

SENATE BILL No. 236

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-38-9-6.

Synopsis: Expungement and firearms. Specifies, for purposes of the expungement statute, that a person whose conviction for a misdemeanor involving the use of a firearm, or for a felony, is expunged is entitled to restoration of the person's right to possess a firearm only if the court finds, following a hearing, that restoration of the person's right to possess a firearm is unlikely to present a danger to the public.

Effective: July 1, 2024.

Crider

January 10, 2024, read first time and referred to Committee on Corrections and Criminal Law.



Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

SENATE BILL No. 236



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-38-9-6, AS AMENDED BY P.L.185-2023,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 6. (a) If the court orders conviction records,
4 including any records relating to the conviction and any records
5 concerning a collateral action, expunged under sections 2 through 3 of
6 this chapter, the court shall do the following with respect to the specific
7 records expunged by the court:
8 (1) Order:
9 (A) the department of correction;
10 (B) the bureau of motor vehicles; and
11 (C) each:
12 (i) law enforcement agency; and
13 (ii) other person;
14 who incarcerated, prosecuted, provided treatment for, or
15 provided other services for the person under an order of the
16 court;
17 to prohibit the release of the person's records or information in the



1 person's records to anyone without a court order, other than a law
 2 enforcement officer acting in the course of the officer's official
 3 duty.

4 (2) Order the central repository for criminal history information
 5 maintained by the state police department to seal the person's
 6 expunged conviction records, including information related to:

7 (A) an arrest or offense:

8 (i) in which no conviction was entered; and

9 (ii) that was committed as part of the same episode of
 10 criminal conduct as the case ordered expunged; and

11 (B) any other references to any matters related to the case
 12 ordered expunged, including in a collateral action.

13 This subdivision does not require the state police department to
 14 seal any record the state police department does not have legal
 15 authority to seal.

16 (3) Records sealed under subdivision (2) may be disclosed only
 17 to:

18 (A) a prosecuting attorney, if:

19 (i) authorized by a court order; and

20 (ii) needed to carry out the official duties of the prosecuting
 21 attorney;

22 (B) a defense attorney, if:

23 (i) authorized by a court order; and

24 (ii) needed to carry out the professional duties of the defense
 25 attorney;

26 (C) a probation department, if:

27 (i) authorized by a court order; and

28 (ii) necessary to prepare a presentence report;

29 (D) the Federal Bureau of Investigation and the Department of
 30 Homeland Security, if disclosure is required to comply with an
 31 agreement relating to the sharing of criminal history
 32 information;

33 (E) the:

34 (i) supreme court;

35 (ii) members of the state board of law examiners;

36 (iii) executive director of the state board of law examiners;
 37 and

38 (iv) employees of the state board of law examiners, in
 39 accordance with rules adopted by the state board of law
 40 examiners;

41 for the purpose of determining whether an applicant possesses
 42 the necessary good moral character for admission to the bar;



- 1 (F) a person required to access expunged records to comply
 2 with the Secure and Fair Enforcement for Mortgage Licensing
 3 Act (12 U.S.C. 5101 et seq.) or regulations adopted under the
 4 Secure and Fair Enforcement for Mortgage Licensing Act;
 5 (G) the bureau of motor vehicles, the Federal Motor Carrier
 6 Administration, and the Commercial Drivers License
 7 Information System (CDLIS), if disclosure is required to
 8 comply with federal law relating to reporting a conviction for
 9 a violation of a traffic control law; and
 10 (H) a school (as defined in IC 22-4-2-37), for the purpose of
 11 determining whether to:
 12 (i) employ a person seeking employment, including
 13 volunteer employment, with the school;
 14 (ii) continue a person's employment, including volunteer
 15 employment at the school; or
 16 (iii) grant access or admission to the school to an applicant
 17 contractor or a contractor;
 18 if the person, contractor, or applicant contractor is likely to
 19 have contact with a student enrolled in the school, regardless
 20 of the age of the student.
 21 (4) Notify the clerk of the supreme court to seal any records in the
 22 clerk's possession that relate to the conviction, including any
 23 records concerning a collateral action.
 24 A probation department may provide an unredacted version of a
 25 presentence report disclosed under subdivision (3)(C) to any person
 26 authorized by law to receive a presentence report.
 27 (b) Except as provided in subsection (c), if a petition to expunge
 28 conviction records, including any records relating to the conviction and
 29 any records concerning a collateral action, is granted under sections 2
 30 through 3 of this chapter, the records of:
 31 (1) the sentencing court;
 32 (2) a court that conducted a collateral action;
 33 (3) a juvenile court;
 34 (4) a court of appeals; and
 35 (5) the supreme court;
 36 concerning the person shall be permanently sealed. However, a petition
 37 for expungement granted under sections 2 through 3 of this chapter
 38 does not affect an existing or pending driver's license suspension.
 39 (c) If a petition to expunge conviction records, including any records
 40 relating to the conviction and any records concerning a collateral
 41 action, is granted under sections 2 through 3 of this chapter with
 42 respect to the records of a person who is named as an appellant or an



