4 (6) A person convicted of two (2) or more felony offenses that:
 5 (A) involved the unlawful use of a deadly weapon; and
 6 (B) were not committed as part of the same episode of criminal
 7 conduct.
- 8 (c) Not earlier than the later of eight (8) years from the date of
 9 conviction, or three (3) years from the completion of the person's
 10 sentence, unless the prosecuting attorney consents in writing to an
 11 earlier period, the person convicted of the felony may petition a court
 12 to expunge all conviction records, including records contained in:
 13 (1) a court's files **(including a court that conducted a civil**
 14 **forfeiture proceeding that relates to the conviction);**
 15 (2) the files of the department of correction;
 16 (3) the files of the bureau of motor vehicles; and
 17 (4) the files of any other person who provided treatment or
 18 services to the petitioning person under a court order;
 19 that relate to the person's felony conviction, **including records of a**
 20 **civil forfeiture.**
- 21 (d) A person who files a petition to expunge conviction records shall
 22 file the petition in a circuit or superior court in the county of
 23 conviction.
- 24 (e) If the court finds by a preponderance of the evidence that:
 25 (1) the period required by this section has elapsed;
 26 (2) no charges are pending against the person;
 27 (3) the person has paid all fines, fees, and court costs, and
 28 satisfied any restitution obligation placed on the person as part of
 29 the sentence; and
 30 (4) the person has not been convicted of a crime within the
 31 previous eight (8) years (or within a shorter period agreed to by
 32 the prosecuting attorney if the prosecuting attorney has consented
 33 to a shorter period under subsection (c));
 34 the court may order the conviction records described in subsection (c)
 35 marked as expunged in accordance with section 7 of this chapter. A
 36 person whose records have been ordered marked as expunged under
 37 this section is considered to have had the person's records expunged for
 38 all purposes other than the disposition of the records.
- 39 SECTION 5. IC 35-38-9-5, AS AMENDED BY P.L.142-2015,
 40 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2017]: Sec. 5. (a) Except as provided in subsection (b) and
 42 section 8.5 of this chapter, this section applies to a person convicted of



- 1 a felony, including:
- 2 (1) an elected official convicted of an offense while serving the
- 3 official's term or as a candidate for public office; and
- 4 (2) a person convicted of a felony that resulted in serious bodily
- 5 injury to another person.
- 6 (b) This section does not apply to the following:
- 7 (1) A sex or violent offender (as defined in IC 11-8-8-5).
- 8 (2) A person convicted of official misconduct (IC 35-44.1-1-1).
- 9 (3) A person convicted of an offense described in:
- 10 (A) IC 35-42-1;
- 11 (B) IC 35-42-3.5; or
- 12 (C) IC 35-42-4.
- 13 (4) A person convicted of two (2) or more felony offenses that:
- 14 (A) involved the unlawful use of a deadly weapon; and
- 15 (B) were not committed as part of the same episode of criminal
- 16 conduct.
- 17 (c) Not earlier than the later of ten (10) years from the date of
- 18 conviction, or five (5) years from the completion of the person's
- 19 sentence, unless the prosecuting attorney consents in writing to an
- 20 earlier period, the person convicted of the felony may petition a court
- 21 to expunge all conviction records, including records contained in:
- 22 (1) a court's files;
- 23 (2) the files of the department of correction;
- 24 (3) the files of the bureau of motor vehicles; and
- 25 (4) the files of any other person who provided treatment or
- 26 services to the petitioning person under a court order;
- 27 that relate to the person's felony conviction, **including records of a**
- 28 **civil forfeiture.**
- 29 (d) A person who files a petition to expunge conviction records shall
- 30 file the petition in a circuit or superior court in the county of
- 31 conviction.
- 32 (e) If the court finds by a preponderance of the evidence that:
- 33 (1) the period required by this section has elapsed;
- 34 (2) no charges are pending against the person;
- 35 (3) the person has paid all fines, fees, and court costs, and
- 36 satisfied any restitution obligation placed on the person as part of
- 37 the sentence;
- 38 (4) the person has not been convicted of a crime within the
- 39 previous ten (10) years (or within a shorter period agreed to by the
- 40 prosecuting attorney if the prosecuting attorney has consented to
- 41 a shorter period under subsection (c)); and
- 42 (5) the prosecuting attorney has consented in writing to the



1 expungement of the person's criminal records;
 2 the court may order the conviction records described in subsection (c)
 3 marked as expunged in accordance with section 7 of this chapter. A
 4 person whose records have been ordered marked as expunged under
 5 this section is considered to have had the person's records expunged for
 6 all purposes other than the disposition of the records.

7 SECTION 6. IC 35-38-9-6, AS AMENDED BY P.L.198-2016,
 8 SECTION 671, IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) If the court orders conviction
 10 records expunged under sections 2 through 3 of this chapter, the court
 11 shall do the following with respect to the specific records expunged by
 12 the court:

13 (1) Order:

- 14 (A) the department of correction;
 15 (B) the bureau of motor vehicles; and
 16 (C) each:
 17 (i) law enforcement agency; and
 18 (ii) other person;

19 who incarcerated, provided treatment for, or provided other
 20 services for the person under an order of the court;
 21 to prohibit the release of the person's records or information in the
 22 person's records to anyone without a court order, other than a law
 23 enforcement officer acting in the course of the officer's official
 24 duty.

