**South Carolina General Assembly**

126th Session, 2025-2026

**S. 428**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Allen and Hembree

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Introduced in the Senate on March 6, 2025

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

Summary: Fraudulent Check Expungement

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 3/6/2025 Senate Introduced and read first time (Senate Journal‑page 3)

 3/6/2025 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 3)

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**VERSIONS OF THIS BILL**

[03/06/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/428_20250306.docx)

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; BY AMENDING SECTION 17‑22‑910, RELATING TO APPLICATIONS FOR EXPUNGEMENT, SO AS TO ADD MULTIPLE MISDEMEANOR OFFENSES OF CHECK FRAUD TO THOSE OFFENSES ELIGIBLE FOR EXPUNGEMENT; AND BY ADDING SECTION 17‑1‑43 SO AS TO REQUIRE THE DESTRUCTION OF ARREST RECORDS OF PERSONS MADE AS A RESULT OF MISTAKEN IDENTITY UNDER CERTAIN CIRCUMSTANCES.

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, no 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. This act takes effect upon approval by the Governor.

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