

A BILL

24-63

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



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To amend Chapter 8 of Title 16 of the District of Columbia Official Code to provide definitions, to permit automatic expungement and expungement by motion for certain criminal records, to permit automatic sealing and sealing by motion for certain criminal records, to state the effect of expungement and sealing, to clarify access to sealed or expunged criminal records, and to provide for retroactive application; and to prohibit criminal history providers from reporting criminal history information related to records that have been sealed, expunged, or set aside, to authorize the Office of Human Rights to adjudicate complaints, and to provide penalties.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Second Chance Amendment Act of 2022”.

TITLE I. CRIMINAL RECORD SEALING AND EXPUNGEMENT.

Sec 101. Title 16 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by striking the phrase “8. Criminal Record Sealing” and inserting the phrase “8. Criminal Record Sealing and Expungement” in its place.

(b) Chapter 8 is amended to read as follows:

“CHAPTER 8

“CRIMINAL RECORD SEALING AND EXPUNGEMENT

“Section

“16-801. Definitions.

30 “16-802. Automatic expungement of criminal records.

31 “16-803. Expungement of criminal records by motion.

32 “16-804. Effect of expungement of criminal records.

33 “16-805. Automatic sealing of criminal records.

34 “16-806. Sealing of criminal records by motion.

35 “16-807. Effect of sealing of criminal records.

36 “16-808. Applicability.

37 “16-809. Savings provision.

38 “§ 16-801. Definitions.

39 “For the purposes of this chapter, the term:

40 “(1) “Clerk” means the Clerk of the Superior Court of the District of Columbia.

41 “(2) “Completion of the sentence” means the person has been unconditionally
42 discharged from incarceration, commitment, probation, parole, or supervised release, whichever
43 is latest; provided, that nonpayment of fines, restitution, or any other monetary assessments
44 imposed by the Court shall not prevent completion of a sentence.

45 “(3) “Conviction” means the judgment on a verdict or a finding of guilty, a plea of
46 guilty or a plea of nolo contendere, or a plea or verdict of not guilty by reason of insanity.

47 “(4) “Court” means the Superior Court of the District of Columbia.

48 “(5) “Expungement” means the removal from public access of records of the Court,
49 prosecutor, and law enforcement, corrections, pretrial, and community supervision agencies
50 related to a person's citation, arrest, charge, conviction, or related court proceedings.

51 “(6) “Public” means any person, agency, organization, or entity other than any:

52 “(A) Court;

53 “(B) Federal, state, or local prosecutor;

54 “(C) Law enforcement agency;

55 “(D) Licensing agency, with respect to a criminal offense that may
56 disqualify a person from obtaining that license;

57 “(E) Licensed school, day care center, before or after school facility or other
58 educational or child protection agency or facility; and

59 “(F) Government employer or nominating or tenure commission with
60 respect to:

61 “(i) Employment of a judicial or quasi-judicial officer; or

62 “(ii) Employment at a senior-level, executive-grade government
63 position.

64 “(7) “Sealing” means the removal from access by the public of records of the Court,
65 prosecutor, and law enforcement, corrections, pretrial, and community supervision agencies
66 related to a person's citation, arrest, charge, conviction, or related court proceedings.

67 “16-802. Automatic expungement of criminal records.

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68 “(a) The Court shall order automatic expungement of all criminal records and court
69 proceedings related to citations, arrests, charges, or convictions for the commission of a criminal
70 offense that has subsequently been decriminalized, legalized, or held to be unconstitutional by an
71 appellate court, if:

72 “(1) The citation, arrest, or charge was not made in connection with and did not
73 result in any other charges against the person;

74 “(2) The case was terminated by the prosecutor or otherwise reached a final
75 disposition; and

76 “(3) The prosecutor has not:

77 “(A) Filed a written motion, which may be made ex parte, to retain and
78 sequester the record for a limited period of time; and

79 “(B) Demonstrated by clear and convincing evidence that retention is
80 necessary for a lawful purpose, such as:

81 “(i) Investigating, prosecuting, or defending another criminal case;

82 “(ii) Complying with disclosure obligations in another criminal
83 case; or

84 “(iii) Determining the person’s suitability for diversion, release,
85 sentencing reduction, or record sealing in another case.

