

SENATE BILL 686

By Akbari

AN ACT to amend Tennessee Code Annotated, Title 39
and Title 40, relative to criminal history records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 32, is amended by adding the following as a new part:

40-32-201.

(a) A person may petition the court in which the person was convicted of a criminal offense to seal the person's criminal history records for the offenses listed in § 40-32-203. At the time of filing a petition, the person must pay a fee of five hundred dollars (\$500) to be used by the clerk to offset the cost of sealing records.

(b) Upon determining that the person is eligible under § 40-32-202 to have the person's criminal history records sealed, the court shall enter an order sealing the records from all public records requests. The sealed records may continue to be used for the following purposes:

(1) By the Tennessee bureau of investigation or the federal bureau of investigation, in determining whether to approve a firearms transaction, pursuant to § 39-17-1316, or a handgun carry permit application, pursuant to § 39-17-1351;

(2) By the department of health in maintaining a registry of persons who have abused, neglected, or misappropriated the property of vulnerable individuals, pursuant to title 68, chapter 11, part 10; and

(3) By the Tennessee peace officer standards and training commission in determining, pursuant to § 38-8-104(g), whether a person has any recorded

convictions in Tennessee and meets the minimum qualifications for law enforcement officers as provided in § 38-8-106.

40-32-202.

A person is an eligible petitioner under this part if the person:

(1) Has fulfilled the requirements of the sentence imposed by the court in which the person was convicted of the offense, including:

(A) Payment of all fines, restitution, court costs, and other assessments;

(B) Completion of any term of imprisonment or probation;

(C) Meeting all conditions of supervised or unsupervised release; and

(D) If so required by the conditions of the sentence imposed, remaining free from dependency on or abuse of alcohol or a controlled substance or other prohibited substance for a period of not less than one (1) year;

(2) Is not subject to any pending criminal charges; and

(3) Has not been convicted of a criminal offense for at least five (5) years, beginning after the completion of any term of imprisonment, supervised or unsupervised release, or probation.

40-32-203.

Criminal history records related to a conviction for the following offenses and any offense committed prior to November 1, 1989, that would constitute any of the following offenses if committed under current law shall be eligible to be sealed under this part:

(1) Illegal possession or fraudulent use of credit card or debit card, as prohibited by § 39-14-118;

(2) Worthless checks, as prohibited by § 39-14-121;

(3) Destruction of valuable papers, as prohibited by § 39-14-130;

(4) Fraudulent or false insurance claims, as prohibited by § 39-14-133;

- (5) Fraudulent qualifying for set-aside programs, as prohibited by § 39-14-137;
- (6) Sale of recorded live performances without consent, as prohibited by § 39-14-139;
- (7) Communication theft, as prohibited by § 39-14-149;
- (8) Use of counterfeit mark or logo, as prohibited by § 39-14-152;
- (9) Home improvement fraud, as prohibited by § 39-14-154;
- (10) Injuring guide dog, as prohibited by § 39-14-208;
- (11) Vandalism, as prohibited by § 39-14-408;
- (12) Alters, damages, or attempts to damage or destroy any computer, computer system or computer network or computer program or data, as prohibited by § 39-14-602;
- (13) Computer crimes violation in connection with act of terrorism, as prohibited by § 39-14-602(d);
- (14) Unsolicited bulk electronic mail, as prohibited by § 39-14-603;
- (15) Manufacture, delivery, sale, possession or conspiracy of certain amounts of drugs listed, as prohibited by § 39-17-417(j);
- (16) RICO offense, as prohibited by § 39-12-205;
- (17) Theft of trade secrets of sixty thousand dollars (\$60,000) but not more than two hundred fifty thousand dollars (\$250,000), as prohibited by § 39-14-138;
- (18) Money laundering offense, as prohibited by § 39-14-903;
- (19) Public servant accepting bribe or offering bribe to public servant, as prohibited by § 39-16-102;

(20) Manufacture, delivery, sale, possession, or conspiracy Schedule I drug, fine not greater than one hundred thousand dollars (\$100,000), as prohibited by § 39-17-417(b);

(21) Manufacture, delivery, sale, possession, or conspiracy involving cocaine or methamphetamine in amounts of .5 grams or more, as prohibited by § 39-17-417(c);

