

HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **HB 2658**

Carter N Floor Amendment

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- Adds that those who are convicted of shoplifting may not petition for expungement for five years.
 - Requires a petitioner to inform the court of any previous expungements.
 - Adds that the Department of Public Safety's Central State Repository can continue to have access to the expunged person's criminal records.
 - Modifies various procedures for submitting and processing expungements and petitions.

Amendment explanation prepared by Nathan M

Phone Number x3646

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2/24/2025

CARTER N SUBSTITUTE FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2658

I move the following SUBSTITUTE amendment to the JUDICIARY Committee Amendment to HOUSE BILL 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]~~. [EXCEPT
14 THAT IF A PERSON IS CONVICTED OF A VIOLATION OF SECTION 13-1805, THE
15 PERSON SHALL FILE THE PETITION WITH THE COURT NOT SOONER THAN FIVE YEARS
16 AFTER THE DATE OF THE FULFILLMENT OF THE CONDITIONS OF THE PETITIONER'S
17 PROBATION OR SENTENCE AND DISCHARGE BY THE COURT.]

18 B. THE PETITION MUST INCLUDE THE FOLLOWING:

19 1. WHETHER THE PETITIONER HAS FULFILLED THE CONDITIONS OF SENTENCE
20 OR ANY TERM OF PROBATION.

21 2. WHETHER THE PETITIONER HAS ANY ADDITIONAL ARRESTS OR
22 CONVICTIONS.

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

25 [4. WHETHER THE PETITIONER HAS OBTAINED A PRIOR EXPUNGEMENT UNDER
26 THIS SECTION.]

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

~~[C. THE PERSON SHALL FILE A PETITION TO EXPUNGE ALL CASE RECORDS IN ONE OF THE FOLLOWING:~~

~~1. THE COURT IN WHICH THE PERSON WAS CONVICTED OF AN OFFENSE.~~

~~2. THE COURT IN WHICH AN INDICTMENT, INFORMATION, CRIMINAL CITATION OR COMPLAINT AGAINST THE PERSON WAS FILED AND THE CHARGES WERE DISMISSED. THE PERSON WAS FOUND NOT GUILTY OR THE PERSON'S CONVICTION WAS VACATED, EXCEPT THAT IF THE COMPLAINT WAS FILED IN A JUSTICE COURT AND A SUBSEQUENT INFORMATION WAS FILED, THE PETITION MUST BE FILED IN THE SUPERIOR COURT.~~

~~3. THE COURT IN WHICH THE PERSON HAD AN INITIAL APPEARANCE IF CHARGES WERE NOT FILED.~~

~~4. THE SUPERIOR COURT IN THE COUNTY WHERE A PERSON WAS ARRESTED IF THE PERSON DID NOT HAVE AN INITIAL APPEARANCE AND NO CHARGES WERE FILED.]~~

~~D. THE COURT SHALL REQUIRE THE PETITIONER TO ATTEST TO THE FOLLOWING AND SHALL DENY A PETITION FOR EXPUNGEMENT IF THE COURT FINDS THAT EITHER OF THE FOLLOWING APPLIES:~~

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

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

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

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

~~[D. THE COURT MAY NOT GRANT OR DENY A PETITION TO EXPUNGE A PERSON'S CASE RECORDS UNTIL SIXTY CALENDAR DAYS AFTER THE COURT RECEIVES THE PETITION UNLESS THE COURT RECEIVES NOTICE THAT BOTH THE PROSECUTOR AND ALL VICTIMS WHO HAVE MADE A REQUEST FOR POSTCONVICTION NOTICE DO NOT OBJECT TO THE PETITION. UNLESS THE PETITIONER, PROSECUTOR OR VICTIM REQUESTS A HEARING, THE COURT MAY GRANT OR DENY A PETITION TO EXPUNGE CASE RECORDS WITHOUT A HEARING. THE COURT MAY DISMISS A PETITION THAT DOES NOT MEET THE REQUIREMENTS PRESCRIBED IN THIS SECTION WITHOUT A HEARING. THE COURT SHALL GRANT THE PETITION IF THE COURT DETERMINES THAT GRANTING THE PETITION IS IN THE BEST INTERESTS OF THE PETITIONER AND THE PUBLIC'S SAFETY. THE COURT SHALL PROVIDE A COPY OF THE PETITION TO EXPUNGE CASE RECORDS TO THE PROSECUTOR. THE PROSECUTOR MAY RESPOND TO THE PETITION AND REQUEST A HEARING. THE VICTIM HAS A RIGHT TO BE PRESENT AND HEARD AT ANY PROCEEDING IN WHICH THE DEFENDANT HAS FILED A PETITION TO EXPUNGE CASE~~

