

SENATE FILE NO. SF0064

Restoration of firearm rights-expungement.

Sponsored by: Senator(s) Case and Representative(s) Baker

A BILL

for

1 AN ACT relating to criminal procedure; establishing
2 procedures for the expungement of records of conviction as
3 specified for the purpose of restoring firearm rights;
4 providing definitions; specifying limitations; and
5 providing for an effective date.

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

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9 **Section 1.** W.S. 7-13-1501 is created to read:

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11 ARTICLE 15

12 EXPUNGEMENT OF RECORDS OF CONVICTIONS

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14 **7-13-1501. Petition for expungement of records of**
15 **conviction of misdemeanors; filing fee; notice; objections;**
16 **hearing; definitions.**

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1 (a) A person who has pleaded guilty or nolo
2 contendere to or been convicted of a misdemeanor or
3 misdemeanors arising out of the same occurrence or related
4 course of events may petition the convicting court for an
5 expungement of the records of conviction for the purposes
6 of restoring any firearm rights lost, subject to the
7 following limitations:

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9 (i) At least one (1) year has passed since the
10 expiration of the terms of sentence imposed by the court,
11 including any periods of probation or the completion of any
12 program ordered by the court;

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14 (ii) Other than convictions arising out of the
15 same occurrence or related course of events, the petitioner
16 has not previously pleaded guilty or nolo contendere to or
17 been convicted of a misdemeanor for which firearm rights
18 have been lost;

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20 (iii) The misdemeanor or misdemeanors for which
21 the person is seeking expungement shall not have involved
22 the use or attempted use of a firearm.

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1 (b) A petition filed under this section shall be
2 verified by the petitioner and served upon the prosecuting
3 attorney and the division of criminal investigation. The
4 filing fee for each petition filed under this section shall
5 be one hundred dollars (\$100.00) and shall be deposited in
6 accordance with W.S. 5-9-144.

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8 (c) The prosecuting attorney shall serve notice of
9 the petition for expungement by certified mail, return
10 receipt requested, to any identifiable victims of the
11 misdemeanors at their last known addresses of record on
12 file with the prosecuting attorney. The notices shall
13 include a copy of the petition and statutes applicable to
14 the petition. In the event that there are no identifiable
15 victims, or that there is at least one (1) identifiable
16 victim and the prosecuting attorney has no address of
17 record on file or the notice sent was returned or is
18 otherwise undeliverable, the prosecuting attorney shall
19 notify the court and shall be deemed to have complied with
20 the provisions of this subsection.

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22 (d) The court in its discretion may request a written
23 report by the division of criminal investigation concerning
24 the criminal history of the petitioner.

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2 (e) The prosecuting attorney shall review the
3 petition and shall file with the court an objection or
4 recommendation, if any, to the petition within thirty (30)
5 days after service of the notice by the petitioner upon the
6 prosecuting attorney. If the prosecuting attorney or an
7 identifiable victim submits a written objection to the
8 court concerning the petition within thirty (30) days after
9 service of the notice by the petitioner upon the
10 prosecuting attorney, or if the petitioner objects to the
11 criminal history report of the division of criminal
12 investigation if requested by the court, the court shall
13 set a date for a hearing and notify the prosecuting
14 attorney, the identifiable victims who have submitted
15 written objections to the petition, the division of
16 criminal investigation and the petitioner of the date set
17 for the hearing. Any person who has relevant information
18 about the petitioner may testify at the hearing.

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20 (f) If no objection is filed to the petition within
21 thirty (30) days after service of the notice by the
22 petitioner upon the prosecuting attorney, the court may
23 summarily enter an order if the court finds that the
24 petitioner is otherwise eligible for relief under this

1 section. No order granting expungement shall be issued
2 prior to the expiration of thirty (30) days after service
3 was made to the prosecuting attorney.

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5 (g) If the court finds that the petitioner is
6 eligible for relief under this section and that the
7 petitioner does not represent a substantial danger to
8 himself, any identifiable victim or society, it shall issue
9 an order granting expungement of the applicable records.
10 The court shall also place the court files under seal,
11 available for inspection only by order of that court. The
12 court shall transmit a certified copy of the order to the
13 division of criminal investigation.

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15 (h) The state, through the prosecuting attorney, may
16 appeal any order of expungement issued by any court under
17 this section.

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19 (j) Notwithstanding W.S. 1-39-101 through 1-39-120,
20 the division of criminal investigation and its employees
21 and any prosecuting attorney are immune from liability,
22 either as an agency or individually, for any actions,
23 inactions or omissions by the agency or any employee
24 thereof, pursuant to this section.

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2 (k) An expungement granted pursuant to this section
3 shall only be used for the purposes of restoring firearm
4 rights that have been lost to persons convicted of
5 misdemeanors. Nothing in this section shall be construed
6 to affect the enhancement of penalties for second or
7 subsequent convictions of misdemeanors under the laws of
8 this state. Nothing in this section shall be construed to
9 allow a person who has previously received an expungement
10 of records of conviction under this section to seek a
11 second or subsequent expungement of records of conviction
12 under this section.

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14 (m) As used in this section:

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16 (i) "Expungement" means as defined in W.S.
17 7-13-1401(j) (i);

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19 (ii) "Misdemeanor" means as defined by W.S.
20 6-10-101;

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22 (iii) "Record" means as defined in W.S.
23 7-13-1401(j) (ii).

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1 **Section 2.** This act is effective July 1, 2004.

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(END)