

Senate Bill 144

By: Senators James of the 35th, Brown of the 26th, Henson of the 41st, Stoner of the 6th, Seay of the 34th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 35-3-37 of the Official Code of Georgia Annotated, relating to
2 inspection, purging, modifying, or supplementing of criminal records, so as to provide
3 conditions under which a convicted person may request that his or her criminal record be
4 expunged; to provide procedures; to provide for a fee; to provide for related matters; to
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 SECTION 1.

8 Code Section 35-3-37 of the Official Code of Georgia Annotated, relating to inspection,
9 purging, modifying, or supplementing of criminal records, is amended by revising paragraph
10 (3) of subsection (d) as follows:

11 "(3) An individual has the right to have his or her record of such arrest expunged,
12 including any fingerprints or photographs of the individual taken in conjunction with such
13 arrest, if the prosecuting attorney determines that the following criteria have been
14 satisfied:

15 ~~(A) The charge was dismissed under the conditions set forth in paragraph (1) of this~~
16 ~~subsection;~~

17 ~~(B) No other criminal charges are pending against the individual; and~~

18 ~~(C) The individual has not been previously convicted of the same or similar offense~~
19 ~~under the laws of this state, the United States, or any other state within the last five~~
20 ~~years, excluding any period of incarceration.~~

21 (A) Prior to indictment or accusation:

22 (i) The case was never referred for further prosecution to the prosecuting attorney by
23 the law enforcement agency because either such agency closed the case without
24 referring the case to the prosecuting attorney or the statute of limitations expired for
25 the prosecution of such offense; or

26 (ii) The case was referred to the prosecuting attorney but later dismissed; and

27 (B) After indictment or accusation:

28 (i) The case was dismissed or nolle prossed or the case was placed on the dead docket
29 and a period of 12 months has expired from the date of placing such case on the dead
30 docket;

31 (ii) The individual went to trial but was found not guilty of the offense;

32 (iii) The individual was convicted of an offense, but such conviction was vacated by
33 the trial court or reversed by an appellate court, the decision of which has been made
34 final, and the prosecuting attorney has not retried the case within 18 months of the
35 final order of the court unless the prosecuting attorney obtains a court order, prior to
36 the expiration of the 18 months, lengthening the time due to ongoing investigation or
37 other appropriate circumstances; or

38 (iv) The grand jury returned a no bill.

39 An individual requesting that his or her records be expunged pursuant to this paragraph
40 may request in writing the original agency expunge the records of such arrest, including
41 any fingerprints or photographs of the individual taken in conjunction with such arrest,
42 from the agency files. Such request shall be in such form as the center shall prescribe.
43 Reasonable fees shall be charged by the original agency and the center for the actual
44 costs of the purging of such records, provided that the total of such fees shall not exceed
45 \$75.00."

46 **SECTION 2.**

47 All laws and parts of laws in conflict with this Act are repealed.