

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H3/25/19
A Bill

HOUSE BILL 1831

By: Representatives Boyd, Crawford, Richardson, D. Whitaker

By: Senator M. Pitsch

For An Act To Be Entitled

AN ACT TO AMEND THE COMPREHENSIVE CRIMINAL RECORD SEALING ACT OF 2013; TO PROVIDE AN EASIER PATHWAY FOR A PERSON TO SEAL CERTAIN OFFENSES; TO ANNOUNCE AN INTENT TO STUDY THE OPTIONS AVAILABLE TO A PERSON TO HAVE HIS OR HER RECORD SEALED; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE COMPREHENSIVE CRIMINAL RECORD SEALING ACT OF 2013.

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

SECTION 1. DO NOT CODIFY. Legislative intent.

(a) It is the intent of the General Assembly to find an easier pathway for a person to seal his or her record of certain criminal offenses for which sealing is already an option.

(b) It is further the intent of the General Assembly to notify the public that this act is the first step in a multi-step process to attempt to make the sealing of certain records of a person's criminal history that involve nonviolent and nonsexual offenses an automatic operation.

(c) A study of the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq., will be undertaken in the interim to propose any recommended or necessary legislation for the 2021 Regular Session, as well as an overall study of the funding of the criminal justice system, where applicable.



SECTION 1. Arkansas Code § 16-90-1405 is amended to read as follows:

16-90-1405. Eligibility to file a uniform petition to seal a misdemeanor offense or violation.

(a) A person is eligible to file a uniform petition under this subchapter to seal his or her record of a misdemeanor or violation ~~sixty (60) days~~ immediately after:

(1) The completion of his or her sentence for the misdemeanor or violation, including full payment of restitution;

(2) Full payment of court costs;

(3) Full payment of driver's license suspension reinstatement fees, if a driver's license suspension reinstatement fee was assessed as a result of the person's arrest or conviction for the misdemeanor or violation; and

(4) The completion of all other driver's license reinstatement requirements, if a driver's license suspension was imposed as a result of the person's arrest or conviction for the misdemeanor or violation.

(b) There is not a limit to the number of times a person may file a uniform petition to seal his or her record of a misdemeanor or violation, except that the person may not file:

(1) A new uniform petition to seal one (1) of the following criminal offenses until after a period of five (5) years has elapsed since the completion of the person's sentence for the conviction:

(A) Negligent homicide, § 5-10-105, if it was a Class A misdemeanor;

(B) Battery in the third degree, § 5-13-203;

(C) Indecent exposure, § 5-14-112;

(D) Public sexual indecency, § 5-14-111;

(E) Sexual assault in the fourth degree, § 5-14-127;

(F) Domestic battering in the third degree, § 5-26-305; or

(G) A misdemeanor violation of § 5-65-103;

(2) A new uniform petition to seal a criminal offense listed in subdivisions (b)(1)(A)-(G) of this section before one (1) year from the date of the order denying the previous uniform petition;

(3) A new uniform petition to seal ~~any other~~ a misdemeanor or violation before ninety (90) days from the date of an order denying a uniform

petition to seal the misdemeanor or violation;

(4) A new uniform petition to seal a misdemeanor or violation under this section if an appeal of a previous denial of a uniform petition to seal a misdemeanor or violation for the same misdemeanor or violation is still pending; or

(5) A new uniform petition to seal a misdemeanor or violation under this section if:

(A) The person was a holder of a commercial driver license or commercial learner's permit at the time the misdemeanor or violation was committed; and

(B) The misdemeanor or violation was a traffic offense, other than a parking violation, vehicle weight violation, or vehicle defect violation, committed in any type of motor vehicle.

(c) Except as provided in subsection (b) of this section, a person is eligible to file a uniform petition to seal a misdemeanor or violation under this section even if his or her misdemeanor or violation occurred before January 1, 2014.

SECTION 2. Arkansas Code § 16-90-1406 is amended to read as follows:
16-90-1406. Felony convictions eligible for sealing.

(a) Unless prohibited under § 16-90-1408, a person may petition a court to seal a record of a conviction immediately after ~~five (5) years has elapsed since~~ the completion of the person's sentence for:

(1) A nonviolent Class C felony or nonviolent Class D felony;

(2) An unclassified felony;

(3) An offense under § 5-64-401 et seq. that is a Class A felony or Class B felony;

(4) Solicitation to commit, attempt to commit, or conspiracy to commit the substantive offenses listed in subdivisions (a)(1)-(3) of this section; or

(5) A felony not involving violence committed while the person was less than eighteen (18) years of age.

(b) Unless prohibited under § 16-90-1408, a person may petition a court with jurisdiction to seal a record of a conviction under this section after five (5) years have elapsed since the completion of the person's sentence for a violent Class C felony or a violent Class D felony.

~~(b)(1)(A)(c)(1)(A)~~ The petitioner can have no more than one (1) previous felony conviction.

(B) For the sole purpose of calculating the number of previous felony convictions under this section, all felony offenses that were committed as part of the same criminal episode and for which the person was convicted are a single conviction.

(2) The fact that a prior felony conviction has been previously sealed shall not prevent its counting as a prior conviction for the purposes of this subsection.

SECTION 3. Arkansas Code § 16-90-1419 is amended to read as follows:
16-90-1419. Filing fee.

~~(a)~~ The circuit clerk or district court clerk shall not collect a fee of fifty dollars ~~(\$50.00)~~ for filing the uniform petition ~~unless the petitioner is indigent and the fee is waived under Rule 72 of the Arkansas Rules of Civil Procedure under this subchapter.~~

~~(b) The circuit clerk or district court clerk shall remit:~~

~~(1) One half ($\frac{1}{2}$) of the fee by the tenth day of each month to the Administration of Justice Funds Section of the Office of Administrative Services of the Department of Finance and Administration on a form provided by that office for deposit into the State Administration of Justice Fund; and~~

~~(2) The remaining one half ($\frac{1}{2}$) of the fee as follows:~~

~~(A) If collected in circuit court, to the county treasurer to be deposited into the county general fund by the tenth day of each month;~~

~~(B) If collected in district court, to the treasury of each political subdivision that contributes to the expenses of the district court based on the percentage of the expenses contributed by the political subdivision by the tenth day of each month; or~~

~~(C) In a district court funded solely by the county, to the county treasurer of the county in which the district court is located to be deposited into the county general fund by the tenth day of each month.~~

/s/Boyd

APPROVED: 4/3/19