86 “(b) Eligible criminal records and court proceedings related to citations, arrests, charges,
87 and convictions shall be expunged pursuant to subsection (a) of this section by January 1, 2025,

88 or within 90 days after termination of the case by the prosecutor or final disposition, whichever is
89 later.

90 “16-803. Expungement of criminal records by motion.

91 “(a) The Court shall order expungement of all criminal records and court proceedings
92 related to citations, arrests, or charges for the commission of a criminal offense on the grounds of
93 actual innocence if:

94 “(1) The case was terminated by the prosecutor or otherwise reached a final
95 disposition and did not result in a conviction or acquittal pursuant to § 24-501; and

96 “(2) The person cited, arrested, or charged files a written motion demonstrating, by
97 a preponderance of the evidence, that the offense for which the person was cited, arrested, or
98 charged:

99 “(A) Did not occur; or

100 “(B) Was not committed by the person.

101 “(b) A motion filed pursuant to subsection (a)(2) of this section:

102 “(1) Shall state:

103 “(A) The grounds upon which eligibility for expungement is based; and

104 “(B) Facts in support of the movant’s claim; and

105 “(2) May be:

106 “(A) Accompanied by a statement of points and authorities in support of the
107 motion, and any appropriate exhibits, affidavits, and supporting documents; and

108 “(B) Filed at any time.

109 “(c) A copy of the motion and any amended motion shall be served upon the prosecutor.

110 “(d)(1) If it plainly appears from the face of the motion, any accompanying exhibits,
111 affidavits, and documents, and the record of any prior proceedings in the case, that the movant is
112 not entitled to relief, the Court may dismiss or deny the motion.

113 “(2) If the motion is not dismissed or denied after initial review, the Court may
114 order the prosecutor to file a response to the motion. If ordered, the prosecutor shall file the
115 response within 60 days after the issuance of the order.

116 “(3) Upon the filing of the prosecutor’s response, if any, the Court shall determine
117 whether a hearing is required.

118 “(4) If the Court determines that a hearing is required, the hearing shall be
119 scheduled within 30 days after the prosecutor’s response, if any. If the Court determines that a
120 hearing is not required, the Court shall dismiss, grant, or deny the motion within 30 days after the
121 prosecutor’s response, if any.

122 “(5) At the hearing, the movant and the prosecutor may present witnesses and
123 information by proffer or otherwise. Hearsay evidence shall be admissible.

124 “(6) An order dismissing, granting, or denying the motion shall be:

125 “(A) In writing and include reasons for the decision; and

126 “(B) A final order for purposes of appeal.

127 “(7) A motion made pursuant to this section may be dismissed without prejudice to
128 permit the movant to renew the motion after further passage of time.

129 “(8) If the Court denies the motion, the Court shall entertain a second motion for
130 the same relief no sooner than one year after the date on which the order on the initial motion was
131 resolved. If the Court denies the movant’s second motion, the Court shall entertain a third and final
132 motion no sooner than one year after the date on which the order on the second motion was
133 resolved.

134 “(9) If the Court grants the motion, it shall summarize in the order the factual
135 circumstances of the challenged citation, arrest, or charge and any post-arrest occurrences it deems
136 relevant, and shall rule as a matter of law that the movant did not commit the offense for which
137 the movant was arrested or that no offense had been committed.

138 “(e) An acquittal shall not establish a presumption that the movant is innocent or entitled
139 to relief pursuant to this section.

140 “(f) Eligible criminal records and court proceedings related to citations, arrests, and charges
141 shall be expunged pursuant to subsection (a) of this section within 90 days after a motion is granted.

142 “16-804. Effect of expungement of criminal records.

143 “(a) The effect of expungement shall be to restore a person, in the contemplation of the
144 law, to the status they occupied before being cited, arrested, charged, or convicted.