25 (2) Order the central repository for criminal history information
 26 maintained by the state police department to seal the person's
 27 expunged conviction records. Records sealed under this
 28 subdivision may be disclosed only to:

- 29 (A) a prosecuting attorney, if:
 30 (i) authorized by a court order; and
 31 (ii) needed to carry out the official duties of the prosecuting
 32 attorney;
 33 (B) a defense attorney, if:
 34 (i) authorized by a court order; and
 35 (ii) needed to carry out the professional duties of the defense
 36 attorney;
 37 (C) a probation department, if:
 38 (i) authorized by a court order; and
 39 (ii) necessary to prepare a presentence report;
 40 (D) the Federal Bureau of Investigation and the Department of
 41 Homeland Security, if disclosure is required to comply with an
 42 agreement relating to the sharing of criminal history



1 information;
 2 (E) the:
 3 (i) supreme court;
 4 (ii) members of the state board of law examiners;
 5 (iii) executive director of the state board of law examiners;
 6 and
 7 (iv) employees of the state board of law examiners, in
 8 accordance with rules adopted by the state board of law
 9 examiners;
 10 for the purpose of determining whether an applicant possesses
 11 the necessary good moral character for admission to the bar;
 12 (F) a person required to access expunged records to comply
 13 with the Secure and Fair Enforcement for Mortgage Licensing
 14 Act (12 U.S.C. 5101 et seq.) or regulations adopted under the
 15 Secure and Fair Enforcement for Mortgage Licensing Act; and
 16 (G) the bureau of motor vehicles, the Federal Motor Carrier
 17 Administration, and the Commercial Drivers License
 18 Information System (CDLIS), if disclosure is required to
 19 comply with federal law relating to reporting a conviction for
 20 a violation of a traffic control law.
 21 (3) Notify the clerk of the supreme court to seal any records in the
 22 clerk's possession that relate to the conviction.
 23 A probation department may provide an unredacted version of a
 24 presentence report disclosed under subdivision (2)(C) to any person
 25 authorized by law to receive a presentence report.
 26 (b) Except as provided in subsection (c), if a petition to expunge
 27 conviction records is granted under sections 2 through 3 of this chapter,
 28 the records of:
 29 (1) the sentencing court;
 30 **(2) a court that conducted a civil forfeiture proceeding with**
 31 **respect to property seized in connection with the conviction;**
 32 ~~(2) (3)~~ (3) a juvenile court;
 33 ~~(3) (4)~~ (4) a court of appeals; and
 34 ~~(4) (5)~~ (5) the supreme court;
 35 concerning the person shall be permanently sealed. However, a petition
 36 for expungement granted under sections 2 through 3 of this chapter
 37 does not affect an existing or pending driver's license suspension.
 38 (c) If a petition to expunge conviction records is granted under
 39 sections 2 through 3 of this chapter with respect to the records of a
 40 person who is named as an appellant or an appellee in an opinion or
 41 memorandum decision by the supreme court or the court of appeals, **or**
 42 **who is identified as the owner of property seized in a civil**



- 1 **forfeiture action**, the court shall:
- 2 (1) redact the opinion or memorandum decision as it appears on
- 3 the computer gateway administered by the office of technology so
- 4 that it does not include the petitioner's name (in the same manner
- 5 that opinions involving juveniles are redacted); and
- 6 (2) provide a redacted copy of the opinion to any publisher or
- 7 organization to whom the opinion or memorandum decision is
- 8 provided after the date of the order of expungement.
- 9 The supreme court and court of appeals are not required to destroy or
- 10 otherwise dispose of any existing copy of an opinion or memorandum
- 11 decision that includes the petitioner's name.
- 12 (d) Notwithstanding subsection (b), a prosecuting attorney may
- 13 submit a written application to a court that granted an expungement
- 14 petition under this chapter to gain access to any records that were
- 15 permanently sealed under subsection (b), if the records are relevant in
- 16 a new prosecution of the person. If a prosecuting attorney who submits
- 17 a written application under this subsection shows that the records are
- 18 relevant for a new prosecution of the person, the court that granted the
- 19 expungement petition shall:
- 20 (1) order the records to be unsealed; and
- 21 (2) allow the prosecuting attorney who submitted the written
- 22 application to have access to the records.
- 23 If a court orders records to be unsealed under this subsection, the court
- 24 shall order the records to be permanently resealed at the earliest
- 25 possible time after the reasons for unsealing the records cease to exist.
- 26 However, if the records are admitted as evidence against the person in
- 27 a new prosecution that results in the person's conviction, or are used to
- 28 enhance a sentence imposed on the person in a new prosecution, the
- 29 court is not required to reseat the records.
- 30 (e) If a person whose conviction records are expunged under
- 31 sections 2 through 5 of this chapter is required to register as a sex
- 32 offender based on the commission of a felony which has been
- 33 expunged:
- 34 (1) the expungement does not affect the operation of the sex
- 35 offender registry web site, any person's ability to access the
- 36 person's records, records required to be maintained concerning
- 37 sex or violent offenders, or any registration requirement imposed
- 38 on the person; and
- 39 (2) the expunged conviction **records** must be clearly marked as
- 40 expunged on the sex offender registry web site.
- 41 (f) Expungement of a crime of domestic violence under section 2 of
- 42 this chapter does not restore a person's right to possess a firearm. The



1 right of a person convicted of a crime of domestic violence to possess
2 a firearm may be restored only in accordance with IC 35-47-4-7.