1 RECORDS. IF THE VICTIM HAS MADE A REQUEST FOR POSTCONVICTION NOTICE, THE
2 PROSECUTOR SHALL PROVIDE THE VICTIM WITH NOTICE OF THE DEFENDANT'S
3 POSITION AND OF THE VICTIM'S RIGHTS UNDER THIS SECTION.]

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

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

7 ~~[1.]~~ [2.] THE COURT, IN ITS ~~[SIGNED]~~ ORDER ~~[OR MINUTE ENTRY,]~~
8 SHALL:

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

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

12 (c) REQUIRE THE ~~[CLERK OF THE]~~ COURT TO NOTIFY THE DEPARTMENT OF
13 PUBLIC SAFETY, THE PROSECUTING AGENCY AND THE ARRESTING LAW ENFORCEMENT
14 AGENCY, IF APPLICABLE, OF THE EXPUNGEMENT ORDER.

15 (d) REQUIRE THE ~~[CLERK OF THE]~~ COURT TO SEAL ~~[ALL]~~ [THE
16 PETITIONER'S] RECORDS RELATING TO THE EXPUNGED ARREST, CHARGE,
17 ADJUDICATION, CONVICTION OR SENTENCE AND ALLOW THE RECORDS TO BE ACCESSED
18 ONLY BY THE PERSON WHOSE RECORD WAS EXPUNGED ~~[OR]~~ [.] THE PERSON'S
19 ATTORNEY [OR THE DEPARTMENT OF PUBLIC SAFETY CENTRAL STATE REPOSITORY].

20 ~~[2.]~~ [3.] THE DEPARTMENT OF PUBLIC SAFETY SHALL SEAL AND SEPARATE
21 THE EXPUNGED RECORD FROM ITS RECORDS ~~[AND INFORM ALL APPROPRIATE STATE AND~~
22 ~~FEDERAL LAW ENFORCEMENT AGENCIES OF THE EXPUNGEMENT. UNLESS THE PETITIONER~~
23 ~~IS INDIGENT, THE DEPARTMENT OF PUBLIC SAFETY MAY CHARGE THE SUCCESSFUL~~
24 ~~PETITIONER A REASONABLE FEE DETERMINED BY THE DIRECTOR OF THE DEPARTMENT~~
25 ~~OF PUBLIC SAFETY TO RESEARCH AND CORRECT THE PETITIONER'S CRIMINAL HISTORY~~
26 ~~RECORD].~~

27 ~~[3.]~~ [4.] THE ARRESTING AND PROSECUTING AGENCIES SHALL CLEARLY
28 IDENTIFY IN EACH AGENCY'S FILES AND ELECTRONIC RECORDS THAT THE
29 PETITIONER'S ARREST, CHARGE, CONVICTION, ADJUDICATION AND SENTENCE ARE
30 EXPUNGED AND MAY NOT MAKE ANY RECORDS OF THE EXPUNGED ARREST, CHARGE,
31 CONVICTION, ADJUDICATION OR SENTENCE AVAILABLE AS A PUBLIC RECORD TO ANY
32 PERSON EXCEPT TO THE PERSON WHOSE RECORD WAS EXPUNGED ~~[OR]~~ [.] THAT
33 PERSON'S ATTORNEY [OR THE DEPARTMENT OF PUBLIC SAFETY CENTRAL STATE
34 REPOSITORY].

