

HB 1200 -- EXPUNGEMENT OF CRIMINAL RECORDS

SPONSOR: Mitten

This bill changes the laws regarding petitions for the expungement of criminal records. In its main provisions, the bill:

(1) Raises the amount of the assessed surcharge for an expungement petition from \$100 to \$500 and allows the judge to waive the surcharge when the petitioner is found to be indigent and unable to pay the costs;

(2) Repeals the one petition limitation per circuit court; allows a person who was charged or found guilty to apply for expungement; and allows a person to file petitions, over the course of his or her lifetime, seeking 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 as counts in the same indictment or information or were committed as part of the same course of criminal conduct, the person may include all the related offenses or violations in the same petition, and it must only count as a petition for the expungement of the highest level violation or offense for purposes of determining future eligibility for expungement. The bill specifies certain offenses and violations that must not be eligible for expungement;

(3) 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 not be filed until five years after completion of any sentence. A person must not be eligible to file an expungement petition if he or she has been found guilty of any misdemeanor or felony offense during that time;

(4) Changes the information that must be on the petition and repeals a provision requiring the court to dismiss a petition if all of the required information is not included;

(5) Requires the judge to grant an expungement if the municipal prosecutor or prosecuting or circuit attorney does not object within 30 days and the petitioner has an eligible offense, has not been found guilty of another offense, has no pending charges, and has met all the conditions of his or her sentence. If he or she does object, the court must hold a hearing within 60 days to determine whether the interests of justice warrant the expungement. There must be a presumption that the expungement is warranted if the petitioner meets the specified criteria;

(6) Requires the Office of State Courts Administrator to prepare and make available a form for pro se litigants seeking expungement;

(7) Requires the court to provide a copy of the expungement petition as notice to the office that prosecuted the violations or offenses;

(8) Requires each entity processing records subject to an expungement order to seal, not destroy, any record in its possession relating to any offense listed in the petition; and

(9) Repeals a provision prohibiting a person whose petition was dismissed from refiling another petition until a year after the date of filing the previous petition.