

# PROPOSED AMENDMENT

## SB 281 # 6

### DIGEST

Expungement requirements. Requires a person filing a petition for expungement to include the chronological case summary, if available. Permits disclosure to the state police department of certain sealed records if disclosure is required for the purpose of expunging or marking as expunged records in the central repository for criminal history information. Prohibits expungement for a person convicted of unlawful possession of a firearm by a serious violent felon.

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- 1           Page 4, delete lines 17 through 42, begin a new paragraph and  
2 insert:  
3           "SECTION 9. IC 35-38-9-1, AS AMENDED BY P.L.9-2024,  
4 SECTION 535, IS AMENDED TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2025]: Sec. 1. (a) This section applies only to  
6 a person who has been arrested, charged with an offense, or alleged to  
7 be a delinquent child, if:  
8           (1) the arrest, criminal charge, or juvenile delinquency allegation:  
9               (A) did not result in a conviction or juvenile adjudication, even  
10              if the arrest, criminal charge, or juvenile delinquency  
11              allegation resulted in an adjudication for an infraction; or  
12              (B) resulted in a conviction or juvenile adjudication and the  
13              conviction or adjudication was expunged under sections 2  
14              through 5 of this chapter, or was later vacated; and  
15           (2) the person is not currently participating in a pretrial diversion  
16           program, unless the prosecuting attorney authorizes the person to  
17           petition for an expungement under this section.  
18           (b) This subsection applies to a person charged with an offense or  
19           alleged to be a delinquent child after June 30, 2022. If:  
20           (1) a court dismisses all:  
21               (A) criminal charges; or  
22               (B) juvenile delinquency allegations;  
23           filed and pending against a person;  
24           (2) one (1) year has passed since juvenile delinquency allegations

- 1 were filed against a child, and:
- 2 (A) there is no disposition or order of waiver; and
- 3 (B) the state is not actively prosecuting the allegations; or
- 4 (3) in a:
- 5 (A) criminal trial a defendant is acquitted of all charges, or the
- 6 defendant's conviction is later vacated; or
- 7 (B) juvenile proceeding the court finds all allegations not true,
- 8 or the juvenile's true finding is later vacated;
- 9 the court shall immediately order all records related to the criminal
- 10 charges or juvenile delinquency allegations expunged. An
- 11 expungement order that is issued based on nonprosecution under
- 12 subdivision (2) goes into effect immediately. An expungement order
- 13 issued under subdivision (1) or (3) may not go into effect earlier than
- 14 sixty (60) days from the date of the dismissal, acquittal, or no true
- 15 finding. However, upon motion by the prosecuting attorney, if the court
- 16 finds that specific facts exist in the particular case which justify a
- 17 delay, the court may delay implementation of an expungement order
- 18 under subdivision (1) or (3) for up to one (1) year from the date of the
- 19 dismissal, acquittal, or no true finding.
- 20 (c) This subsection applies to a person arrested after June 30, 2022.
- 21 If:
- 22 (1) a person is arrested;
- 23 (2) one (1) year has elapsed since the date of the arrest; and
- 24 (3) no charges are pending against the person;
- 25 the person may petition a judge exercising criminal jurisdiction in the
- 26 county (or a designated judge, if applicable) for expungement, setting
- 27 forth these facts. Upon receipt of the petition, the judge shall
- 28 immediately order the expungement of all records related to the arrest.
- 29 Expungement under this subsection does not shorten the statute of
- 30 limitations. A prosecuting attorney may still file a charge under this
- 31 subsection.
- 32 (d) Not earlier than one (1) year after the date of arrest, criminal
- 33 charge, or juvenile delinquency allegation (whichever is later), if the
- 34 person was not convicted or adjudicated a delinquent child, or the
- 35 opinion vacating the conviction or adjudication becomes final, the
- 36 person may petition the court for expungement of the records related
- 37 to the arrest, criminal charge, or juvenile delinquency allegation.
- 38 However, a person may petition the court for expungement at an earlier
- 39 time if the prosecuting attorney agrees in writing to an earlier time.
- 40 (e) A petition for expungement of records must be verified and filed

