

117TH CONGRESS
2D SESSION

H. R. 6667

To permit expungement of records of certain nonviolent criminal offenses,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2022

Mr. COHEN (for himself, Mr. JOHNSON of Georgia, Mr. CARSON, and Ms. NORTON) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To permit expungement of records of certain nonviolent
criminal offenses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fresh Start Act of
5 2022”.

6 **SEC. 2. EXPUNGEMENT OF CRIMINAL RECORDS FOR CER-**
7 **TAIN NONVIOLENT OFFENDERS.**

8 (a) IN GENERAL.—Chapter 229 of title 18, United
9 States Code, is amended by inserting after subchapter D
10 the following new subchapter:

1 “SUBCHAPTER E—EXPUNGEMENT

“Sec.

“3641. Expungement of certain criminal records in limited circumstances.

“3642. Requirements for expungement.

“3643. Procedure for expungement.

“3644. Effect of expungement.

“3645. Disclosure of expunged records.

2 **“§ 3641. Expungement of certain criminal records in**
 3 **limited circumstances**

4 “(a) IN GENERAL.—Any eligible individual convicted
 5 of a nonviolent offense may file a petition under this sub-
 6 chapter for expungement with regard to that nonviolent
 7 offense.

8 “(b) DEFINITION OF NONVIOLENT OFFENSE.—In
 9 this subchapter, the term ‘nonviolent offense’ means any
 10 offense under this title or under the Controlled Substances
 11 Act (8 U.S.C. 801 et seq.) that is not a crime of violence.

12 “(c) DEFINITION OF CRIME OF VIOLENCE.—In this
 13 subchapter, the term ‘crime of violence’ means an offense,
 14 punishable by one year or more in the prison, that—

15 “(1) has as an element the use, attempted use,
 16 or threatened use of physical force against the per-
 17 son or property of another;

18 “(2) involves the unlawful possession, sale,
 19 transfer, or use of a firearm, explosive, or other
 20 deadly weapon, or the attempt thereof; or

1 “(3) causes the petitioner to be required to reg-
2 ister under the Sex Offender Registration and Noti-
3 fication Act (34 U.S.C. 20901 et seq.).

4 **“§ 3642. Requirements for expungement**

5 “An individual is eligible for expungement under this
6 subchapter if that individual—

7 “(1) at the time of filing, had never been con-
8 victed of any criminal offense other than nonviolent
9 offenses committed in a single criminal episode that
10 includes the offense for which expungement is
11 sought; and

12 “(2) has fulfilled the requirements of the sen-
13 tence of the court in which the individual was con-
14 victed of that nonviolent offense, including—

15 “(A) paying, or consistently fulfilling obli-
16 gations of a payment plan for, all applicable
17 fines, restitutions, or assessments;

18 “(B) completion of any term of imprison-
19 ment or period of probation;

20 “(C) meeting all conditions of supervised
21 release; and

22 “(D) if so required by the terms of the
23 sentence, remaining free from dependency on or
24 abuse of alcohol or a controlled substance for a
25 period of not less than 1 year.

1 If extenuating circumstances prevent an individual from
2 fulfilling the requirements of the sentence, as required
3 under paragraph (2), the court, in its discretion, may
4 waive a portion of such requirement.

5 **“§ 3643. Procedure for expungement**

6 “(a) PETITION.—A petition for expungement may be
7 filed only in the court in which the petitioner was con-
8 victed of the nonviolent offense for which expungement is
9 sought. The clerk of the court shall serve that petition on
10 the United States Attorney for that district. Except as
11 provided under subsection (e), not later than 60 days after
12 service of such petition, the United States Attorney may
13 submit recommendations to the court and provide a copy
14 of those recommendations to the petitioner.

15 “(b) APPOINTMENT OF COUNSEL.—The court shall
16 appoint counsel upon the request of an indigent petitioner
17 to represent the petitioner in proceedings under this sub-
18 chapter, including the preparation of a petition or subse-
19 quent petition under this section.

20 “(c) SUBMISSION OF EVIDENCE.—The petitioner and
21 the Government may file with the court evidence relating
22 to the petition.

23 “(d) BASIS FOR DECISION.—In making a decision on
24 the petition, the court shall consider all evidence and

1 weigh the interests of the petitioner, the best interests of
2 justice, and public safety.

3 “(e) SUBSEQUENT PETITION.—If the court denies
4 the petition, the petitioner may not file another such peti-
5 tion until the date that is 2 years after the date of such
6 denial.

7 “(f) MANDATORY GRANT OF PETITION.—

8 “(1) IN GENERAL.—Except as provided in para-
9 graph (2), the court shall grant the petition of an
10 eligible petitioner who files the petition on a date
11 that is not earlier than the date that is 7 years after
12 the date on which the petitioner has fulfilled the re-
13 quirements of the sentence, as described in section
14 3642(2). The United States Attorney may not sub-
15 mit recommendations under subsection (a) with re-
16 gard to that petition.

17 “(2) EXCEPTIONS.—The court shall not grant
18 under this subsection the petition of a petitioner who
19 has committed any offense under this title that
20 caused a victim or victims to sustain a loss of
21 \$25,000 or more.

22 “(g) DISCRETIONARY GRANT OF PETITION.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), the court shall grant the petition of an
25 eligible petitioner who files the petition on a date

1 that is not earlier than the date that is 1 year after
2 the date on which the petitioner has fulfilled the re-
3 quirements of the sentence, as described in section
4 3642(2).