145 “(b) No person as to whom criminal record expungement relief has been granted shall be
146 held thereafter under any provision of law to be guilty of perjury or otherwise giving a false

147 statement by reason of failure to acknowledge or disclose their citation, arrest, charge, prosecution,
148 disposition, or conviction, in response to any inquiry made of them for any purpose.

149 “(c) If the Court orders that a criminal record be expunged:

150 “(1) The Clerk and each prosecutor and law enforcement, corrections, pretrial, and
151 community supervision agency shall:

152 “(A) Eliminate from all publicly available physical and computerized
153 records any references that identify the person as having been cited, arrested, prosecuted, or
154 convicted;

155 “(B) Be entitled to retain records relating to the person’s citation, arrest,
156 prosecution, and conviction in a nonpublic, restricted access file; and

157 “(C) Reply in response to public inquiries concerning the existence of the
158 records that no records are available;

159 “(2) Each prosecutor and law enforcement, corrections, pretrial, and community
160 supervision agency shall file a certification with the Court within 90 days after an order to expunge
161 is issued that, to the best of its knowledge and belief, all references that identify the person as
162 having been cited, arrested, prosecuted, or convicted have been expunged;

163 “(3) The Clerk shall:

164 “(A) Retain a nonpublic record, appropriately and securely indexed to
165 protect its confidentiality, containing records retrieved pursuant to this section and the
166 certifications filed pursuant to paragraph (2) of this subsection; and

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167 “(B) Provide a copy of the order to expunge and the certifications filed
168 pursuant to paragraph (2) of this subsection to the person who was cited, arrested, charged, or
169 convicted, or their counsel:

170 “(i) When the Court issues the order;

171 “(ii) When the certifications are filed pursuant to paragraph (2) of
172 this subsection; and

173 “(iii) At any time, upon proper identification, without a showing of
174 need;

175 “(4) In a case involving co-defendants in which the Court orders the person’s
176 criminal records be expunged, the Court shall order:

177 “(A) That only those records, or portions thereof, relating solely to the
178 person be redacted;

179 “(B) To the extent practicable, that the person’s name be redacted from
180 records that are not expunged; and

181 “(C) The redaction of references to the person that appear in a transcript of
182 court proceedings involving co-defendants; and

183 “(5) The Court shall not order the redaction of the person’s name from any
184 published opinion of the trial or appellate courts that refers to the person.

185 “(d)(1) Records retained in a nonpublic file pursuant to this section shall be available to:

186 “(A) The person who was cited, arrested, charged, or convicted;

187 “(B) A prosecutor, defense attorney, law enforcement, corrections, pretrial,
188 or community supervision agency, for the purpose of:

189 “(i) Investigating, prosecuting, or defending another criminal case;

190 or “(ii) Complying with disclosure obligations in another criminal
191 case; and

192 “(iii) Determining the person’s suitability for diversion, release,
193 sentencing reduction, or record sealing in another case;

194 “(C) Other persons or entities for the purpose of:

195 “(i) Use in civil litigation related to the citation, charge, arrest, or
196 conviction; or

197 “(ii) Upon order of the Court for good cause shown, such as for
198 anonymized records for academic or journalistic purposes.

199 “(2) A request for access to expunged court records may be made ex parte.

200 “(3) If the Court permits a requestor to access or disclose expunged records, the
201 Court and the requestor shall take all reasonable measures to ensure that the records are secure and
202 that the contents are not identifiably disclosed, published, or redistributed, such as by issuing a
203 protective order or electronically limiting access to verified viewers.

204 “(4) Any person, upon making inquiry of the Court concerning the existence of
205 criminal records involving an individual, shall be entitled to rely, for any purpose under the law,

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206 upon the clerk's response that no records are available with respect to any issue about that person's
207 knowledge of the individual's record.

208 "16-805. Automatic sealing of criminal records.

