

115TH CONGRESS  
1ST SESSION

# H. R. 3578

To permit the expungement of records of certain nonviolent criminal offenses.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2017

Mr. DANNY K. DAVIS of Illinois introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To permit the expungement of records of certain nonviolent criminal offenses.

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 “Expungement Act of  
5 2017”.

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 C  
10 the following new subchapter:

“SUBCHAPTER D—EXPUNGEMENT

“See.

“3631. Expungement of certain criminal records in limited circumstances.

“3632. Requirements for expungement.

“3633. Procedure for expungement.

“3634. Effect of expungement.

“3635. Reversal of expunged records.

“3636. Unsealing of records.

1 **“§ 3631. Expungement of certain criminal records in**  
 2 **limited circumstances**

3 “(a) IN GENERAL.—Any individual convicted of a  
 4 nonviolent offense who fulfills the requirements of section  
 5 3632 may file a petition under this subchapter to expunge  
 6 the record of such conviction.

7 “(b) DEFINITION OF NONVIOLENT OFFENSE.—In  
 8 this subchapter, the term ‘nonviolent offense’ means a  
 9 misdemeanor or felony offense against the United States  
 10 that does not have as an element of the offense the use  
 11 of a weapon or violence and which did not actually involve  
 12 violence in its commission.

13 **“§ 3632. Requirements for expungement**

14 “No individual shall be eligible for expungement  
 15 under this subchapter unless, before filing a petition under  
 16 this subchapter, such individual—

17 “(1) has never been convicted of a violent of-  
 18 fense (including an offense under State law that  
 19 would be a violent offense if it were Federal) and  
 20 has been convicted of not more than one nonviolent  
 21 offense other than the one for which expungement is  
 22 sought;

1           “(2) has fulfilled all requirements of the sen-  
2           tence of the court in which conviction was obtained,  
3           including completion of any term of imprisonment or  
4           period of probation, meeting all conditions of a su-  
5           pervised release;

6           “(3) has remained free from dependency on or  
7           abuse of alcohol or a controlled substance a min-  
8           imum of 1 year and has been rehabilitated, to the  
9           satisfaction of the court referred to in section  
10          3633(b), if so required by the terms of a supervised  
11          release; and

12          “(4) has obtained a high school diploma or  
13          completed a high school equivalency program.

14       **“§ 3633. Procedure for expungement**

15          “(a) PETITION.—An individual may file a petition for  
16          expungement in the court in which the conviction was ob-  
17          tained. A copy of the petition shall be served by the court  
18          upon the United States Attorney for the district in which  
19          the conviction sought to be expunged was obtained. Not  
20          later than 60 days after receipt of such petition, the  
21          United States Attorney may submit written recommenda-  
22          tions to the court and notify the petitioner of that rec-  
23          ommendation.

24          “(b) COURT-ORDERED EXPUNGEMENT.—The court,  
25          after consideration of evidence submitted by the petitioner

1 in support of the petition and any evidence submitted by  
2 the Government in support of objections it may have to  
3 granting the petition, shall rule on the petition. In making  
4 that ruling, the court, after determining whether the peti-  
5 tioner meets the eligibility requirements of this sub-  
6 chapter, shall weigh the interests of the petitioner against  
7 the best interests of justice and public safety. If denied,  
8 the person may file a new petition one year after the date  
9 of the court's ruling.

10 **“§ 3634. Effect of expungement**

11       “(a) IN GENERAL.—An order granting expungement  
12 under this subchapter shall restore the individual con-  
13 cerned, in the contemplation of the law, to the status such  
14 individual occupied before the arrest or institution of  
15 criminal proceedings for the crime that was the subject  
16 of the expungement.