(22) Initiating process to result in manufacture of methamphetamine, as prohibited by § 39-17-435;

(23) Possession of explosive or explosive weapon or hoax device, as prohibited by § 39-17-1302;

(24) Aggravated prostitution, as prohibited by § 39-13-516;

(25) Distribution or delivery of substance as a hoax device, as prohibited by § 39-13-808(b)(2);

(26) Criminal simulation, as prohibited by § 39-14-115;

(27) Identity theft trafficking, as prohibited by § 39-14-150(c);

(28) Arson, as prohibited by § 39-14-301;

(29) Violation of Tennessee Personal and Commercial Computer Act of five hundred dollars (\$500) to fifty-nine thousand nine hundred ninety-nine dollars (\$59,999), as prohibited by § 39-14-602(b)(5);

(30) Theft of animal from or damage to an animal facility exceeding five hundred dollars (\$500), as prohibited by § 39-14-803;

(31) Buying and selling in regard to public offices, as prohibited by § 39-16-105;

(32) Bribing a witness, as prohibited by § 39-16-107;

(33) Bribing a juror, as prohibited by § 39-16-108;

(34) Introduction of weapons, explosives, intoxicants or drugs into a state, county or municipal penal institution, as prohibited by § 39-16-201;

(35) Initiating or circulating false report of bomb, fire, or other emergency, as prohibited by § 39-16-502(a)(3);

(36) Tampering with or fabricating evidence, as prohibited by § 39-16-503;

(37) Adulteration of food, liquids, or pharmaceuticals causing bodily injury, as prohibited by § 39-17-107;

(38) Especially aggravated stalking, as prohibited by § 39-17-315(d)(1);

(39) Manufacture, delivery, sale, or possession of flunitrazepam fine not greater than one hundred thousand dollars (\$100,000), as prohibited by § 39-17-417(e);

(40) Manufacture, delivery, sale, or possession of twenty (20) to ninety-nine (99) marijuana plants fine not greater than one hundred thousand dollars (\$100,000), as prohibited by § 39-17-417(g)(3);

(41) Possession of the hallucinogenic plant salvia divinorum or the synthetic cannabinoids, second or subsequent violation, as prohibited by § 39-17-438;

(42) Manufacturing, selling, or possessing with intent to manufacture or sell a controlled substance analogue to a minor, as prohibited by § 39-17-454(c);

(43) Attempting to influence lottery maximum fine of one hundred thousand dollars (\$100,000), as prohibited by § 39-17-607(b);

(44) Possession of firearm after convicted of felony involving the use or attempted use of force, violence, or a deadly weapon, as prohibited by § 39-17-1307(b)(1)(A);

(45) Employing firearm during commission of a dangerous felony six (6) if no prior record and ten (10) year minimum if prior dangerous felony conviction, as prohibited by § 39-17-1324(b);

(46) Employing firearm during commission of a dangerous felony if prior conviction for a dangerous felony fifteen (15) year minimum, as provided in § 39-17-1324(g);

(47) Possession of firearm during attempt to commit dangerous felony if prior conviction for dangerous felony fifteen (15) year minimum, as prohibited by § 39-17-1324(j);

(48) Reckless endangerment by discharging firearm into unoccupied habitation, as prohibited by § 39-13-103;

(49) Assisted suicide, as prohibited by § 39-13-216;

(50) Promoting travel for prostitution, as prohibited by § 39-15-533;

(51) Unlawful wiretapping or electronic surveillance, as prohibited by § 39-13-602;

(52) Dissemination of photographs and victim under thirteen (13) years of age, as prohibited by § 39-13-605(d)(3);

(53) Extortion, as prohibited by § 39-14-112;

(54) Forgery, up to one thousand dollars (\$1,000) to nine thousand nine hundred ninety-nine dollars (\$9,999), as prohibited by § 39-14-114;

(55) Theft of trade secrets of one thousand dollars (\$1,000) but not more than nine thousand nine-hundred ninety-nine dollars (\$9,999), as prohibited by § 39-14-138;

(56) Fraudulent transfer of motor vehicle, as prohibited by § 39-14-147;

(57) Identity theft, as prohibited by § 39-14-150(b);