1 in a circuit or superior court in the county where the criminal charges  
 2 or juvenile delinquency allegation was filed, or if no criminal charges  
 3 or juvenile delinquency allegation was filed, in the county where the  
 4 arrest occurred. The petition must set forth:

5 (1) the date of the arrest, criminal charges, or juvenile  
 6 delinquency allegation, and conviction (if applicable);

7 (2) the county in which the arrest occurred, the county in which  
 8 the information or indictment was filed, and the county in which  
 9 the juvenile delinquency allegation was filed, if applicable;

10 (3) the law enforcement agency employing the arresting officer,  
 11 if known;

12 (4) the court in which the criminal charges or juvenile  
 13 delinquency allegation was filed, if applicable;

14 (5) any other known identifying information, such as:

15 (A) the name of the arresting officer;

16 (B) case number or court cause number;

17 (C) any aliases or other names used by the petitioner;

18 (D) the petitioner's driver's license number; and

19 (E) a list of each criminal charge and its disposition, if  
 20 applicable;

21 (6) the date of the petitioner's birth; ~~and~~

22 (7) the petitioner's Social Security number; **and**

23 **(8) the chronological case summary for each case or court**  
 24 **cause number sought to be expunged, if available.**

25 A person who files a petition under this section is not required to pay  
 26 a filing fee.

27 (f) The court shall serve a copy of the petition on the prosecuting  
 28 attorney.

29 (g) Upon receipt of a petition for expungement, the court:

30 (1) may summarily deny the petition if the petition does not meet  
 31 the requirements of this section, or if the statements contained in  
 32 the petition indicate that the petitioner is not entitled to relief; and

33 (2) shall grant the petition unless:

34 (A) the conditions described in subsection (a) have not been  
 35 met; or

36 (B) criminal charges are pending against the person.

37 (h) Whenever the petition of a person under this section is granted,  
 38 or if an expungement order is issued without a petition under  
 39 subsection (b):

40 (1) no information concerning the arrest, criminal charges,

1 juvenile delinquency allegation, vacated conviction, or vacated  
2 juvenile delinquency adjudication (including information from a  
3 collateral action that identifies the petitioner), may be placed or  
4 retained in any state central repository for criminal history  
5 information or in any other alphabetically arranged criminal  
6 history information system maintained by a local, regional, or  
7 statewide law enforcement agency;

8 (2) the clerk of the supreme court shall seal or redact any records  
9 in the clerk's possession that relate to the arrest, criminal charges,  
10 juvenile delinquency allegation, vacated conviction, or vacated  
11 juvenile delinquency adjudication;

12 (3) the records of:

13 (A) the sentencing court;

14 (B) a court that conducted a collateral action;

15 (C) a juvenile court;

16 (D) a court of appeals; and

17 (E) the supreme court;

18 concerning the person shall be redacted or permanently sealed  
19 from public access; and

20 (4) with respect to the records of a person who is named as an  
21 appellant or an appellee in an opinion or memorandum decision  
22 by the supreme court or the court of appeals, or who is identified  
23 in a collateral action, the court shall:

24 (A) redact the opinion or memorandum decision as it appears  
25 on the computer gateway administered by the office of  
26 technology so that it does not include the petitioner's name (in  
27 the same manner that opinions involving juveniles are  
28 redacted); and

29 (B) provide a redacted copy of the opinion to any publisher or  
30 organization to whom the opinion or memorandum decision is  
31 provided after the date of the order of expungement.

32 The supreme court and the court of appeals are not required to  
33 redact, destroy, or otherwise dispose of any existing copy of an  
34 opinion or memorandum decision that includes the petitioner's  
35 name.

36 (i) If the court issues an order granting a petition for expungement  
37 under this section, or issues an order for expungement without a  
38 petition under subsection (b), the order must include the information  
39 described in subsection (e).

40 (j) If a person whose records are expunged brings an action that

1 might be defended with the contents of the expunged records, the  
 2 defendant is presumed to have a complete defense to the action. In  
 3 order for the plaintiff to recover, the plaintiff must show that the  
 4 contents of the expunged records would not exonerate the defendant.  
 5 The plaintiff may be required to state under oath whether the plaintiff  
 6 had records in the criminal or juvenile justice system and whether those  
 7 records were expunged. If the plaintiff denies the existence of the  
 8 records, the defendant may prove their existence in any manner  
 9 compatible with the law of evidence.

