

REFERENCE TITLE: sealing; arrest records; sentence reduction

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2856

Introduced by
Representative Rivero

AN ACT

AMENDING SECTION 13-911, ARIZONA REVISED STATUTES; RELATING TO PROBATION
AND RESTORATION OF CIVIL RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-911, Arizona Revised Statutes, is amended to
3 read:

4 13-911. Sealing of arrest, conviction and sentencing records;
5 requirements; fee; appeal; definition

6 A. A person may file a petition to seal all case records related to
7 a criminal offense if the person was:

8 1. Convicted of a criminal offense and has completed all of the
9 terms and conditions of the sentence that was imposed by the court,
10 including the payment of all monetary obligations and restitution to all
11 victims.

12 2. Charged with a criminal offense and the charge was subsequently
13 dismissed or resulted in a not guilty verdict at a trial.

14 3. Arrested for a criminal offense and no charges were filed.

15 B. All case records that are sealed pursuant to this section may
16 be:

17 1. Alleged as an element of an offense.

18 2. Used as a historical prior felony conviction.

19 3. Admissible for impeaching any party or witness in a subsequent
20 trial.

21 4. Used to enhance the sentence for a subsequent felony.

22 5. Used to enhance the sentence pursuant to sections 28-1381 and
23 28-1382.

24 6. Pleaded and proved in any subsequent prosecution of the person
25 by this state or a political subdivision of this state.

26 7. Used as a conviction if the conviction would be admissible if
27 the conviction was not sealed.

28 C. The person shall file a petition to seal all case records in one
29 of the following:

30 1. The court in which the person was convicted of an offense.

31 2. The court in which an indictment, information, criminal citation
32 or complaint against the person was filed and the charges were dismissed,
33 the person was found not guilty or the person's conviction was vacated,
34 except that if the complaint was filed in a justice court and a subsequent
35 information was filed, the petition must be filed in the superior court.

36 3. The court in which the person had an initial appearance if
37 charges were not filed.

38 4. The superior court in the county where a person was arrested if
39 the person did not have an initial appearance and no charges were filed.

40 D. The court may not grant or deny a petition to seal a person's
41 case records until sixty calendar days after the court receives the
42 petition unless the court receives notice that both the prosecutor and all
43 victims who have made a request for postconviction notice do not object to
44 the petition. Unless the petitioner, prosecutor or victim requests a
45 hearing, the court may grant or deny a petition to seal case records

1 without a hearing. The court may dismiss a petition that does not meet
2 the requirements prescribed in this section without a hearing. The court
3 shall grant the petition if the court determines that granting the
4 petition is in the best interests of the petitioner and the public's
5 safety. The clerk of the court shall provide a copy of the petition to
6 seal case records to the prosecutor. The prosecutor may respond to the
7 petition and request a hearing. The victim has a right to be present and
8 heard at any proceeding in which the defendant has filed a petition to
9 seal case records. If the victim has made a request for postconviction
10 notice, the prosecutor shall provide the victim with notice of the
11 defendant's petition and of the victim's rights under this section.

12 E. At the time of sentencing, the court shall inform the person on
13 the record that the person may be eligible to petition the court for an
14 order that seals all case records of the person's arrest, conviction and
15 sentence that are related to the offense pursuant to this section and
16 shall provide this notice in writing. A person who was convicted of any
17 eligible offense may petition the court to seal the person's records of
18 arrest, conviction and sentence after the person completes all of the
19 nonmonetary terms and conditions of the person's sentence ordered by the
20 court, and the following period of time has passed since the person
21 completed the nonmonetary conditions of probation or sentence and was
22 discharged by the court:

- 23 1. Ten years for a class 2 or 3 felony.
- 24 2. Five years for a class 4, 5 or 6 felony.
- 25 3. Three years for a class 1 misdemeanor.
- 26 4. Two years for a class 2 or 3 misdemeanor.

27 F. A person whose case records have been sealed pursuant to
28 subsection E of this section and who commits a subsequent felony offense
29 may petition the court pursuant to subsection E of this section to seal
30 the person's records of arrest, conviction and sentence relating to the
31 subsequent felony offense after the applicable period of time prescribed
32 in subsection E of this section for the subsequent felony offense has
33 expired and an additional five years have passed.

34 G. A petitioner is required to have paid all fines, fees and
35 restitution ordered by the court at the time of filing the petition to be
36 eligible to seal case records pursuant to this section.

37 H. After a petition to seal case records is filed, the court shall
38 notify the department of public safety and request the department to
39 prepare and submit a report to the court that includes all of the
40 petitioner's state and federal arrests, prosecutions and convictions and
41 any other information that the court requests or that the department
42 believes will assist the court in making its determination. The director
43 may charge the petitioner a fee that is determined by the director for the
44 investigation unless the petitioner is indigent or has been found not

1 guilty or the case was dismissed or not prosecuted and the petition is
2 filed pursuant to subsection C, paragraph 2 or 3 of this section.

