

114TH CONGRESS
1ST SESSION

H. R. 3156

To provide for the expungement and sealing of youth criminal records, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2015

Ms. JACKSON LEE (for herself, Mr. CONYERS, Ms. BASS, Ms. BROWN of Florida, Ms. JUDY CHU of California, Mr. CICILLINE, Mr. CLAY, Ms. CLARKE of New York, Mr. COHEN, Mrs. WATSON COLEMAN, Mr. DANNY K. DAVIS of Illinois, Mr. DEUTCH, Ms. EDWARDS, Mr. GRIJALVA, Ms. HAHN, Mr. JEFFRIES, Mr. JOHNSON of Georgia, Ms. LEE, Ms. LOFGREN, Mr. NADLER, Ms. NORTON, Mr. PAYNE, Mr. PIERLUISI, Mr. RANGEL, Mr. RICHMOND, Mr. SERRANO, Mr. VAN HOLLEN, Ms. WILSON of Florida, Mr. BUTTERFIELD, Mr. VEASEY, Mr. ELLISON, Mr. PETERS, Ms. MAXINE WATERS of California, Mr. HINOJOSA, Mr. VARGAS, Mr. AL GREEN of Texas, and Mr. CASTRO of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for the expungement and sealing of youth
criminal records, 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 “Fair Chance for Youth
5 Act of 2015”.

1 **SEC. 2. YOUTH SEALING AND EXPUNGEMENT.**

2 (a) IN GENERAL.—Chapter 229 of title 18, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 “SUBCHAPTER D—EXPUNGEMENT AND
6 SEALING OF YOUTH CRIMINAL RECORDS

“Sec.

“3631. Youth Offense Expungement and Sealing Review Board.

“3632. Expungement and sealing for youth.

“3633. Definitions.

“3634. Reporting.

7 **“§ 3631. Youth Offense Expungement and Sealing Re-**
8 **view Board**

9 “(a) IN GENERAL.—The Chief Judge for each Fed-
10 eral District shall establish—

11 “(1) a Youth Offense Expungement and Seal-
12 ing Review Board (hereinafter in this section re-
13 ferred to as the ‘Review Board’) to review petitions
14 for discretionary expungement and sealing of youth
15 offenses; and

16 “(2) the rules and procedures governing the op-
17 eration of the Review Board in the exercise of its
18 powers under subsection (c).

19 “(b) COMPOSITION.—The Review Board shall include
20 one representative, selected by the Chief Judge to serve
21 without compensation, from each of the following:

22 “(1) The Department of Justice.

1 “(2) The United States Probation and Pretrial
2 Services System.

3 “(3) The Office of the Federal Defender or a
4 designated Criminal Justice Act panel attorney or
5 private criminal defense attorney.

6 “(c) POWERS.—The Review Board shall—

7 “(1) review petitions under this subchapter to
8 determine whether the youth, and the offense on
9 which the petition is based, meet the eligibility re-
10 quirements for expungement or sealing consider-
11 ation;

12 “(2) for petitions meeting the eligibility require-
13 ments, evaluate those petitions on the merits in
14 order to make a recommendation on the advisability
15 of granting the petition; and

16 “(3) convey its recommendation, with a written
17 explanation, to the Chief Judge in each Federal Dis-
18 trict, or a designee of the Chief Judge, for consider-
19 ation.

20 “(d) RECOMMENDATION.—In making its rec-
21 ommendation, the Review Board—

22 “(1) shall consider all the evidence and testi-
23 mony presented in the petition and any hearings
24 held on the petition;

1 “(2) may not consider any arrest or prosecution
2 that did not result in a conviction and that took
3 place prior to the conviction or arrest the petitioner
4 is seeking to expunge or seal; and

5 “(3) shall balance—

6 “(A) the public safety, the interest of pub-
7 lic knowledge, and any legitimate interest of the
8 Government in maintaining the accessibility of
9 the protected information; against

10 “(B) the interest of the petitioner in hav-
11 ing the petition granted, including the benefit
12 to the petitioner’s ability to positively contribute
13 to the community, and the petitioner’s conduct
14 and demonstrated desire to be rehabilitated.

15 “(e) COURT TO CONSIDER AND DECIDE UPON PETI-
16 TIONS.—The Court shall consider and decide upon each
17 petition for which the court receives a recommendation
18 from the Review Board. The Court’s decision to grant or
19 deny the petition shall give significant weight to the Re-
20 view Board recommendation. The Court shall grant the
21 petition unless the Government shows the interests de-
22 scribed in subsection (d)(3)(A) outweigh the interests of
23 the petitioner described in subsection (d)(3)(B).

24 “(f) ONE OPPORTUNITY.—A youth may only file a
25 petition for expungement or sealing under this subchapter

1 once and the decision of the district court on the petition
2 shall be final and is not appealable.

