

Amendment No. 1 to SB1001

Gardenhire
Signature of Sponsor

AMEND Senate Bill No. 1001

House Bill No. 831*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 40-32-101, is amended by adding the following new subsections:

(l)

(1) The Tennessee bureau of investigation (TBI) shall develop a request for certification form to be completed by the court and submitted to the TBI prior to entering an order of expunction. The court is not required to submit a certificate to the TBI if the expungement is pursuant to subdivision (a)(1)(A) or (a)(3), or subsection (m). The certificate must contain the name of the person seeking expunction, the person's date of birth and social security number, the offense which the person is seeking to have expunged, the date of arrest, and the appropriate state control number as referenced in § 8-4-115. The TBI shall provide access to the certificate to each clerk that accepts petitions for expunction.

(2) After receiving a request for certification, the TBI shall determine if the submitted offense is eligible for expunction pursuant to this section or § 40-32-105 and note the determination on the certificate. The TBI shall provide the court with a copy of the certificate containing the determination. The certificate may also be distributed to the district attorney and the defendant or the defendant's attorney.

(3) An order of expunction shall not be entered by the court on or after January 1, 2024, unless a certificate, as required by this subsection (l), is attached to the order of expunction.

(4) The certificate provided by the TBI pursuant to subdivision (l)(2) is only a certification as to whether the submitted offense is eligible for expunction. The certification is not a certification that the defendant is eligible for expunction, and the court continues to have the duty to determine eligibility. The TBI shall not be required to search any other source or database in order to make the certification required by this subsection (l).

(m)

(1) A person may petition for expunction of the person's arrest record if the court with jurisdiction over the offense for which the person was arrested has no history of the person's arrest for the offense within the court's records. Upon filing of the petition, the clerk shall serve the petition on the district attorney general for that judicial district.

(2) Both the petitioner and the district attorney general may file evidence with the court relating to the petition.

(3) The clerk's office shall search the court's records and certify to the court whether there is any history of the person's arrest for the offense at issue within the court's records.

(4) Prior to entering an order on the petition, the court shall review and consider the clerk's certification and all evidence submitted by the petitioner and the district attorney general. The court may enter an order of expunction of the arrest record if the court finds that there is no history of the person's arrest for the offense within the court's record.

(5) A person petitioning the court for expunction pursuant to this subsection (m) shall be charged the appropriate clerk's fee pursuant to § 8-21-401, if applicable.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.