

1 HB279
2 179380-4
3 By Representatives Baker, Farley, Beckman, Hill, Pettus,
4 Shiver, Fridy and Drake
5 RFD: Judiciary
6 First Read: 21-FEB-17

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ENROLLED, An Act,

To amend Section 15-27-2, Code of Alabama 1975, relating to the expungement of criminal records, to expand the expungement of criminal records to include all felony charges, including violent offenses, when the person has been found not guilty of the crime.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 15-27-2, Code of Alabama 1975, is amended to read as follows:

"§15-27-2.

"(a) A person who has been charged with a felony offense, except a violent offense as defined in Section 12-25-32(14), may file a petition in the criminal division of the circuit court in the county in which the charges were filed, to expunge records relating to the charge in any of the following circumstances:

"(1) When the charge is dismissed with prejudice.

"(2) When the charge has been no billed by a grand jury.

~~"(3) When the person has been found not guilty of the charge.~~

~~"(4)~~ (3)a. The charge was dismissed after successful completion of a drug court program, mental health court program, diversion program, veteran's court, or any

1 court-approved deferred prosecution program after one year
2 from successful completion of the program.

3 "b. Expungement may be a court-ordered condition of
4 a program listed in paragraph a.

5 "~~(5)~~ (4) The charge was dismissed without prejudice
6 more than five years ago, has not been refiled, and the person
7 has not been convicted of any other felony or misdemeanor
8 crime, any violation, or any traffic violation, excluding
9 minor traffic violations, during the previous five years.

10 "~~(6)~~ (5) Ninety days have passed from the date of
11 dismissal with prejudice, no-bill, acquittal, or nolle
12 prosequi and the charge has not been refiled.

13 "(b) (1) A person who has been charged with any
14 felony offense, including a violent offense as defined in
15 Section 12-25-32, may file a petition in the criminal division
16 of the circuit court in the county in which the charges were
17 filed to expunge records relating to the charge if the person
18 has been found not guilty of the charge.

19 "(2) Records related to violent offenses as defined
20 in Section 12-25-32 may be disclosed to law enforcement agency
21 for criminal investigation purposes as provided in Section
22 15-27-7.

23 "~~(b)~~ (c) The circuit court shall have exclusive
24 jurisdiction of a petition filed under subsection (a) or
25 subsection (b)."

1 Section 2. Records that have been expunged pursuant
2 to Chapter 27, Title 15, Code of Alabama 1975, shall be
3 released for use in a civil suit filed by a person for whom
4 expungement was granted that is related to, or arising from,
5 the arrest or conviction that was the subject of the
6 expungement. Upon a request from any party for the release of
7 any records that have been expunged, the court having
8 jurisdiction over the pending civil matter shall hold an in
9 camera hearing to determine the following:

10 (a) to determine if the request has been made in
11 good faith;

12 (b) to determine the nature and scope of the
13 requested records; and

14 (c) to determine the relevance of the requested
15 records to the pending civil matter.

16 Upon the completion of the in camera review, the
17 court shall make a determination in writing whether to release
18 the expunged records. In no way shall the release of expunged
19 records bear any weight as to their admissibility at trial
20 with respect to the Alabama Rules of Evidence. This bill is to
21 be applied retroactively.

22 Section 3. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 06-APR-17, as amended.

Jeff Woodard
Clerk

Senate

17-MAY-17

Passed