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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R.

To require automatic sealing of certain criminal records, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. BLUNT ROCHESTER introduced the following bill; which was referred to the Committee on _____

A BILL

To require automatic sealing of certain criminal 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 “Clean Slate Act of
5 2023”.

6 **SEC. 2. SEALING OF CERTAIN RECORDS.**

7 (a) AMENDMENT.—Subchapter A of chapter 227 of
8 title 18, United States Code, is amended by adding at the
9 end the following:

1 **“§ 3560. Automatic sealing of certain records**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘covered individual’ means an in-
4 dividual who—

5 “(A) is not a sex offender;

6 “(B) has been—

7 “(i) arrested for a Federal offense for
8 which the individual was not convicted; or

9 “(ii) convicted of an offense under
10 section 404 of the Controlled Substances
11 Act (21 U.S.C. 844) or any Federal non-
12 violent offense involving marijuana;

13 “(C) in the case of a conviction described
14 in subparagraph (B)(ii), has fulfilled each re-
15 quirement of the sentence for the offense, in-
16 cluding—

17 “(i) completing each term of imprison-
18 ment, probation, or supervised release; and

19 “(ii) satisfying each condition of im-
20 prisonment, probation, or supervised re-
21 lease; and

22 “(D) has not been convicted for any of-
23 fense related to treason, terrorism, access and
24 transmission of sensitive defense information,
25 or other national security related convictions;

1 “(2) the term ‘marijuana’ has the meaning
2 given the term ‘marihuana’ in section 102 of the
3 Controlled Substances Act (21 U.S.C. 802);

4 “(3) the term ‘nonviolent offense’ means an of-
5 fense that is not—

6 “(A) murder;

7 “(B) voluntary manslaughter;

8 “(C) kidnapping;

9 “(D) aggravated assault;

10 “(E) a forcible sex offense;

11 “(F) robbery;

12 “(G) arson;

13 “(H) extortion;

14 “(I) the use or unlawful possession of—

15 “(i) a firearm, as defined in section
16 5845(a) of the Internal Revenue Code of
17 1986; or

18 “(ii) explosive materials, as defined in
19 section 841(c);

20 “(J) a sex offense (as that term is defined
21 in section 111 of the Sex Offender Registration
22 and Notification Act (34 U.S.C. 20911));

23 “(K) torture, in violation of section 2340A;

24 “(L) interstate domestic violence, in viola-
25 tion of section 2261;

1 “(M) an offense under chapter 77; or

2 “(N) an attempt or conspiracy to commit
3 an offense described in subparagraphs (A)
4 through (M); and

5 “(4) the term ‘sex offender’ has the meaning
6 given the term in section 111 of the Adam Walsh
7 Child Protection and Safety Act of 2006 (34 U.S.C.
8 20911).

9 “(b) AUTOMATIC SEALING FOR CERTAIN ARRESTS
10 AND NONVIOLENT OFFENSES.—

11 “(1) IN GENERAL.—At the time of sentencing
12 of a covered individual for a conviction for an of-
13 fense pursuant to section 404 of the Controlled Sub-
14 stances Act (21 U.S.C. 844) or any Federal non-
15 violent offense involving marijuana, the court shall
16 enter an order that each record and portion thereof
17 that relates to the offense shall be sealed automati-
18 cally on the date that is 1 year after the covered in-
19 dividual fulfills each requirement of the sentence, in-
20 cluding—

21 “(A) completing each term of imprison-
22 ment, probation, or supervised release; and

23 “(B) satisfying each condition of imprison-
24 ment, probation, or supervised release.

1 “(2) ACQUITTAL; DETERMINATION NOT TO FILE
2 CHARGES.—

3 “(A) ACQUITTAL.—Not later than 60 days
4 after the date on which a covered individual is
5 acquitted, exonerated, or otherwise subject to a
6 judgment which did not result in a conviction
7 for a Federal offense, each record or portion
8 thereof that relates to the Federal offense shall
9 be sealed automatically.

10 “(B) DETERMINATION NOT TO FILE
11 CHARGES.—

12 “(i) IN GENERAL.—If a covered indi-
13 vidual is arrested for a Federal offense and
14 the Government does not file charges
15 against the covered individual in relation
16 to the Federal offense before the date that
17 is 180 days after the date on which the ar-
18 rest was made, each record or portion
19 thereof that relates to the arrest and Fed-
20 eral offense shall be sealed automatically
21 on such date.

