



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
First Regular Session

House: JUD DPA 8-0-0-0-0

HB 2302: misdemeanor expungement; requirements; procedure

Sponsor: Representative Carter, LD 15

House Engrossed

Overview

Allows a person who was convicted of a misdemeanor offense to submit a petition for expungement (Petition) with the convicting court provided that the individual satisfies all outlined requirements. Specifies the procedures a court must follow when reviewing a Petition.

History

Current law allows an eligible person who has been convicted of a criminal offense to apply to the court to have the judgment of guilt set aside. When reviewing the application to set aside judgement (Application), the court is mandated to review a multitude of factors, record all reasoning regarding the Application in writing and allow any victims to be present at the hearing if desired. A conviction that has been set aside may not be redacted or removed from the individual's record but must contain an annotation indicating that it has been set aside.

Statute requires a court to issue a certificate of second chance (Certificate) upon approval of the Application if the individual has not previously received a Certificate and any of the following are true:

- 1) The conviction is for a misdemeanor, class 4, 5 or 6 felony and a minimum of two years has passed since the fulfillment of probation or sentencing conditions; or
- 2) The conviction is for a class 2 or 3 felony and a minimum of five years has passed since the fulfillment of all probation or sentencing conditions.

The Certificate releases an individual from any barriers resulting from the set aside conviction while obtaining an occupational license under A.R.S. Title 32. Additionally, a Certificate restores the individual's right to possess a firearm and provides the individual's employer and other entities with protections pursuant to [A.R.S. § 12-588.03](#) ([A.R.S. § 13-905](#)).

Provisions

1. Beginning on January 1, 2024, allows individuals convicted of a misdemeanor to file a Petition with the convicting court provided that:
 - a) A minimum of three years has passed since the petitioner fulfilled all probation or sentencing conditions; and
 - b) The conviction is not for:
 - i) Sexual offenses under A.R.S. Title 13, Chapter 14;
 - ii) Sexual exploitation of children offenses under A.R.S. Title 13, Chapter 35.1;
 - iii) Driving under the influence offenses under A.R.S. Title 28, Chapter 4;
 - iv) Domestic violence offenses under A.R.S. § 13-3601; or
 - v) A felony or other excluded offense at the same time as the misdemeanor offense. (Sec. 1)

Prop 105 (45 votes) Prop 108 (40 votes) Emergency (40 votes) Fiscal Note

2. Requires the Petition to include:
 - a) Whether the probationer has fulfilled the conditions of their sentence or probation;
 - b) Additional arrests or convictions the petitioner may have;
 - c) Any third-party written recommendations in support of expungement. (Sec. 1)
3. Requires the petitioner to attest to the following and requires a court to deny a Petition if the court knows that any of them apply:
 - a) The petitioner has previously obtained expungement in any jurisdiction for an offense which would classify as a felony in the state of Arizona;
 - b) The petitioner has unresolved or pending matters in any jurisdiction;
 - c) The petitioner has failed to pay the full amount of restitution or fines ordered pursuant to A.R.S. Title 13, Chapter 8. (Sec. 1)
4. Instructs all records of an individual's conviction to be sealed and prohibits any law enforcement agency or court from releasing copies of the records unless otherwise directed by court order, upon judicial approval of the Petition. (Sec. 1)
5. Requires a court to forward a copy of the order of expungement to the Arizona Department of Transportation, if appropriate. (Sec. 1)
6. If the victim has requested post-conviction notice, requires the prosecuting attorney to provide the victim with notice of the defendant's petition for expungement and inform the victim of the victim's right to be heard on the petition.
7. Specifies that an individual with an expunged conviction may respond to any inquiries as if the conviction did not exist. (Sec. 1)