3 I. If the court grants a petition to seal case records:

4 1. The court shall issue an order sealing all records relating to
5 the petitioner's arrest, conviction and sentence and directing the clerk
6 of the court to notify the department of public safety and the prosecutor
7 of the sealing order.

8 2. On order of a court, the clerk of the court shall seal all case
9 records relating to the petitioner's arrest, conviction and sentence. A
10 court order to seal case records pursuant to this section is subject only
11 to the disclosure requirements in this section and shall be treated
12 differently than a record that is sealed pursuant to any other statute or
13 court rule. The clerk shall create and manage a system for sealing case
14 records pursuant to this section and for providing sealed case records to
15 an entity or person that is listed in subsection J of this section and
16 that requests the record. On the request of an entity or person listed in
17 subsection J of this section, the clerk shall provide the entity or person
18 with any sealed case records. The clerk may not provide sealed case
19 records pursuant to this section to any person or entity that is not
20 listed in subsection J of this section.

21 3. The department of public safety shall designate the case records
22 as sealed within the department's records and inform all appropriate state
23 and federal law enforcement agencies of the sealing. The department may
24 not share or provide sealed case records with any person or entity or for
25 any purpose that is not listed in subsections B and J of this section.
26 The department may charge the successful petitioner a fee determined by
27 the director to research and correct the petitioner's criminal history
28 record unless the petitioner is indigent or has been found not guilty or
29 the case has been dismissed or not prosecuted and the petition is filed
30 pursuant to subsection C, paragraph 2 or 3 of this section.

31 4. The arresting and prosecuting agencies shall clearly identify in
32 each agency's files and electronic records that the petitioner's arrest or
33 conviction and sentence records are sealed.

34 5. A person whose records are sealed pursuant to this section may
35 state, in all instances, that the person has never been arrested for,
36 charged with or convicted of the crime that is the subject of the arrest
37 or conviction, including in response to questions on employment, housing,
38 financial aid or loan applications unless any of the following applies:

39 (a) The person is submitting an application that requires a
40 fingerprint clearance card pursuant to title 41, chapter 12, article 3.1.

41 (b) The sealed case records involved a class 2 or class 3 felony
42 violation of chapter 34 of this title.

43 (c) The sealed case records involved burglary under section
44 13-1506, 13-1507 or 13-1508, theft under section 13-1802 or organized
45 retail theft under section 13-1819 from a residential or nonresidential

1 structure and the person is applying for a job that requires entering into
2 and performing services inside of a residential structure.

3 (d) The sealed case records involved child abuse under section
4 13-3623 or aggravated assault under section 13-1204 and the person is
5 applying for a job involving supervising, educating or administering care
6 to a minor.

7 (e) The sealed case records involved vulnerable adult abuse under
8 section 13-3623 and the person is applying for a job involving supervising
9 or administering care to a vulnerable adult or a person who is at least
10 sixty-five years of age.

11 (f) The sealed case records involved a violation of section
12 5-395.01, 5-396, 5-397, 13-1814, 28-1381, 28-1382, 28-1383, 28-8282,
13 28-8284, 28-8286, 28-8287 or 28-8288 and the person is applying for a job
14 involving the commercial or private operation of a motor vehicle, boat or
15 airplane.

16 (g) The sealed case records involved a violation of chapter 18, 19,
17 20, 21, 22 or 23 of this title or telecommunication fraud under section
18 13-3707 and the person is applying for a job involving accounting,
19 overseeing, transporting, handling or managing another person's money or
20 financial assets.

21 (h) The person is applying for a position with a law enforcement
22 agency, a prosecutor's office, a court, a probation department, a child
23 welfare agency as defined in section 8-501, the department of child
24 safety, the department of juvenile corrections or the state department of
25 corrections.

26 (i) The person is undergoing a background check for the placement
27 with that person of a child who is in the custody of the department of
28 child safety.

29 (j) The disclosure is required by a state or federal law.

30 (k) The disclosure is required to comply with program integrity
31 provisions of medicare, medicaid or any other federal health care program.

32 6. The person's employer is not liable for hiring or contracting
33 with the person as prescribed in section 12-558.03.

34 J. If the person's case records are sealed pursuant to this
35 section, the records shall be made available for the purposes listed in
36 subsection B of this section and to the following:

37 1. The person whose records are sealed and any attorney who has
38 filed a notice of appearance on behalf of the person whose records are
39 sealed.

40 2. The victim in the case if the victim has exercised victims'
41 rights pursuant to section 13-4414.

