

SENATE FILE NO. SF0088

Expungement of nonviolent felonies.

Sponsored by: Senator(s) Burns, Case, Hastert, Ross and
Schiffer and Representative(s) Berger,
Lubnau, Pedersen, Shepperson, Stubson,
Throne and Zwonitzer, Dn.

A BILL

for

1 AN ACT relating to crimes and punishment; providing a
2 process for expungement of convictions for nonviolent
3 felonies; providing definitions; and providing for an
4 effective date.

5

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

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

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10 **7-13-1502. Petition for expungement of records of**
11 **conviction of nonviolent felonies; filing fee; notice;**
12 **objections; hearing; definitions.**

13

14 (a) A person convicted of a nonviolent felony or
15 nonviolent felonies arising out of the same occurrence or

1 related course of events, may petition the convicting court
2 for an expungement of the records of conviction, subject to
3 the following limitations:

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5 (i) At least ten (10) years have passed since
6 the expiration of the terms of sentence imposed by the
7 court, including any periods of probation or the completion
8 of any program ordered by the court;

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10 (ii) Other than convictions for which an
11 expungement is sought under this section, the petitioner
12 has not previously pleaded guilty or nolo contendere to or
13 been convicted of a felony;

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15 (iii) The nonviolent felony or nonviolent
16 felonies for which the person is seeking expungement shall
17 not have involved the use or attempted use of a firearm.

18
19 (b) A petition filed under this section shall be
20 verified by the petitioner and served upon the prosecuting
21 attorney and the division of criminal investigation. The
22 filing fee for each petition filed under this section shall
23 be one hundred dollars (\$100.00) and shall be deposited in
24 accordance with W.S. 5-9-144.

1

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

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

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20 (e) The prosecuting attorney shall review the
21 petition and shall file with the court an objection or
22 recommendation, if any, to the petition within thirty (30)
23 days after service of the notice by the petitioner upon the
24 prosecuting attorney. If the prosecuting attorney or an

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

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14 (f) If no objection is filed to the petition within
15 thirty (30) days after service of the notice by the
16 petitioner upon the prosecuting attorney, the court may
17 summarily enter an order if the court finds that the
18 petitioner is otherwise eligible for relief under this
19 section. No order granting expungement shall be issued
20 prior to the expiration of thirty (30) days after service
21 was made to the prosecuting attorney.

22

23 (g) If the court finds that the petitioner is
24 eligible for relief under this section and that the

1 petitioner does not represent a substantial danger to
2 himself, any identifiable victim or society, it shall issue
3 an order granting expungement of the applicable records.
4 The court shall also place the court files under seal,
5 available for inspection only by order of that court. The
6 court shall transmit a certified copy of the order to the
7 division of criminal investigation.

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

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

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

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2 (m) As used in this section:

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4 (i) "Expungement" means as defined in W.S.
5 7-13-1401(j)(i);

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7 (ii) "Nonviolent felony" includes all felony
8 offenses not otherwise defined as violent felonies under
9 W.S. 6-1-104(a)(xii) and for which registration is not
10 required by law;

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

14

15 **Section 2.** This act is effective July 1, 2011.

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17 (END)