

HOUSE BILL NO. HB0054

Expungement of criminal records.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to expungement of criminal records;
2 establishing procedures for the expungement of records of
3 arrest, investigation, detention and conviction as
4 specified; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

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8 **Section 1.** W.S. 7-13-1301 and 7-13-1302 are created
9 to read:

10

11

ARTICLE 13

12

EXPUNGEMENT OF CRIMINAL RECORDS

13

14 **7-13-1301. Petition for expungement; records of**
15 **arrest, investigation and detention; eligibility; no filing**
16 **fee.**

17

1 (a) A person who has been arrested with or without a
2 warrant may petition the court in which the proceeding
3 occurred, or would have occurred, for an order expunging
4 any and all records of arrest, investigation and detention
5 which may have been made in the case, subject to the
6 following conditions:

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8 (i) At least thirty (30) days have passed since
9 the arrest for which expungement is sought;

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11 (ii) There have been no intervening arrests; and
12 one (1) of the following occurred:

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14 (A) The person was released without the
15 filing of formal charges;

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17 (B) Proceedings against the person were
18 dismissed;

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20 (C) The person was discharged without a
21 conviction and no charges were filed within thirty (30)
22 days;

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24 (D) The person was acquitted at trial; or

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(E) The record of any proceeding against the person has been sealed.

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(b) A person seeking expungement under subsection (a) of this section may petition the court for expungement before the expiration of thirty (30) days required by paragraph (a)(i) of this section if he believes extraordinary circumstances exist. A court may, with the receipt of the petition for expungement, order expungement if the court finds that the petitioner is eligible for relief under this section and, in the interests of justice, the order should be issued prior to the expiration of the thirty (30) day period required by paragraph (a)(i) of this section.

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(c) Any petition filed under this section shall be reviewed by the prosecuting attorney and the court prior to issuing an order granting expungement.

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(d) If the court finds that the petitioner is eligible for relief under this section, it shall issue an order granting the expungement.

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1 (e) There shall be no filing fee for a petition filed
2 under this section.

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4 (f) A person who has received expungement of an
5 arrest under this section may respond to any inquiry as
6 though the arrest did not occur, unless otherwise provided
7 by law.

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9 **7-13-1302. Petition for expungement of conviction;
10 filing fee; notice; objections; hearing.**

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12 (a) Except for a crime constituting a violent felony
13 as defined in W.S. 6-1-104(a)(xii), a person convicted of a
14 crime may petition the convicting court for an expungement
15 of the record of conviction. A petition under this section
16 shall not be filed prior to ten (10) years after the person
17 has completed serving the sentence imposed by the court,
18 including probation or parole. The petition shall be filed
19 with the court and served upon the prosecuting attorney and
20 the department of corrections.

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22 (b) The fee for each petition filed under this
23 section shall be sixty dollars (\$60.00) and shall be
24 deposited in accordance with W.S. 5-3-205.

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2 (c) A victim shall receive notice of a petition filed
3 under this section if, prior to the entry of an expungement
4 order, the victim or, in the case of a minor or a person
5 who is incapacitated or deceased, the victim's next of kin
6 or authorized representative, submits a written and signed
7 request for notice to the department of corrections. The
8 department of corrections shall serve notice of the
9 petition for expungement by first class mail to the victim
10 at the last known address of record on file with the
11 department. The notice shall include a copy of the petition
12 and statutes applicable to the petition.

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14 (d) The court in its discretion may request a written
15 evaluation by the field services division of the department
16 of corrections. The evaluation shall include a
17 recommendation concerning the petition for expungement. If
18 expungement is recommended, the evaluation shall include
19 certification that the petitioner has completed all
20 requirements of sentencing and probation or parole and
21 state any rationale that would support or refute
22 consideration for expungement. The conclusions and
23 recommendations contained in the evaluation shall be
24 provided to the petitioner and the prosecuting attorney.

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2 (e) The prosecuting attorney may respond to the court
3 with a recommendation or objection within thirty (30) days.

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5 (f) If the prosecuting attorney or a victim submits a
6 written objection to the court concerning the petition
7 within thirty (30) days after service of the notice, or if
8 the petitioner objects to the conclusions and
9 recommendations of the department of corrections, the court
10 shall set a date for a hearing and notify the prosecuting
11 attorney for the jurisdiction, the petitioner and the
12 victim of the date set for the hearing. Any person who has
13 relevant information about the petitioner may testify at
14 the hearing.

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16 (g) If no objection to the petition is filed under
17 subsection (f) of this section, the court may order
18 expungement without a hearing.

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20 (h) A person who has received expungement of a record
21 of conviction under this section may respond to any inquiry
22 as though the conviction did not occur, unless otherwise
23 provided by law.

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1 **Section 2.** This act is effective July 1, 2002.

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(END)