

HOUSE RESEARCH

Bill Summary

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Overview

This bill modifies certain requirements related to expungement of eviction records and adds the personal representative of a deceased tenant to provisions that allow the tenant to access a property and take legal action against the landlord.

Section

- 1** **Discretionary expungement.** Modifies existing provisions that grant courts permissive authority to expunge an eviction case court file. Current law requires that a defendant make a formal motion to the court requesting an expungement, and only permits expungement if the court finds that the plaintiff's case is "sufficiently without basis in fact or law."

This section eliminates the requirement that a defendant make a formal motion for expungement and modifies the standards for determining whether an expungement is appropriate. Expungement would now be permitted if the court finds a change in circumstances for the defendant that indicate the eviction is not a reasonable predictor of future behavior. Current requirements that the court find that the interests of justice outweigh the public's interest in knowing about the record remain in place. The "sufficiently without basis in fact or law" standard is added to the mandatory expungement provisions in section 2 of the bill.

- 2** **Mandatory expungement.** Adds to the circumstances that would require a court to expunge an eviction record. An expungement would now be required if the defendant prevails in the action, the parties to the case have agreed to the expungement, or if the plaintiff's case is sufficiently without basis in fact or law (including lack of jurisdiction).

Under current law, if a plaintiff's case is sufficiently without basis in fact or law, the court has discretionary authority to grant an expungement, upon motion by the defendant. These provisions are eliminated in section 1 of the bill.

- 3** **Destroyed court files.** Establishes a rebuttable presumption in favor of expungement if the

court has destroyed the court file of an eviction case.

A rebuttable presumption means that the expungement would be granted, unless a party affirmatively demonstrates that the expungement should not be granted because it fails to meet one of the standards for permissive or mandatory expungement provided in law.

- 4** **Hearing on motion.** Requires the court to take up a defendant's expungement request at the same hearing as the underlying eviction hearing, unless there is good cause to hear it later.

- 5-9** **Personal representative of tenant.** Adds references to a personal representative of a deceased tenant, or conforming language, to several sections of law that otherwise require the landlord to provide the tenant access to the property or permit the tenant to take legal action against a landlord.