

ENROLLED ACT NO. 46, SENATE

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2011 GENERAL SESSION

AN ACT relating to crimes and punishment; providing a process for expungement of convictions for specified felonies; providing for restoration of rights as specified; providing definitions; amending related provision on the rights of victims as specified; and providing for an effective date.

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

Section 1. W.S. 7-13-1502 is created to read:

7-13-1502. Petition for expungement of records of conviction of certain felonies; filing fee; notice; objections; hearing; definitions; restoration of rights.

(a) A person convicted of a felony or felonies subject to expungement under this section arising out of the same occurrence or related course of events, may petition the convicting court for an expungement of the records of conviction, subject to the following limitations:

(i) At least ten (10) years have passed since:

(A) The expiration of the terms of sentence imposed by the court, including any periods of probation;

(B) The completion of any program ordered by the court; and

(C) Any restitution ordered by the court has been paid in full.

(ii) Other than convictions for which an expungement is sought under this section, the petitioner

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has not previously pleaded guilty or nolo contendere to or been convicted of a felony;

(iii) The felony or felonies for which the person is seeking expungement shall not have involved the use or attempted use of a firearm;

(iv) Felonies subject to expungement under this section shall not include:

(A) Violent felonies as defined in W.S. 6-1-104(a)(xii);

(B) Any offense punishable under W.S. 6-2-106(b);

(C) Any offense punishable under W.S. 6-2-108;

(D) Any offense punishable under W.S. 6-2-301 through 6-2-320;

(E) Any offense punishable under W.S. 6-2-501(f);

(F) Any offense punishable under W.S. 6-2-503;

(G) Any offense punishable under W.S. 6-2-508(b);

(H) Any offense punishable under W.S. 6-3-111;

(J) Any offense punishable under W.S. 6-4-103;

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(K) Any offense punishable under W.S.
6-4-303 (b) (i) through (iii);

(M) Any offense punishable under W.S.
6-4-402 (b) ;

(N) Any offense punishable under W.S.
6-4-405;

(O) Any offense punishable under W.S.
6-5-102;

(P) Any offense punishable under W.S.
6-5-204 (b) or (c);

(Q) Any offense punishable under W.S.
6-5-206 or 6-5-207;

(R) Any offense punishable under W.S.
6-5-301;

(S) Any offense punishable under W.S.
6-8-101 through 6-8-103;

(T) Any offense subject to registration
under W.S. 7-19-302(g) through (j);

(U) Any offense punishable as a felony
under W.S. 31-5-233; or

(W) Any offense punishable as a felony
under W.S. 35-7-1031(a) through (c) or 35-7-1036.

(b) A petition filed under this section shall be
verified by the petitioner and served upon the prosecuting

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attorney and the division of criminal investigation. The filing fee for each petition filed under this section shall be three hundred dollars (\$300.00) and shall be deposited in accordance with W.S. 5-3-205.

(c) The prosecuting attorney shall, within thirty (30) days of service upon him, serve notice of the petition for expungement by certified mail, return receipt requested, to any identifiable victims of the nonviolent felonies at their last known addresses of record on file with the prosecuting attorney. The notices shall include a copy of the petition and statutes applicable to the petition. In the event that there are no identifiable victims, or that there is at least one (1) identifiable victim and the prosecuting attorney has no address of record on file or the notice sent was returned or is otherwise undeliverable, the prosecuting attorney shall notify the court and shall be deemed to have complied with the provisions of this subsection.

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

(e) The prosecuting attorney shall review the petition and shall file with the court an objection or recommendation, if any, to the petition within ninety (90) days after service of the notice by the petitioner upon the prosecuting attorney. If the prosecuting attorney or an identifiable victim submits a written objection to the court concerning the petition within ninety (90) days after service of the notice by the petitioner upon the prosecuting attorney, or if the petitioner objects to the criminal history report of the division of criminal investigation if requested by the court, the court shall set a date for a hearing and notify the prosecuting

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attorney, the identifiable victims who have submitted written objections to the petition, the division of criminal investigation and the petitioner of the date set for the hearing. Any person who has relevant information about the petitioner may testify at the hearing.

(f) If no objection is filed to the petition within ninety (90) days after service of the notice by the petitioner upon the prosecuting attorney, the court may summarily enter an order if the court finds that the petitioner is otherwise eligible for relief under this section. No order granting expungement shall be issued prior to the expiration of ninety (90) days after service was made to the prosecuting attorney.

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

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

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

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(k) Nothing in this section shall be construed to allow a person who has previously received an expungement of records of conviction under this section to seek a second or subsequent expungement of records of conviction under this section.

(m) An expungement of records pursuant to this section shall restore any rights removed as a result of the conviction for which the expungement has been granted.

(n) As used in this section:

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

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

Section 2. W.S. 1-40-204(b) by creating a new paragraph (xi) is amended to read:

1-40-204. Rights of victims and witnesses to be informed during the criminal justice process.

(b) Victims and key witnesses of a criminal act shall be informed in writing by the prosecuting attorney about:

(xi) The right to request notification that the offender has filed a petition for expungement of the records of conviction and advance notice of any hearing or proceeding thereon.

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Section 3. This act is effective July 1, 2011.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk