

HB 2074 -- EXPUNGEMENT

SPONSOR: Smith

This bill specifies that if a person is named in a charge for an infraction or a crime, either a misdemeanor or a felony, as a result of another person using the identifying information of the named person or mistaken identity and a finding of not guilty is entered, or the conviction is set aside, the named person may apply by petition or written motion to the court where the charge was last pending on a form approved by the Office of State Courts Administrator supplied by the clerk of the court for an order to expunge from all official records any entries relating to the person's apprehension, charge, or trial.

The court, after notice to the prosecuting attorney, must hold a hearing on the motion or petition and, upon finding that the person's identity was used without permission and the charges were dismissed or the person was found not guilty, the court must order the expungement.

If any person is named in a charge for an infraction or a crime, either a misdemeanor or a felony, as a result of another person using the identifying information of the named person or mistaken identity, and the charge against the named person is dismissed, the prosecutor or other judicial officer who ordered the dismissal must provide notice to the court of the dismissal, and the court must order the expungement of all official records containing any entries relating to the person's apprehension, charge, or trial.

No person as to whom an order has been entered under these provisions can be held thereafter under any provision of law to be guilty of perjury, or to be guilty of otherwise giving a false statement or response to any inquiry made for any purpose, by reason of the person's failure to recite or acknowledge any expunged entries concerning apprehension, charge, or trial.

The court is required to order that such entries must be expunged from the records of the court and direct all law enforcement agencies, the Department of Corrections, the Department of Revenue, or any other state or local government agency identified by the petitioner, or the person eligible for automatic expungement as bearing record of the same to expunge their records of the entries.

The clerk must notify state and local agencies of the court's order. The costs of expunging the records, as provided in this chapter, cannot be taxed against the person eligible for expungement under this section.

The Department of Revenue is required to expunge from its records entries made as a result of the charge or conviction ordered expunged. The department must also reverse any administrative actions taken against a person whose record is expunged under these provisions as a result of the charges or convictions expunged, including the assessment of the driver's license points and driver's license suspension or revocation. The department must provide to the person whose motor vehicle record is expunged a certified corrected driver history at no cost and reinstate at no cost any driver's license suspended or revoked as a result of a charge or conviction expunged under these provisions.

The Department of Corrections and any other applicable state or local government agency must expunge its records and reverse any administrative actions taken against a person whose record is expunged as a result of the charges or convictions expunged, and the normal fee for any reinstatement of a license or privilege must be waived.

Any insurance company that charged any additional premium based on insurance points assessed against a policyholder as a result of a charge or conviction that was expunged must refund the additional premiums to the policyholder upon notification of the expungement.