

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 470

Introduced by Chambers, 11

Read first time January 17, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to criminal history records; to amend section
2 29-3523, Revised Statutes Cumulative Supplement, 2006;
3 to change a provision relating to dissemination of
4 information; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

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

3 29-3523 (1) That part of criminal history record
4 information consisting of a notation of an arrest, ~~when after an~~
5 ~~interval of one year active prosecution is neither completed nor~~
6 ~~pending,~~ described in subsection (2) of this section, shall not be
7 disseminated to persons other than criminal justice agencies after
8 the expiration of the periods described in subsection (2) of this
9 section except when the subject of the record:

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

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

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

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

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

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

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

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

14 ~~(2)~~ (3) Any person arrested due to the error of a law
15 enforcement agency may file a petition with the district court for
16 an order to expunge the criminal history record information related
17 to such error. The petition shall be filed in the district court
18 of the county in which the petitioner was arrested. The county
19 attorney shall be named as the respondent and shall be served with
20 a copy of the petition. The court may grant the petition and issue
21 an order to expunge such information if the petitioner shows by
22 clear and convincing evidence that the arrest was due to error by
23 the arresting law enforcement agency.

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