



SENATE BILL 562: DB and AOC.

2019-2020 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	May 1, 2019
Introduced by:	Sens. Britt, Daniel, McKissick	Prepared by:	Jennifer H. Bedford
Analysis of:	Amendment to First Edition S562-ATT-16		Staff Attorney

OVERVIEW: *The amendment for Senate Bill 562 would expand the law regarding expunctions for offenses committed by a 16 or 17-year old, and create a generally automatic expunction for criminal charges ending in acquittal or dismissal.*

[As introduced, this bill was identical to H874, as introduced by Reps. Morey, Hardister, Clemmons, which is currently in House Rules, Calendar, and Operations of the House.]

BILL ANALYSIS:

Part I of the amendment for Senate Bill 562 creates a process for a person or district attorney to petition the court to have certain convictions expunged if all of the following apply:

- The offense was committed when the person was 16 or 17 years old.
- The offense is a misdemeanor, Class H felony, or Class I felony.
- The offense is not a motor vehicle violation including DWI.
- The offense is not a crime that could result in registration as a sex offender.
- The petition was filed after any sentence is complete.
- No restitution remains outstanding.

Unless indigent, a person would pay a \$175.00 fee to file the petition.

Part II of the amendment for Senate Bill 562 would expand the records already available electronically to prosecutors to include records of certain expunctions for people under 20 years old.

Part III of the amendment for Senate Bill 562 would generally, create an automatic expunction for an acquittal or dismissal starting July 1, 2020 by

- Removing the requirement that a person could not receive an expunction in cases of acquittal or dismissal if the person had ever received an expunction before.
- Providing an exception to the automatic expunction if the person was convicted of another offense on the day of the dismissal, or a charge is pending.
- Requiring a hearing to determine if the records of a dismissal or acquittal hold some evidentiary value.
- Authorizing the court to expunge the records of dismissal or acquittal if all related charges have reached final disposition.

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Part IV of the amendment for Senate Bill 562 would:

- Allow the court to expunge more than only one nonviolent misdemeanor after the current 5-year waiting period.
- Allow the court to expunge more than only one nonviolent felony after the current 10-year waiting period.
- Create a 7-year petition filing wait period.

Part V of the amendment for Senate Bill 562 would provide the effective date.

EFFECTIVE DATE: The bill would be effective December 1, 2019 unless otherwise specified. Please see the bill for the specified effective dates for each Part.