

HOUSE BILL NO. 203

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES GATTO, Gara

Introduced: 3/23/09

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to expungement and sealing of certain criminal records and criminal
2 history information."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 12.55.085(e) is amended to read:

5 (e) Upon the discharge by the court without imposition of sentence, the court
6 may set aside the **judgment** [CONVICTION] and issue to the person a certificate to
7 that effect. **The person may provide the certificate to the Department of Public**
8 **Safety and to the clerk of court. The department and the clerk of court shall**
9 **destroy all records relating to the judgment, the suspended imposition of**
10 **sentence, and the set aside, including records maintained under AS 12.62.**

11 * **Sec. 2.** AS 12.62.180 is amended to read:

12 **Sec. 12.62.180. Sealing and expungement of criminal justice information.**
13 (a) Under this section, a criminal justice agency may seal **or expunge** only the
14 information that the agency is responsible for maintaining.

1 (b) A person may submit a written request to the head of the agency
 2 responsible for maintaining (1) past conviction information [OR CURRENT
 3 OFFENDER INFORMATION], asking the agency to seal such information about the
 4 person, or (2) nonconviction or current offender information, asking the agency
 5 to expunge such information about the person, when [THAT], beyond a reasonable
 6 doubt, the information resulted from mistaken identity or false accusation. The
 7 decision of the head of the agency is the final administrative decision on the request.

8 (c) The person requesting that the information be sealed or expunged may
 9 appeal an adverse decision of the agency to the court under applicable rules of
 10 procedure for appealing the decision of an administrative agency. The appellant bears
 11 the burden on appeal of showing that the agency decision was clearly mistaken. An
 12 appeal filed under this subsection may not collaterally attack a court judgment or a
 13 decision by prison, probation, or parole authorities, or any other action that is or could
 14 have been subject to appeal, post-conviction relief, or other administrative remedy.

15 (d) A person about whom information is sealed or expunged under this
 16 section may deny the existence of the information and of an arrest, charge, conviction,
 17 or sentence shown in the information. Information that is expunged under this
 18 section shall be removed from the agency records and destroyed. Information that
 19 is sealed under this section may be provided to another person or agency only

- 20 (1) for record management purposes, including auditing;
- 21 (2) for criminal justice employment purposes;
- 22 (3) for review by the subject of the record;
- 23 (4) for research and statistical purposes;
- 24 (5) when necessary to prevent imminent harm to a person; or
- 25 (6) for a use authorized by statute or court order.

26 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
 27 read:

28 APPLICABILITY. The change to AS 12.55.085(e) made by sec. 1 of this Act
 29 allowing the destruction of certain records only applies when a judgment, suspension of
 30 imposition of sentence, and set aside under AS 12.55.085 have all occurred after the effective
 31 date of this Act.