

## LEGISLATIVE BILL 470

Approved by the Governor May 30, 2007

Introduced by Chambers, 11, Pedersen, 39

FOR AN ACT relating to criminal history records; to amend section 29-3523, Revised Statutes Cumulative Supplement, 2006; to change a provision relating to dissemination of information; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 29-3523, Revised Statutes Cumulative Supplement, 2006, is amended to read:

29-3523 (1) That part of criminal history record information consisting of a notation of an arrest, ~~when after an interval of one year active prosecution is neither completed nor pending,~~ described in subsection (2) of this section, shall not be disseminated to persons other than criminal justice agencies after the expiration of the periods described in subsection (2) of this section except when the subject of the record:

(a) Is currently the subject of prosecution or correctional control as the result of a separate arrest;

(b) Is currently an announced candidate for or holder of public office;

(c) Has made a notarized request for the release of such record to a specific person; or

(d) Is kept unidentified, and the record is used for purposes of surveying or summarizing individual or collective law enforcement agency activity or practices, or the dissemination is requested consisting only of release of criminal history record information showing (i) dates of arrests, (ii) reasons for arrests, and (iii) the nature of the dispositions including, but not limited to, reasons for not prosecuting the case or cases.

(2) Except as provided in subsection (1) of this section, the notation of arrest shall be removed from the public record as follows:

(a) In the case of an arrest for which no charges are filed as a result of the determination of the prosecuting attorney, the arrest shall not be part of the public record after one year from the date of arrest;

(b) In the case of an arrest for which charges are not filed as a result of a completed diversion, the arrest shall not be part of the public record after two years from the date of arrest; and

(c) In the case of an arrest for which charges are filed, but dismissed by the court on motion of the prosecuting attorney or as a result of a hearing not the subject of a pending appeal, the arrest shall not be part of the public record after three years from the date of arrest.

~~(2)~~ (3) Any person arrested due to the error of a law enforcement agency may file a petition with the district court for an order to expunge the criminal history record information related to such error. The petition shall be filed in the district court of the county in which the petitioner was arrested. The county attorney shall be named as the respondent and shall be served with a copy of the petition. The court may grant the petition and issue an order to expunge such information if the petitioner shows by clear and convincing evidence that the arrest was due to error by the arresting law enforcement agency.

Sec. 2. Original section 29-3523, Revised Statutes Cumulative Supplement, 2006, is repealed.