**South Carolina General Assembly**

125th Session, 2023-2024

**S. 112**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Allen, Hembree and Shealy

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Introduced in the Senate on January 10, 2023

Introduced in the House on March 28, 2023

Last Amended on May 8, 2024

Currently residing in the Senate

Summary: Fraudulent Check Expungement

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/30/2022 Senate Prefiled

11/30/2022 Senate Referred to Committee on **Banking and Insurance**

1/10/2023 Senate Introduced and read first time ([Senate Journal‑page 64](h:\sj\20230110.docx))

1/10/2023 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 64](h:\sj\20230110.docx))

2/8/2023 Scrivener's error corrected

2/23/2023 Senate Recalled from Committee on **Banking and Insurance** ([Senate Journal‑page 3](h:\sj\20230223.docx))

2/23/2023 Senate Committed to Committee on **Judiciary** ([Senate Journal‑page 3](h:\sj\20230223.docx))

3/3/2023 Senate Referred to Subcommittee: Hutto (ch), Matthews,
Rice, Senn, Adams

3/15/2023 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 16](h:\sj\20230315.docx))

3/16/2023 Scrivener's error corrected

3/21/2023 Senate Committee Amendment Adopted ([Senate Journal‑page 58](h:\sj\20230321.docx))

3/21/2023 Senate Read second time ([Senate Journal‑page 58](h:\sj\20230321.docx))

3/21/2023 Senate Roll call Ayes-40 Nays-0 ([Senate Journal‑page 58](h:\sj\20230321.docx))

3/22/2023 Senate Read third time and sent to House ([Senate Journal‑page 11](h:\sj\20230322.docx))

3/28/2023 House Introduced and read first time ([House Journal‑page 34](h:\hj\20230328.docx))

3/28/2023 House Referred to Committee on **Judiciary** ([House Journal‑page 34](h:\hj\20230328.docx))

5/1/2024 House Committee report: Favorable **Judiciary**

5/7/2024 House Requests for debate-Rep(s). Hiott, Hart, Carter, Hixon, Ligon, Sessions, MM Smith, McCravy, BL Cox, Guest, West, Robbins ([House Journal‑page 127](h:\hj\20240507.docx))

5/8/2024 House Amended

5/8/2024 House Read second time

5/8/2024 House Roll call Yeas-108 Nays-0

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=112&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[12/01/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/112_20221201.docx)

[02/08/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/112_20230208.docx)

[03/15/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/112_20230315.docx)

[03/16/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/112_20230316.docx)

[03/21/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/112_20230321.docx)

[05/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/112_20240501.docx)

[05/08/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/112_20240508.docx)

Indicates Matter Stricken

Indicates New Matter

Amended

May 08, 2024

S. 112

Introduced by Senators Allen, Hembree and Shealy

S. Printed 05/08/24--H.

Read the first time March 28, 2023

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 34-11-90, RELATING TO JURISDICTION FOR OFFENSES INVOLVING CHECKS AND PENALTIES, SO AS TO PROVIDE A METHOD TO EXPUNGE CONVICTIONS; AND TO AMEND SECTION 17-22-910, AS AMENDED, RELATING TO APPLICATIONS FOR EXPUNGEMENT, SO AS TO ADD MULTIPLE MISDEMEANOR OFFENSES OF CHECK FRAUD TO THOSE OFFENSES ELIGIBLE FOR EXPUNGEMENT.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 34-11-90 of the S.C. Code is amended by adding:

(f) notwithstanding another provision of law, if a defendant receives multiple convictions within a three-year period of time in magistrates court for a violation of this section, the defendant may, after ten years from the date of the last conviction, apply or cause someone acting on his behalf to apply, to the court for an order expunging the records of arrest and the multiple convictions. This provision does not apply to any crime classified as a felony. If the defendant receives no other convictions during the ten-year period following the last conviction under this section and full restitution has been made on all checks that are the subject of the convictions, the court must issue an order expunging the records. No person may take advantage of the rights permitted by this subsection more than once. Neither the application for nor successful expungement of a qualifying applicant’s record as authorized by subsection (e) precludes application for and expungement of a qualifying applicant’s record under this subsection. After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of its expungement to ensure that no person takes advantage of the rights permitted by this subsection more than once. This nonpublic record is not subject to release under Section 34-11-95, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need this information in order to prevent the rights afforded by this subsection from being taken advantage of more than once.

