**South Carolina General Assembly**

121st Session, 2015-2016

**A22, R43, S133**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Davis and Kimpson

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Introduced in the Senate on January 13, 2015

Introduced in the House on April 21, 2015

Last Amended on May 20, 2015

Passed by the General Assembly on May 26, 2015

Governor's Action: June 1, 2015, Signed

Summary: Automatic expungement of juvenile records

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/3/2014 Senate Prefiled

12/3/2014 Senate Referred to Committee on **Judiciary**

1/13/2015 Senate Introduced and read first time ([Senate Journal‑page 93](file:///h:\SJ%20Archive\2015\01-13-15.docx))

1/13/2015 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 93](file:///h:\SJ%20Archive\2015\01-13-15.docx))

3/20/2015 Senate Referred to Subcommittee: Thurmond (ch), Allen, Corbin

4/1/2015 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 8](file:///h:\SJ%20Archive\2015\04-01-15.docx))

4/15/2015 Senate Committee Amendment Adopted ([Senate Journal‑page 17](file:///h:\SJ%20Archive\2015\04-15-15.docx))

4/15/2015 Senate Read second time ([Senate Journal‑page 17](file:///h:\SJ%20Archive\2015\04-15-15.docx))

4/15/2015 Senate Roll call Ayes‑44 Nays‑0 ([Senate Journal‑page 17](file:///h:\SJ%20Archive\2015\04-15-15.docx))

4/16/2015 Senate Read third time and sent to House ([Senate Journal‑page 16](file:///h:\SJ%20Archive\2015\04-16-15.docx))

4/21/2015 House Introduced and read first time ([House Journal‑page 15](file:///h:\HJ%20Archive\2015\04-21-15.docx))

4/21/2015 House Referred to Committee on **Judiciary** ([House Journal‑page 15](file:///h:\HJ%20Archive\2015\04-21-15.docx))

5/13/2015 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 48](file:///h:\HJ%20Archive\2015\05-13-15.docx))

5/19/2015 House Debate adjourned until Wed., 5‑20‑15 ([House Journal‑page 73](file:///h:\HJ%20Archive\2015\05-19-15.docx))

5/20/2015 House Amended ([House Journal‑page 15](file:///h:\HJ%20Archive\2015\05-20-15.docx))

5/20/2015 House Read second time ([House Journal‑page 15](file:///h:\HJ%20Archive\2015\05-20-15.docx))

5/20/2015 House Roll call Yeas‑59 Nays‑22 ([House Journal‑page 16](file:///h:\HJ%20Archive\2015\05-20-15.docx))

5/21/2015 House Read third time and returned to Senate with amendments ([House Journal‑page 11](file:///h:\HJ%20Archive\2015\05-21-15.docx))

5/26/2015 Senate Concurred in House amendment and enrolled ([Senate Journal‑page 23](file:///h:\SJ%20Archive\2015\05-26-15.docx))

5/26/2015 Senate Roll call Ayes‑45 Nays‑0 ([Senate Journal‑page 23](file:///h:\SJ%20Archive\2015\05-26-15.docx))

5/28/2015 Ratified R 43

6/1/2015 Signed By Governor

6/4/2015 Effective date 06/01/15

6/5/2015 Act No. 22

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**VERSIONS OF THIS BILL**

[12/3/2014](file:///p:\pprever\2015-16\133_20141203.docx)

[4/1/2015](file:///p:\pprever\2015-16\133_20150401.docx)

[4/15/2015](file:///p:\pprever\2015-16\133_20150415.docx)

[5/13/2015](file:///p:\pprever\2015-16\133_20150513.docx)

[5/20/2015](file:///p:\pprever\2015-16\133_20150520.docx)

(A22, R43, S133)

**AN ACT TO AMEND SECTION 17‑22‑910, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO APPLICATIONS FOR THE EXPUNGEMENT OF CRIMINAL RECORDS, SO AS TO ESTABLISH LIMITATIONS ON THE COURT’S RIGHT TO CONSIDER OFFENSES FOR WHICH A PERSON COULD HAVE BEEN CHARGED, WHEN DETERMINING ELIGIBILITY; AND TO AMEND SECTION 63‑19‑2050, RELATING TO EXPUNGEMENT OF JUVENILE RECORDS, TO PROVIDE FOR CERTAIN RIGHTS TO AND REQUIREMENTS FOR EXPUNGEMENT OF RECORDS OF STATUS OFFENSES AND OF NONVIOLENT CRIMINAL OFFENSES COMMITTED BY A JUVENILE.**

