

**Second Chance for Ex-Offenders Act of 2003 (Introduced in House)**

HR 1434 IH

108th CONGRESS  
1st Session  
**H. R. 1434**

To permit expungement of records of certain nonviolent criminal offenses.

**IN THE HOUSE OF REPRESENTATIVES**

**March 25, 2003**

Mr. RANGEL introduced the following bill; which was referred to the Committee on the Judiciary

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**A BILL**

To permit expungement of records of certain nonviolent criminal offenses.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Second Chance for Ex-Offenders Act of 2003'.

**SEC. 2. EXPUNGEMENT OF CRIMINAL RECORDS FOR CERTAIN NONVIOLENT OFFENDERS.**

(a) IN GENERAL- Chapter 229 of title 18, United States Code, is amended by inserting after subchapter C the following new subchapter:

**'SUBCHAPTER D--EXPUNGEMENT**

'Sec.

'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.

**'Sec. 3631. Expungement of certain criminal records in limited circumstances**

'(a) IN GENERAL- Any individual convicted of a nonviolent offense who fulfills the requirements of section 3632 may file a petition under this subchapter to expunge the record of such conviction.

'(b) DEFINITION OF NONVIOLENT OFFENSE- In this subchapter, the term 'nonviolent offense' means a misdemeanor or felony offense against the United States that does not have as an element of the offense the use of a weapon or violence and which did not actually involve violence in its commission.

**'Sec. 3632. Requirements for expungement**

'No individual shall be eligible for expungement under this subchapter unless, before filing a petition under this subchapter, such individual--

'(1) has never been convicted of a violent offense (including an offense under State law that would be a violent offense if it were Federal) other than the one for which expungement is sought;

'(2) has fulfilled all requirements of the sentence of the court in which conviction was obtained, including completion of any term of imprisonment or period of probation, meeting all conditions of a supervised release, and paying all fines;

'(3) has remained free from dependency on or abuse of alcohol or a controlled substance a minimum of 1 year and has been rehabilitated, to the satisfaction of the court referred to in section 3633(b), if so required by the terms of a supervised release;

'(4) has obtained a high school diploma or completed a high school equivalency program; and

'(5) has completed at least one year of community service, as determined by the court referred to in section 3633(b).

**'Sec. 3633. Procedure for expungement**

`(a) DEFINITION OF SATISFACTION OF THE COURT- In this subchapter, the term `satisfaction of the court' means the individual has met all conditions required at sentencing and conditions of probation by the court in which the conviction was obtained.

`(b) PETITION- An individual may file a petition for expungement at the satisfaction of the court in which the conviction was obtained if convicted of a felony and at the satisfaction of the court in which the conviction was obtained if convicted of a misdemeanor. A petition under this chapter may be made to the United States district court for the district in which the conviction was obtained. A copy of the petition shall be served by the court upon the United States Attorney for the district in which the conviction sought to be expunged was obtained. Not later than 60 days after receipt of such petition, the United States Attorney may submit written recommendations to the court and notify the petitioner of that recommendation.

`(c) COURT-ORDERED EXPUNGEMENT- The court, after consideration of evidence submitted by the petitioner in support of the petition and any evidence submitted by the Government in support of objections it may have to granting the petition, shall rule on the petition. In making that ruling the court, after determining whether the petitioner meets the eligibility requirements of this subchapter, shall weigh the interests of the petitioner against the best interests of justice and public safety.

#### **`Sec. 3634. Effect of expungement**

`(a) IN GENERAL- An order granting expungement under this subchapter shall restore the individual concerned, in the contemplation of the law, to the status such individual occupied before the arrest or institution of criminal proceedings for the crime that was the subject of the expungement.

`(b) NO DISQUALIFICATION; STATEMENTS- After an order granting expungement of any individual's criminal records under this subchapter, such individual shall not be required to divulge information pertaining to the expunged conviction and the fact that such individual has been convicted of the criminal offense concerned shall not--

(1) operate as a disqualification of such individual to pursue or engage in any lawful activity, occupation, profession, and

(2) held under any provision of law guilty of perjury, false answering, or making a false statement by reason of his failure to recite or acknowledge such arrest or institution of criminal proceedings, or results thereof, in response to an inquiry made of him for any purpose.

`(c) RECORDS EXPUNGED OR SEALED- Upon order of expungement, all official law enforcement and court records, including all references to such person's arrest for the offense, the institution of criminal proceedings against him, and the results thereof, except publicly available court opinions or briefs on appeal, shall be expunged (in the case of nontangible records) or gathered together and sealed (in the case of tangible records).

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

#### **`Sec. 3635. Disclosure of expunged records**

`(a) LAW ENFORCEMENT PURPOSES- The Department of Justice may maintain a nonpublic manual or computerized index of expunged records containing only the name of, and alphanumeric identifiers that relate to, the persons who are the subject of such expunged records, the word `expunged', and the name of the person, agency, office, or department that has custody of the expunged records, and shall not name the offense committed. The index shall be made available only to Federal and State law enforcement personnel who have custody of such expunged records and only for the purposes set forth in subsection (b) of this section.

`(b) AUTHORIZED DISCLOSURE- Such records shall be made available to the person accused or to such person's designated agent and shall be made available to--

(1) any prosecutor, law enforcement agency, or court which has responsibility for criminally investigating, prosecuting, or adjudicating such individual;

(2) any State or local office or agency with responsibility for the issuance of licenses to possess guns where the accused has made application for such license; or

(3) any prospective city, State, or Federal employer or agency, involved in investigating and/or prosecuting under criminal or civil statutes including employers of police or peace officers and in relation to an application for employment as an employee of a city, State, or Federal employer or agency involved in investigating or prosecuting under criminal or civil statutes including as a police officer or peace officer, and every person who is an applicant for the position of police officer, peace officer, or any other prospective city, State, or Federal employer or agency, involved in investigating or prosecuting under criminal or civil statutes shall be furnished with a copy of all records obtained under this paragraph and afforded an opportunity to make an explanation thereto.

`(c) PUNISHMENT FOR IMPROPER DISCLOSURE- Any person who knowingly disseminates information relating to an expunged conviction other than the offender shall be fined under this title or imprisoned not more than one year, or both.

#### **`Sec. 3636. Reversal of expunged records**

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

(b) CLERICAL AMENDMENT- The table of subchapters at the beginning of chapter 229 of title 18, United States Code, is amended by adding at the end the following item:

--3631'.

(d) EFFECTIVE DATE- The amendments made by this Act shall apply to individuals convicted of an offense before, on, or after the date of enactment of this Act.