22 “(ii) UNSEALING FOR FILING OF
23 CHARGES.—At the request of the Govern-
24 ment, a court may unseal a record sealed
25 under clause (i) in order for the Govern-

1 ment to file charges against the covered in-
2 dividual in relation to the Federal offense
3 described in clause (i).

4 “(iii) LIMITATION.—If a record is un-
5 sealed under clause (ii), the record may
6 only be resealed in accordance with para-
7 graph (1) or subparagraph (A) of this
8 paragraph.

9 “(c) EFFECT OF SEALING ORDER.—

10 “(1) PROTECTION FROM ACCESS.—Except as
11 provided in paragraph (4), a record that has been
12 sealed under this section or section 3560A shall not
13 be accessible to any person.

14 “(2) PROTECTION FROM PERJURY LAWS.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), an individual whose record
17 has been sealed pursuant to this section shall
18 not be required to disclose the existence of or
19 any information contained in the individual’s
20 sealed record, and shall not be subject to pros-
21 ecution under any civil or criminal provision of
22 Federal or State law relating to perjury, false
23 swearing, or making a false statement, includ-
24 ing under section 1001, 1621, 1622, or 1623,
25 for failing to recite or acknowledge any infor-

1 mation that has been sealed with respect to the
2 offense, or respond to any inquiry made of the
3 individual, relating to the protected informa-
4 tion.

5 “(B) EXCEPTION.—An individual whose
6 record has been sealed pursuant to this section
7 shall disclose information contained in such
8 record—

9 “(i) when testifying in court;

10 “(ii) in the course of questioning by a
11 law enforcement officer in connection with
12 a subsequent criminal investigation; or

13 “(iii) in connection with employment
14 described in subclauses (I) through (IV) of
15 paragraph (4)(A)(ii) that the individual is
16 seeking.

17 “(3) BACKGROUND CHECKS.—Except as pro-
18 vided in paragraph (4), the existence of a record of
19 an individual which has been sealed pursuant to this
20 section, or the information contained therein, shall
21 not be included in any background check conducted
22 on such individual.

23 “(4) EXCEPTIONS.—

24 “(A) LAW ENFORCEMENT AND COURT AC-
25 CESS.—An officer or employee of a law enforce-

1 ment agency or a court may access a record of
2 an individual which has been sealed pursuant to
3 this section and is in the possession of the
4 agency or court, or another law enforcement
5 agency or court, solely—

6 “(i) for investigatory or prosecutorial
7 purposes; or

8 “(ii) for a background check that re-
9 lates to—

10 “(I) employment with a law en-
11 forcement agency;

12 “(II) any position that a Federal
13 agency designates as a—

14 “(aa) national security posi-
15 tion; or

16 “(bb) high-risk, public trust
17 position;

18 “(III) the manufacture, importa-
19 tion, sale, transfer, possession, or car-
20 rying of firearms, explosives, or am-
21 munition; or

22 “(IV) employment for a position
23 involving the manufacture, importa-
24 tion, handling, sale, or transfer of
25 controlled substances, as that term is

1 defined under the Controlled Sub-
2 stances Act (21 U.S.C. 802), or where
3 the employment would provide access
4 to such substances.

5 “(B) DISCLOSURE.—An officer or em-
6 ployee of a law enforcement agency or a court
7 may disclose information contained in a sealed
8 record only in order to carry out the purposes
9 described in subparagraph (A).

10 “(d) INDIVIDUAL ACCESS.—Any individual whose
11 record has been sealed pursuant to this section or section
12 3560A may access the information contained in the indi-
13 vidual’s sealed record.

14 “(e) PENALTY FOR UNAUTHORIZED DISCLOSURE.—

15 “(1) IN GENERAL.—Whoever knowingly ac-
16 cesses or discloses information contained in a record
17 sealed under this section or section 3560A in a man-
18 ner that is prohibited under this section, shall be
19 fined under this title, imprisoned for not more than
20 1 year, or both.

21 “(2) RULE OF CONSTRUCTION.—Nothing in
22 this subsection prevents a covered individual or an
23 individual who was the crime victim (as such term
24 is defined in section 3771(e)) from accessing or dis-

1 closing information contained in record sealed under
2 this section or section 3560A.

3 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion or section 3560A shall abrogate or constrain the au-
5 thority of a judge or judicial body to vacate a judgment
6 or sentence.

