**South Carolina General Assembly**

125th Session, 2023-2024

**H. 4602**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Hardee, Carter and Clyburn

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Introduced in the House on January 9, 2024

Currently residing in the House Committee on **Judiciary**

Summary: Expungement

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 11/16/2023 House Prefiled

 11/16/2023 House Referred to Committee on **Judiciary**

 1/9/2024 House Introduced and read first time (House Journal‑page 95)

 1/9/2024 House Referred to Committee on **Judiciary** (House Journal‑page 95)

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**VERSIONS OF THIS BILL**

[11/16/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4602_20231116.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS by adding SECTION 17‑22‑915 SO AS TO ALLOW FOR EXPUNGEMENT OF FIRST OFFENSE NONVIOLENT OFFENSES AND DRUG TREATMENT COURT OFFENSES after certain time periods without pending charges or additional convictions; BY AMENDING SECTION 17‑22‑910, RELATING TO APPLICATIONS FOR EXPUNGEMENT, SO AS TO REFERENCE EXPUNGEMENT PROVISIONS IN SECTION 17‑22‑915; AND BY AMENDING sECTION 17‑22‑940, RELATING TO THE EXPUNGEMENT PROCESS, SO AS TO PROVIDE FOR VERIFICATION of eligibility BY THE COURT FOR participants in DRUG TREATMENT COURTs BEFORE EXPUNGEMENT.

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

SECTION 1. Article 9, Chapter 22, Title 17 of the S.C. Code is amended by adding:

 Section 17-22-915. (A) Notwithstanding any other provision of law and pursuant to the provisions of this article, a person convicted on a first offense for a nonviolent offense, as defined in Section 16‑1‑70, may apply, or cause someone acting on his behalf to apply, to the appropriate solicitor’s office with jurisdiction over the offense for expungement of the nonviolent offense provided he has no pending charges and has not been convicted of any other offense for ten years from the date of conviction of the offense.

 (B) A person who successfully completes a drug treatment court program for a first offense conviction for a nonviolent offense may apply to the appropriate solicitor’s office with jurisdiction over the offense for expungement of the nonviolent offense provided he has no pending charges and has not been convicted of any other offense for three years from the date of completion of a drug treatment court program.

 (C) No person may have his records expunged under this section more than once. After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of expungement. This nonpublic record is not subject to release pursuant to Chapter 4, Title 30, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this section from being taken advantage of more than once.

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

 Section 17‑22‑910. (A) Applications for expungement of all criminal records must be administered by the solicitor’s office in each circuit in the State as authorized pursuant to:

 (1) Section 34‑11‑90(e), first offense misdemeanor fraudulent check;

 (2) Section 44‑53‑450(b), conditional discharge;

 (3) Section 22‑5‑910, first offense conviction in magistrates court;

 (4) Section 22‑5‑920, youthful offender act;

 (5) Section 22‑5‑930, first offense simple possession or possession with intent to distribute drug convictions;

 (6) Section 56‑5‑750(F), first offense failure to stop when signaled by a law enforcement vehicle;

 (7) Section 17‑22‑150(a), pretrial intervention;

 (8) Section 17‑1‑40, criminal records destruction, except as provided in Section 17‑22‑950;

 (9) Section 63‑19‑2050, juvenile expungements;

 (10) Section 17‑22‑530(A), alcohol education program;

 (11) Section 17‑22‑330(A), traffic education program;

 (12) Section 17‑22‑1010, Youth Challenge Academy and Jobs Challenge Program; and

 (13) Section 17‑22‑915, nonviolent offenses and drug treatment court convictions; and

 (14) any other statutory authorization.

 (B) A person’s eligibility for expungement of an offense contained in this section, or authorized by any other provision of law, must be based on the offense that the person pled guilty to or was convicted of committing and not on an offense for which the person may have been charged. In addition, if an offense for which a person was convicted is subsequently repealed and the elements of the offense are consistent with an existing similar offense which is currently eligible for expungement, a person's eligibility for expungement of an offense must be based on the existing similar offense.

 (C) The provisions of this section apply retroactively to allow expungement as provided by law for each offense delineated in subsection (A) by persons convicted prior to the enactment of this section or the addition of a specific item contained in subsection (A).

SECTION 3. Section 17‑22‑940(D) of the S.C. Code is amended to read:

 (D) In cases when charges are sought to be expunged pursuant to Section 17‑22‑150(a), 17‑22‑530(A), 17‑22‑330(A), 22‑5‑910, or 44‑53‑450(b), 17‑22‑915(B) or 17‑22‑1010, the circuit pretrial intervention director, alcohol education program director, traffic education program director, drug treatment court judge, South Carolina Youth Challenge Academy director, or summary court judge, as appropriate, shall attest by signature on the application to the eligibility of the charge for expungement before either the solicitor or his designee and then the circuit court judge, or the family court judge in the case of a juvenile, signs the application for expungement.

SECTION 4. This act takes effect upon approval by the Governor.

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