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1 AN ACT relating to vacating convictions for reckless homicide.

## 2 Be it enacted by the General Assembly of the Commonwealth of Kentucky:

3 → Section 1. KRS 431.073 is amended to read as follows:

- 4 (1) Any person who has been convicted of a Class D felony violation of KRS 17.175, 5 186.990, 194A.505, 194B.505, 217.181, 217.207, 217.208, 218A.140, 218A.1415, 6 218A.1416, 218A.1417, 218A.1418, 218A.1423, 218A.1439, 218A.282, 218A.284, 7 218A.286, 218A.320, 218A.322, 218A.324, 244.165, 286.11-057, 304.47-025, 8 324.990, 365.241, 434.155, 434.675, 434.850, 434.872, 511.040, 512.020, 514.030, 9 514.040, 514.050, 514.060, 514.065, 514.070, 514.080, 514.090, 514.100, 514.110, 10 514.120, 514.140, 514.150, 514.160, 516.030, 516.060, 516.090, 516.108, 517.120, 11 518.040, 522.040, 524.100, 525.113, 526.020, 526.030, 528.020, 528.040, 528.050, 12 530.010, or 530.050, or a series of Class D felony violations of one (1) or more 13 statutes enumerated in this section arising from a single incident, or who has been 14 granted a full pardon, may file with the court in which he or she was convicted an 15 application to have the judgment vacated. The application shall be filed as a motion 16 in the original criminal case. The person shall be informed of the right at the time of 17 adjudication. Any person who has been convicted of a violation of KRS 507.050 and who has 18 (2)
- 18 (2) Any person who has been convicted of a violation of KRS 507.050 and who has
  19 received a partial pardon from the Office of the Governor under KRS 196.045
  20 may file with the court in which he or she was convicted an application to have
  21 the judgment vacated. The application shall be filed as a motion in the original
  22 criminal case. The person shall be informed of the right at the time of
  23 adjudication.
- A verified application to have the judgment vacated under this section shall be filed no sooner than five (5) years after the completion of the person's sentence, or five (5) years after the successful completion of the person's probation or parole, whichever occurs later. Upon the payment of the filing fee and the filing of the

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application, the Circuit Court clerk shall serve a notice of filing upon the office of the Commonwealth's attorney or county attorney that prosecuted the case and the county attorney of the county where the judgment was entered. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall file a response within sixty (60) days after being served with the notice of filing. That time period may be extended for good cause, but the hearing on the application to vacate the judgment shall occur no later than one hundred twenty (120) days following the filing of the application. The inability to determine the location of the crime victim shall constitute good cause for an extension of time. No hearing upon the merits of the application shall be scheduled until the Commonwealth's response has been filed, or if no response is received, no later than one hundred twenty (120) days after the filing of the application.

(4)[(3)] Upon the filing of the Commonwealth's response to an application, or if no response is received, no later than one hundred twenty (120) days after the filing of the application, the court shall set a date for a hearing and the Circuit Court clerk shall notify the office of the Commonwealth's attorney or county attorney that prosecuted the case. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall notify the victim of the crime, if there was an identified victim. The Commonwealth's attorney or county attorney shall be authorized to obtain without payment of any fee information from the Transportation Cabinet regarding the crime victim's address on file regarding any vehicle operator's license issued to that person.

(5)[(4)] The court may order the judgment vacated, and if the judgment is vacated the court shall dismiss with prejudice any charges which are eligible for expungement under subsection (1) or (2) of this section or KRS 431.076 or 431.078, and order expunged all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if the court finds

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1	that:

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2 (a) The person had not previously had a felony conviction vacated and the record expunged pursuant to this section; 3

> (b) The person had not in the five (5) years prior to the filing of the application to have the judgment vacated been convicted of a felony or a misdemeanor; and

> No proceeding concerning a felony or misdemeanor is pending or being (c) instituted against the person.

(6)[(5)]If the court has received a response from the office of the Commonwealth's attorney or county attorney that prosecuted the case stating no objection to the application to have the judgment vacated, or if one hundred twenty (120) days have elapsed since the filing of the application and no response has been received, the court may, without a hearing, vacate the judgment in the manner established in subsection (5) (4) of this section.

(7)[(6)]Upon entry of an order vacating and expunging a conviction, the original conviction shall be vacated and the record shall be expunged. The court and other agencies shall cause records to be deleted or removed from their computer systems so that the matter shall not appear on official state-performed background checks. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. If the person is not prohibited from voting for any other reason, the person's ability to vote shall be restored and the person may register to vote.

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An order vacating a conviction under this section shall not extend or revive an  $(8)^{(7)}$ expired statute of limitations, shall not constitute a finding of legal error regarding the proceedings leading to or resulting in the conviction, shall not nullify any findings of fact or conclusions of law made by the trial court or any appellate court

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1	regarding the conviction, and shall not constitute a finding of innocence regarding
2	the conviction.
3	(9)[(8)] The Administrative Office of the Courts shall establish a form application to
4	be used in filing an application to have judgment vacated and records expunged.
5	(10)[(9)] The filing fee for an application to have judgment vacated and records
6	expunged shall be five hundred dollars (\$500). The first fifty dollars (\$50) of each
7	fee collected pursuant to this subsection shall be deposited into a trust and agency
8	account for deputy clerks and shall not be refundable.
9	(11) <del>[(10)]</del> This section shall be retroactive.