7 “(g) RULEMAKING.—The Attorney General shall, by
8 rule, establish a process to ensure that any record in the
9 possession of a Federal agency required to be sealed under
10 this section is automatically sealed in accordance with this
11 section.

12 “(h) APPLICABILITY.—This section shall apply to an
13 arrest that occurred or conviction that was entered before,
14 on, or after the date of enactment of this section. Not later
15 than 2 years after the date of the enactment of this sec-
16 tion, the Attorney General shall ensure that any record
17 related to an arrest or conviction that occurred or was en-
18 tered prior to the automatic sealing of such a record,
19 which record is required to be sealed under this section,
20 is so sealed.

21 “(i) EMPLOYER IMMUNITY FROM LIABILITY.—An
22 employer who employs or otherwise engages an individual
23 whose criminal records were sealed pursuant to this sec-
24 tion shall be immune from liability for any claim arising
25 out of the misconduct of the individual, if the misconduct

1 relates to the portion of the criminal records that were
2 sealed pursuant to this section.

3 “(j) ESTABLISHMENT OF PARTNERSHIPS.—The Ad-
4 ministrative Office of the United States Courts or the At-
5 torney General shall enter into a contract with or make
6 grants to an organization with expertise in creating digital
7 and technological systems to develop an efficient and effec-
8 tive process for sealing records in accordance with this sec-
9 tion and section 3560A. This process shall enable access
10 to sealed records by Federal and non-Federal law enforce-
11 ment agencies for the purposes set forth in subsection
12 (c)(4)(A) of this section.

13 **“§ 3560A. Sealing of certain records upon petition**

14 “(a) DEFINITIONS.—In this section—

15 “(1) the term ‘covered nonviolent offense’
16 means a Federal criminal offense that is not—

17 “(A) murder;

18 “(B) voluntary manslaughter;

19 “(C) kidnapping;

20 “(D) aggravated assault;

21 “(E) a forcible sex offense;

22 “(F) robbery;

23 “(G) arson;

24 “(H) extortion; or

25 “(I) the use or unlawful possession of—

1 “(i) a firearm, as defined in section
2 5845(a) of the Internal Revenue Code of
3 1986; or

4 “(ii) explosive materials, as defined in
5 section 841(c);

6 “(J) a sex offense (as that term is defined
7 in section 111 of the Sex Offender Registration
8 and Notification Act (34 U.S.C. 20911));

9 “(K) torture, in violation of section 2340A;

10 “(L) interstate domestic violence, in viola-
11 tion of section 2261;

12 “(M) an offense under chapter 77; or

13 “(N) an attempt or conspiracy to commit
14 any of the offenses described in subparagraphs
15 (A) through (M);

16 “(2) the term ‘eligible individual’ means an in-
17 dividual who—

18 “(A) has been convicted of a covered non-
19 violent offense;

20 “(B) has fulfilled each requirement of the
21 sentence for the covered nonviolent offense, in-
22 cluding—

23 “(i) completing each term of imprison-
24 ment, probation, or supervised release; and

1 “(ii) satisfying each condition of im-
2 prisonment, probation, or supervised re-
3 lease;

4 “(C) has not been convicted of more than
5 2 felonies that are covered nonviolent offenses,
6 including any such convictions that have been
7 sealed (except that for purposes of this sub-
8 paragraph, 2 or more felony convictions that
9 are covered nonviolent offenses arising out of
10 the same act, or acts committed at the same
11 time, shall be treated as one felony conviction);

12 “(D) has not been convicted of any felony
13 that is not a covered nonviolent offense; and

14 “(E) has not been convicted for any of-
15 fense related to treason, terrorism, access and
16 transmission of sensitive defense information,
17 or other national security related convictions;

18 “(3) the term ‘petitioner’ means an individual
19 who files a sealing petition;

20 “(4) the term ‘protected information’, with re-
21 spect to a covered nonviolent offense, means any ref-
22 erence to—

23 “(A) an arrest, conviction, or sentence of
24 an individual for the offense;

1 “(B) the institution of criminal pro-
2 ceedings against an individual for the offense;
3 or

4 “(C) the result of criminal proceedings de-
5 scribed in subparagraph (B);

6 “(5) the term ‘sealing hearing’ means a hearing
7 held under subsection (c)(2); and

8 “(6) the term ‘sealing petition’ means a petition
9 for a sealing order filed under subsection (b).

