

COMMITTEE ON JUDICIARY
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2658
(Reference to printed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.
[Green underlining in brackets] indicates text added to new session law or text restoring existing law.
[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.
[Green strikeout in brackets] indicates text removed from existing statute, previously enacted session law or new session law.
<<Green carets>> indicate a section added to the bill.
<<Green strikeout in carets>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Title 13, chapter 9, Arizona Revised Statutes, is
3 amended by adding section 13-912, to read:

4 13-912. Misdemeanor convictions; expungement

5 A. NOTWITHSTANDING SECTION 8-348 OR 13-905, A PERSON WHO IS
6 [ARRESTED FOR A MISDEMEANOR OFFENSE AND NO CHARGES WERE FILED, WHO IS
7 CHARGED WITH A MISDEMEANOR OFFENSE AND THE CHARGE WAS SUBSEQUENTLY
8 DISMISSED OR RESULTED IN A NOT GUILTY VERDICT, OR] CONVICTED OF A
9 MISDEMEANOR OFFENSE MAY PETITION THE CONVICTING COURT FOR AN EXPUNGEMENT
10 OF THE RECORD OF CONVICTION. THE PERSON SHALL FILE THE PETITION WITH THE
11 COURT NOT SOONER THAN THREE YEARS AFTER THE DATE OF THE FULFILLMENT OF THE
12 CONDITIONS OF THE PETITIONER'S PROBATION OR SENTENCE AND DISCHARGE BY THE
13 COURT [AND SHALL SERVE THE PETITION ON THE PROSECUTING ATTORNEY].

14 B. THE PETITION MUST INCLUDE THE FOLLOWING:

15 1. WHETHER THE PETITIONER HAS FULFILLED THE CONDITIONS OF SENTENCE
16 OR ANY TERM OF PROBATION.

17 2. WHETHER THE PETITIONER HAS ANY ADDITIONAL ARRESTS OR
18 CONVICTIONS.

19 3. ANY WRITTEN RECOMMENDATION IN SUPPORT OF EXPUNGEMENT THAT IS
20 PROVIDED BY A THIRD PARTY.

21 [C. ON RECEIPT OF A PETITION FOR EXPUNGEMENT PURSUANT TO THIS
22 SECTION, THE COURT SHALL NOTIFY THE PROSECUTING AGENCY OF THE FILING OF
23 THE PETITION AND ALLOW THE PROSECUTING AGENCY TO RESPOND TO THE PETITION
24 WITHIN THIRTY DAYS. THE COURT MAY HOLD A HEARING ON THE REQUEST OF THE
25 PETITIONER OR THE PROSECUTING AGENCY OR IF THE COURT DETERMINES THERE ARE
26 GENUINE DISPUTES OF FACT REGARDING WHETHER THE PETITION SHOULD BE
27 GRANTED.]

28 [D.] [C.] THE COURT SHALL REQUIRE THE PETITIONER TO ATTEST TO THE
29 FOLLOWING AND SHALL DENY A PETITION FOR EXPUNGEMENT IF THE COURT FINDS
30 THAT EITHER OF THE FOLLOWING APPLIES:

31 1. THE PETITIONER HAS PENDING OR UNRESOLVED MATTERS IN ANY COURT OR
32 JURISDICTION IN THIS STATE OR ANOTHER STATE.

1 2. THE PETITIONER HAS NOT PAID FULL RESTITUTION OR ~~[ANY FINE]~~
2 ~~[OTHER COURT-ORDERED MONETARY OBLIGATIONS].~~

3 ~~[E. THE COURT SHALL GRANT THE PETITION UNLESS THE PROSECUTING~~
4 ~~AGENCY ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT THE PETITIONER IS~~
5 ~~NOT ELIGIBLE FOR EXPUNGEMENT OR THE PETITIONER FAILS TO MEET THE~~
6 ~~REQUIREMENTS LISTED IN SUBSECTION D OF THIS SECTION.]~~

7 ~~[F. THE COURT SHALL ISSUE A SIGNED ORDER OR MINUTE ENTRY GRANTING~~
8 ~~OR DENYING THE PETITION IN WHICH IT MAKES FINDINGS OF FACT AND CONCLUSIONS~~
9 ~~OF LAW.]~~

