

REFERENCE TITLE: marijuana convictions; misdemeanors; fines; assessments

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HB 2801

Introduced by
Representative Volk

AN ACT

AMENDING SECTION 36-2862, ARIZONA REVISED STATUTES; RELATING TO ADULT USE OF MARIJUANA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Subject to the requirements of article IV, part 1,
3 section 1, Constitution of Arizona, section 36-2862, Arizona Revised
4 Statutes, is amended to read:

5 36-2862. Expungement; petition; appeal; dismissal of
6 complaints; rules

7 A. ~~Beginning July 12, 2021,~~ An individual who was arrested for,
8 charged with, adjudicated or convicted by trial or plea of, or sentenced
9 for, any of the following offenses based on or arising out of conduct
10 occurring before ~~the effective date of this section~~ NOVEMBER 30, 2020 may
11 petition the court to have the record of that arrest, charge,
12 adjudication, conviction or sentence expunged:

13 1. Possessing, consuming or transporting two and one-half ounces or
14 less of marijuana, of which not more than twelve and one-half grams was in
15 the form of marijuana concentrate.

16 2. Possessing, transporting, cultivating or processing not more
17 than six marijuana plants at the individual's primary residence for
18 personal use.

19 3. Possessing, using or transporting paraphernalia relating to the
20 cultivation, manufacture, processing or consumption of marijuana.

21 B. If the court receives a petition for expungement pursuant to
22 this section:

23 1. The court shall notify the prosecuting agency of the filing of
24 the petition, and allow the prosecuting agency to respond to the petition
25 within thirty days.

26 2. The court may hold a hearing:

27 (a) On the request of either the petitioner or the prosecuting
28 agency.

29 (b) If the court concludes there are genuine disputes of fact
30 regarding whether the petition should be granted.

31 3. The court shall grant the petition unless the prosecuting agency
32 establishes by clear and convincing evidence that the petitioner is not
33 eligible for expungement.

34 4. The court shall issue a signed order or minute entry granting or
35 denying the petition in which it makes findings of fact and conclusions of
36 law.

37 C. If the court grants a petition for expungement:

38 1. The signed order or minute entry required pursuant to
39 subsection B, paragraph 4 of this section shall do all of the following:

40 (a) If the petitioner was adjudicated or convicted of an offense
41 set forth in subsection A of this section, vacate the judgment of
42 adjudication or conviction.

43 (b) State that it expunges any record of the petitioner's arrest,
44 charge, conviction, adjudication and sentence.

1 (c) If the petitioner was convicted or adjudicated of an offense
2 set forth in subsection A of this section, state that the petitioner's
3 civil rights, including the right to possess firearms, are restored,
4 unless the petitioner is otherwise not eligible for the restoration of
5 civil rights on grounds other than a conviction for an offense set forth
6 in subsection A of this section.

7 (d) Require the clerk of the court to notify the department of
8 public safety, the prosecuting agency and the arresting law enforcement
9 agency, if applicable, of the expungement order.

10 (e) Require the clerk of the court to seal all records relating to
11 the expunged arrest, charge, adjudication, conviction or sentence and
12 allow the records to be accessed only by the individual whose record was
13 expunged or the individual's attorney.

14 2. The department of public safety shall seal and separate the
15 expunged record from its records and inform all appropriate state and
16 federal law enforcement agencies of the expungement. Unless the petitioner
17 is indigent, the department of public safety may charge the successful
18 petitioner a reasonable fee determined by the director of the department
19 of public safety to research and correct the petitioner's criminal history
20 record.

21 3. The arresting and prosecuting agencies shall clearly identify in
22 each agency's files and electronic records that the petitioner's arrest,
23 charge, conviction, adjudication and sentence are expunged and shall not
24 make any records of the expunged arrest, charge, conviction, adjudication
25 or sentence available as a public record to any person except to the
26 individual whose record was expunged or that individual's attorney.

27 D. An arrest, charge, adjudication, conviction or sentence that is
28 expunged pursuant to this section may not be used in a subsequent
29 prosecution by a prosecuting agency or court for any purpose.

30 E. An individual whose record of arrest, charge, adjudication,
31 conviction or sentence is expunged pursuant to this section may state that
32 the individual has never been arrested for, charged with, adjudicated or
33 convicted of, or sentenced for the crime that is the subject of the
34 expungement.

35 F. If the court denies a petition for expungement, the petitioner
36 may file a direct appeal pursuant to section 13-4033, subsection A,
37 paragraph 3.

38 G. On motion, the court shall dismiss with prejudice any pending
39 complaint, information or indictment based on any offense set forth in
40 subsection A of this section, to include charges or allegations based on
41 or arising out of conduct occurring before ~~the effective date of this~~
42 ~~chapter~~ NOVEMBER 30, 2020. The individual charged may thereafter petition
43 the court to expunge records of the arrest and charge or allegation as
44 provided in this section. A motion brought pursuant to this subsection
45 may be filed with the court before July 12, 2021.

1 H. The supreme court may adopt rules necessary to implement this
2 section, and may also sponsor public service announcements or other
3 notifications intended to provide notice to individuals who may be
4 eligible to file petitions for expungement pursuant to this section.

5 I. A prosecuting agency may file a petition for expungement
6 pursuant to this section on behalf of any individual who was prosecuted by
7 that prosecuting agency, and the attorney general may file a petition for
8 expungement pursuant to this section on behalf of any individual.

9 J. FOR A PERSON WHO IS ELIGIBLE TO PETITION THE COURT FOR
10 EXPUNGEMENT PURSUANT TO THIS SECTION, THE COURT, ON ITS OWN MOTION, MAY
11 VACATE ANY UNSATISFIED FINE, ASSESSMENT, SENTENCING REQUIREMENT OR TERM OF
12 PROBATION ASSOCIATED WITH AN ADJUDICATION OR CONVICTION OF ANY OFFENSE
13 SPECIFIED IN SUBSECTION A OF THIS SECTION.

14 Sec. 2. Requirements for enactment; three-fourths vote

15 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
16 section 36-2862, Arizona Revised Statutes, as amended by this act, is
17 effective only on the affirmative vote of at least three-fourths of the
18 members of each house of the legislature.