209 "(a) Except as otherwise provided in this chapter and in subsection (b) of this section, the
210 Court shall order automatic sealing of all criminal records and court proceedings related to:

211 "(1) Citations, arrests, or charges for the commission of a criminal offense;
212 provided, that the case was terminated by the prosecutor or otherwise reached a final disposition
213 and did not result in a conviction or acquittal pursuant to § 24-501; and

214 "(2) Citations, arrests, charges, and convictions for the commission of a
215 misdemeanor offense that resulted in a conviction; provided, that a waiting period of at least 10
216 years has elapsed since completion of the sentence.

217 "(b) The Court shall not order automatic sealing pursuant to this section if the citation,
218 arrest, charge, or conviction is for:

219 "(1) An intrafamily offense, as defined in § 16-1001(8);

220 "(2) Parental kidnapping, as described in § 16-1022;

221 "(3) Criminal abuse of a vulnerable adult or elderly person, as described in § 22-
222 933;

223 "(4) Financial exploitation of a vulnerable adult or elderly person, as described in
224 § 22-933.01;

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225 “(5) Refusal or neglect of guardian to provide for child under 14 years of age, as
226 described in § 22-1102;

227 “(6) An offense for which sex offender registration is required pursuant to Chapter
228 40 of Title 22, and the registration period has not expired;

229 “(7) Violation of Chapter 40 of Title 22, as described in § 22-4015;

230 “(8) A dangerous crime, as defined in § 23-1331(3);

231 “(9) A crime of violence, as defined in § 23-1331(4);

232 “(10) Driving under the influence (DUI) of alcohol or a drug, as described in § 50-
233 2206.11;

234 “(11) Driving under the influence of alcohol or a drug; commercial vehicle, as
235 described in § 50-2206.12); or

236 “(12) Operating a vehicle while impaired, as described in § 50-2206.14).

237 “(c) Criminal records and court proceedings:

238 “(1) Related to citations, arrests, and charges sealed pursuant to subsection (a)(1)
239 of this section:

240 “(A) For which the case was terminated by the prosecutor or otherwise
241 reached a final disposition and did not result in a conviction or acquittal pursuant to § 24-501 prior
242 to the effective date of the Second Chance Amendment Act of 2022, passed by the Committee on
243 the Judiciary and Public Safety on November 30, 2022 (Committee print of Bill 24-63), shall be

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244 sealed by January 1, 2027, or within 90 days after termination of the case by the prosecutor or final
245 disposition, whichever is later; and

246 “(B) For which the case was terminated by the prosecutor or otherwise
247 reached a final disposition and did not result in a conviction or acquittal pursuant to § 24-501 on
248 or after the effective date of the Second Chance Amendment Act of 2022, passed by the Committee
249 on the Judiciary and Public Safety on November 30, 2022 (Committee print of Bill 24-63), shall
250 be sealed within 90 days after termination of the case by the prosecutor or final disposition,
251 whichever is later; and

252 “(2) Related to citations, arrests, charges, and convictions sealed pursuant to
253 subsection (a)(2) of this section shall be sealed by January 1, 2027, or within 90 days after the
254 expiration of the waiting period, whichever is later.

255 “16-806. Sealing of criminal records by motion.

256 “(a) The Court shall order the sealing of all criminal records and court proceedings related
257 to:

258 “(1) Citations, arrests, and charges for the commission of a criminal offense;
259 provided, that:

260 “(A) The case was terminated by the prosecutor or otherwise reached a final
261 disposition and did not result in a conviction or acquittal pursuant to § 24-501;

262 “(B) The offense is an offense listed in § 16-805(b); and

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263 “(C) The person cited, arrested, or charged files a written motion
264 demonstrating, by a preponderance of the evidence, that it is in the interests of justice to seal the
265 records;

266 “(2) Citations, arrests, and charges for being a fugitive from justice; provided, that:

267 “(A) The person was arrested in the District as a fugitive from justice;

268 “(B) The arrest was not made in connection with and did not result in any
269 other charges against the person;

270 “(C) The person waived an extradition hearing pursuant to § 23-702(f)(1)
271 and was released pursuant to § 23-702(f)(2) or detained pursuant to § 23-702(f)(3);