3 (g) If the court issues an order granting a petition for expungement
4 under sections 2 through 3 of this chapter, the court shall include in its
5 order the information described in section 8(b) of this chapter.

6 SECTION 7. IC 35-38-9-7, AS AMENDED BY P.L.198-2016,
7 SECTION 672, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) This section applies only to
9 a person who has filed a petition for expungement under section 4 or
10 5 of this chapter and whose records have been ordered marked as
11 expunged.

12 (b) The court records and other public records (**including civil**
13 **forfeiture records**) relating to the arrest, conviction, or sentence of a
14 person whose conviction records have been marked as expunged
15 remain public records. However, the court shall order that the records
16 be clearly and visibly marked or identified as being expunged. A
17 petition for expungement granted under sections 4 through 5 of this
18 chapter does not affect an existing or pending driver's license
19 suspension.

20 (c) The state police department, the bureau of motor vehicles, and
21 any other law enforcement agency in possession of records that relate
22 to the conviction ordered to be marked as expunged shall add an entry
23 to the person's record of arrest, conviction, or sentence in the criminal
24 history data base stating that the record is marked as expunged.
25 Nothing in this chapter prevents the bureau of motor vehicles from
26 reporting information about a conviction for a violation of a traffic
27 control law to the Commercial Drivers License Information System
28 (CDLIS), in accordance with federal law, even if the conviction has
29 been expunged under section 4 or 5 of this chapter.

30 (d) If the court issues an order granting a petition for expungement
31 under section 4 or 5 of this chapter, the court shall include in its order
32 the information described in section 8(b) of this chapter.

33 SECTION 8. IC 35-38-9-8, AS AMENDED BY P.L.142-2015,
34 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2017]: Sec. 8. (a) This section applies only to a petition to
36 expunge conviction records under sections 2 through 5 of this chapter.
37 This section does not apply to a petition to expunge records related to
38 the arrest, criminal charge, or juvenile delinquency allegation under
39 section 1 of this chapter.

40 (b) Any person may seek an expungement under sections 2 through
41 5 of this chapter by filing a verified petition for expungement. The
42 petition must include the following:



- 1 (1) The petitioner's full name and all other legal names or aliases
 2 by which the petitioner is or has been known.
 3 (2) The petitioner's date of birth.
 4 (3) The petitioner's addresses from the date of the offense to the
 5 date of the petition.
 6 (4) The case number or court cause number, if available.
 7 (5) The petitioner shall affirm that no criminal investigation or
 8 charges are pending against the petitioner.
 9 (6) The petitioner shall affirm that the petitioner has not
 10 committed another crime within the period required for
 11 expungement.
 12 (7) The petitioner shall list all convictions, **all civil forfeitures**,
 13 the cause number of each conviction, if known, the date of the
 14 conviction, and any appeals from the conviction and the date any
 15 appellate opinion was handed down, if applicable.
 16 (8) The petitioner shall include:
 17 (A) the petitioner's Social Security number;
 18 (B) the petitioner's driver's license number;
 19 (C) the date of the petitioner's arrest, if applicable; and
 20 (D) the date on which the petitioner was convicted.
 21 (9) The petitioner shall affirm that the required period has elapsed
 22 or attach a copy of the prosecuting attorney's written consent to a
 23 shorter period.
 24 (10) The petitioner shall describe any other petitions that the
 25 petitioner has filed under this chapter.
 26 (11) For a petition filed under section 5 of this chapter, the
 27 petitioner shall attach a copy of the prosecuting attorney's written
 28 consent.
 29 (c) The petitioner may include any other information that the
 30 petitioner believes may assist the court.
 31 (d) A person who files a petition under this section is required to
 32 pay the filing fee required in civil cases. The court may reduce or waive
 33 this fee if the person is indigent.
 34 (e) The petitioner shall serve a copy of the petition upon the
 35 prosecuting attorney in accordance with the Indiana Rules of Trial
 36 Procedure.
 37 (f) The prosecuting attorney shall inform the victim of the victim's
 38 rights under IC 35-40-6 by contacting the victim at the victim's last
 39 known address. However, if a court has no discretion in granting an
 40 expungement petition under this chapter, the prosecuting attorney is
 41 not required to inform the victim of the victim's rights under this
 42 subsection.



1 (g) The prosecuting attorney shall reply to the petition not later than
2 thirty (30) days after receipt. If the prosecuting attorney fails to timely
3 reply to the petition:
4 (1) the prosecuting attorney has waived any objection to the
5 petition; and
6 (2) the court shall proceed to consider the petition under section
7 of this chapter.

