

HOUSE BILL 331

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Yanira Gurrola and Janelle Anyanonu and Eleanor Chávez

AN ACT

RELATING TO EXPUNGEMENT; AMENDING THE CRIMINAL RECORD EXPUNGEMENT ACT; DEFINING "DOMESTIC VIOLENCE CRIME"; PROVIDING A PROCESS FOR A PERSON CHARGED WITH A DOMESTIC VIOLENCE CRIME TO REQUEST EXPUNGEMENT OF PUBLIC RECORDS AND ARREST RECORDS ANY TIME FOLLOWING THE ACQUITTAL OR DISMISSAL WITH PREJUDICE OF THE CHARGE; PROVIDING THAT THE EXPUNGEMENT BE COMPLETED WITHIN THIRTY DAYS FROM THE DATE OF THE ORDER; PROVIDING THAT A PERSON WHO REQUESTS EXPUNGEMENT SHALL NOT BE CHARGED ANY FEES FOR SUBMITTING THE REQUEST OR FOR THE EXPUNGEMENT PROCESS; MAKING CONFORMING AMENDMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 29-3A-2 NMSA 1978 (being Laws 2019, Chapter 203, Section 2) is amended to read:

"29-3A-2. DEFINITIONS.--As used in the Criminal Record

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Expungement Act:

A. "arrest records" means records of identification of a person under arrest or under investigation for a crime taken or gathered by an official; "arrest records" includes information gathered from the national crime information center or another criminal record database, photographs, fingerprints and booking sheets; except "arrest records" does not include:

(1) driving while intoxicated citations

maintained by the taxation and revenue department;

(2) computer-aided dispatch information; or

(3) log books relating to breath alcohol

testing equipment;

B. "domestic violence crime" includes:

(1) assault against a household member, as

provided in Section 30-3-12 NMSA 1978;

(2) aggravated assault against a household

member, as provided in Section 30-3-13 NMSA 1978;

(3) assault against a household member with

intent to commit a violent felony, as provided in Section

30-3-14 NMSA 1978;

(4) battery against a household member, as

provided in Section 30-3-15 NMSA 1978;

(5) aggravated battery against a household

member, as provided in Section 30-3-16 NMSA 1978;

(6) criminal damage to the property of a

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1 household member or deprivation of the property of a household
2 member, as provided in Section 30-3-18 NMSA 1978; and

3 (7) violating an order of protection granted
4 by a court under the Family Violence Protection Act, as
5 provided in Section 40-13-6 NMSA 1978;

6 [B.] C. "expungement" means the removal from access
7 to the general public of a notation of an arrest, complaint,
8 indictment, information, plea of guilty, conviction, acquittal,
9 dismissal or discharge record, including a record posted on a
10 publicly accessible court, corrections or law enforcement
11 internet website; and

12 [C.] D. "public records" means documentation
13 relating to a person's arrest, indictment, proceeding, finding
14 or plea of guilty, conviction, acquittal, dismissal or
15 discharge, including information posted on a court or law
16 enforcement website; but "public records" does not include:

17 (1) arrest record information that:
18 (a) reveals confidential sources,
19 methods, information or individuals accused but not charged
20 with a crime and that is maintained by the state or any of its
21 political subdivisions pertaining to any person charged with
22 the commission of any crime; or

23 (b) is confidential and unlawful to
24 disseminate or reveal, except as provided in the Arrest Record
25 Information Act or other law;

(2) the file of a district attorney or attorney general maintained as a confidential record for law enforcement purposes and not open for inspection by members of the public;

(3) a record maintained by the children, youth and families department, the ~~human services department~~ health care authority or the public education department when that record is confidential under state or federal law and is required to be maintained by state or federal law for audit or other purposes; or

(4) a record received pursuant to a background check as authorized by law."

SECTION 2. Section 29-3A-4 NMSA 1978 (being Laws 2019, Chapter 203, Section 4, as amended) is amended to read:

"29-3A-4. EXPUNGEMENT OF RECORDS UPON RELEASE WITHOUT CONVICTION.--

A. Except as provided in Section 29-3A-10 NMSA 1978, one year from the date of the final disposition in the case, a person released without conviction for a violation of a municipal ordinance, misdemeanor, felony, penalty assessments under the Criminal Code and the Motor Vehicle Code or violations and deferred sentences under the Motor Vehicle Code may petition the district court in the district in which the charges against the person originated for an order to expunge arrest records and public records related to that case.

