

SENATE BILL No. 258

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-38-9.

Synopsis: Expungement of civil forfeiture records. Permits the expungement of civil forfeiture records if a related arrest or conviction is expunged.

Effective: July 1, 2017.

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January 9, 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. 258

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 of arrest, criminal
14 charge, or juvenile delinquency allegation (whichever is later), if the
15 person was not convicted or adjudicated a delinquent child, or the date
16 of the opinion vacating the conviction or adjudication becomes final
17 (unless the prosecuting attorney agrees in writing to an earlier time),



1 the person may petition the court for expungement of the records
 2 related to the arrest, criminal charge, or juvenile delinquency
 3 allegation.

4 (c) A petition for expungement of records must be verified and filed
 5 in a circuit or superior court in the county where the criminal charges
 6 or juvenile delinquency allegation was filed, or if no criminal charges
 7 or juvenile delinquency allegation was filed, in the county where the
 8 arrest occurred. The petition must set forth:

9 (1) the date of the arrest, criminal charges, or juvenile
 10 delinquency allegation, and conviction (if applicable);

11 (2) the county in which the arrest occurred, the county in which
 12 the information or indictment was filed, and the county in which
 13 the juvenile delinquency allegation was filed, if applicable;

14 (3) the law enforcement agency employing the arresting officer,
 15 if known;

16 (4) the court in which the criminal charges or juvenile
 17 delinquency allegation was filed, if applicable;

18 (5) any other known identifying information, such as:

19 (A) the name of the arresting officer;

20 (B) case number or court cause number;

21 (C) any aliases or other names used by the petitioner;

22 (D) the petitioner's driver's license number; and

23 (E) a list of each criminal charge and its disposition, if
 24 applicable;

25 (6) the date of the petitioner's birth; and

26 (7) the petitioner's Social Security number.

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

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

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

32 (1) may summarily deny the petition if the petition does not meet
 33 the requirements of this section, or if the statements contained in
 34 the petition indicate that the petitioner is not entitled to relief; and

35 (2) shall grant the petition unless:

36 (A) the conditions described in subsection (a) have not been
 37 met; or

38 (B) criminal charges are pending against the person.

39 (f) Whenever the petition of a person under this section is granted:

40 (1) no information concerning the arrest, criminal charges,
 41 juvenile delinquency allegation, vacated conviction, or vacated
 42 juvenile delinquency adjudication (**including information from**



- 1 **a related seizure or civil forfeiture action that identifies the**
 2 **petitioner)** may be placed or retained in any state central
 3 repository for criminal history information or in any other
 4 alphabetically arranged criminal history information system
 5 maintained by a local, regional, or statewide law enforcement
 6 agency;
 7 (2) the clerk of the supreme court shall seal or redact any records
 8 in the clerk's possession that relate to the arrest, criminal charges,
 9 juvenile delinquency allegation, vacated conviction, or vacated
 10 juvenile delinquency adjudication;
 11 (3) the records of:
 12 (A) the sentencing court;
 13 **(B) a court that conducted a civil forfeiture proceeding**
 14 **with respect to property seized in connection with the**
 15 **arrest, criminal charges, juvenile delinquency allegation,**
 16 **vacated conviction, or vacated juvenile delinquency**
 17 **adjudication;**
 18 ~~(B)~~ (C) a juvenile court;
 19 ~~(C)~~ (D) a court of appeals; and
 20 ~~(D)~~ (E) the supreme court;
 21 concerning the person shall be redacted or permanently sealed;
 22 and
 23 (4) with respect to the records of a person who is named as an
 24 appellant or an appellee in an opinion or memorandum decision
 25 by the supreme court or the court of appeals, **or who is identified**
 26 **as the owner of property seized in a civil forfeiture action,** the
 27 court shall:
 28 (A) redact the opinion or memorandum decision as it appears
 29 on the computer gateway administered by the office of
 30 technology so that it does not include the petitioner's name (in
 31 the same manner that opinions involving juveniles are
 32 redacted); and
 33 (B) provide a redacted copy of the opinion to any publisher or
 34 organization to whom the opinion or memorandum decision is
 35 provided after the date of the order of expungement.
 36 The supreme court and the court of appeals are not required to
 37 redact, destroy, or otherwise dispose of any existing copy of an
 38 opinion or memorandum decision that includes the petitioner's
 39 name.
 40 (g) If the court issues an order granting a petition for expungement
 41 under this section, the order must include the information described in
 42 subsection (c).



