~~Indicates Matter Stricken~~

Indicates New Matter

CONFERENCE COMMITTEE REPORT ADOPTED -- NOT PRINTED

June 27, 2018

**H. 3789**

Introduced by Reps. Govan, Yow, Henegan, J.E. Smith, Thigpen, Hart, Clemmons, Whipper and Brown

S. Printed 5/10/17--H.

Read the first time February 16, 2017.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA YOUTH CHALLENGE ACADEMY AND SOUTH CAROLINA JOBS CHALLENGE PROGRAM EXPUNGEMENT ACT”; BY ADDING ARTICLE 10 TO CHAPTER 22, TITLE 17 SO AS TO PROVIDE THAT PERSONS ELIGIBLE FOR EXPUNGEMENT OF A CRIMINAL RECORD PURSUANT TO SECTION 17‑22‑910 WHO SUCCESSFULLY GRADUATE AND COMPLETE THE SOUTH CAROLINA YOUTH CHALLENGE ACADEMY AND SOUTH CAROLINA JOBS CHALLENGE PROGRAM ADMINISTERED BY THE SOUTH CAROLINA ARMY NATIONAL GUARD MAY APPLY TO HAVE THEIR RECORD EXPUNGED UPON SUCCESSFUL GRADUATION AND COMPLETION OF THE PROGRAMS UNDER CERTAIN DELINEATED CIRCUMSTANCES; AND TO AMEND SECTION 17‑22‑940, AS AMENDED, RELATING TO THE EXPUNGEMENT PROCESS, SO AS TO INCLUDE A REFERENCE TO THE DIRECTOR OF THE SOUTH CAROLINA YOUTH CHALLENGE ACADEMY ATTESTING TO THE ELIGIBILITY OF THE CHARGE FOR EXPUNGEMENT ON AN EXPUNGEMENT APPLICATION.

Whereas, the South Carolina General Assembly recognizes the efforts of the South Carolina National Guard in administering the South Carolina Youth Challenge Academy program designed to help at-risk youth learn basic skills and achieve the education necessary to succeed in life; and

Whereas, offering two classes a year, the program provides a unique educational environment and serves the state's youth looking for a second chance to succeed; and

Whereas, the program is led by current and retired members of the South Carolina Army National Guard and other branches of the military providing military leadership and discipline to students in the program with the eight core components of the intensive residential program being academic excellence, life-coping skills, job skills, health and hygiene, responsible citizenship, service to community, leadership/followership, and physical fitness; and

Whereas, in partnership with the federal Department of Labor, the State is pleased to offer youth who successfully graduate from the program an opportunity to take part in a five and one-half month South Carolina Jobs Challenge Program which provides training for careers in such fields as nursing assistance, welding, and computer technology; and

Whereas, this approximate yearlong commitment by youths ages sixteen to nineteen towards building a better future warrants allowing those youths that may have a criminal record otherwise eligible for expungement to apply to have their record expunged upon the successful graduation and completion of the South Carolina Youth Challenge Academy and the South Carolina Jobs Challenge Program administered by the South Carolina Army National Guard. Now, therefore,

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

SECTION 1. This act may be cited as the “South Carolina Youth Challenge Academy and South Carolina Jobs Challenge Program Expungement Act”.

SECTION 2. Chapter 22, Title 17 of the 1976 Code is amended by adding:

“Article 10

South Carolina Youth Challenge Academy

and South Carolina Jobs Challenge Program Expungement

Section 17-22-1010. (A) A person who is eligible for expungement of his criminal record pursuant to the provisions of Sections 22-5-910, 22-5-920, 34-11-90(e), and 56-5-750(F) may apply to have his record expunged pursuant to the procedures provided in Article 9 if he graduates and successfully completes the South Carolina Youth Challenge Academy and the South Carolina Jobs Challenge Program administered by the South Carolina Army National Guard. Notwithstanding another provision of law, such person may apply for expungement immediately upon graduation and successful completion of the South Carolina Youth Challenge Academy and the South Carolina Jobs Challenge Program.

(B) If the person has had no other conviction during the approximately one-year period as provided in subsection (A), the circuit court may issue an order expunging the records including any associated bench warrant. No person may have his records expunged under this section more than once.

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

(D) The effect of the expungement order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

(E) After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of the expungement to ensure that no person takes advantage of the rights of this section more than once. This nonpublic record is not subject to release pursuant to Section 34-11-95, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this section from being taken advantage of more than once.

(F) As used in this section, 'conviction' includes a guilty plea, a plea of nolo contendere, or the forfeiting of bail.”

SECTION 3. Section 17-22-910 of the 1976 Code, as last amended by Act 22 of 2015, 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) Section 17-22-1010, youth challenge academy and jobs challenge program; and

~~(11)~~(12) 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. In addition, if an offense for which a person was convicted is subsequently repealed and the elements of the offense are consistent with an existing similar offense which is currently eligible for expungement, a person’s eligibility for expungement of an offense must be based on the existing similar offense.

(C) The provisions of this section apply retroactively to allow expungement as provided by law for each offense delineated in subsection (A) by persons convicted prior to the enactment of this section or the addition of a specific item contained in subsection (A).”

SECTION 4. Section 17-22-940(E) of the 1976 Code, as last amended by Act 276 of 2014, is further amended to read:

“(E) In cases when charges are sought to be expunged pursuant to Section 17-22-150(a), 17-22-530(a), 22-5-910, ~~or~~ 44-53-450(b), or 17-22-1010, the circuit pretrial intervention director, alcohol education program director, traffic education program director, South Carolina Youth Challenge Academy director, or summary court judge shall attest by signature on the application to the eligibility of the charge for expungement before either the solicitor or his designee and then the circuit court judge, or the family court judge in the case of a juvenile, signs the application for expungement.”

SECTION 5. This act takes effect upon approval by the Governor.

/s/Sen. George E. “Chip” Campsen, III /s/Rep. Thomas E. “Tommy” Pope

/s/Senator John L. Scott /s/Rep. J. David Weeks

/s/Senator Tom Young, Jr. /s/Rep. Chris Murphy

On Part of the Senate. On Part of the House.

‑‑‑‑XX‑‑‑‑