

HCS SCS SBs 588, 603 & 942 -- EXPUNGEMENT

SPONSOR: Dixon (Barnes)

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Civil and Criminal Proceedings by a vote of 6 to 0. Voted "Do Pass with HCS" by the Select Committee on Judiciary by a vote of 6 to 0.

Currently, a \$100 surcharge is required to be paid for petitions for expungement of criminal records. This bill raises the amount of the surcharge to \$500 and provides that the judge may waive the surcharge if the petitioner is indigent.

Currently, a person may petition the court in which the person was found guilty for the expungement of records relating to a list of specified offenses. A person may file multiple petitions throughout the state and have multiple offenses expunged, but may only file one petition per circuit court. This bill repeals the limitation on the number of petitions per circuit court, allows a person who was arrested but not sentenced to apply for expungement, and allows a person to petition, over the course of a lifetime, for the expungement of records for any number of infractions, no more than two misdemeanor offenses or ordinance violations that carry jail time, and no more than one felony offense. If the violations or offenses were charged at the same time or involve the same course of conduct, the person may include all the related offenses or violations in the same petition and it only counts as a petition for one offense or violation. This bill lists certain crimes and ordinance violations that may not be expunged.

Currently, a person is required to wait 20 years for a felony and 10 years for a misdemeanor before being eligible to file an expungement petition. This bill allows a person to file a petition after three years for the expungement of records relating to a finding of guilt for a misdemeanor, ordinance violation, or infraction, or an arrest for any type of offense or violation. A petition to expunge a finding of guilt for a felony may be filed five years after completion of the sentence, except for specified felony offenses, in which case it may be filed 10 years after completion of sentence.

This bill modifies the information that must be on the petition and repeals a provision of current law requiring the court to dismiss a petition if all the required information is not included.

This bill requires the court to create a form for pro se petitioners seeking expungement.

This bill requires the court to provide notice of the filing of the petition to the office of the prosecuting attorney, circuit attorney, or municipal prosecuting attorney that prosecuted the offense listed in the petition.

Currently, entities possessing records relating to an expunged offense must destroy the records. This bill provides that the entities must close, not destroy, the records.

This bill is effective January 1, 2018.

PROPOSERS: Supporters say that while working on the Criminal Code Revision, it became clear that the expungement statute needed to be revised as well. The Missouri Bar Association worked extensively on and approves this bill. It reduces the amount of time before an individual is eligible for expungement. This bill would not destroy the criminal record, but instead seal the record and authorize a person to say "no" when asked about a criminal record that has been sealed under these provisions.

Testifying for the bill were Senator Dixon; Missouri Association of Prosecuting Attorneys; The Missouri Bar; Missouri State Public Defender System; Missouri Catholic Conference; and Missouri Association of Criminal Defense Lawyers.

OPPOSERS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say the insurance industry has a few concerns, particularly the provision about applying for employment. There is federal law that applies to the insurance and banking industry that prohibits them from hiring individuals with certain specified convictions. They need an exemption to allow them to continue to comply with federal law in regards to hiring.

Testifying on the bill were American Family Insurance Group; Missouri Coalition Against Domestic Violence; and State Farm Insurance Companies.