5 “(2) EXCEPTIONS.—The court shall not grant
6 under this subsection the petition of a petitioner who
7 has committed any offense under this title that
8 caused a victim or victims to sustain a loss of
9 \$250,000 or more.

10 “(3) NOTIFICATION OF EXPUNGEMENT.—Not
11 later than 7 days after granting an expungement pe-
12 tition, in order to facilitate the timely update of rel-
13 evant records, the court shall send a copy of the pe-
14 tition and final order to—

15 “(A) the Attorney General of the United
16 States;

17 “(B) the chief law enforcement officer of
18 the State in which the crime was committed;

19 “(C) the chief law enforcement officer of
20 the State in which the petitioner resides;

21 “(D) any local law enforcement agency
22 that serves the jurisdiction in which the crime
23 was committed; and

1 “(E) any local law enforcement agency
2 that serves the jurisdiction in which petitioner
3 resides.

4 **“§ 3644. Effect of expungement**

5 “(a) IN GENERAL.—An order granting expungement
6 under this subchapter shall restore the individual con-
7 cerned, in the contemplation of the law, to the status such
8 individual occupied before the arrest or institution of
9 criminal proceedings for the nonviolent offense that was
10 the subject of the expungement.

11 “(b) SENTENCING.—In determining an appropriate
12 sentence for unrelated subsequent criminal conduct, a
13 court of the United States shall not consider an expunged
14 criminal conviction for the purposes of determining the ap-
15 propriate sentencing range pursuant to the United States
16 Sentencing Guidelines, or to sentence a person outside of
17 that sentencing range.

18 “(c) NO DISQUALIFICATION; STATEMENTS.—An in-
19 dividual whose petition under this subchapter is granted
20 shall not be required to divulge information pertaining to
21 the nonviolent offense with regard to which expungement
22 was granted, nor shall such individual be held under any
23 provision of law guilty of perjury, false answering, or mak-
24 ing a false statement by reason of the failure of the indi-
25 vidual to recite or acknowledge such arrest or institution

1 of criminal proceedings, or results thereof, in response to
2 an inquiry made of the individual for any purpose. The
3 fact that such individual has been convicted of the non-
4 violent offense concerned shall not operate as a disquali-
5 fication of such individual to pursue or engage in any law-
6 ful activity, occupation, or profession.

7 “(d) RECORDS EXPUNGED.—Except as provided
8 under section 3645, on the grant of a petition under this
9 subchapter, the following shall be expunged:

10 “(1) Any official record relating to the arrest of
11 the petitioner, the institution of criminal proceedings
12 against the petitioner, or the results thereof (includ-
13 ing conviction) for the nonviolent offense with regard
14 to which expungement is sought.

15 “(2) Any reference in any official record to the
16 arrest of the petitioner, the institution of criminal
17 proceedings against the petitioner, or the results
18 thereof (including conviction) for the nonviolent of-
19 fense with regard to which expungement is sought.

20 “(e) EXCEPTIONS.—The Attorney General may make
21 rules providing for exceptions to subsection (d) as the At-
22 torney General determines necessary to serve the interests
23 of justice and public safety.

1 **“§ 3645. Disclosure of expunged records**

2 “(a) DEPARTMENT OF JUSTICE RECORDS.—The At-
3 torney General shall retain an unaltered nonpublic copy
4 of—

5 “(1) any record that is expunged; and

6 “(2) any record containing a reference that is
7 expunged.

8 “(b) LAW ENFORCEMENT PURPOSES.—The Attorney
9 General shall maintain a nonpublic index of the records
10 described under subsection (a) containing, for each such
11 record, only the name of, and alphanumeric identifiers
12 that relate to, the individual who is the subject of such
13 record, the word ‘expunged’, and the name of the person,
14 agency, office, or department that has custody of the ex-
15 punged record, and shall not name the offense committed.
16 The index shall be made available only to an entity to
17 which records may be made available under subsection (d)
18 or to any Federal or State law enforcement agency that
19 has custody of such records.

20 “(c) COURT RECORDS.—The court shall retain an
21 unaltered nonpublic copy of—

22 “(1) any record that is expunged; and

23 “(2) any record containing a reference that is
24 expunged.

25 “(d) AUTHORIZED DISCLOSURES.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), any record described in subsection (a)
3 pertaining to an individual may be made available
4 only—

5 “(A) to the petitioner;

6 “(B) to a Federal or State court or Fed-
7 eral, State, or local law enforcement agency, in
8 the case of a criminal investigation or prosecu-
9 tion of an individual or in conducting a back-
10 ground check on an individual who has applied
11 for employment by such court or agency; or

12 “(C) to a Federal or State court or Fed-
13 eral, State, or local law enforcement agency for
14 the exclusive purpose of maintaining accurate
15 official records.

16 “(2) AUTHORIZED DISCLOSURE TO INDIVID-
17 UALS.—On application of the petitioner, the record
18 may be available to an individual identified in the
19 petitioner’s application.

20 “(e) PUNISHMENT FOR IMPROPER DISCLOSURE.—
21 Whoever intentionally makes or attempts to make a disclo-
22 sure, other than a disclosure authorized under subsection
23 (d), of any record or reference that is expunged under this
24 subchapter, shall be fined under this title or imprisoned
25 not more than one year, or both.”.

1 (b) CLERICAL AMENDMENT.—The table of sub-
 2 chapters at the beginning of chapter 229 of title 18,
 3 United States Code, is amended by adding at the end the
 4 following item:

“E. Expungement 3641”.

5 (c) EFFECTIVE DATE.—The amendments made by
 6 this Act shall apply to individuals convicted of an offense
 7 before, on, or after the date of the enactment of this Act.

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