10 “(b) RIGHT TO FILE SEALING PETITION.—

11 “(1) IN GENERAL.—On and after the date that
12 is 1 year after the date on which the eligible indi-
13 vidual has fulfilled each requirement described in
14 subsection (a)(2)(B), an eligible individual may file
15 a petition for a sealing order with respect to a cov-
16 ered nonviolent offense in a district court of the
17 United States.

18 “(2) NOTICE OF OPPORTUNITY TO FILE PETI-
19 TION.—

20 “(A) IN GENERAL.—If an individual is
21 convicted of a covered nonviolent offense and
22 will potentially be eligible to file a sealing peti-
23 tion with respect to the offense upon fulfilling
24 each requirement of the sentence for the offense
25 as described in subsection (a)(2)(B), the court

1 in which the individual is convicted shall, in
2 writing, inform the individual, on each date de-
3 scribed in subparagraph (B), of—

4 “(i) that potential eligibility;

5 “(ii) the necessary procedures for fil-
6 ing the sealing petition; and

7 “(iii) the benefits of sealing a record.

8 “(B) DATES.—The dates described in this
9 subparagraph are—

10 “(i) the date on which the individual
11 is convicted; and

12 “(ii) the date on which the individual
13 has completed every term of imprisonment,
14 probation, or supervised release relating to
15 the offense.

16 “(c) PROCEDURES.—

17 “(1) NOTIFICATION TO PROSECUTOR.—If an in-
18 dividual files a petition under subsection (b), the dis-
19 trict court in which the petition is filed shall provide
20 notice of the petition—

21 “(A) to the office of the United States at-
22 torney that prosecuted the petitioner for the of-
23 fense; and

1 “(B) upon the request of the petitioner, to
2 any other individual that the petitioner deter-
3 mines may testify as to the—

4 “(i) conduct of the petitioner since the
5 date of the offense; or

6 “(ii) reasons that the sealing order
7 should be entered.

8 “(2) NOTIFICATION TO CRIME VICTIMS.—Upon
9 receipt of a notification under paragraph (1)(A) by
10 an office of the United States attorney, the office
11 shall make reasonable efforts to identify any indi-
12 vidual who was a crime victim (as such term is de-
13 fined in section 3771) of the offense and provide no-
14 tice of the petition.

15 “(3) HEARING.—

16 “(A) IN GENERAL.—Not later than 180
17 days after the date on which an individual files
18 a sealing petition, the district court shall—

19 “(i) except as provided in subpara-
20 graph (D), conduct a hearing in accord-
21 ance with subparagraph (B); and

22 “(ii) determine whether to enter a
23 sealing order for the individual in accord-
24 ance with paragraph (4).

1 “(B) OPPORTUNITY TO TESTIFY AND
2 OFFER EVIDENCE.—

3 “(i) PETITIONER.—The petitioner
4 may testify or offer evidence at the sealing
5 hearing in support of sealing.

6 “(ii) PROSECUTOR.—The office of a
7 United States attorney that receives notice
8 under paragraph (1)(A) may send a rep-
9 resentative to testify or offer evidence at
10 the sealing hearing in support of or
11 against sealing.

12 “(iii) OTHER INDIVIDUALS.—At the
13 request of a petitioner, the district court in
14 which the petition is filed shall issue a sub-
15 poena requiring an individual who receives
16 notice under paragraph (1)(B) to testify or
17 offer evidence at the sealing hearing as to
18 the issues described in clauses (i) and (ii)
19 of that paragraph.

20 “(C) MAGISTRATE JUDGES.—

21 “(i) IN GENERAL.—A magistrate
22 judge may preside over a hearing under
23 this paragraph, and submit to a judge of
24 the court proposed findings of fact and
25 recommendations for the disposition, by a

1 judge of the court, of any sealing petition
2 filed under this subsection.

3 “(ii) RECOMMENDATIONS.—Not later
4 than 14 days after being served with a
5 copy, any party may serve and file written
6 objections to the proposed findings and
7 recommendations of the magistrate judge
8 as provided by rules of court. A judge of
9 the court shall make a de novo determina-
10 tion of those portions of the report or spec-
11 ified proposed findings or recommenda-
12 tions to which objection is made. A judge
13 of the court may accept, reject, or modify,
14 in whole or in part, the findings or rec-
15 ommendations made by the magistrate
16 judge. The judge may also receive further
17 evidence or recommit the matter to the
18 magistrate judge with instructions.