10 (k) Records expunged or sealed under this section must be removed  
 11 or sealed in accordance with this section, but may not be deleted or  
 12 destroyed. Records expunged or sealed under this section remain  
 13 available to the court and criminal justice agencies as needed to carry  
 14 out their official duties."

15 Delete page 5.

16 Page 6, delete lines 1 through 32.

17 Page 7, line 14, delete "a crime of violence (IC 35-50-1-2)." and  
 18 insert "**unlawful possession of a firearm by a serious violent felon**  
 19 **(IC 35-47-4-5)**".

20 Page 8, line 34, delete "a crime of violence (IC 35-50-1-2)." and  
 21 insert "**unlawful possession of a firearm by a serious violent felon**  
 22 **(IC 35-47-4-5)**".

23 Page 9, after line 27, begin a new paragraph and insert:

24 "SECTION 14. IC 35-38-9-6, AS AMENDED BY P.L.185-2023,  
 25 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2025]: Sec. 6. (a) If the court orders conviction records,  
 27 including any records relating to the conviction and any records  
 28 concerning a collateral action, expunged under sections 2 through 3 of  
 29 this chapter, the court shall do the following with respect to the specific  
 30 records expunged by the court:

31 (1) Order:

32 (A) the department of correction;

33 (B) the bureau of motor vehicles; and

34 (C) each:

35 (i) law enforcement agency; and

36 (ii) other person;

37 who incarcerated, prosecuted, provided treatment for, or  
 38 provided other services for the person under an order of the  
 39 court;

40 to prohibit the release of the person's records or information in the

1 person's records to anyone without a court order, other than a law  
2 enforcement officer acting in the course of the officer's official  
3 duty.

4 (2) Order the central repository for criminal history information  
5 maintained by the state police department to seal the person's  
6 expunged conviction records, including information related to:

7 (A) an arrest or offense:

8 (i) in which no conviction was entered; and

9 (ii) that was committed as part of the same episode of  
10 criminal conduct as the case ordered expunged; and

11 (B) any other references to any matters related to the case  
12 ordered expunged, including in a collateral action.

13 This subdivision does not require the state police department to  
14 seal any record the state police department does not have legal  
15 authority to seal.

16 (3) Records sealed under subdivision (2) may be disclosed only  
17 to:

18 (A) a prosecuting attorney, if:

19 (i) authorized by a court order; and

20 (ii) needed to carry out the official duties of the prosecuting  
21 attorney;

22 (B) a defense attorney, if:

23 (i) authorized by a court order; and

24 (ii) needed to carry out the professional duties of the defense  
25 attorney;

26 (C) a probation department, if:

27 (i) authorized by a court order; and

28 (ii) necessary to prepare a presentence report;

29 (D) the Federal Bureau of Investigation and the Department of  
30 Homeland Security, if disclosure is required to comply with an  
31 agreement relating to the sharing of criminal history  
32 information;

33 (E) the:

34 (i) supreme court;

35 (ii) members of the state board of law examiners;

36 (iii) executive director of the state board of law examiners;  
37 and

38 (iv) employees of the state board of law examiners, in  
39 accordance with rules adopted by the state board of law  
40 examiners;