- (58) Burglary, other than habitation or auto, as prohibited by § 39-14-402;
- (59) False report to law enforcement not involving bomb, fire or emergency, as prohibited by § 39-16-502(a)(1)(2);
- (60) Coercion of a witness, as prohibited by § 39-16-507;
- (61) Evading arrest in motor vehicle creating risk of injury to bystanders or pursuing law enforcement, sixty (60) days mandatory, as prohibited by § 39-16-603(b)(3);
- (62) Aggravated perjury, as prohibited by § 39-16-703;
- (63) Manufacture, delivery, sale, or possession of Schedule III drug fine not greater than fifty thousand dollars (\$50,000), as prohibited by § 39-17-417(d);
- (64) Manufacture, delivery, sale, or possession of Schedule IV drug fine not greater than fifty thousand dollars (\$50,000), as prohibited by § 39-17-417(e);
- (65) Manufacture, delivery, sale, or possession of ten (10) to seventy (70) pounds of Schedule VI drug marijuana fine not greater than fifty thousand dollars (\$50,000), as prohibited by § 39-14-417(g)(2);
- (66) Prescribing or selling steroid for unlawful purpose, as prohibited by § 39-17-430;
- (67) Promoting manufacture of methamphetamine, as prohibited by § 39-17-433;
- (68) Manufacturing, selling, or possessing with intent to manufacture or sell a controlled substance analogue, as prohibited by § 39-17-454(c);
- (69) Making counterfeit or altering lottery ticket amounts not greater than fifty thousand dollars (\$50,000), as prohibited by § 39-17-607(a);
- (70) Making material false statement on lottery application or record, as prohibited by § 39-17-608;

(71) Unauthorized person conducting charitable gaming event, as prohibited by § 39-17-654(c);

(72) Restrictions on firearms ammunition, as prohibited by § 39-17-1304(c)(2);

(73) Possession of firearm after convicted of felony involving the use or attempted use of force, violence, or a deadly weapon, as prohibited by § 39-17-1307(b)(1)(A);

(74) Parent knowingly providing handgun to juvenile, as prohibited by § 39-17-1320(b);

(75) Possession of firearm during attempt to commit dangerous felony, as prohibited by § 39-17-1324;

(76) Custodial interference where person not voluntarily returned by defendant, as prohibited by § 39-13-306;

(77) Promoting prostitution, as prohibited by § 39-13-515;

(78) Knowing dissemination of illegally recorded cellular communication, as prohibited by § 39-13-604(c)(2);

(79) Theft of property, as prohibited by § 39-14-103;

(80) Theft of services, as prohibited by § 39-14-104;

(81) Hindering secured creditors, as prohibited by § 39-14-116(c);

(82) Fraud in insolvency, as prohibited by § 39-14-117(b);

(83) Destruction or concealment of will, as prohibited by § 39-14-131;

(84) Unauthorized solicitation for police, judicial, or safety associations, as prohibited by § 39-14-143;

(85) Setting fire to personal property or land, as prohibited by § 39-14-303;

- (86) Burglary of an auto, as prohibited by § 39-14-402;
- (87) Utility service interruption or property damage, as prohibited by § 39-14-411;
- (88) Aggravated criminal littering, as prohibited by § 39-14-505;
- (89) Sale, purchase, possession, or use of automated sales suppression device, as prohibited by § 39-14-704;
- (90) Flagrant nonsupport, as prohibited by § 39-15-101(d);
- (91) Attempt to procure criminal miscarriage, as prohibited by § 39-15-201(b)(2);
- (92) Failure to observe waiting period before giving consent to abortion, as prohibited by § 39-15-202(d);
- (93) Failure or refusal of physician or hospital to preserve the life of an infant delivered during an abortion, as prohibited by § 39-15-206;
- (94) Unlawful use of aborted fetus, as prohibited by § 39-15-208;
- (95) Public servant soliciting unlawful compensation, as prohibited by § 39-16-104;
- (96) Taking telecommunication device into penal institution, as prohibited by § 39-16-201;
- (97) Impersonation of licensed professional, as prohibited by § 39-16-302;
- (98) Official misconduct, as prohibited by § 39-16-402;
- (99) Official oppression, as prohibited by § 39-16-403;
- (100) Law enforcement officer, correctional employee, volunteer, or vendor engaging in sex with inmate, as prohibited by § 39-16-408;

