

108TH CONGRESS  
1ST SESSION

# H. R. 1434

To permit expungement of records of certain nonviolent criminal offenses.

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## 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.

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 “Second Chance for Ex-  
5       Offenders Act of 2003”.

6       **SEC. 2. EXPUNGEMENT OF CRIMINAL RECORDS FOR CER-**  
7       **TAIN NONVIOLENT OFFENDERS.**

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

## 1           **“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.

### 2           **“§ 3631. Expungement of certain criminal records in** 3                           **limited circumstances**

4           “(a) IN GENERAL.—Any individual convicted of an  
 5 nonviolent offense who fulfills the requirements of section  
 6 3632 may file a petition under this subchapter to expunge  
 7 the record of such conviction.

8           “(b) DEFINITION OF NONVIOLENT OFFENSE.—In  
 9 this subchapter, the term ‘nonviolent offense’ means a  
 10 misdemeanor or felony offense against the United States  
 11 that does not have as an element of the offense the use  
 12 of a weapon or violence and which did not actually involve  
 13 violence in its commission.

### 14           **“§ 3632. Requirements for expungement**

15           “No individual shall be eligible for expungement  
 16 under this subchapter unless, before filing a petition under  
 17 this subchapter, such individual—

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

1           “(2) has fulfilled all requirements of the sen-  
 2           tence of the court in which conviction was obtained,  
 3           including completion of any term of imprisonment or  
 4           period of probation, meeting all conditions of a su-  
 5           pervised release, and paying all fines;

6           “(3) has remained free from dependency on or  
 7           abuse of alcohol or a controlled substance a min-  
 8           imum of 1 year and has been rehabilitated, to the  
 9           satisfaction of the court referred to in section  
 10          3633(b), if so required by the terms of a supervised  
 11          release;

12          “(4) has obtained a high school diploma or  
 13          completed a high school equivalency program; and

14          “(5) has completed at least one year of commu-  
 15          nity service, as determined by the court referred to  
 16          in section 3633(b).

17   **“§ 3633. Procedure for expungement**

18          “(a) DEFINITION OF SATISFACTION OF THE  
 19          COURT.—In this subchapter, the term ‘satisfaction of the  
 20          court’ means the individual has met all conditions required  
 21          at sentencing and conditions of probation by the court in  
 22          which the conviction was obtained.

23          “(b) PETITION.—An individual may file a petition for  
 24          expungement at the satisfaction of the court in which the  
 25          conviction was obtained if convicted of a felony and at the

1 satisfaction of the court in which the conviction was ob-  
2 tained if convicted of a misdemeanor. A petition under this  
3 chapter may be made to the United States district court  
4 for the district in which the conviction was obtained. A  
5 copy of the petition shall be served by the court upon the  
6 United States Attorney for the district in which the con-  
7 viction sought to be expunged was obtained. Not later  
8 than 60 days after receipt of such petition, the United  
9 States Attorney may submit written recommendations to  
10 the court and notify the petitioner of that recommenda-  
11 tion.

12 “(c) COURT-ORDERED EXPUNGEMENT.—The court,  
13 after consideration of evidence submitted by the petitioner  
14 in support of the petition and any evidence submitted by  
15 the Government in support of objections it may have to  
16 granting the petition, shall rule on the petition. In making  
17 that ruling the court, after determining whether the peti-  
18 tioner meets the eligibility requirements of this sub-  
19 chapter, shall weigh the interests of the petitioner against  
20 the best interests of justice and public safety.

21 **“§ 3634. Effect of expungement**

22 “(a) IN GENERAL.—An order granting expungement  
23 under this subchapter shall restore the individual con-  
24 cerned, in the contemplation of the law, to the status such  
25 individual occupied before the arrest or institution of

1 criminal proceedings for the crime that was the subject  
2 of the expungement.

