

AN ACT relating to expungement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 431.078 is amended to read as follows:

(1) Any person who has been convicted of:

(a) A misdemeanor, a violation, or a traffic infraction not otherwise classified as a misdemeanor or violation, or a series of misdemeanors, violations, or traffic infractions arising from a single incident; ~~or~~;

(b) *A series of misdemeanors, violations, or traffic infractions not arising from a single incident;*

may petition the court in which he was convicted for expungement of his misdemeanor or violation record, including a record of any charges for misdemeanors or violations that were dismissed or amended in the criminal action. The person shall be informed of the right at the time of adjudication.

(2) Except as provided in KRS 218A.275(8) and 218A.276(8), the petition shall be filed no sooner than five (5) years after the completion of the person's sentence or five (5) years after the successful completion of the person's probation, whichever occurs later.

(3) Upon the filing of a petition, the court shall set a date for a hearing and shall notify the county attorney; the victim of the crime, if there was an identified victim; and any other person whom the person filing the petition has reason to believe may have relevant information related to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.

(4) ***For a petition brought under subsection (1)(a) of this section,*** the court shall order expunged all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if at the hearing the court finds that:

- (a) The offense was not a sex offense or an offense committed against a child;
 - (b) The person had no previous felony conviction;
 - (c) The person had not been convicted of any other misdemeanor or violation offense in the five (5) years prior to the conviction sought to be expunged;
 - (d) The person had not since the time of the conviction sought to be expunged been convicted of a felony, a misdemeanor, or a violation;
 - (e) No proceeding concerning a felony, misdemeanor, or violation is pending or being instituted against him; and
 - (f) The offense was an offense against the Commonwealth of Kentucky.
- (5) **For a petition brought under subsection (1)(b) of this section, the court may order expunged all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if at the hearing the court finds that:**
- (a) The offense was not a sex offense or an offense committed against a child;**
 - (b) The person had no previous felony conviction;**
 - (c) The person had not been convicted of a felony, a misdemeanor, or a violation since the date of the person's last conviction of a misdemeanor or violation sought to be expunged;**
 - (d) No proceeding concerning a felony, misdemeanor, or violation is pending or being instituted against him; and**
 - (e) The offense was an offense against the Commonwealth of Kentucky.**
- (6)** Upon the entry of an order to expunge the records, and payment to the circuit clerk of one hundred dollars (\$100), the proceedings in the case shall be deemed never to have occurred; the court and other agencies shall cause records to be deleted or removed from their computer systems so that the matter shall not appear on official state-performed background checks; the persons and the court may properly reply that no record exists with respect to the persons upon any inquiry in the matter; and

the person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. The first fifty dollars (\$50) of each fee collected pursuant to this subsection shall be deposited into the general fund, and the remainder shall be deposited into a trust and agency account for deputy clerks.

~~(7)(6)~~ Copies of the order shall be sent to each agency or official named therein.

~~(8)(7)~~ Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.

~~(9)(8)~~ This section shall be deemed to be retroactive, and any person who has been convicted of a misdemeanor prior to July 14, 1992, may petition the court in which he was convicted, or if he was convicted prior to the inception of the District Court to the District Court in the county where he now resides, for expungement of the record of one (1) misdemeanor offense or violation or a series of misdemeanor offenses or violations ~~arising from a single incident~~, provided that the offense was not one specified in subsection (4) and that the offense was not the precursor offense of a felony offense for which he was subsequently convicted. This section shall apply only to offenses against the Commonwealth of Kentucky.

~~(10)(9)~~ As used in this section, "violation" has the same meaning as in KRS 500.080.

~~(11)(10)~~ Any person denied an expungement prior to June 25, 2013, due to the presence of a traffic infraction on his or her record may file a new petition for expungement of the previously petitioned offenses, which the court shall hear and decide under the terms of this section. No court costs or other fees, from the court or any other agency, shall be required of a person filing a new petition under this subsection.