272 “(D) The fugitive case was terminated by the prosecutor or otherwise
273 reached a final disposition; and

274 “(E) The person cited, arrested, or charged files a written motion
275 demonstrating, by a preponderance of the evidence, that:

276 “(i) They have appeared before the proper official in the jurisdiction
277 from which they were a fugitive; and

278 “(ii) It is in the interests of justice to seal the records; and

279 “(3) Citations, arrests, charges, and convictions for the commission of a criminal
280 offense that resulted in a conviction; provided, that:

281 “(A)(i) For a misdemeanor offense, a waiting period of at least 5 years has
282 elapsed since completion of the sentence; and

283 “(ii) For a felony offense, a waiting period of at least 8 years has
284 elapsed since completion of the sentence; except, that an offense in Offense Severity Group 1, 2,
285 or 3 of the Master Grid developed by the District of Columbia Sentencing Commission shall not
286 be eligible for sealing; and

287 “(B) The person cited, arrested, charged, or convicted files a written motion
288 demonstrating, by a preponderance of the evidence, that it is in the interests of justice to seal the
289 records.

290 “(b)(1) The Court shall grant a motion to seal pursuant to subsection (a) of this section if it
291 is in the interests of justice to do so.

292 “(2) In making a determination to grant a motion to seal, the Court:

293 “(A) Shall weigh:

294 “(i) The interests of the movant in sealing the publicly available
295 records of their citations, charges, arrests, or convictions;

296 “(ii) The community’s interest in furthering the movant’s
297 rehabilitation and enhancing the movant’s reintegration into society through education,
298 employment, and housing; and

299 “(iii) The community’s interest in retaining access to those records,
300 including the interest of current or prospective employers in making fully informed hiring or job
301 assignment decisions and the interest in promoting public safety; and

302 “(B) May consider:

303 “(i) The nature and circumstances of the offense;

304 “(ii) The movant’s role in the offense or alleged offense;

305 “(iii) The history and characteristics of the movant, including the

306 movant’s:

307 “(I) Character;

308 “(II) Physical and mental condition;

309 “(III) Employment history;

310 “(IV) Prior and subsequent conduct;

311 “(V) History relating to drug or alcohol abuse or dependence

312 and treatment opportunities;

313 “(VI) Criminal history; and

314 “(VII) Efforts at rehabilitation;

315 “(iv) The time that has elapsed since the offense;

316 “(v) Any statement made by the victim of the offense; and

317 “(vi) Any other information it considers relevant.

318 “(c)(1) A motion to seal filed pursuant to this section:

319 “(A) Shall state:

320 “(i) All of the movant’s unsealed and unexpunged citations, arrests,

321 charges, and convictions;

322 “(ii) The grounds upon which eligibility for sealing is based; and

323 “(iii) Facts in support of the movant’s claim; and

324 “(B) May be accompanied by a statement of points and authorities in
325 support of the motion, and any appropriate exhibits, affidavits, and supporting documents.

326 “(2)(A) If the Court determines that the motion filed pursuant to this section does
327 not comply with the requirements of paragraph (1) of this subsection, the movant shall have 30
328 days after being notified by the Court of the noncompliance to amend their original motion to
329 include all of their citations, arrests, charges, and convictions.

330 “(B) If the movant fails to amend their original motion within 30 days after
331 notification by the Court, then the motion shall be dismissed without prejudice.

332 “(d) A copy of the motion and any amended motion shall be served upon the prosecutor;
333 provided, that the prosecutor shall not be required to respond to the motion unless ordered to do
334 so by the Court.

335 “(e) The waiting periods in subsection (a)(3) of this section may be waived by the
336 prosecutor in writing.

