

PROPOSED AMENDMENT

HB 1118 # 5

DIGEST

Conditions. Provides that a person convicted of unlawful possession of a firearm by a serious violent felon is not entitled to expungement. Specifies that a conviction for a disqualifying offense also applies to an attempt or conspiracy to commit that offense. Prohibits a person from seeking an expungement until: (1) five years from the date the person completed their sentence; and (2) a specified time period based on the offense; whichever is later. Removes a requirement that prosecutors and defense attorneys obtain a court order to access expunged records. Moves and retabulates certain sections and subsections.

- 1 Page 12, delete line 41.
- 2 Page 13, delete line 2, begin a new line double block indented and
- 3 insert:
- 4 **"(E) unlawful possession of a firearm by a serious violent**
- 5 **felon (IC 35-47-4-5); or**
- 6 **(F) in accordance with IC 1-1-2-4, an attempt or**
- 7 **conspiracy to commit an offense described in this**
- 8 **subdivision; or".**
- 9 Page 14, delete lines 12 through 16, begin a new paragraph and
- 10 insert:
- 11 **"(b) Not earlier than the later of:**
- 12 **(1) five (5) years after the date of conviction; or**
- 13 **(2) five (5) years after completion of the sentence;**
- 14 **(unless the prosecuting attorney consents in writing to an earlier**
- 15 **period), a person convicted of a misdemeanor may petition a court**
- 16 **to expunge all conviction records that relate to the misdemeanor**
- 17 **conviction.".**
- 18 Page 14, delete lines 19 through 23, begin a new paragraph and
- 19 insert:
- 20 **"(b) Not earlier than the later of:**
- 21 **(1) eight (8) years after the date of conviction; or**
- 22 **(2) five (5) years after completion of the sentence;**
- 23 **(unless the prosecuting attorney consents in writing to an earlier**
- 24 **period), a person convicted of a Level 6 felony may petition a court**

1 **to expunge all conviction records that relate to the Level 6 felony**
 2 **conviction."**

3 Page 14, delete lines 26 through 30, begin a new paragraph and
 4 insert:

5 **"(b) Not earlier than the later of:**

6 **(1) ten (10) years after the date of conviction; or**

7 **(2) five (5) years after completion of the sentence;**

8 **(unless the prosecuting attorney consents in writing to an earlier**
 9 **period), a person convicted of a moderate felony may petition a**
 10 **court to expunge all conviction records that relate to the moderate**
 11 **felony conviction."**

12 Page 15, delete lines 6 through 13, begin a new line block indented
 13 and insert:

14 **"(4) the person was not convicted of a crime during the**
 15 **waiting period required by this chapter;"**

16 Page 16, delete lines 7 through 14, begin a new line double block
 17 indented and insert:

18 **"(A) a prosecuting attorney, if needed to carry out the**
 19 **official duties of the prosecuting attorney;**

20 **(B) a defense attorney, if needed to carry out the**
 21 **professional duties of the defense attorney;"**

22 Page 21, delete lines 20 through 24, begin a new paragraph and
 23 insert:

24 **"(d) A victim of the offense for which expungement is sought**
 25 **may submit an oral or written statement in support of or in**
 26 **opposition to the petition at the time of the hearing.**

27 **(e) The petitioner must prove by a preponderance of the**
 28 **evidence that the facts alleged in the verified petition are true."**

29 Page 21, line 25, delete "(e)" and insert "(f)".

30 Page 21, line 26, delete "(f)" and insert "(g)".

31 Page 21, line 29, delete "(g)" and insert "(h)".

32 Page 21, line 32, delete "(h)" and insert "(i)".

33 Page 21, line 38, delete "(i)" and insert "(j)".

34 Page 22, line 5, delete "(j)" and insert "(k)".

35 Page 24, delete lines 22 through 26, begin a new paragraph and
 36 insert:

37 **"Sec. 18. An expungement case, and all documents filed in the**
 38 **case, becomes confidential when the court issues an expungement**
 39 **order. However, until the court issues an expungement order,**
 40 **documents filed in the case are not confidential, and any hearing**

- 1 **held in the case shall be open."**
- 2 Page 24, line 27, delete "Sec. 18." and insert "**Sec. 19.**".
- 3 Page 24, line 34, delete "Sec. 19." and insert "**Sec. 20.**".
- 4 Renumber all SECTIONS consecutively.
(Reference is to HB 1118 as introduced.)