

1 AN ACT relating to expungement.

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

3 ➔Section 1. KRS 431.076 is amended to read as follows:

4 (1) (a) On or after July 15, 2020, if a court enters an order of acquittal of criminal  
5 charges against a person, or enters an order dismissing with prejudice all  
6 criminal charges in a case against a person and not in exchange for a guilty  
7 plea to another charge, the court shall order the record expunged upon the  
8 expiration of thirty (30) days, unless the person objects to the expungement.  
9 As used in this paragraph, "criminal charges" shall not include a traffic  
10 infraction not otherwise classified as a misdemeanor. The order expunging the  
11 records shall not require any action by the person.

12 (b) A person who has been charged with a criminal offense and who has been  
13 acquitted of the charges, or against whom charges have been dismissed and  
14 not in exchange for a guilty plea to another charge, and whose records have  
15 not been expunged pursuant to paragraph (a) of this subsection, may petition  
16 the court in which the disposition of the charges was made to expunge all  
17 charges.

18 (c) A person against whom felony charges originally filed in the District Court  
19 have not resulted in an indictment by the grand jury or in an information filed  
20 by the Commonwealth's attorney may petition the District Court in which the  
21 charges were filed to dismiss and expunge all charges for which an indictment  
22 or information has not issued.

23 (2) An expungement petition brought under subsection (1)(b) or (c) of this section shall  
24 be filed no sooner than:

25 (a) Sixty (60) days following the order of acquittal or dismissal with prejudice by  
26 the court;

27 (b) Six (6) months following the date of the District Court decision to hold the

1 matter to the grand jury; or

2 (c) For charges dismissed without prejudice:

3 1. For felony charges, three (3) years following the date of the order of  
4 dismissal without prejudice; or

5 2. For misdemeanor charges, one (1) year following the date of the order  
6 of dismissal without prejudice.

7 (3) (a) If the court finds that the petition under subsection (1)(b) of this section is  
8 properly brought, the court shall grant the petition and order the expunging of  
9 the records.

10 (b) 1. If the expungement petition is brought under subsection (1)(c) of this  
11 section, the petition shall be served upon the offices of the county and  
12 Commonwealth's attorneys that prosecuted the case.

13 2. Following the filing of the petition, the court shall notify the county and  
14 Commonwealth's attorneys of an opportunity for a response to the  
15 petition. The response shall be filed within ninety (90) days after the  
16 filing of the petition.

17 3. If a response is not filed, ninety (90) days after the filing of the petition  
18 the court shall dismiss the charges without prejudice and order the  
19 expunging of the records.

20 4. If a response is filed, ninety (90) days after the date the response is filed,  
21 if an indictment has not issued, the court shall dismiss without prejudice  
22 the charges for which an indictment has not issued and order the  
23 expunging of the records.

24 (4) An order of expungement pursuant to this section shall expunge all criminal records  
25 in the custody of the court and any criminal records in the custody of any other  
26 agency or official, including law enforcement records, but no order of expungement  
27 pursuant to this section shall expunge records in the custody of the Department for

1 Community Based Services. The court shall order the expunging on a form  
2 provided by the Administrative Office of the Courts. Every agency, with records  
3 relating to the arrest, charge, or other matters arising out of the arrest or charge, that  
4 is ordered to expunge records, shall certify to the court within sixty (60) days of the  
5 entry of the expungement order, that the required expunging action has been  
6 completed. All orders enforcing the expungement procedure shall also be expunged.

7 (5) (a) If an expungement is ordered under subsection (1)(a) or (b) of this section, an  
8 appellate court which issued an opinion in the case shall order the appellate  
9 case file to be sealed and also direct that the version of the appellate opinion  
10 published on the court's website~~[Web site]~~ be modified to avoid use of the  
11 defendant's name in the case title and body of the opinion.

12 (b) If an expungement is ordered under subsection (1)(c) of this section, an  
13 appellate court which issued an opinion in the case may, upon motion of the  
14 petitioner in the case, order the appellate case file to be sealed and also direct  
15 that the version of the appellate opinion published on the court's website~~[Web  
16 site]~~ be modified to avoid use of the petitioner's name in the case title and  
17 body of the opinion.

18 (6) After the expungement, the proceedings in the matter shall be deemed never to have  
19 occurred. The court and other agencies shall delete or remove the records from their  
20 computer systems so that any official state-performed background check will  
21 indicate that the records do not exist. The court and other agencies shall reply to any  
22 inquiry that no record exists on the matter. The person whose record is expunged  
23 shall not have to disclose the fact of the record or any matter relating thereto on an  
24 application for employment, credit, or other type of application.

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

1 (8) Except as provided in subsection (1)(a) of this section, this section shall be  
2 retroactive.