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

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

42 ~~[J.]~~ [G.] UNLESS OTHERWISE PROVIDED BY LAW, A PERSON WHOSE RECORD
43 IS EXPUNGED PURSUANT TO THIS SECTION MAY RESPOND TO ANY INQUIRY AS THOUGH
44 THE CONVICTION DID NOT EXIST. [THIS SUBSECTION DOES NOT APPLY TO A PERSON
45 WHO IS SEEKING EMPLOYMENT AS A PEACE OFFICER WITH A LAW ENFORCEMENT
46 AGENCY, AND THE LAW ENFORCEMENT AGENCY MAY REQUEST A COPY OF THE PERSON'S
47 SEALED COURT RECORDS. THE LAW ENFORCEMENT AGENCY SHALL KEEP THESE RECORDS

1 CONFIDENTIAL AND SHALL DESTROY THESE RECORDS AFTER THE HIRING PROCESS IS
2 COMPLETE.]

3 [K.] [H.] THIS SECTION DOES NOT APPLY TO ANY PERSON WHO IS
4 CONVICTED OF:

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

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

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

14 22-125. Justice of the peace compensation; judicial
15 productivity credits; annual report; definitions

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

19 B. Judicial productivity credits shall be determined according to
20 the following formula:

21 1. All civil filings divided by ten equals _____ judicial
22 productivity credits.

23 2. All felony counts filed divided by ten equals _____
24 judicial productivity credits.

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

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

31 5. All civil traffic counts filed divided by sixty equals
32 _____ judicial productivity credits.

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

35 7. All civil marijuana counts filed divided by sixty equals
36 _____ judicial productivity credits.

37 8. All petitions to expunge filed pursuant to section 36-2862 [OR
38 13-912] divided by sixty equals _____ judicial productivity credits.

39 C. Beginning January 1, 2018, the Arizona supreme court shall
40 annually perform the calculations required by subsection B of this section
41 for each justice court for the previous twelve-month period ending on June
42 30 to determine the total judicial productivity credits. The Arizona
43 supreme court shall report the total judicial productivity credits for
44 each justice court to the applicable board of supervisors within one
45 hundred twenty days after the end of each twelve-month period. Any
46 adjustment to the salary of a justice of the peace is effective on the
47 following January 1.

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

3 1. Five hundred or more judicial productivity credits equals
4 seventy percent.

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

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

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

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

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

15 7. Twenty-four or fewer judicial productivity credits equals
16 twenty-five percent.

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

20 F. If the board of supervisors divides a justice precinct into two
21 or more precincts, the board shall set the salary of the justice of the
22 peace of each precinct equal to the highest salary of any of the justices
23 of the peace whose precinct is affected by the division. The salary of
24 each justice of the peace shall be adjusted at the end of the first full
25 calendar year after the precincts are divided.

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

29 H. The judicial productivity credits for a justice court precinct
30 shall not exceed twelve hundred credits. If the total judicial
31 productivity credits of a justice court precinct exceed twelve hundred
32 credits, the county board of supervisors shall create sufficient courts,
33 or redraw the justice court precinct boundaries according to section
34 22-101, in order to reduce the judicial productivity credits for any
35 precinct which exceeds that limit.

36 I. Except as provided in subsection F of this section, the salary
37 of a justice of the peace may not be reduced during the term in office of
38 the justice of the peace and, if a justice of the peace serves consecutive
39 terms, the salary of the justice of the peace may not be reduced before
40 the start of the consecutive term by more than one tier pursuant to
41 subsection D of this section.

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

1 K. For the purposes of this section:
2 1. "Civil filing" means a lawsuit, eviction action, petition for
3 provisional remedy or other civil petition, small claims case or civil
4 local ordinance.
5 2. "Civil traffic count" means a traffic violation that is not
6 filed as a misdemeanor or felony.
7 3. "Felony" includes each felony count that is filed in a
8 complaint.
9 4. "Misdemeanor" includes each misdemeanor and petty offense count
10 that is filed in a complaint or uniform traffic ticket and complaint.
11 5. "Protective order" means a petition for an order of protection,
12 an injunction against harassment or workplace harassment or a peace
13 bond.>>
14 Sec. 3. Effective date
Section 13-912, Arizona Revised Statutes, as added by this act, is
effective from and after December 31, 2025.
15 Enroll and engross to conform
16 Amend title to conform

NEAL CARTER

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