10 [D. THE COURT MAY NOT GRANT OR DENY A PETITION TO EXPUNGE A PERSON'S
11 CASE RECORDS UNTIL SIXTY CALENDAR DAYS AFTER THE COURT RECEIVES THE
12 PETITION UNLESS THE COURT RECEIVES NOTICE THAT BOTH THE PROSECUTOR AND
13 ALL VICTIMS WHO HAVE MADE A REQUEST FOR POSTCONVICTION NOTICE DO NOT
14 OBJECT TO THE PETITION. UNLESS THE PETITIONER, PROSECUTOR OR VICTIM
15 REQUESTS A HEARING, THE COURT MAY GRANT OR DENY A PETITION TO EXPUNGE CASE
16 RECORDS WITHOUT A HEARING. THE COURT MAY DISMISS A PETITION THAT DOES NOT
17 MEET THE REQUIREMENTS PRESCRIBED IN THIS SECTION WITHOUT A HEARING. THE
18 COURT SHALL GRANT THE PETITION IF THE COURT DETERMINES THAT GRANTING THE
19 PETITION IS IN THE BEST INTERESTS OF THE PETITIONER AND THE PUBLIC'S
20 SAFETY. THE CLERK OF THE COURT SHALL PROVIDE A COPY OF THE PETITION TO
21 EXPUNGE CASE RECORDS TO THE PROSECUTOR. THE PROSECUTOR MAY RESPOND TO THE
22 PETITION AND REQUEST A HEARING. THE VICTIM HAS A RIGHT TO BE PRESENT AND
23 HEARD AT ANY PROCEEDING IN WHICH THE DEFENDANT HAS FILED A PETITION TO
24 EXPUNGE CASE RECORDS. IF THE VICTIM HAS MADE A REQUEST FOR POSTCONVICTION
25 NOTICE, THE PROSECUTOR SHALL PROVIDE THE VICTIM WITH NOTICE OF THE
26 DEFENDANT'S POSITION AND OF THE VICTIM'S RIGHTS UNDER THIS SECTION.]

27 ~~[G.] [E.]~~ IF THE COURT GRANTS THE PETITION FOR EXPUNGEMENT, ALL OF
28 THE FOLLOWING APPLY:

29 [1. THE COURT SHALL ISSUE A SIGNED ORDER EXPUNGING THE RECORD.]

30 ~~[1.] [2.]~~ THE COURT, IN ITS ~~[SIGNED]~~ ORDER ~~[OR MINUTE ENTRY,]~~
31 SHALL:

32 (a) VACATE THE PETITIONER'S JUDGMENT OF ADJUDICATION OR CONVICTION.

33 (b) STATE THAT THE PETITIONER'S ARREST, CHARGE, CONVICTION,
34 ADJUDICATION AND SENTENCE RECORDS ARE EXPUNGED.

35 (c) REQUIRE THE CLERK OF THE COURT TO NOTIFY THE DEPARTMENT OF
36 PUBLIC SAFETY, THE PROSECUTING AGENCY AND THE ARRESTING LAW ENFORCEMENT
37 AGENCY, IF APPLICABLE, OF THE EXPUNGEMENT ORDER.

38 (d) REQUIRE THE CLERK OF THE COURT TO SEAL ALL RECORDS RELATING TO
39 THE EXPUNGED ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE AND
40 ALLOW THE RECORDS TO BE ACCESSED ONLY BY THE PERSON WHOSE RECORD WAS
41 EXPUNGED OR THE PERSON'S ATTORNEY.

42 ~~[2.] [3.]~~ THE DEPARTMENT OF PUBLIC SAFETY SHALL SEAL AND SEPARATE
43 THE EXPUNGED RECORD FROM ITS RECORDS AND INFORM ALL APPROPRIATE STATE AND
44 FEDERAL LAW ENFORCEMENT AGENCIES OF THE EXPUNGEMENT. UNLESS THE PETITIONER
45 IS INDIGENT, THE DEPARTMENT OF PUBLIC SAFETY MAY CHARGE THE SUCCESSFUL
46 PETITIONER A REASONABLE FEE DETERMINED BY THE DIRECTOR OF THE DEPARTMENT