3 “(g) ONLINE FORMS FOR PETITIONS.—The Director
4 of the Administrative Office of the United States Courts
5 shall create and make available to the public, online and
6 in paper form, a universal form to file a petition under
7 this section, and establish a process under which indigent
8 petitioners may obtain a waiver of any fee for filing a peti-
9 tion under this section.

10 “(h) MAKING AVAILABLE STANDARD FORMS FOR
11 COURT ORDERS.—The Director of the Administrative Of-
12 fice of the United States Courts shall create and make
13 available to the Chief Judge of every Federal district
14 standard expungement and sealing orders that empower
15 the petitioner to seek destruction of records in accordance
16 with the order.

17 **“§ 3632. Expungement and sealing for youth**

18 “(a) EXPUNGEMENT PETITION ELIGIBILITY.—A
19 youth may petition a district court of the United States
20 for expungement—

21 “(1) of the record of any misdemeanor or non-
22 violent felony drug conviction 3 years after the youth
23 has completed every term of imprisonment related to
24 that misdemeanor or nonviolent felony drug convic-
25 tion;

1 “(2) of the record of any person who has not
2 attained the age of 18 at the time of committing the
3 conduct resulting in conviction for any misdemeanor
4 or nonviolent offense 3 years after the person has
5 completed every term of imprisonment related to
6 that misdemeanor or nonviolent offense conviction;
7 and

8 “(3) of the record of an arrest or prosecution
9 for any nonviolent offense on the date on which the
10 case related to that arrest or prosecution is disposed
11 of.

12 “(b) SEALING PETITION ELIGIBILITY.—A youth may
13 petition a district court of the United States, for sealing—

14 “(1) of the record of any nonviolent conviction
15 5 years after the youth has completed every term of
16 imprisonment related to that nonviolent conviction;

17 “(2) of the record of any person who has not
18 attained the age of 18 at the time of committing the
19 conduct resulting in conviction for any offense 10
20 years after the person has completed every term of
21 imprisonment related to that offense conviction; and

22 “(3) of the record of an arrest or prosecution
23 for any nonviolent offense on the date on which the
24 case related to that arrest or prosecution is disposed
25 of.

1 “(c) NOTICE OF OPPORTUNITY TO FILE PETI-
2 TION.—A youth shall be informed of the eligibility to, pro-
3 cedures for, and benefits of filing an expungement or seal-
4 ing petition—

5 “(1) by the District Court on the date of con-
6 viction;

7 “(2) by the Office of Probation and Pretrial
8 Services on the date the youth completes every term
9 of imprisonment; or

10 “(3) if the arrest or prosecution does not result
11 in a conviction, then by the Department of Justice
12 on the date the case is disposed of.

13 “(d) GRANT OF PETITION.—If a court grants a peti-
14 tion under this section—

15 “(1) the person to whom the record pertains
16 may choose to, but is not required to, disclose the
17 existence of the record, and the offense conduct and
18 any arrest, juvenile delinquency proceeding, adju-
19 dication, conviction, or other result of such pro-
20 ceeding relating to the offense conduct, shall be
21 treated as if it never occurred;

22 “(2) the court shall destroy each paper and
23 electronic copy of the record in the possession of the
24 court;

1 “(3) the court shall issue an expungement or
2 sealing order requiring the destruction of any paper
3 and electronic copies of the record by any court, law
4 enforcement officer, law enforcement agency, treat-
5 ment or rehabilitation services agency, or employee
6 thereof in possession of those copies;

7 “(4) any entity or person listed in paragraph
8 (3) that receives an inquiry relating to the record
9 shall reply to the inquiry stating that no such record
10 exists; and

11 “(5) except as provided in subsection (f), no
12 person shall not be subject to prosecution under any
13 civil or criminal provision of Federal or State law re-
14 lating to perjury, false swearing, or making a false
15 statement for failing to acknowledge the record or
16 respond to any inquiry made of the of petitioner or
17 the parent relating to the record, for any purpose.

18 “(e) CIVIL ACTIONS.—

19 “(1) IN GENERAL.—If an individual who has a
20 record expunged or sealed under this section brings
21 an action that might be defended with the contents
22 of the record, there shall be a rebuttable presump-
23 tion that the defendant has a complete defense to
24 the action.

1 “(2) SHOWING BY PLAINTIFF.—In an action
2 described in paragraph (1), the plaintiff may rebut
3 the presumption of a complete defense by showing
4 that the contents of the record would not prevent
5 the defendant from being liable.

6 “(3) DUTY TO TESTIFY AS TO EXISTENCE OF
7 RECORD.—The court in which an action described in
8 paragraph (1) is filed may require the plaintiff to
9 state under oath whether the plaintiff had a record
10 and whether the record was expunged or sealed.

11 “(4) PROOF OF EXISTENCE OF RECORD.—If the
12 plaintiff in an action described in paragraph (1) de-
13 nied the existence of a record, the defendant may
14 prove the existence of the record in any manner
15 compatible with the applicable laws of evidence.