Be it enacted by the General Assembly of the State of South Carolina:

**Applications for expungement of criminal records**

SECTION 1. Section 17‑22‑910 of the 1976 Code, as last amended by Act 276 of 2014, is further amended to read:

“Section 17‑22‑910. (A) Applications for expungement of all criminal records must be administered by the solicitor’s office in each circuit in the State as authorized pursuant to:

(1) Section 34‑11‑90(e), first offense misdemeanor fraudulent check;

(2) Section 44‑53‑450(b), conditional discharge;

(3) Section 22‑5‑910, first offense conviction in magistrates court;

(4) Section 22‑5‑920, youthful offender act;

(5) Section 56‑5‑750(f), first offense failure to stop when signaled by a law enforcement vehicle;

(6) Section 17‑22‑150(a), pretrial intervention;

(7) Section 17‑1‑40, criminal records destruction, except as provided in Section 17‑22‑950;

(8) Section 63‑19‑2050, juvenile expungements;

(9) Section 17‑22‑530(A), alcohol education program;

(10) Section 17‑22‑330(A), traffic education program; and

(11) any other statutory authorization.

(B) A person’s eligibility for expungement of an offense contained in this section, or authorized by any other provision of law, must be based on the offense that the person pled guilty to or was convicted of committing and not on an offense for which the person may have been charged.”

**Juvenile expungements**

SECTION 2. Section 63‑19‑2050 of the 1976 Code is amended to read:

“Section 63‑19‑2050. (A)(1) A person who has been taken into custody for, charged with, or adjudicated delinquent for having committed a status offense or a nonviolent crime, as defined in Section 16‑1‑70, may petition the court for an order expunging all official records relating to:

(a) being taken into custody;

(b) the charges filed against the person;

(c) the adjudication; and

(d) the disposition.

(2) A person may not petition the court if the person has a prior adjudication for an offense that would carry a maximum term of imprisonment of five years or more if committed by an adult.

(B) A prosecution or law enforcement agency may file an objection to the expungement. If an objection is filed, the expungement must be heard by the court. The prosecution or law enforcement agency’s reason for objecting must be that the person has other charges pending or the charges are not eligible for expungement. The prosecution or law enforcement agency shall notify the person of the objection. The notice must be given in writing at the most current address on file with the court, or through the person’s counsel of record.

(C)(1) If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed a status offense, the court shall grant the expungement order. If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed multiple status offenses, the court may grant an expungement order for the multiple status offenses.

(2) If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed a nonviolent crime, as defined in Section 16‑1‑70, the court may grant the expungement order.

(3) The court shall not grant the expungement order unless the court finds that the person is at least seventeen years of age, has successfully completed any dispositional sentence imposed, has not been subsequently adjudicated for or convicted of any criminal offense, and does not have any criminal charges pending in family court or general sessions court. If the person was found not guilty in an adjudicatory hearing in the family court, the court shall grant the expungement order regardless of the person’s age and the person must not be charged a fee for the expungement. An adjudication for a violent crime, as defined in Section 16‑1‑60, must not be expunged.

(D) If the expungement order is granted by the court, the records must be destroyed or retained by any law enforcement agency or municipal, county, state agency, or department pursuant to the provisions of Section 17‑1‑40.

(E) The effect of the expungement order is to restore the person in the contemplation of the law to the status the person occupied before being taken into custody. No person to whom the expungement order has been entered may be held thereafter under any provision of law to be guilty of perjury or otherwise giving false statement by reason of failing to recite or acknowledge the charge or adjudication in response to an inquiry made of the person for any purpose.

(F) For purposes of this section, an adjudication is considered a previous adjudication only if the adjudication occurred prior to the date the subsequent offense was committed.

(G) The judge, at the time of adjudication, shall notify the person of the person’s ability to have the person’s record expunged, the conditions that must be met, as well as the process for receiving an expungement in the particular jurisdiction pursuant to this section.”

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 28th day of May, 2015.

Approved the 1st day of June, 2015.

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