337 “(f) If the movant files a motion to seal a record that is not in the Court database or a record
338 and related court proceedings that are not in a publicly available database, the motion to seal and
339 responsive pleadings shall not be available publicly. If the Court grants such a motion, it shall
340 order that the motion and responsive pleadings be sealed to the same extent and in the same manner
341 as the records pertaining to the record and related court proceedings. If the Court denies such a
342 motion, the Court, the United States Attorney’s Office, the Office of the Attorney General, and the

343 law enforcement agency that arrested the movant shall be entitled to retain any and all records
344 relating to the motion in a non-public file.

345 “(g) A person to whom a District arrest has been attributed, who attests under oath that the
346 person was incorrectly identified or named, may file a motion to correct publicly available records
347 of the arrest if the law enforcement agency did not take fingerprints at the time of the arrest and
348 no other form of reliable identification was presented by the person who was arrested.

349 “(h) A movant shall not be required to:

350 “(1) Satisfy the waiting periods in subsection (a)(3)(A) of this section with respect
351 to all of the movant’s citations, arrests, charges, and convictions; or

352 “(2) Seek relief with respect to all the arrests, charges, or convictions eligible for
353 relief.

354 “(i)(1) If it plainly appears from the face of the motion, any accompanying exhibits,
355 affidavits, and documents, and the record of any prior proceedings in the case, that the movant is
356 not eligible for relief or is not entitled to relief, the Court may dismiss or deny the motion.

357 “(2) If the motion is not dismissed or denied after initial review, the Court may
358 order the prosecutor to file a response to the motion. If ordered, the prosecutor shall file the
359 response within 60 days after the issuance of the order.

360 “(3) Upon the filing of the prosecutor’s response, if any, the Court shall determine
361 whether a hearing is required.

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362 “(4) If the Court determines that a hearing is required, the hearing shall be
363 scheduled within 30 days after the prosecutor’s response, if any. If the Court determines that a
364 hearing is not required, the Court shall dismiss, grant, or deny the motion within 30 days after the
365 prosecutor’s response, if any.

366 “(5) At the hearing, the movant and the prosecutor may present witnesses and
367 information by proffer or otherwise. Hearsay evidence shall be admissible.

368 “(6) An order dismissing, granting, or denying the motion shall be in writing and
369 include reasons for the decision.

370 “(7) A motion made pursuant to this section may be dismissed without prejudice to
371 permit the movant to renew the motion after further passage of time.

372 “(8) If the Court denies the motion, the Court shall entertain a second motion no
373 sooner than one year after the date on which the order on the initial motion was resolved. If the
374 Court denies the movant’s second motion, the Court shall entertain a third and final motion no
375 sooner than one year after the date on which the order on the second motion was resolved.

376 “(9) An order dismissing, granting, or denying a motion for sealing shall be a final
377 order for purposes of appeal.

378 “(j) Criminal records and court proceedings related to citations, arrests, charges, and
379 convictions sealed pursuant to subsection (a) of this section shall be sealed within 90 days after a
380 motion to seal is granted.

381 “16-807. Effect of sealing of criminal records.

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382 “(a) The effect of criminal record sealing shall be to remove all records related to a citation,
383 arrest, charge, prosecution, disposition, or conviction from public view and to permit restricted,
384 non-public access by specific parties for specific purposes.

385 “(b) No person as to whom criminal record sealing relief has been granted shall be held
386 thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement
387 by reason of failure to recite or acknowledge or disclose their citation, arrest, charge, prosecution,
388 disposition, or conviction, in response to any inquiry made of them for any purpose.

389 “(c) If the Court orders that a criminal record be sealed:

390 “(1) The Clerk and each prosecutor and law enforcement, corrections, pretrial, and
391 community supervision agency shall:

392 “(A) Eliminate from all publicly available physical and computerized
393 records any references that identify the person as having been cited, arrested, prosecuted, or
394 convicted;

395 “(B) Be entitled to retain records relating to the person’s citation, arrest,
396 prosecution, and conviction in a nonpublic, restricted access file; and

397 “(C) Reply in response to public inquiries concerning the existence of the
398 records that no records are available;

399 “(2) Each prosecutor and law enforcement, corrections, pretrial, and community
400 supervision agency shall file a certification with the Court within 90 days after an order to seal is