- (101) Probation or parole officer engaging in sex with probationer or parolee, as prohibited by § 39-16-409;
- (102) Coercion of juror, as prohibited by § 39-16-508;
- (103) Retaliation for past action, as prohibited by § 39-16-510;
- (104) Evading arrest in motor vehicle, mandatory 30 days imprisonment, as prohibited by § 39-16-603;
- (105) Compounding a felony, as prohibited by § 39-16-604;
- (106) Escape from penal institution, as prohibited by § 39-16-605;
- (107) Correctional employee permitting or facilitating escape, as prohibited by § 39-16-607(c);
- (108) Failure to appear, as prohibited by § 39-16-609;
- (109) Perjury on handgun permit application, as prohibited by § 39-16-702(b)(2);
- (110) Perjury on sex offender registration form, as prohibited by § 39-16-702(b)(3);
- (111) Subornation of aggravated perjury, as prohibited by § 39-16-705;
- (112) Gifts of adulterated candy or food, as prohibited by § 39-17-106;
- (113) Violating airport security with intent to commit a felony, as prohibited by § 39-17-109;
- (114) Preparing property transfer without interest in property, as prohibited by § 39-17-116;
- (115) Filing lien to encumber property without legal basis, as prohibited by § 39-17-117;
- (116) Aggravated riot, as prohibited by § 39-17-303;

(117) Harassment of victim by person convicted of crime, as prohibited by § 39-17-308(b);

(118) Abuse of corpse or sale or purchase of buried human skeletal remains, as prohibited by § 39-17-312;

(119) Manufacture, delivery, sale, or possession of Schedule V, as prohibited by § 39-17-417(f);

(120) Manufacture, delivery, sale, or possession of not less than one half ounce and not more than ten (10) pounds of Schedule VI drug marijuana, as prohibited by § 39-17-417(g)(1);

(121) Manufacture, delivery, sale, or possession of Schedule VII drug, as prohibited by § 39-17-417(h);

(122) Simple possession or casual exchange of controlled substance where person has two (2) prior simple possession convictions and the current violation is for heroin, as prohibited by § 39-17-418(e);

(123) Selling glue for unlawful purpose, as prohibited by § 39-17-422(c);

(124) Counterfeit controlled substance, as prohibited by § 39-17-423(c);

(125) Unlawful drug paraphernalia uses and activities, as prohibited by § 39-17-425(b)(1) - (3);

(126) Manufacture or sale of imitation controlled substance, as prohibited by § 39-17-453;

(127) Aggravated gambling promotion, as prohibited by § 39-17-504;

(128) Lotteries, chain letters, and pyramid clubs, as prohibited by § 39-17-506(c)(4);

(129) Engaging in gambling under pretense of charitable gaming event, as prohibited by § 39-17-654(a);

(130) Attempting to influence the winning of prize in charitable gaming event, as prohibited by § 39-17-656(b);

(131) Selling service in connection with charitable gaming event on contingency basis, as prohibited by § 39-17-657;

(132) Employment of minors in distribution of obscene material, as prohibited by § 39-17-902(b);

(133) Prohibited weapons, as prohibited by § 39-17-1302(a)(2) – (4);

(134) Firearm ammunition violation, as prohibited by § 39-17-1304(c)(1) and (3);

(135) Carrying weapons during judicial proceedings, as prohibited by § 39-17-1306;

(136) Possession of a handgun by person convicted of any felony, as prohibited by § 39-17-1307(c);

(137) Unlawful possession of a dangerous weapon other than firearm with intent to employ it during commission of dangerous felony, as prohibited by § 39-17-1307(d);

(138) Carrying weapons on school property, as prohibited by § 39-17-1309; or

(139) Committing violent or drug offense while wearing body vest or armor, as prohibited by § 39-17-1323.

40-32-204.

If, after the person's records have been sealed, the person is charged with a new offense other than a moving or non-moving traffic offense, the court that ordered the records to be sealed shall rescind the order pending the disposition of the new charge. If the person is convicted of the new offense, the court shall order the records be

unsealed. If the new charges result in any other final disposition, the court shall reinstate the order sealing the person's records.

SECTION 2. This act shall take effect July 1, 2019, the public welfare requiring it.