

HCS HB 491 -- EXPUNGEMENT

SPONSOR: May

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 10 to 0.

This bill specifies that if a person is named in a charge for an infraction or offense as a result of another person using the identifying information of the named person or mistaken identity and a finding of not guilty is entered, or the conviction is set aside, the named person may apply by petition or written motion to the court where the charge was last pending for an order to expunge from all official records any entries relating to the person's apprehension, charge, or trial. If the charge against the named person is dismissed, the prosecutor or other judicial officer who ordered the dismissal shall notify the court, and the court shall order the expungement.

The court, after notice to the prosecuting attorney, must hold a hearing on the motion or petition and, upon finding that the person's identity was used without permission and the charges were dismissed or the person was found not guilty, the court must order the expungement.

No person as to whom an order has been entered under these provisions can be held thereafter under any provision of law to be guilty of perjury, or to be guilty of otherwise giving a false statement or response to any inquiry made for any purpose, by reason of the person's failure to recite or acknowledge any expunged entries concerning apprehension, charge, or trial.

The court is required to order that such entries must be expunged from the records of the court and direct all law enforcement agencies, the Department of Corrections, the Department of Revenue, or any other state or local government agency identified by the petitioner, or the person eligible for automatic expungement as bearing record of the same to expunge their records of the entries.

The clerk must notify state and local agencies of the court's order. The costs of expunging the records, as provided in this chapter, cannot be taxed against the person eligible for expungement under this section.

Any insurance company that charged any additional premium based on insurance points assessed against a policyholder as a result of a charge or conviction that was expunged must refund the additional premiums to the policyholder upon notification of the expungement.

This bill is similar to HB 2193 (2016).

PROPONENTS: Supporters say that if a person is charged with or convicted of committing an offense as a result of someone stealing the person's identity, the person should be able to have the information expunged.

Testifying for the bill was Representative May.

OPPONENTS: There was no opposition voiced to the committee.