

108TH CONGRESS  
1ST SESSION

# H. R. 1009

To require Federal law enforcement agencies to expunge voidable arrest records, to provide incentive funds to States that have in effect a system for expunging such records, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mr. NADLER (for himself, Mr. SERRANO, and Mr. TOWNS) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To require Federal law enforcement agencies to expunge voidable arrest records, to provide incentive funds to States that have in effect a system for expunging such records, and for other purposes.

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 “Clear Your Good Name  
5       Act”.

1 **SEC. 2. REFERENCES IN FEDERAL RECORDS TO VOIDABLE**  
2 **ARRESTS.**

3 (a) IN GENERAL.—Any reference in any Federal law  
4 enforcement agency record to an arrest of a person living  
5 after the effective date of this Act, and any Federal law  
6 enforcement agency record (such as fingerprint records or  
7 photographs) generated pursuant to that arrest, shall be  
8 expunged—

9 (1) not later than 30 days after the date on  
10 which that arrest becomes a voidable arrest, if the  
11 arrest occurred on or after the effective date of this  
12 Act; or

13 (2) to the extent provided in a Federal  
14 expungement order, if the arrest occurred before the  
15 effective date of this Act.

16 (b) FEDERAL EXPUNGEMENT ORDER.—Any person  
17 living after the effective date of this Act may petition a  
18 Federal district court of competent jurisdiction for a Fed-  
19 eral expungement order referred to in subsection (a)(2).  
20 If the court finds that the arrest is a voidable arrest, the  
21 court shall order the custodian of the record to expunge,  
22 not later than 30 days after the receipt of the order—

23 (1) any reference to that arrest; and

24 (2) any record generated pursuant to that ar-  
25 rest.

1 (c) REGULATIONS.—The Attorney General shall issue  
2 regulations to ensure compliance with the requirements of  
3 subsection (a).

4 (d) CLASS B MISDEMEANOR.—Whoever knowingly  
5 fails to expunge a reference or record required to be ex-  
6 punged by this section, or releases a reference or record  
7 required to be expunged by this section, shall be—

8 (1) guilty of a class B misdemeanor; and

9 (2) punished in accordance with title 18, United  
10 States Code.

11 (e) RIGHT OF INDIVIDUAL WITH VOIDABLE AR-  
12 REST.—If an arrest is a voidable arrest, the person ar-  
13 rested may respond to any inquiry as though the arrest  
14 did not occur, unless otherwise provided by law.

15 (f) VOIDABLE ARREST.—For purposes of this Act,  
16 the term “voidable arrest” means any arrest resulting in  
17 any of the following:

18 (1) Release of the person without the filing of  
19 formal charges against the person.

20 (2) Dismissal of proceedings against the person.

21 (3) A determination that the arrest was without  
22 probable cause.

23 (g) EFFECTIVE DATE.—This section shall take effect  
24 on the first day of the fiscal year succeeding the first fiscal

1 year beginning two years after the date of the enactment  
2 of this Act.

3 **SEC. 3. REFERENCES IN STATE RECORDS TO VOIDABLE AR-**  
4 **RESTS.**

5 (a) GRANT INCENTIVE.—Section 506 of title I of the  
6 Omnibus Crime Control and Safe Streets Act of 1968 (42  
7 U.S.C. 3756) is amended by adding at the end the fol-  
8 lowing:

9 “(g) INCENTIVE FUNDS.—

10 “(1) IN GENERAL.—The funds available under  
11 this subpart for a State shall be increased by 10  
12 percent if a State has in effect throughout the State  
13 a law which provides expungement procedures,  
14 criminal penalties, and individual rights with respect  
15 to voidable arrests that are substantially similar to  
16 the Federal procedures, penalties, and rights set  
17 forth in section 2 of the Clear Your Good Name Act.

18 “(2) COMPLIANCE.—The Attorney General  
19 shall issue regulations to ensure compliance with the  
20 requirements of paragraph (1).”.

21 (b) CONFORMING AMENDMENT.—Subsection (a) of  
22 such section is amended by striking “subsection (f),” and  
23 inserting “subsections (f) and (g),”.

24 (c) EFFECTIVE DATE.—The amendments made by  
25 this section shall take effect on the first day of the fiscal

1 year succeeding the first fiscal year beginning two years  
2 after the date of the enactment of this Act.

3 **SEC. 4. REPORTS.**

4 (a) **FEDERAL ARRESTS AND EXPUNGEMENTS.—**

5 After the end of each fiscal year during which section 2  
6 of this Act is in effect, the Attorney General shall submit  
7 to Congress a report on the implementation of that section  
8 in that fiscal year. The report shall include the following  
9 information:

10 (1) The number of arrests that, during that fis-  
11 cal year, became voidable arrests.

12 (2) The number of voidable arrests the records  
13 of which were, during that fiscal year, expunged  
14 under section 2(a)(1) of this Act.

15 (3) The number of voidable arrests the records  
16 of which were, during that fiscal year, expunged  
17 under section 2(a)(2) of this Act.

18 (b) **STATE ARRESTS AND EXPUNGEMENTS.—**After  
19 the end of each fiscal year during which subsection (g)  
20 of section 506 of title I of the Omnibus Crime Control  
21 and Safe Streets Act of 1968 (42 U.S.C. 3756), as added  
22 by section 3 of this Act, is in effect, the Attorney General  
23 shall submit to Congress a report on the implementation  
24 of that subsection in that fiscal year. The report shall in-

1 clude, for each State referred to in that subsection, the  
2 following information:

3           (1) The number of arrests that, during that fis-  
4 cal year, became voidable arrests.

5           (2) The number of voidable arrests the records  
6 of which were, during that fiscal year, expunged  
7 under the provision of law of that State that is sub-  
8 stantially similar to section 2(a)(1) of this Act.

9           (3) The number of voidable arrests the records  
10 of which were, during that fiscal year, expunged  
11 under the provision of law of that State that is sub-  
12 stantially similar to section 2(a)(2) of this Act.

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