

*Sponsorship has changed since the bill was introduced

REFERENCE TITLE: **misdemeanor expungement; requirements; procedure**

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2697

*Introduced by
Representatives Carter: Cobb, Cook, Fernandez B, Payne

AN ACT

AMENDING TITLE 13, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-912; RELATING TO EXPUNGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 9, Arizona Revised Statutes, is
3 amended by adding section 13-912, to read:

4 13-912. Expungement of misdemeanor conviction; evaluation;
5 grounds; court order; damages

6 A. EXCEPT FOR OFFENSES LISTED IN CHAPTER 14 OR 35.1 OF THIS TITLE
7 OR TILE 28, CHAPTER 4, A PERSON WHO IS CONVICTED OF A MISDEMEANOR MAY
8 PETITION THE CONVICTING COURT FOR AN EXPUNGEMENT OF THE RECORD OF
9 CONVICTION. THE PETITION SHALL BE FILED WITH THE COURT NOT SOONER THAN
10 THREE YEARS AFTER THE DATE OF THE FULFILLMENT OF THE CONDITIONS OF THE
11 PETITIONER'S PROBATION OR SENTENCE AND DISCHARGE BY THE COURT AND SHALL BE
12 SERVED ON THE PROSECUTING ATTORNEY.

13 B. THE COURT SHALL REQUEST THAT THE PROBATION DEPARTMENT EVALUATE
14 THE PETITION. THE EVALUATION MUST INCLUDE:

15 1. A WRITTEN RECOMMENDATION CONCERNING THE PETITION FOR
16 EXPUNGEMENT.

17 2. WHETHER THE PETITIONER HAS FULFILLED THE CONDITIONS OF SENTENCE
18 OR ANY TERM OF PROBATION.

19 3. THE STATEMENT OF A VICTIM WHO HAS REQUESTED NOTIFICATION OF
20 POSTCONVICTION MATTERS.

21 4. WHETHER THE PETITIONER HAS ANY ADDITIONAL ARRESTS OR
22 CONVICTIONS.

23 5. ANY WRITTEN RECOMMENDATION IN SUPPORT OF EXPUNGEMENT THAT IS
24 PROVIDED BY A THIRD PARTY AND THAT IS SUBMITTED TO THE PROBATION
25 DEPARTMENT.

26 C. THE COURT SHALL DENY A PETITION FOR EXPUNGEMENT IF ANY OF THE
27 FOLLOWING APPLIES:

28 1. THE PETITIONER HAS PREVIOUSLY OBTAINED EXPUNGEMENT IN ANY
29 JURISDICTION OF AN OFFENSE THAT WOULD BE A FELONY IN THIS STATE.

30 2. THE PETITIONER HAS ANY PENDING OR UNRESOLVED MATTERS IN ANY
31 COURT OR JURISDICTION IN THIS STATE OR ANOTHER STATE.

32 3. THE PETITIONER HAS NOT PAID THE FULL AMOUNT OF RESTITUTION OR
33 ANY FINE ORDERED PURSUANT TO CHAPTER 8 OF THIS TITLE.

34 D. AFTER A HEARING ON THE PETITION, IF THE JUDGE BELIEVES THAT
35 JUSTICE WILL BE SERVED, THE JUDGE SHALL ORDER THAT ALL RECORDS OF THE
36 PERSON'S CONVICTION THAT ARE IN THE CUSTODY OF THE COURT BE SEALED WITH
37 ACCOMPANYING JUSTIFICATION AND SHALL DELIVER A COPY OF THE ORDER TO ALL
38 LAW ENFORCEMENT AGENCIES AND COURTS. THE ORDER SHALL FURTHER REQUIRE THAT
39 ALL LAW ENFORCEMENT AGENCIES AND COURTS NOT RELEASE COPIES OF THE RECORDS
40 TO ANY PERSON EXCEPT ON ORDER OF THE COURT.

41 E. ANY PERSON WHO HAS NOTICE OF THE ORDER AND WHO FAILS TO COMPLY
42 WITH THE COURT ORDER ISSUED PURSUANT TO THIS SECTION IS LIABLE TO THE
43 PERSON FOR DAMAGES RESULTING FROM THE FAILURE.

44 F. UNLESS OTHERWISE PROVIDED BY LAW, A PERSON WHO RECEIVES AN
45 EXPUNGEMENT FOR A CONVICTION PURSUANT TO THIS SECTION MAY RESPOND TO ANY
46 INQUIRY AS THOUGH THE CONVICTION DID NOT EXIST.