19 “(D) WAIVER OF HEARING.—If the peti-
20 tioner and the United States attorney that re-
21 ceives notice under paragraph (1)(A) so agree,
22 the court shall make a determination under
23 paragraph (4) without a hearing.

24 “(4) BASIS FOR DECISION.—

1 “(A) IN GENERAL.—In determining wheth-
2 er to enter a sealing order with respect to pro-
3 tected information relating to a covered non-
4 violent offense, the court—

5 “(i) shall consider—

6 “(I) the petition and any docu-
7 ments in the possession of the court;
8 and

9 “(II) all evidence and testimony
10 presented at the sealing hearing, if
11 such a hearing is conducted;

12 “(ii) may not consider any non-Fed-
13 eral crimes for which the petitioner has not
14 been convicted; and

15 “(iii) shall balance—

16 “(I)(aa) the interest of public
17 knowledge and safety; and

18 “(bb) the legitimate interest, if
19 any, of the Government in maintain-
20 ing the accessibility of the protected
21 information, including any potential
22 impact of sealing the protected infor-
23 mation on Federal licensure, permit,
24 or employment restrictions; against

1 “(II)(aa) the conduct and dem-
2 onstrated desire of the petitioner to be
3 rehabilitated and positively contribute
4 to the community; and

5 “(bb) the interest of the peti-
6 tioner in having the protected infor-
7 mation sealed, including the harm of
8 the protected information to the abil-
9 ity of the petitioner to secure and
10 maintain employment.

11 “(B) BURDEN ON GOVERNMENT.—The
12 burden shall be on the Government to show
13 that the interests under subclause (I) of sub-
14 paragraph (A)(iii) outweigh the interests of the
15 petitioner under subclause (II) of that subpara-
16 graph.

17 “(5) WAITING PERIOD AFTER DENIAL.—If the
18 district court denies a sealing petition, the petitioner
19 may not file a new sealing petition with respect to
20 the same offense until the date that is 2 years after
21 the date of the denial.

22 “(6) UNIVERSAL FORM.—The Director of the
23 Administrative Office of the United States Courts
24 shall create a universal form, available over the

1 Internet and in paper form, that an individual may
2 use to file a sealing petition.

3 “(7) FEE WAIVER.—The Director of the Ad-
4 ministrative Office of the United States Courts shall
5 by regulation establish a minimally burdensome
6 process under which indigent petitioners may obtain
7 a waiver of any fee for filing a sealing petition.

8 “(8) EFFECT OF SEALING.—Subsections (c)
9 through (e) of section 3560 shall apply to any record
10 that is sealed under this section.

11 “(9) PUBLIC DEFENDER ELIGIBILITY.—The
12 district court shall appoint counsel in accordance
13 with the plan of the district court in operation under
14 section 3006A to represent a petitioner for purposes
15 of this section.

16 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion may be construed to require a covered individual (as
18 such term is defined in section 3560) to submit a sealing
19 petition with respect to records required to be automati-
20 cally sealed under section 3560.

21 “(e) REPORTING.—Not later than 2 years after the
22 date of enactment of this section, and each year there-
23 after, each district court of the United States shall issue
24 a public report that—

25 “(1) describes—

1 “(A) the number of sealing petitions grant-
2 ed and denied under this section; and

3 “(B) the number of instances in which the
4 office of a United States attorney supported or
5 opposed a sealing petition;

6 “(2) includes any supporting data that the
7 court determines relevant and that does not name
8 any petitioner; and

9 “(3) disaggregates all relevant data by race,
10 ethnicity, gender, and the nature of the offense.

11 “(f) EMPLOYER IMMUNITY FROM LIABILITY.—An
12 employer who employs or otherwise engages an individual
13 whose criminal records were sealed pursuant to this sec-
14 tion shall be immune from liability for any claim arising
15 out of the misconduct of the individual, if the misconduct
16 relates to the portion of the criminal records that were
17 sealed pursuant to this section.”.

18 (b) TABLE OF SECTIONS.—The table of sections for
19 subchapter A of chapter 227 of title 18, United States
20 Code, is amended by inserting after the item relating to
21 section 3559 the following:

“3560. Automatic sealing of certain records.

“3560A. Sealing of certain records upon petition.”.