1 (h) This chapter does not require any change or alteration in:

- 2 (1) any internal record made by a law enforcement agency at the
 3 time of the arrest and not intended for release to the public; or
 4 (2) **nonpublic** records that relate to a diversion or deferral
 5 program.

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

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

23 (b) This section does not apply to a person convicted of two (2) or
 24 more felony offenses that:

- 25 (1) involved the unlawful use of a deadly weapon; and
 26 (2) were not committed as part of the same episode of criminal
 27 conduct.

28 (c) Not earlier than five (5) years after the date of conviction (unless
 29 the prosecuting attorney consents in writing to an earlier period), the
 30 person convicted of the misdemeanor may petition a court to expunge
 31 all ~~conviction~~ records, including records contained in:

- 32 (1) a court's files;
 33 (2) the files of the department of correction;
 34 (3) the files of the bureau of motor vehicles; and
 35 (4) the files of any other person who provided treatment or
 36 services to the petitioning person under a court order;

37 that relate to the person's misdemeanor conviction, **including records**
 38 **of a civil forfeiture.**

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

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



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

10 the court shall order the conviction records described in subsection (c)

11 expunged in accordance with section 6 of this chapter.

12 SECTION 3. IC 35-38-9-3, AS AMENDED BY P.L.142-2015,

13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

14 JULY 1, 2017]: Sec. 3. (a) Except as provided in subsection (b) and

15 section 8.5 of this chapter, this section applies only to a person

16 convicted of a Class D felony (for a crime committed before July 1,

17 2014) or a Level 6 felony (for a crime committed after June 30, 2014).

18 This section does not apply to a person if the person's Class D felony

19 or Level 6 felony was reduced to a Class A misdemeanor.

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

- 21 (1) An elected official convicted of an offense while serving the
- 22 official's term or as a candidate for public office.
- 23 (2) A sex or violent offender (as defined in IC 11-8-8-5).
- 24 (3) A person convicted of a felony that resulted in bodily injury to
- 25 another person.
- 26 (4) A person convicted of perjury (IC 35-44.1-2-1) or official
- 27 misconduct (IC 35-44.1-1-1).
- 28 (5) A person convicted of an offense described in:
- 29 (A) IC 35-42-1;
- 30 (B) IC 35-42-3.5; or
- 31 (C) IC 35-42-4.
- 32 (6) A person convicted of two (2) or more felony offenses that:
- 33 (A) involved the unlawful use of a deadly weapon; and
- 34 (B) were not committed as part of the same episode of criminal
- 35 conduct.

36 (c) Not earlier than eight (8) years after the date of conviction

37 (unless the prosecuting attorney consents in writing to an earlier

38 period), the person convicted of the Class D felony or Level 6 felony

39 may petition a court to expunge all conviction records, including

40 records contained in:

- 41 (1) a court's files;
- 42 (2) the files of the department of correction;



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

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

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

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

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

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

15 (4) the person has not been convicted of a crime within the
 16 previous eight (8) years (or within a shorter period agreed to by
 17 the prosecuting attorney if the prosecuting attorney has consented
 18 to a shorter period under subsection (c));

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

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

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

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

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

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

33 (4) A person convicted of official misconduct (IC 35-44.1-1-1).

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

35 (A) IC 35-42-1;

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

37 (C) IC 35-42-4.

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

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

40 (B) were not committed as part of the same episode of criminal
 41 conduct.

42 (c) Not earlier than the later of eight (8) years from the date of



1 conviction, or three (3) years from the completion of the person's
 2 sentence, unless the prosecuting attorney consents in writing to an
 3 earlier period, the person convicted of the felony may petition a court
 4 to expunge all conviction records, including records contained in:

5 (1) a court's files **(including a court that conducted a civil**
 6 **forfeiture proceeding that relates to the conviction);**

7 (2) the files of the department of correction;

8 (3) the files of the bureau of motor vehicles; and

9 (4) the files of any other person who provided treatment or
 10 services to the petitioning person under a court order;

11 that relate to the person's felony conviction, **including records of a**
 12 **civil forfeiture.**

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

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

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

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

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

22 (4) the person has not been convicted of a crime within the
 23 previous eight (8) years (or within a shorter period agreed to by
 24 the prosecuting attorney if the prosecuting attorney has consented
 25 to a shorter period under subsection (c));

26 the court may order the conviction records described in subsection (c)
 27 marked as expunged in accordance with section 7 of this chapter. A
 28 person whose records have been ordered marked as expunged under
 29 this section is considered to have had the person's records expunged for
 30 all purposes other than the disposition of the records.