401 issued that, to the best of its knowledge and belief, all references that identify the person as having
402 been cited, arrested, prosecuted, or convicted have been sealed;

403 “(3) The Clerk shall:

404 “(A) Retain a nonpublic record, appropriately and securely indexed to
405 protect its confidentiality, containing records retrieved pursuant to this section and the
406 certifications filed pursuant to paragraph (2) of this subsection; and

407 “(B) Provide a copy of the order to seal and the certifications filed pursuant
408 to paragraph (2) of this subsection to the person who was cited, arrested, charged, or convicted, or
409 their counsel:

410 “(i) When the Court issues the order;

411 “(ii) When the certifications are filed pursuant to paragraph (2) of
412 this subsection; and

413 “(iii) At any time, upon proper identification, without a showing of
414 need;

415 “(4) In a case involving co-defendants in which the Court orders the person’s
416 criminal records be sealed, the Court shall order:

417 “(A) That only those records, or portions thereof, relating solely to the
418 person be redacted; and

419 “(B) To the extent practicable, that the person’s name be redacted from
420 records that are not sealed; and

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421 “(C) The redaction of references to the person that appear in a transcript of
422 court proceedings involving co-defendants; and

423 “(5) The Court shall not order the redaction of the person’s name from any
424 published opinion of the trial or appellate courts that refer to the person.

425 “(d)(1) Records retained in a nonpublic file pursuant to this section shall be available to:

426 “(A) The person who was cited, arrested, charged, or convicted;

427 “(B) A prosecutor, defense attorney, law enforcement, corrections, pretrial,
428 or community supervision agency, for any lawful purpose, including:

429 “(i) Investigating, prosecuting, or defending another criminal case;

430 “(ii) Complying with disclosure obligations in another criminal
431 case;

432 “(iii) Determining the person’s suitability for diversion, release,
433 sentencing reduction, sealing, or expungement in another case;

434 “(iv) The determination of conditions of release for a subsequent
435 arrest;

436 “(v) The determination of whether a person has committed a second
437 or subsequent offense for charging or sentencing purposes;

438 “(vi) Determining an appropriate sentence if the person is
439 subsequently convicted of another crime; and

440 “(vii) Employment decisions;

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441 “(C) Except for records sealed pursuant to § 16-806(a)(2), any person or
442 entity identified in § 16-801(6)(D), (E), or (F), but only to the extent that such records would have
443 been available to those persons or entities before relief was granted. Such records may be used for
444 any lawful purpose, including:

445 “(i) The determination of whether a person is eligible to be licensed
446 in a particular trade or profession; and

447 “(ii) Employment decisions; and

448 “(D) Other persons or entities for the purpose of:

449 “(i) Use in civil litigation related to the citation, charge, arrest, or
450 conviction; or

451 “(ii) Upon order of the Court for good cause shown, such as
452 anonymized records for academic or journalistic purposes.

453 “(2) A request for access to sealed court records may be made ex parte.

454 “(3) If the Court permits a requestor to access or disclose sealed records, the Court
455 and the requestor shall take all reasonable measures to ensure that the records are secure and that
456 the contents are not identifiably disclosed, published, or redistributed, such as by issuing a
457 protective order or electronically limiting access to verified viewers.

458 “(4) Any person, upon making inquiry of the Court concerning the existence of
459 criminal records involving an individual, shall be entitled to rely, for any purpose under the law,

460 upon the clerk’s response that no records are available with respect to any issue about that person’s
461 knowledge of the individual’s record.

462 “16-808. Applicability.

463 “The sealing and expungement relief available under this chapter shall apply retroactively.

464 “16-809. Savings provision.

465 “This chapter shall not supersede any other provision of the District of Columbia Official
466 Code providing for the expungement, sealing, or setting aside of criminal citations, arrests,
467 charges, or convictions.”.

