

ORIGINAL SENATE
FILE NO. 0064

ENROLLED ACT NO. 24, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2004 BUDGET SESSION

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

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

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

ARTICLE 15
EXPUNGEMENT OF RECORDS OF CONVICTIONS

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

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

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

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

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

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

(c) The prosecuting attorney shall serve notice of the petition for expungement by certified mail, return receipt requested, to any identifiable victims of the misdemeanors 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 thirty (30) 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

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court concerning the petition within thirty (30) 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 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 thirty (30) 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 thirty (30) 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.

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(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.

(k) An expungement granted pursuant to this section shall only be used for the purposes of restoring firearm rights that have been lost to persons convicted of misdemeanors. Nothing in this section shall be construed to affect the enhancement of penalties for second or subsequent convictions of misdemeanors under the laws of this state. 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) As used in this section:

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

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

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

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

(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