16 “(f) ATTORNEY GENERAL NONPUBLIC RECORDS.—
17 The Attorney General shall—

18 “(1) maintain a nonpublic database of all
19 records expunged or sealed under this subchapter;

20 “(2) disclose, access, or utilize records con-
21 tained in the nonpublic database only—

22 “(A) in defense of any civil suit arising out
23 of the facts contained in the record;

1 “(B) to determine whether the individual
2 to whom the record relates is eligible for a first-
3 time-offender diversion program;

4 “(C) for a background check that relates
5 to law enforcement employment or any employ-
6 ment that requires a Government security clear-
7 ance; or

8 “(D) if the Attorney General determines
9 that disclosure is necessary to serve the inter-
10 ests of national security; and

11 “(3) to the extent practicable, notify the indi-
12 vidual to whom the record pertains of the disclosure
13 unless it is made pursuant to paragraph (2)(D).

14 **“§ 3633. Definitions**

15 “‘In this subchapter—

16 “(1) the term ‘youth’ means an individual who
17 was 21 years of age or younger at the time of the
18 criminal offense for which the individual was ar-
19 rested, prosecuted, or sentenced;

20 “(2) the term ‘nonviolent felony’ means a Fed-
21 eral criminal felony offense that is not—

22 “(A) a crime of violence; or

23 “(B) a sex offense (as that term is defined
24 in section 111 of the Sex Offender Registration
25 and Notification Act);

1 “(3) the term ‘record’ means information,
2 whether in paper or electronic form, containing any
3 reference to—

4 “(A) an arrest, conviction, or sentence of
5 an individual for an offense;

6 “(B) the institution of juvenile delinquency
7 or criminal proceedings against an individual
8 for the offense; or

9 “(C) adjudication, conviction, or any other
10 result of juvenile delinquency or criminal pro-
11 ceedings;

12 “(4) the term ‘expunge’—

13 “(A) means to destroy a record and oblit-
14 erate the name of the person to whom the
15 record pertains from each official index or pub-
16 lic record; and

17 “(B) has the effect described in section
18 3631(g), including—

19 “(i) the right to treat an offense to
20 which an expunged record relates, and any
21 arrest, juvenile delinquency proceeding, ad-
22 judication, conviction, or other result of
23 such proceeding relating to the offense, as
24 if it never occurred; and

1 “(ii) protection from civil and criminal
2 perjury, false swearing, and false state-
3 ment laws with respect to an expunged
4 record;

5 “(5) the term ‘seal’—

6 “(A) means—

7 “(i) to close a record from public
8 viewing so that the record cannot be exam-
9 ined except by court order; and

10 “(ii) to physically seal the record shut
11 and label the record ‘SEALED’ or, in the
12 case of an electronic record, the sub-
13 stantive equivalent; and

14 “(B) has the effect described in section
15 3631(g), including—

16 “(i) the right to treat an offense to
17 which an expunged record relates, and any
18 arrest, juvenile delinquency proceeding, ad-
19 judication, conviction, or other result of
20 such proceeding relating to the offense, as
21 if it never occurred; and

22 “(ii) protection from civil and criminal
23 perjury, false swearing, and false state-
24 ment laws with respect to an expunged
25 record;

1 “(6) the term ‘conviction’—

2 “(A) means a judgment or disposition in
3 criminal court against a person following a find-
4 ing of guilt by a judge or jury; and

5 “(B) for the purposes of this section—

6 “(i) multiple convictions shall be
7 deemed to be one conviction if the convic-
8 tions result from or relate to the same act
9 or acts committed at the same time; and

10 “(ii) multiple convictions, not to ex-
11 ceed 3, that do not result from or relate to
12 the same act or acts committed at the
13 same time shall be deemed to be one con-
14 viction if the convictions result from or re-
15 late to the same indictment, information,
16 or complaint, or plea of guilty; and

17 “(7) the term ‘destroy’ means to render a file
18 unreadable, whether paper, electronic, or otherwise
19 stored, by shredding, pulverizing, pulping, incin-
20 erating, overwriting, reformatting the media, or
21 other means.

22 **“§ 3634. Reporting**

23 “Not later than 2 years after the date of enactment
24 of this subchapter, and each year thereafter, the Attorney
25 General shall issue a public report that—

1 “(1) describes—

2 “(A) the number of expungement and seal-
3 ing petitions granted and denied; and

4 “(B) the number of instances in which the
5 office of a United States attorney supported or
6 opposed an expungement or sealing petition;
7 and

8 “(2) includes any supporting data that the
9 court determines relevant but does not name any pe-
10 titioner.”.

11 **SEC. 3. RETROACTIVE EFFECT.**

12 This Act and the amendments made by this Act apply
13 with respect to youth without regard to whether they be-
14 come involved in the Federal criminal justice system be-
15 fore, on, or after the date of the enactment of this Act.

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