1 OF PUBLIC SAFETY TO RESEARCH AND CORRECT THE PETITIONER'S CRIMINAL HISTORY
2 RECORD.

3 ~~[S.]~~ [4.] THE ARRESTING AND PROSECUTING AGENCIES SHALL CLEARLY
4 IDENTIFY IN EACH AGENCY'S FILES AND ELECTRONIC RECORDS THAT THE
5 PETITIONER'S ARREST, CHARGE, CONVICTION, ADJUDICATION AND SENTENCE ARE
6 EXPUNGED AND MAY NOT MAKE ANY RECORDS OF THE EXPUNGED ARREST, CHARGE,
7 CONVICTION, ADJUDICATION OR SENTENCE AVAILABLE AS A PUBLIC RECORD TO ANY
8 PERSON EXCEPT TO THE PERSON WHOSE RECORD WAS EXPUNGED OR THAT PERSON'S
9 ATTORNEY.

10 ~~[H.]~~ [F.] AN ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE
11 THAT IS EXPUNGED PURSUANT TO THIS SECTION MAY NOT BE USED IN A SUBSEQUENT
12 PROSECUTION BY A PROSECUTING AGENCY OR COURT FOR ANY PURPOSE.

13 ~~[I. IF THE VICTIM HAS MADE A REQUEST FOR POSTCONVICTION NOTICE, THE
14 PROSECUTING ATTORNEY SHALL PROVIDE THE VICTIM WITH NOTICE OF THE PERSON'S
15 PETITION AND INFORM THE VICTIM OF THE VICTIM'S RIGHT TO BE HEARD ON THE
16 PETITION.]~~

17 ~~[J.]~~ [G.] UNLESS OTHERWISE PROVIDED BY LAW, A PERSON WHOSE RECORD
18 IS EXPUNGED PURSUANT TO THIS SECTION MAY RESPOND TO ANY INQUIRY AS THOUGH
19 THE CONVICTION DID NOT EXIST. [THIS SUBSECTION DOES NOT APPLY TO A PERSON
20 WHO IS SEEKING EMPLOYMENT AS A PEACE OFFICER WITH A LAW ENFORCEMENT
21 AGENCY, AND THE LAW ENFORCEMENT AGENCY MAY REQUEST A COPY OF THE PERSON'S
22 SEALED RECORDS. THE LAW ENFORCEMENT AGENCY SHALL KEEP THESE RECORDS
23 CONFIDENTIAL AND SHALL DESTROY THESE RECORDS AFTER THE HIRING PROCESS IS
24 COMPLETE.]

25 ~~[K.]~~ [H.] THIS SECTION DOES NOT APPLY TO ANY PERSON WHO IS
26 CONVICTED OF:

27 1. A VIOLATION OF SECTION 13-3601, CHAPTER 14 OR 35.1 OF THIS
28 TITLE~~[.]~~ ~~[OR]~~ TITLE 28, CHAPTER 4 [OR A VIOLENT CRIME AS DEFINED IN
29 SECTION 13-901.03].

30 2. A VIOLATION OF ANY FELONY OFFENSE OR AN OFFENSE LISTED IN
31 PARAGRAPH 1 OF THIS SUBSECTION THAT WAS ~~[COMMITTED AT THE SAME TIME AS]~~
32 [CHARGED IN CONJUNCTION WITH] THE MISDEMEANOR OFFENSE THAT IS THE SUBJECT
33 OF THE EXPUNGEMENT PETITION.

34 <<Sec. 2. Section 22-125, Arizona Revised Statutes, is amended to
35 read:

36 22-125. Justice of the peace compensation; judicial
37 productivity credits; annual report; definitions

38 A. The annual salary of each justice of the peace is determined by
39 the total judicial productivity credits of each court as reported in
40 statistics compiled by the Arizona supreme court.

41 B. Judicial productivity credits shall be determined according to
42 the following formula:

43 1. All civil filings divided by ten equals _____ judicial
44 productivity credits.

45 2. All felony counts filed divided by ten equals _____
46 judicial productivity credits.

1 3. Except for counts described in paragraph 4 of this subsection,
2 all misdemeanor counts filed divided by ten equals _____ judicial
3 productivity credits.