- 1 for the purpose of determining whether an applicant possesses  
 2 the necessary good moral character for admission to the bar;  
 3 (F) a person required to access expunged records to comply  
 4 with the Secure and Fair Enforcement for Mortgage Licensing  
 5 Act (12 U.S.C. 5101 et seq.) or regulations adopted under the  
 6 Secure and Fair Enforcement for Mortgage Licensing Act;  
 7 (G) the bureau of motor vehicles, the Federal Motor Carrier  
 8 Administration, and the Commercial Drivers License  
 9 Information System (CDLIS), if disclosure is required to  
 10 comply with federal law relating to reporting a conviction for  
 11 a violation of a traffic control law; ~~and~~  
 12 (H) a school (as defined in IC 22-4-2-37), for the purpose of  
 13 determining whether to:
- 14 (i) employ a person seeking employment, including
  - 15 volunteer employment, with the school;
  - 16 (ii) continue a person's employment, including volunteer
  - 17 employment at the school; or
  - 18 (iii) grant access or admission to the school to an applicant
  - 19 contractor or a contractor;
- 20 if the person, contractor, or applicant contractor is likely to  
 21 have contact with a student enrolled in the school, regardless  
 22 of the age of the student; **and**
- 23 **(I) the state police department, if disclosure is required for**  
 24 **the purpose of expunging or marking as expunged records**  
 25 **in the central repository for criminal history information.**
- 26 (4) Notify the clerk of the supreme court to seal any records in the  
 27 clerk's possession that relate to the conviction, including any  
 28 records concerning a collateral action.
- 29 A probation department may provide an unredacted version of a  
 30 presentence report disclosed under subdivision (3)(C) to any person  
 31 authorized by law to receive a presentence report.
- 32 (b) Except as provided in subsection (c), if a petition to expunge  
 33 conviction records, including any records relating to the conviction and  
 34 any records concerning a collateral action, is granted under sections 2  
 35 through 3 of this chapter, the records of:
- 36 (1) the sentencing court;
  - 37 (2) a court that conducted a collateral action;
  - 38 (3) a juvenile court;
  - 39 (4) a court of appeals; and
  - 40 (5) the supreme court;

1 concerning the person shall be permanently sealed. However, a petition  
2 for expungement granted under sections 2 through 3 of this chapter  
3 does not affect an existing or pending driver's license suspension.

4 (c) If a petition to expunge conviction records, including any records  
5 relating to the conviction and any records concerning a collateral  
6 action, is granted under sections 2 through 3 of this chapter with  
7 respect to the records of a person who is named as an appellant or an  
8 appellee in an opinion or memorandum decision by the supreme court  
9 or the court of appeals, or who is identified in a collateral action, the  
10 court shall:

- 11 (1) redact the opinion or memorandum decision as it appears on  
12 the computer gateway administered by the office of technology so  
13 that it does not include the petitioner's name (in the same manner  
14 that opinions involving juveniles are redacted); and
- 15 (2) provide a redacted copy of the opinion to any publisher or  
16 organization to whom the opinion or memorandum decision is  
17 provided after the date of the order of expungement.

18 The supreme court and court of appeals are not required to destroy or  
19 otherwise dispose of any existing copy of an opinion or memorandum  
20 decision that includes the petitioner's name.

21 (d) Notwithstanding subsection (b), a prosecuting attorney may  
22 submit a written application to a court that granted an expungement  
23 petition under this chapter to gain access to any records that were  
24 permanently sealed under subsection (b), if the records are relevant in  
25 a new prosecution of the person. If a prosecuting attorney who submits  
26 a written application under this subsection shows that the records are  
27 relevant for a new prosecution of the person, the court that granted the  
28 expungement petition shall:

- 29 (1) order the records to be unsealed; and
- 30 (2) allow the prosecuting attorney who submitted the written  
31 application to have access to the records.

32 If a court orders records to be unsealed under this subsection, the court  
33 shall order the records to be permanently resealed at the earliest  
34 possible time after the reasons for unsealing the records cease to exist.  
35 However, if the records are admitted as evidence against the person in  
36 a new prosecution that results in the person's conviction, or are used to  
37 enhance a sentence imposed on the person in a new prosecution, the  
38 court is not required to reseat the records.

39 (e) If a person whose conviction records, including any records  
40 relating to the conviction and any records concerning a collateral



1 action, are expunged under sections 2 through 5 of this chapter is  
 2 required to register as a sex offender based on the commission of a  
 3 felony which has been expunged:

4 (1) the expungement does not affect the operation of the sex  
 5 offender registry ~~web site, website~~, any person's ability to access  
 6 the person's records, records required to be maintained concerning  
 7 sex or violent offenders, or any registration requirement imposed  
 8 on the person; and

9 (2) the expunged conviction records must be clearly marked as  
 10 expunged on the sex offender registry ~~web site, website~~.

11 (f) Expungement of a crime of domestic violence under section 2 of  
 12 this chapter does not restore a person's right to possess a firearm. The  
 13 right of a person convicted of a crime of domestic violence to possess  
 14 a firearm may be restored only in accordance with IC 35-47-4-7.