B. A petitioner shall provide notice by first-class United States mail of the filed petition to the following parties, which parties shall be given thirty days in which to provide to the district court any objections to the petition:

(1) the district attorney for that district;

and

(2) the department of public safety.

C. A single petition filed pursuant to Subsection A of this section may include a request to expunge multiple arrest records and public records that originated within the jurisdiction of a district. A petition shall be filed under seal or under pseudonym. Petitions brought pursuant to the Criminal Record Expungement Act and all records of proceedings thereunder shall be expunged upon the conclusion of proceedings. The petitioner shall attach to and file with the petition copies of the petitioner's record of arrest and prosecutions from the department of public safety dated no earlier than ninety days prior to the date the petition is filed.

D. A party that seeks to object to a petition on the basis of the contents of a petitioner's record of arrest and prosecutions from the federal bureau of investigation must provide a copy of that record to a petitioner at no charge at the time the party objects.

E. After a hearing on the petition, the court shall

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1 issue an order within thirty days of the hearing requiring that
2 all arrest records and public records related to the case be
3 expunged if it finds that no other charge or proceeding is
4 pending against the petitioner and if the petitioner was
5 released without a conviction, including:

- 6 (1) an acquittal or finding of not guilty;
- 7 (2) a nolle prosequi, a no bill or other
8 dismissal;
- 9 (3) a referral to a preprosecution diversion
10 program;
- 11 (4) an order of conditional discharge pursuant
12 to Section 31-20-13 NMSA 1978; or
- 13 (5) the proceedings were otherwise discharged.

14 F. The court shall cause a copy of the order to be
15 delivered to all relevant law enforcement agencies and courts.
16 The order shall prohibit all relevant law enforcement agencies
17 and courts from releasing copies of the records to any person,
18 except upon order of the court."

19 SECTION 3. Section 29-3A-7 NMSA 1978 (being Laws 2019,
20 Chapter 203, Section 7) is amended to read:

21 "29-3A-7. EFFECT OF AN ORDER TO EXPUNGE.--Upon entry [an
22 of] of an order to expunge, the proceedings shall be treated as
23 if they never occurred, and officials and the person who
24 received the order to expunge may reply to an inquiry that no
25 record exists with respect to the person; provided that arrest

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1 or conviction records shall be disclosed by the person and
2 officials in connection with any application for or query
3 regarding qualification for employment or association with any
4 financial institution regulated by the financial industry
5 regulatory authority or the securities and exchange commission,
6 unless the records are arrest records for a domestic violence
7 crime."

8 SECTION 4. A new section of the Criminal Record
9 Expungement Act, Section 29-3A-10 NMSA 1978, is enacted to
10 read:

11 "29-3A-10. [NEW MATERIAL] EXPUNGEMENT OF RECORDS UPON
12 ACQUITTAL OR DISMISSAL WITH PREJUDICE--DOMESTIC VIOLENCE
13 CRIMES.--

14 A. A person charged with a domestic violence crime
15 who is acquitted or whose charge is dismissed with prejudice
16 may request expungement of all public records and arrest
17 records related to the person's charge.

18 B. The request for expungement shall be made in
19 writing to the court that entered the acquittal or dismissal
20 with prejudice any time after the acquittal or dismissal is
21 entered.

22 C. Upon receiving a request for expungement, the
23 court that entered the acquittal or dismissal shall order the
24 expungement of all public records and arrest records related to
25 the underlying domestic violence crime within thirty days from

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1 the date of the order and shall cause a copy of the order to be
2 delivered to all relevant law enforcement agencies and courts.

3 The order shall:

4 (1) prohibit the relevant law enforcement
5 agencies and courts from releasing copies of the expunged
6 records to any person, except upon order of the court; and

7 (2) require the relevant law enforcement
8 agencies and courts to give notice to the court and the person
9 requesting expungement when expungement is completed.

10 D. A person who requests expungement pursuant to
11 this section shall not be charged any fees for submitting the
12 request or for the expungement process."

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