4 4. All counts filed that allege a violation of title 5, chapter 3,
5 article 10, title 28, chapter 4, article 3 or section 28-8282 divided by
6 five equals _____ judicial productivity credits.

7 5. All civil traffic counts filed divided by sixty equals
8 _____ judicial productivity credits.

9 6. All petitions for a protective order filed divided by five
10 equals _____ judicial productivity credits.

11 7. All civil marijuana counts filed divided by sixty equals
12 _____ judicial productivity credits.

13 8. All petitions to expunge filed pursuant to section 36-2862 [OR
14 13-912] divided by sixty equals _____ judicial productivity credits.

15 C. Beginning January 1, 2018, the Arizona supreme court shall
16 annually perform the calculations required by subsection B of this section
17 for each justice court for the previous twelve-month period ending on June
18 30 to determine the total judicial productivity credits. The Arizona
19 supreme court shall report the total judicial productivity credits for
20 each justice court to the applicable board of supervisors within one
21 hundred twenty days after the end of each twelve-month period. Any
22 adjustment to the salary of a justice of the peace is effective on the
23 following January 1.

24 D. Each justice of the peace shall be paid a percentage of the
25 salary of a superior court judge based on the following schedule:

26 1. Five hundred or more judicial productivity credits equals
27 seventy percent.

28 2. Two hundred or more but less than five hundred judicial
29 productivity credits equals sixty-five percent.

30 3. One hundred fifty or more but less than two hundred judicial
31 productivity credits equals fifty-five percent.

32 4. One hundred or more but less than one hundred fifty judicial
33 productivity credits equals fifty percent.

34 5. Fifty or more but less than one hundred judicial productivity
35 credits equals forty-five percent.

36 6. Twenty-five or more but less than fifty judicial productivity
37 credits equals thirty-five percent.

38 7. Twenty-four or fewer judicial productivity credits equals
39 twenty-five percent.

40 E. If a justice court is not assigned clerical help, the board of
41 supervisors shall multiply the total judicial productivity credits by two
42 for purposes of determining the salary of the justice of the peace.

43 F. If the board of supervisors divides a justice precinct into two
44 or more precincts, the board shall set the salary of the justice of the
45 peace of each precinct equal to the highest salary of any of the justices
46 of the peace whose precinct is affected by the division. The salary of

1 each justice of the peace shall be adjusted at the end of the first full
2 calendar year after the precincts are divided.

3 G. The board of supervisors shall review and adjust the annual
4 salary for each justice of the peace within the county pursuant to
5 subsection D of this section every year beginning January 1, 2019.

6 H. The judicial productivity credits for a justice court precinct
7 shall not exceed twelve hundred credits. If the total judicial
8 productivity credits of a justice court precinct exceed twelve hundred
9 credits, the county board of supervisors shall create sufficient courts,
10 or redraw the justice court precinct boundaries according to section
11 22-101, in order to reduce the judicial productivity credits for any
12 precinct which exceeds that limit.

13 I. Except as provided in subsection F of this section, the salary
14 of a justice of the peace may not be reduced during the term in office of
15 the justice of the peace and, if a justice of the peace serves consecutive
16 terms, the salary of the justice of the peace may not be reduced before
17 the start of the consecutive term by more than one tier pursuant to
18 subsection D of this section.

19 J. A filing against a juvenile is determined in the same manner as
20 a similar filing against an adult.

21 K. For the purposes of this section:

22 1. "Civil filing" means a lawsuit, eviction action, petition for
23 provisional remedy or other civil petition, small claims case or civil
24 local ordinance.

25 2. "Civil traffic count" means a traffic violation that is not
26 filed as a misdemeanor or felony.

27 3. "Felony" includes each felony count that is filed in a
28 complaint.

29 4. "Misdemeanor" includes each misdemeanor and petty offense count
30 that is filed in a complaint or uniform traffic ticket and complaint.

31 5. "Protective order" means a petition for an order of protection,
32 an injunction against harassment or workplace harassment or a peace
33 bond.>>

34 Sec. 3. Effective date

35 Section 13-912, Arizona Revised Statutes, as added by this act, is
36 effective from and after December 31, 2025.

37 Enroll and engross to conform

38 Amend title to conform

And, as so amended, it do pass

QUANG H. NGUYEN
CHAIRMAN

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