3 “(b) NO DISQUALIFICATION; STATEMENTS.—After  
4 an order granting expungement of any individual’s crimi-  
5 nal records under this subchapter, such individual shall  
6 not be required to divulge information pertaining to the  
7 expunged conviction and the fact that such individual has  
8 been convicted of the criminal offense concerned shall  
9 not—

10 “(1) operate as a disqualification of such indi-  
11 vidual to pursue or engage in any lawful activity, oc-  
12 cupation, profession, and

13 “(2) held under any provision of law guilty of  
14 perjury, false answering, or making a false state-  
15 ment by reason of his failure to recite or acknowl-  
16 edge such arrest or institution of criminal pro-  
17 ceedings, or results thereof, in response to an in-  
18 quiry made of him for any purpose.

19 “(c) RECORDS EXPUNGED OR SEALED.—Upon order  
20 of expungement, all official law enforcement and court  
21 records, including all references to such person’s arrest for  
22 the offense, the institution of criminal proceedings against  
23 him, and the results thereof, except publicly available  
24 court opinions or briefs on appeal, shall be expunged (in

1 the case of nontangible records) or gathered together and  
2 sealed (in the case of tangible records).

3 “(d) RECORD OF DISPOSITION TO BE RETAINED.—

4 A nonpublic record of a disposition or conviction that is  
5 the subject of an expungement order shall be retained only  
6 by the Department of Justice solely for the purpose of use  
7 by the courts in any subsequent adjudication.

8 **“§ 3635. Disclosure of expunged records**

9 “(a) LAW ENFORCEMENT PURPOSES.—The Depart-  
10 ment of Justice may maintain a nonpublic manual or com-  
11 puterized index of expunged records containing only the  
12 name of, and alphanumeric identifiers that relate to, the  
13 persons who are the subject of such expunged records, the  
14 word ‘expunged’, and the name of the person, agency, of-  
15 fice, or department that has custody of the expunged  
16 records, and shall not name the offense committed. The  
17 index shall be made available only to Federal and State  
18 law enforcement personnel who have custody of such ex-  
19 punged records and only for the purposes set forth in sub-  
20 section (b) of this section.

21 “(b) AUTHORIZED DISCLOSURE.—Such records shall  
22 be made available to the person accused or to such per-  
23 son’s designated agent and shall be made available to—

24 “(1) any prosecutor, law enforcement agency,  
25 or court which has responsibility for criminally in-

1       vestigating, prosecuting, or adjudicating such indi-  
2       vidual;

3               “(2) any State or local office or agency with re-  
4       sponsibility for the issuance of licenses to possess  
5       guns where the accused has made application for  
6       such license; or

7               “(3) any prospective city, State, or Federal em-  
8       ployer or agency, involved in investigating and/or  
9       prosecuting under criminal or civil statutes including  
10      employers of police or peace officers and in relation  
11      to an application for employment as an employee of  
12      a city, State, or Federal employer or agency involved  
13      in investigating or prosecuting under criminal or  
14      civil statutes including as a police officer or peace  
15      officer, and every person who is an applicant for the  
16      position of police officer, peace officer, or any other  
17      prospective city, State, or Federal employer or agen-  
18      cy, involved in investigating or prosecuting under  
19      criminal or civil statutes shall be furnished with a  
20      copy of all records obtained under this paragraph  
21      and afforded an opportunity to make an explanation  
22      thereto.

23              “(c) PUNISHMENT FOR IMPROPER DISCLOSURE.—  
24      Any person who knowingly disseminates information relat-  
25      ing to an expunged conviction other than the offender

1 shall be fined under this title or imprisoned not more than  
 2 one year, or both.

3 **“§ 3636. Reversal of expunged records**

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

9 (b) CLERICAL AMENDMENT.—The table of sub-  
 10 chapters at the beginning of chapter 229 of title 18,  
 11 United States Code, is amended by adding at the end the  
 12 following item:

**“D. Expungement ..... 3631”.**

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