468 TITLE II. CRIMINAL HISTORY REPORTS.

469 Sec. 201. Definitions.

470 For the purposes of this title, the term:

471 (1) “Criminal history provider”:

472 (A) Means a person or organization that compiles criminal history reports,
473 which include information about District of Columbia Official Code or District of Columbia
474 Municipal Regulations criminal records or the criminal records of District residents, and either
475 uses the reports or provides the reports to a third party; and

476 (B) Shall not include a government agency or a person or organization that
477 provide reports solely to a government agency for purposes other than determining suitability for
478 government employment.

479 (2) “Criminal history report” means criminal history information that has been
480 compiled for the purposes of evaluating a person’s character or eligibility for employment,
481 housing, or participation in any activity or transaction; provided, that information collected or
482 disseminated solely for journalistic purposes shall not be a criminal history report.

483 (3) “Government agency” means any office, department, division, board,
484 commission, or other agency of the District government, the government of the United States, or
485 the government of another jurisdiction within the United States.

486 Sec. 202. Restrictions on criminal history reports.

487 A criminal history provider:

488 (1) Shall, unless otherwise prohibited by District or federal law:

489 (A) Provide the subject of a criminal record with a copy of the criminal
490 history report the criminal history provider used or provided;

491 (B) State the source of reported information and the date on which the
492 information was received from the source in a criminal history report; and

493 (C) Use 2 identifiers, such as date of birth and name, before reporting a
494 person’s criminal record; and

495 (2) Shall not, unless otherwise required by District or federal law:

496 (A) Provide information relating to the following:

497 (i) A criminal record that has been expunged, sealed, or set aside;

498 and

499 (ii) A criminal record that the criminal history provider knows is
500 inaccurate;

501 (B) Include criminal history information in a criminal history report if the
502 criminal history information has not been updated to reflect changes to the criminal history
503 information occurring 30 days or more before the date the criminal history report is provided.

504 Sec. 203. Filing a complaint with the Office of Human Rights; exclusive remedy.

505 (a) A person claiming to be aggrieved by a violation of this act may file an administrative
506 complaint with the Office of Human Rights within one year after the unlawful discriminatory act,
507 or discovery thereof, in accordance with the procedures set forth in Title III of the Human Rights
508 Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01 *et*
509 *seq.*).

510 (b) The administrative remedies in subsection (a) of this section are exclusive. A person
511 claiming to be aggrieved by a violation of this title shall not have a private cause of action in any
512 court based on a violation of this title.

513 Sec. 204. Penalties.

514 (a) Except as provided in subsection (b) of this section, if the Office of Human Rights
515 determines that there is probable cause to believe that a violation of this title has occurred, it shall
516 certify the complaint to the Commission on Human Rights, which may impose the following
517 penalties, of which half shall be awarded to the complainant and half shall be awarded to the
518 District and deposited into the General Fund:

519 (1) For a first violation, a fine of up to \$1,000; and

520 (2) For a second or subsequent violation, a fine of up to \$5,000.

521 (b) For any violation of this title that occurs within 6 months after the applicability date of
522 the Second Chance Amendment Act of 2022, passed by the Committee on the Judiciary and Public
523 Safety on November 30, 2022 (Committee print of Bill 24-63), the Commission on Human Rights
524 shall issue warnings and orders to correct instead of imposing a penalty pursuant to subsection (a)
525 of this section.

526 TITLE III. APPLICABILITY; FISCAL IMPACT STATEMENT; EFFECTIVE DATE.

527 Sec. 301. Applicability.

528 (a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget
529 and financial plan.

530 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in
531 an approved budget and financial plan, and provide notice to the Budget Director of the Council
532 of the certification.

533 (c)(1) The Budget Director shall cause the notice of the certification to be published in the
534 District of Columbia Register.

535 (2) The date of publication of the notice of the certification shall not affect the
536 applicability of this act.

537 Sec. 302. Fiscal impact statement.

ENGROSSED ORIGINAL

538 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
539 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
540 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

541 Sec. 303. Effective date.

542 This act shall take effect following approval by the Mayor (or in the event of veto by the
543 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
544 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
545 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
546 Columbia Register.