SECTION 2. Section 17‑22‑910(A)(1) of the S.C. Code is amended to read:

(1) Section 34‑11‑90(e), first offense misdemeanor fraudulent check or Section 34‑11‑90(f), multiple misdemeanor offenses of fraudulent check;

SECTION 3. Chapter 1, Title 17 of the S.C. Code is amended by adding:

Section 17‑1‑43. (A) Notwithstanding the provisions of Section 17‑1‑40, not later than one hundred eighty days after an investigation by a law enforcement or prosecution agency reveals that a person was arrested as a result of mistaken identity, the law enforcement or prosecution agency with appropriate jurisdiction shall destroy the arrest records of that person made as a result of mistaken identity. The law enforcement or prosecution agency, as appropriate, shall establish a review process for verifying that a person’s arrest records relating to mistaken identity in which no charges were filed have been destroyed as provided in this section. Neither the law enforcement or prosecution agency may charge or collect a fee for the destruction of arrest records pursuant to the provisions of this section.

(B) Law enforcement and prosecution agencies shall retain the arrest and booking record, associated bench warrants, mug shots, and fingerprints of the person under seal for three years and one hundred twenty days. A law enforcement or prosecution agency may retain the information indefinitely for purposes of ongoing or future investigations and prosecution of the offense, administrative hearings, and to defend the agency and the agency’s employees during litigation proceedings. The information must remain under seal. The information is not a public document and is exempt from disclosure, except by court order.

SECTION 4. Chapter 1, Title 17 of the S.C. Code is amended by adding:

Section 17‑1‑70. (A) A person charged with an offense listed in subsection (B) may petition the solicitor in the county in which the alleged offense occurred for dismissal of the alleged offense that has not been adjudicated by trial or guilty plea, or otherwise disposed of or dismissed, after five years from the date he was charged with the offense. If the petitioner has no other pending charges unrelated to the subject charge and no criminal convictions subsequent to the alleged offense, the solicitor must approve the dismissal of the offense charged and must do so within thirty days of receipt of the petition for dismissal.

(B) The following offenses are eligible for dismissal pursuant to the provisions of subsection (A):

(1) simple assault or assault and battery in the third degree pursuant to Section 16‑3‑600(E);

(2) public intoxication or disorderly conduct pursuant to Section 16‑17‑530;

(3) breach of trust with fraudulent intent pursuant to Section 16‑13‑230(1);

(4) open container in a motor vehicle pursuant to Section 61‑4‑110;

(5) trespassing pursuant to Section 16‑11‑600;

(6) misdemeanor drawing or uttering a fraudulent check pursuant to Sections 34‑11‑60 and 34‑11‑90;

(7) misdemeanor shoplifting pursuant to Section 16‑13‑110(B)(1);

(8) driving under suspension pursuant to Section 56‑1‑460(A)(1);

(9) simple possession of a controlled substance pursuant to Article 3, Chapter 53, Title 44; or

(10) a similar local or state offense for which, in the discretion of the solicitor, the elements are substantially similar as for any of the above listed offenses.

(C) Upon dismissal of the offense pursuant to the requirements of this section, the solicitor in the county in which the alleged offense occurred shall notify the State Law Enforcement Division (SLED) and SLED shall remove the pending charge from the petitioner’s criminal record within ten days of notification of dismissal. Additionally, any arrest and booking records, associated bench warrants, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge or associated bench warrants may be retained by any municipal, county, or state agency. A municipal, county, or state agency, or an employee of a municipal, county, or state agency that intentionally violates this subsection is guilty of contempt of court.

SECTION 5. This act takes effect upon approval by the Governor except that the provisions of Chapter 1, Title 17 applies retroactively to offenses charged before the effective date of this act.

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