42 3. Any of the following if the purpose relates to the operation of
43 the requesting party's official duties or internal hiring practices, or
44 both:

45 (a) A law enforcement agency.

1 (b) A prosecuting agency. On request of a person who is charged
2 with a criminal offense or that person's attorney of record, a prosecuting
3 agency shall provide the sealed case records of any person whom the
4 prosecuting agency intends to call as a witness in that person's
5 prosecution.

6 (c) A probation department or any agency that is responsible for
7 the preparation of a presentence report.

8 (d) A court.

9 (e) The department of child safety or a child welfare agency as
10 defined in section 8-501.

11 (f) The department of juvenile corrections.

12 (g) The state department of corrections or any other correctional
13 facility in this state.

14 (h) The clerk of the court or any department that is responsible
15 for maintaining court records.

16 K. This section does not require the supreme court or the court of
17 appeals to seal any record.

18 L. If the court denies a petition to seal case records, a person
19 may not file a new petition until three years after the date of the
20 denial.

21 M. A conviction for an offense that is committed in another
22 jurisdiction and that if committed in this state would not constitute an
23 offense in this state may not be used against the petitioner or prohibit
24 the petitioner from having a record sealed. For the purposes of this
25 section, the classification of an offense committed in another
26 jurisdiction has the classification that the offense would have if
27 committed in this state.

28 N. If the petitioner has a charge pending or is charged with an
29 offense after filing a petition to seal case records pursuant to
30 subsection C, paragraph 3 or 4 of this section and the charge could result
31 in a conviction that cannot be sealed or that could extend the time to
32 file a petition to seal case records, the court may not grant or deny the
33 petition until the court disposes of that charge.

34 O. The following offenses are not eligible to be sealed pursuant to
35 this section:

36 1. A dangerous offense as defined in section 13-105.

37 2. A dangerous crime against children as defined in section 13-705.

38 3. A serious offense or violent or aggravated felony as defined in
39 section 13-706.

40 4. Any offense that has either of the following as an element of
41 the offense:

42 (a) The discharge, use or threatening exhibition of a deadly weapon
43 or dangerous instrument.

44 (b) The knowing infliction of serious physical injury on another
45 person.

1 5. Sex trafficking pursuant to section 13-1307.

2 6. A class 2, 3, 4 or 5 felony offense that is included in chapter
3 14 or 35.1 of this title.

4 P. This section does not affect any of the following:

5 1. The right of the person whose case records are sealed to appeal
6 the conviction or sentence or to rely on it in bar of any subsequent
7 proceeding for the same offense.

8 2. The right of a law enforcement agency to maintain an arrest and
9 conviction record and to communicate information regarding the sealed
10 record of arrest or conviction to prosecuting agencies, courts, probation
11 departments and other law enforcement agencies for a purpose listed in
12 subsection J of this section or in defense of a civil action that arises
13 out of the facts of the arrest or to the Arizona peace officer standards
14 and training board solely to assist the board in determining the fitness
15 of a person to serve as a peace officer, except that in any of these cases
16 the information may not be disclosed to any person or entity that is not
17 listed in subsection J of this section.

18 3. The department of public safety or the board of fingerprinting
19 from considering a conviction that is sealed pursuant to this section when
20 evaluating an application for a fingerprint clearance card pursuant to
21 section 41-1758.03 or 41-1758.07, except that the board of fingerprinting
22 shall consider sealed case records as a mitigating circumstance in
23 determining whether to grant a good cause exception pursuant to section
24 41-619.55.

25 4. A court from issuing a lifetime injunction pursuant to section
26 13-719 or the validity of a lifetime injunction that was issued pursuant
27 to section 13-719.

28 Q. NOTWITHSTANDING SUBSECTION A OF THIS SECTION AND SECTION 13-604,
29 AFTER THE PERSON HAS COMPLETED ALL OF THE TERMS AND CONDITIONS OF THE
30 SENTENCE THAT WAS IMPOSED BY THE COURT, INCLUDING THE PAYMENT OF ALL
31 MONETARY OBLIGATIONS, AND AFTER A PERIOD OF FIVE YEARS HAS PASSED, THE
32 COURT SHALL PERMANENTLY DESIGNATE THE FELONY CONVICTION AS A CLASS 1
33 MISDEMEANOR IF THE PERSON WAS CONVICTED OF A NONDANGEROUS CLASS 4, 5 OR 6
34 FELONY OFFENSE AND THE OFFENSE INVOLVED NO VICTIM.

35 ~~Q.~~ R. For the purposes of this section, "case records" means all
36 records that pertain to a person's arrest, conviction and sentence for a
37 particular offense and that may be sealed pursuant to this section.