

88 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or  
89 without condition, the prosecutor provided written consent and has not filed and does not  
90 intend to refile related charges;

91 (d) if the petitioner seeks expungement of drug possession offenses allowed under  
92 Subsection 77-40-105(6), the petitioner is not illegally using controlled substances and is  
93 successfully managing any substance addiction; ~~[and]~~

94 (e) if an objection is received, the petition for expungement is for a charge dismissed in  
95 accordance with a plea in abeyance agreement, and the charge is an offense eligible  
95a H→ to be used ←H for  
96 enhancement, there is good cause for the court to grant the expungement; and

97 ~~[(e)]~~ (f) it is not contrary to the interests of the public to grant the expungement.

98 (9) (a) If the court denies a petition described in Subsection (8)(c) because the  
99 prosecutor intends to refile charges, the individual seeking expungement may again apply for a  
100 certificate of eligibility if charges are not refiled within 180 days of the day on which the court  
101 denies the petition.

102 (b) A prosecutor who opposes an expungement of a case dismissed without prejudice  
103 or without condition shall have a good faith basis for the intention to refile the case.

104 (c) A court shall consider the number of times that good faith basis of intention to  
105 refile by the prosecutor is presented to the court in making the court's determination to grant  
106 the petition for expungement described in Subsection (8)(c).

107 (10) If the court grants a petition described in Subsection (8)(e), the court shall make  
108 the court's findings in a written order.

109 ~~[(10)]~~ (11) A court may not expunge a conviction of an offense for which a certificate  
110 of eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

111 Section 3. **Effective date.**

112 If approved by two-thirds of all the members elected to each house, this bill takes effect  
113 on May 1, 2020.