17       “(b) NO DISQUALIFICATION; STATEMENTS.—After  
18 an order granting expungement of any individual's crimi-  
19 nal records under this subchapter, such individual shall  
20 not be required to divulge information pertaining to the  
21 expunged conviction and the fact that such individual has  
22 been convicted of the criminal offense concerned shall  
23 not—

1           “(1) operate as a disqualification of such indi-  
2           vidual to pursue or engage in any lawful activity, oc-  
3           cupation, or profession; and

4           “(2) be held under any provision of law guilty  
5           of perjury, false answering, or making a false state-  
6           ment by reason of his failure to recite or acknowl-  
7           edge such arrest or institution of criminal pro-  
8           ceedings, or results thereof, in response to an in-  
9           quiry made of him for any purpose.

10          “(c) RECORDS EXPUNGED OR SEALED.—Upon order  
11 of expungement, all official law enforcement and court  
12 records, including all references to such person’s arrest for  
13 the offense, the institution of criminal proceedings against  
14 him, and the results thereof, except publicly available  
15 court opinions or briefs on appeal, shall be expunged (in  
16 the case of nontangible records) or gathered together and  
17 sealed (in the case of tangible records).

18          “(d) RECORD OF DISPOSITION TO BE RETAINED.—  
19 A nonpublic record of a disposition or conviction that is  
20 the subject of an expungement order shall be retained only  
21 by the Department of Justice solely for the purpose of use  
22 by the courts in any subsequent adjudication.

23          **“§ 3635. Disclosure of expunged records**

24          “(a) LAW ENFORCEMENT PURPOSES.—The Depart-  
25 ment of Justice may maintain a nonpublic manual or com-

1 puterized index of expunged records containing only the  
2 name of, and alphanumeric identifiers that relate to, the  
3 persons who are the subject of such expunged records, the  
4 word ‘expunged’, and the name of the person, agency, of-  
5 fice, or department that has custody of the expunged  
6 records, and shall not name the offense committed. The  
7 index shall be made available only to Federal and State  
8 law enforcement personnel who have custody of such ex-  
9 punged records and only for the purposes set forth in sub-  
10 section (b) of this section.

11 “(b) AUTHORIZED DISCLOSURE.—Such records shall  
12 be made available to the person accused or to such per-  
13 son’s designated agent and shall be made available to—

14 “(1) any prosecutor, law enforcement agency,  
15 or court which has responsibility for criminally in-  
16 vestigating, prosecuting, or adjudicating such indi-  
17 vidual;

18 “(2) any State or local office or agency with re-  
19 sponsibility for the issuance of licenses to possess  
20 guns where the accused has made application for  
21 such license; or

22 “(3) any prospective city, State, or Federal em-  
23 ployer or agency, involved in investigating and/or  
24 prosecuting under criminal or civil statutes including  
25 employers of police or peace officers and in relation

1 to an application for employment as an employee of  
2 a city, State, or Federal employer or agency involved  
3 in investigating or prosecuting under criminal or  
4 civil statutes including as a police officer or peace  
5 officer, and every person who is an applicant for the  
6 position of police officer, peace officer, or any other  
7 prospective city, State, or Federal employer or agen-  
8 cy, involved in investigating or prosecuting under  
9 criminal or civil statutes shall be furnished with a  
10 copy of all records obtained under this paragraph  
11 and afforded an opportunity to make an explanation  
12 thereto.

13 “(c) PUNISHMENT FOR IMPROPER DISCLOSURE.—  
14 Any person who knowingly disseminates information relat-  
15 ing to an expunged conviction other than the offender  
16 shall be fined under this title or imprisoned not more than  
17 one year, or both.

18 **“§ 3636. Reversal of expunged records**

19 “The records expunged under this subchapter shall  
20 be restored by operation of law as public records and may  
21 be used in all court proceedings if the individual whose  
22 conviction was expunged is subsequently convicted of any  
23 Federal or State offense.”.

24 (b) CLERICAL AMENDMENT.—The table of sub-  
25 chapters at the beginning of chapter 229 of title 18,

1 United States Code, is amended by adding at the end the  
2 following item:

“D. **Expungement** ..... **3631**”.

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

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