

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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**7-13-1501. Petition for expungement of records of
 conviction of misdemeanors; filing fee; notice; objections;
 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 (b) A petition filed under this section shall be
21 verified by the petitioner and served upon the prosecuting
22 attorney and the division of criminal investigation. The
23 filing fee for each petition filed under this section shall

1 be sixty dollars (\$60.00) and shall be deposited in
2 accordance with W.S. 5-9-144.

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4 (c) The division of criminal investigation shall
5 serve notice of the petition for expungement by first class
6 mail to any identifiable victims of the misdemeanors at
7 their last known addresses of record on file with the
8 division. The notices shall include a copy of the petition
9 and statutes applicable to the petition.

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

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15 (e) The prosecuting attorney shall review the
16 petition and shall file with the court an objection or
17 recommendation, if any, to the petition within thirty (30)
18 days after service of the notice by the petitioner upon the
19 prosecuting attorney. If the prosecuting attorney or an
20 identifiable victim submits a written objection to the
21 court concerning the petition within thirty (30) days after
22 service of the notice by the petitioner upon the
23 prosecuting attorney, or if the petitioner objects to the
24 criminal history report of the division of criminal

1 investigation if requested by the court, the court shall
2 set a date for a hearing and notify the prosecuting
3 attorney, the identifiable victims who have submitted
4 written objections to the petition, the division of
5 criminal investigation and the petitioner of the date set
6 for the hearing. Any person who has relevant information
7 about the petitioner may testify at the hearing.

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

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18 (g) If the court finds that the petitioner is
19 eligible for relief under this section, it shall issue an
20 order granting expungement of the applicable records. The
21 court shall also place the court files under seal,
22 available for inspection only by order of that court. The
23 court shall transmit a certified copy of the order to the
24 division of criminal investigation.

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

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

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13 (k) An expungement granted pursuant to this section
14 shall only be used for the purposes of restoring firearm
15 rights that have been lost to persons convicted of
16 misdemeanors. Nothing in this section shall be construed
17 to affect the enhancement of penalties for second or
18 subsequent convictions of misdemeanors under the laws of
19 this state. Nothing in this section shall be construed to
20 allow a person who has previously received an expungement
21 of records of conviction under this section to seek a
22 second or subsequent expungement of records of conviction
23 under this section.

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1 (m) As used in this section:

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

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6 (ii) "Misdemeanor" means as defined by W.S.
7 6-10-101;

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9 (iii) "Record" means as defined in W.S.
10 7-13-1401(j) (ii).

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

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14 (END)