31 SECTION 5. IC 35-38-9-5, AS AMENDED BY P.L.142-2015,
 32 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2017]: Sec. 5. (a) Except as provided in subsection (b) and
 34 section 8.5 of this chapter, this section applies to a person convicted of
 35 a felony, including:

36 (1) an elected official convicted of an offense while serving the
 37 official's term or as a candidate for public office; and

38 (2) a person convicted of a felony that resulted in serious bodily
 39 injury to another person.

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

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

42 (2) A person convicted of official misconduct (IC 35-44.1-1-1).



1 (3) A person convicted of an offense described in:

2 (A) IC 35-42-1;

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

4 (C) IC 35-42-4.

5 (4) A person convicted of two (2) or more felony offenses that:

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

7 (B) were not committed as part of the same episode of criminal
8 conduct.

9 (c) Not earlier than the later of ten (10) years from the date of
10 conviction, or five (5) years from the completion of the person's
11 sentence, unless the prosecuting attorney consents in writing to an
12 earlier period, the person convicted of the felony may petition a court
13 to expunge all conviction records, including records contained in:

14 (1) a court's files;

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;

30 (4) the person has not been convicted of a crime within the
31 previous ten (10) years (or within a shorter period agreed to by the
32 prosecuting attorney if the prosecuting attorney has consented to
33 a shorter period under subsection (c)); and

34 (5) the prosecuting attorney has consented in writing to the
35 expungement of the person's criminal records;

36 the court may order the conviction records described in subsection (c)
37 marked as expunged in accordance with section 7 of this chapter. A
38 person whose records have been ordered marked as expunged under
39 this section is considered to have had the person's records expunged for
40 all purposes other than the disposition of the records.

41 SECTION 6. IC 35-38-9-6, AS AMENDED BY P.L.198-2016,
42 SECTION 671, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) If the court orders conviction
 2 records expunged under sections 2 through 3 of this chapter, the court
 3 shall do the following with respect to the specific records expunged by
 4 the court:

5 (1) Order:

- 6 (A) the department of correction;
 7 (B) the bureau of motor vehicles; and
 8 (C) each:

- 9 (i) law enforcement agency; and
 10 (ii) other person;

11 who incarcerated, provided treatment for, or provided other
 12 services for the person under an order of the court;
 13 to prohibit the release of the person's records or information in the
 14 person's records to anyone without a court order, other than a law
 15 enforcement officer acting in the course of the officer's official
 16 duty.

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

21 (A) a prosecuting attorney, if:

- 22 (i) authorized by a court order; and
 23 (ii) needed to carry out the official duties of the prosecuting
 24 attorney;

25 (B) a defense attorney, if:

- 26 (i) authorized by a court order; and
 27 (ii) needed to carry out the professional duties of the defense
 28 attorney;

29 (C) a probation department, if:

- 30 (i) authorized by a court order; and
 31 (ii) necessary to prepare a presentence report;

32 (D) the Federal Bureau of Investigation and the Department of
 33 Homeland Security, if disclosure is required to comply with an
 34 agreement relating to the sharing of criminal history
 35 information;

36 (E) the:

- 37 (i) supreme court;
 38 (ii) members of the state board of law examiners;
 39 (iii) executive director of the state board of law examiners;
 40 and
 41 (iv) employees of the state board of law examiners, in
 42 accordance with rules adopted by the state board of law



1 examiners;
 2 for the purpose of determining whether an applicant possesses
 3 the necessary good moral character for admission to the bar;
 4 (F) a person required to access expunged records to comply
 5 with the Secure and Fair Enforcement for Mortgage Licensing
 6 Act (12 U.S.C. 5101 et seq.) or regulations adopted under the
 7 Secure and Fair Enforcement for Mortgage Licensing Act; and
 8 (G) the bureau of motor vehicles, the Federal Motor Carrier
 9 Administration, and the Commercial Drivers License
 10 Information System (CDLIS), if disclosure is required to
 11 comply with federal law relating to reporting a conviction for
 12 a violation of a traffic control law.