1 appellee in an opinion or memorandum decision by the supreme court
 2 or the court of appeals, or who is identified in a collateral action, the
 3 court shall:

4 (1) redact the opinion or memorandum decision as it appears on
 5 the computer gateway administered by the office of technology so
 6 that it does not include the petitioner's name (in the same manner
 7 that opinions involving juveniles are redacted); and

8 (2) provide a redacted copy of the opinion to any publisher or
 9 organization to whom the opinion or memorandum decision is
 10 provided after the date of the order of expungement.

11 The supreme court and court of appeals are not required to destroy or
 12 otherwise dispose of any existing copy of an opinion or memorandum
 13 decision that includes the petitioner's name.

14 (d) Notwithstanding subsection (b), a prosecuting attorney may
 15 submit a written application to a court that granted an expungement
 16 petition under this chapter to gain access to any records that were
 17 permanently sealed under subsection (b), if the records are relevant in
 18 a new prosecution of the person. If a prosecuting attorney who submits
 19 a written application under this subsection shows that the records are
 20 relevant for a new prosecution of the person, the court that granted the
 21 expungement petition shall:

22 (1) order the records to be unsealed; and

23 (2) allow the prosecuting attorney who submitted the written
 24 application to have access to the records.

25 If a court orders records to be unsealed under this subsection, the court
 26 shall order the records to be permanently resealed at the earliest
 27 possible time after the reasons for unsealing the records cease to exist.
 28 However, if the records are admitted as evidence against the person in
 29 a new prosecution that results in the person's conviction, or are used to
 30 enhance a sentence imposed on the person in a new prosecution, the
 31 court is not required to reseat the records.

32 (e) If a person whose conviction records, including any records
 33 relating to the conviction and any records concerning a collateral
 34 action, are expunged under sections 2 through 5 of this chapter is
 35 required to register as a sex offender based on the commission of a
 36 felony which has been expunged:

37 (1) the expungement does not affect the operation of the sex
 38 offender registry ~~web site~~, **website**, any person's ability to access
 39 the person's records, records required to be maintained concerning
 40 sex or violent offenders, or any registration requirement imposed
 41 on the person; and

42 (2) the expunged conviction records must be clearly marked as



1 expunged on the sex offender registry ~~web site:~~ **website.**

2 (f) Expungement of:

3 **(1) a crime of domestic violence under section 2 of this chapter;**

4 **(2) a felony; or**

5 **(3) a misdemeanor involving the use of a firearm;**

6 does not restore a person's right to possess a firearm. The right of a
7 person convicted of a crime of domestic violence to possess a firearm
8 may be restored only in accordance with IC 35-47-4-7. **The right of a
9 person convicted of a misdemeanor involving the use of a firearm,
10 or of a felony, to possess a firearm may be restored only if the
11 court finds, following a hearing, that restoration of the person's
12 right to possess a firearm is unlikely to present a danger to the
13 public.**

14 (g) If a court issues an order granting a petition for expungement
15 under sections 2 through 3 of this chapter, the court shall also order any
16 related records described in section 1(h) of this chapter sealed or
17 redacted in the manner described in section 1 of this chapter, unless the
18 records described in section 1(h) of this chapter have been ordered
19 sealed and redacted under this section.

20 (h) If the court issues an order granting a petition for expungement
21 under sections 2 through 3 of this chapter, the court shall include in its
22 order the information described in section 8(b) of this chapter.

23 (i) If the court issues an order granting a petition for expungement
24 under sections 2 through 5 of this chapter, the court shall include in its
25 order the information described in section 10(c) of this chapter.

26 **(j) If the court issues an order granting the expungement of a
27 misdemeanor involving the use of a firearm, or of a felony, the
28 court shall include in its order whether or not the person's right to
29 possess a firearm has been restored.**

