

HOUSE BILL NO. 168

INTRODUCED BY Z. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE EXPUNGEMENT OF CRIMINAL RECORDS FOR MISDEMEANOR OFFENSES IN CERTAIN CASES; AND PROVIDING RULEMAKING AUTHORITY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Expungement of misdemeanor records -- petition to district court --**

**criteria for expungement.** (1) A person convicted of a misdemeanor offense who has completed the terms of the sentence for the misdemeanor offense may petition the district court for an order requiring the expungement of all records of the arrest, investigation, and detention, if any, and any court proceedings that may have been held in the case.

(2) Unless the interests of public safety demand otherwise, the district court shall order the records expunged if:

(a) the person has not been convicted of any other offense in this state, another state, or federal court for a period of 5 years since the person completed the terms of the original sentence for the offense, including payment of any financial obligations or successful completion of court-ordered treatment; and

(b) the person is not currently being detained for the commission of a new offense and has not been charged with the commission of a new offense.

(3) Expungement may not be presumed if the person seeking expungement has two or more convictions for assault under 45-5-201 or partner or family member assault under 45-5-206.

(4) If the order of expungement is granted, a copy of the order must be sent to the arresting law enforcement agency, the prosecutor's office that prosecuted the offense, and the department of justice, along with a form prepared by the department of justice that contains identifying information about the petitioner.

(5) After the records are expunged, all records and data relating to the charge are confidential criminal justice information as defined in 44-5-103, and public access to the information may be obtained only by district court order upon good cause shown.

(6) For purposes of handling expunged records, the department of justice may adopt rules to implement the provisions of this section.



