



SPONSOR: Sen. Brown

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE AMENDMENT NO. 1
TO
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 37

AMEND Senate Substitute No. 1 for Senate Bill No. 37 by deleting lines 69 through 71 in their entirety and inserting the following:

“(4) A person is not eligible for an expungement of a felony conviction under this subchapter if the person is convicted of the felony after the date an expungement of a prior felony conviction was granted under this subchapter. For any other expungement of a conviction, a person is not eligible if the person has been granted an expungement of a prior conviction in the previous 10 years. This paragraph (f)(4) of this section does not apply to a person seeking an expungement under § 4373(a)(1) of this title.”.

FURTHER AMEND Senate Substitute No. 1 for Senate Bill No. 37 on line 135 by deleting line 135 in its entirety and inserting in lieu thereof the following:

“§ 625, § 628A, § 781, § 785, § 791, § 804, § 811, § 821, § 822, § 823, or § 1311 of this title.”.

FURTHER AMEND Senate Substitute No. 1 for Senate Bill No. 37 by inserting the following between lines 138 and 139:

“(5) Any of the following misdemeanors:

a. Unlawfully administering drugs, under § 625 of this title, when the charged in conjunction with a sexual offense, as defined in § 761(f) of this title.

b. Sexual harassment, under § 763 of this title.

c. Indecent exposure in the second degree, under § 764 of this title.

d. Indecent exposure in the first degree, under § 765 of this title.

e. Trespassing with intent to peer or peep into a window or door of another, under § 820 of this title.

f. Organized retail crime, under § 841B of this title.

g. Home improvement fraud, under § 916 of this title.

h. New home construction fraud, under § 917 of this title.

- 23 i. Offenses against law-enforcement animals, under § 1250 of this title.
- 24 j. Promoting prison contraband, under § 1256 of this title.
- 25 k. Resisting arrest, under § 1257 of this title.
- 26 l. Use of an animal to avoid capture, under § 1257A of this title.
- 27 m. Hate crime, under § 1304 of this title.
- 28 n. Malicious interference with emergency communication, under § 1313 of this title.
- 29 o. Abusing a corpse, under § 1332 of this title.
- 30 p. Violation of privacy, under § 1335 of this title.
- 31 q. Lewdness, under § 1341 of this title.
- 32 r. Patronizing a prostitute, under § 1343 of this title.
- 33 s. Permitting prostitution, under § 1355 of this title.
- 34 t. Carrying a concealed dangerous instrument, under § 1443 of this title.
- 35 u. Unlawfully dealing with a dangerous weapon, under § 1445 of this title.
- 36 v. Unlawfully permitting a minor access to a firearm, under § 1456 of this title.
- 37 w. Possession of a weapon in a Safe School and Recreation Zone, under § 1457 of this title.”.

38 FURTHER AMEND Senate Substitute No. 1 for Senate Bill No. 37 by deleting lines 209 through 211 in their
39 entirety and inserting in lieu thereof the following:

40 “the petitioner’s criminal history. Upon receipt of any petition, the Attorney General shall contact a victim of the
41 crime at the victim’s last known address or telephone number to ascertain the victim’s position on the petition. The
42 Attorney General shall provide the victim’s position, if known, in the Attorney General’s answer to the petition. The
43 Attorney General shall promptly orally inform the victim of the court’s decision. The Attorney General may not provide the
44 victim with a copy of the expungement order. For purposes of this subsection, “victim” means as defined in § 9401 of this
45 title.”.

46 FURTHER AMEND Senate Substitute No. 1 for Senate Bill No. 37 by deleting lines 366 through 375 in their
47 entirety and redesignating the Sections of the Act accordingly.

SYNOPSIS

This Amendment does the following:

(1) Makes an individual ineligible for an expungement of a felony offense if the individual has previously had a felony conviction expunged.

(2) Makes two misdemeanor offenses eligible for expungement only through the the discretionary process, regardless as to whether the offenses are a misdemeanor crime of domestic violence (Sexual Harassment, under § 763 of Title 11, and Indecent Exposure in the First Degree, under § 765 of Title 11).

(3) Removes two misdemeanor offenses from the definition of misdemeanor crime of domestic violence because they are not subject to mandatory expungement under other provisions of this Act (Incest, under § 766 of Title 11, and Unlawful Sexual Contact in the Third Degree, under § 767 of Title 11) and adds one misdemeanor offense to the definition (Harassment, under § 1311 of Title 11).

(4) Makes additional misdemeanor offenses eligible for expungement only through the discretionary expungement process.

(5) Moves the Attorney General's responsibilities for notifying a victim of a discretionary expungement petition to the discretionary expungement provision.

Author: Senator Brown