13 (3) Notify the clerk of the supreme court to seal any records in the
 14 clerk's possession that relate to the conviction.

15 A probation department may provide an unredacted version of a
 16 presentence report disclosed under subdivision (2)(C) to any person
 17 authorized by law to receive a presentence report.

18 (b) Except as provided in subsection (c), if a petition to expunge
 19 conviction records is granted under sections 2 through 3 of this chapter,
 20 the records of:

- 21 (1) the sentencing court;
 22 **(2) a court that conducted a civil forfeiture proceeding with**
 23 **respect to property seized in connection with the conviction;**
 24 ~~(2) (3)~~ (3) a juvenile court;
 25 ~~(3) (4)~~ (4) a court of appeals; and
 26 ~~(4) (5)~~ (5) the supreme court;

27 concerning the person shall be permanently sealed. However, a petition
 28 for expungement granted under sections 2 through 3 of this chapter
 29 does not affect an existing or pending driver's license suspension.

30 (c) If a petition to expunge conviction records is granted under
 31 sections 2 through 3 of this chapter with respect to the records of a
 32 person who is named as an appellant or an appellee in an opinion or
 33 memorandum decision by the supreme court or the court of appeals, **or**
 34 **who is identified as the owner of property seized in a civil**
 35 **forfeiture action**, the court shall:

- 36 (1) redact the opinion or memorandum decision as it appears on
 37 the computer gateway administered by the office of technology so
 38 that it does not include the petitioner's name (in the same manner
 39 that opinions involving juveniles are redacted); and
 40 (2) 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 court of appeals are not required to destroy or
2 otherwise dispose of any existing copy of an opinion or memorandum
3 decision that includes the petitioner's name.

4 (d) Notwithstanding subsection (b), a prosecuting attorney may
5 submit a written application to a court that granted an expungement
6 petition under this chapter to gain access to any records that were
7 permanently sealed under subsection (b), if the records are relevant in
8 a new prosecution of the person. If a prosecuting attorney who submits
9 a written application under this subsection shows that the records are
10 relevant for a new prosecution of the person, the court that granted the
11 expungement petition shall:

12 (1) order the records to be unsealed; and

13 (2) allow the prosecuting attorney who submitted the written
14 application to have access to the records.

15 If a court orders records to be unsealed under this subsection, the court
16 shall order the records to be permanently resealed at the earliest
17 possible time after the reasons for unsealing the records cease to exist.
18 However, if the records are admitted as evidence against the person in
19 a new prosecution that results in the person's conviction, or are used to
20 enhance a sentence imposed on the person in a new prosecution, the
21 court is not required to reseat the records.

22 (e) If a person whose conviction records are expunged under
23 sections 2 through 5 of this chapter is required to register as a sex
24 offender based on the commission of a felony which has been
25 expunged:

26 (1) the expungement does not affect the operation of the sex
27 offender registry web site, any person's ability to access the
28 person's records, records required to be maintained concerning
29 sex or violent offenders, or any registration requirement imposed
30 on the person; and

31 (2) the expunged conviction **records** must be clearly marked as
32 expunged on the sex offender registry web site.

33 (f) Expungement of a crime of domestic violence under section 2 of
34 this chapter does not restore a person's right to possess a firearm. The
35 right of a person convicted of a crime of domestic violence to possess
36 a firearm may be restored only in accordance with IC 35-47-4-7.

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

40 SECTION 7. IC 35-38-9-7, AS AMENDED BY P.L.198-2016,
41 SECTION 672, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) This section applies only to



1 a person who has filed a petition for expungement under section 4 or
 2 5 of this chapter and whose records have been ordered marked as
 3 expunged.

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

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

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

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

32 (b) Any person may seek an expungement under sections 2 through
 33 5 of this chapter by filing a verified petition for expungement. The
 34 petition must include the following:

- 35 (1) The petitioner's full name and all other legal names or aliases
 36 by which the petitioner is or has been known.
- 37 (2) The petitioner's date of birth.
- 38 (3) The petitioner's addresses from the date of the offense to the
 39 date of the petition.
- 40 (4) The case number or court cause number, if available.
- 41 (5) The petitioner shall affirm that no criminal investigation or
 42 charges are pending against the petitioner.



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