15 (g) If a court issues an order granting a petition for expungement  
 16 under sections 2 through 3 of this chapter, the court shall also order any  
 17 related records described in section 1(h) of this chapter sealed or  
 18 redacted in the manner described in section 1 of this chapter, unless the  
 19 records described in section 1(h) of this chapter have been ordered  
 20 sealed and redacted under this section.

21 (h) If the court issues an order granting a petition for expungement  
 22 under sections 2 through 3 of this chapter, the court shall include in its  
 23 order the information described in section 8(b) of this chapter.

24 (i) If the court issues an order granting a petition for expungement  
 25 under sections 2 through 5 of this chapter, the court shall include in its  
 26 order the information described in section 10(c) of this chapter.

27 SECTION 15. IC 35-38-9-8, AS AMENDED BY P.L.52-2021,  
 28 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2025]: Sec. 8. (a) This section applies only to a petition to  
 30 expunge conviction records, including any records relating to the  
 31 conviction and any records concerning a collateral action, under  
 32 sections 2 through 5 of this chapter. This section does not apply to a  
 33 petition to expunge records related to the arrest, criminal charge, or  
 34 juvenile delinquency allegation under section 1 of this chapter.

35 (b) Any person may seek an expungement under sections 2 through  
 36 5 of this chapter by filing a verified petition for expungement. The  
 37 petition must include the following:

38 (1) The petitioner's full name and all other legal names or aliases  
 39 by which the petitioner is or has been known.

40 (2) The petitioner's date of birth.

- 1 (3) The petitioner's addresses from the date of the offense to the  
 2 date of the petition.
- 3 (4) The case number or court cause number, if available.
- 4 **(5) The chronological case summary for each case or court**  
 5 **cause number sought to be expunged, if available.**
- 6 ~~(5)~~ **(6)** The petitioner shall affirm that no criminal investigation  
 7 or charges are pending against the petitioner.
- 8 ~~(6)~~ **(7)** The petitioner shall affirm that the petitioner has not  
 9 committed another felony or misdemeanor within the period  
 10 required for expungement.
- 11 ~~(7)~~ **(8)** The petitioner shall list all convictions, all collateral  
 12 actions, the cause number of each conviction, if known, the date  
 13 of the conviction, and any appeals from the conviction and the  
 14 date any appellate opinion was handed down, if applicable.
- 15 ~~(8)~~ **(9)** The petitioner shall include:
- 16 (A) the petitioner's Social Security number;  
 17 (B) the petitioner's driver's license number;  
 18 (C) the date of the petitioner's arrest, if applicable; and  
 19 (D) the date on which the petitioner was convicted.
- 20 ~~(9)~~ **(10)** The petitioner shall affirm that the required period has  
 21 elapsed or attach a copy of the prosecuting attorney's written  
 22 consent to a shorter period.
- 23 ~~(10)~~ **(11)** The petitioner shall describe any other petitions that the  
 24 petitioner has filed under this chapter.
- 25 ~~(11)~~ **(12)** For a petition filed under section 5 of this chapter, the  
 26 petitioner shall attach a copy of the prosecuting attorney's written  
 27 consent.
- 28 (c) The petitioner may include any other information that the  
 29 petitioner believes may assist the court.
- 30 (d) A person who files a petition under this section is required to  
 31 pay the filing fee required in civil cases. The court may reduce or waive  
 32 this fee if the person is indigent.
- 33 (e) The petitioner shall serve a copy of the petition upon the  
 34 prosecuting attorney in accordance with the Indiana Rules of Trial  
 35 Procedure.
- 36 (f) The prosecuting attorney shall inform the victim of the victim's  
 37 rights under IC 35-40-6 by contacting the victim at the victim's last  
 38 known address. However, if a court has no discretion in granting an  
 39 expungement petition under this chapter, the prosecuting attorney is  
 40 not required to inform the victim of the victim's rights under this

1 subsection.

2 (g) The prosecuting attorney shall reply to the petition not later than  
3 thirty (30) days after receipt. If the prosecuting attorney fails to timely  
4 reply to the petition:

5 (1) the prosecuting attorney has waived any objection to the  
6 petition; and

7 (2) the court shall proceed to consider the petition under section  
8 9 of this chapter."

9 Renumber all SECTIONS consecutively.

(Reference is to SB 281 as introduced.)