

HOUSE BILL 314

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO CRIMINAL RECORD EXPUNGEMENT; APPLYING AUTOMATIC EXPUNGEMENT TO RECORDS INVOLVING ONLY CANNABIS.

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

**SECTION 1.** Section 29-3A-8 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 3, Section 5) is amended to read:

"29-3A-8. EXPUNGEMENT OF ARREST AND CONVICTION RECORDS--  
PROCEDURE.--

.223474.4SAAIC March 2, 2023 (5:58pm)

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A. If a person was charged with an offense involving cannabis that is no longer a crime on [~~the effective date of the Cannabis Regulation Act~~] June 29, 2021 or that would have resulted in a lesser offense if [~~that~~] the Cannabis Regulation Act had been in effect at the time of the offense, whether or not the person is convicted, all public records held by a court or an agency of the state or a local jurisdiction that relate to the person's arrest or conviction shall be automatically expunged two years after the date of the person's conviction or the date of the person's arrest if there was no conviction [~~provided that if the arrest or conviction included multiple charges, only the portions of the public records related to the cannabis charge shall be expunged~~]. If the person is or was under eighteen years of age at the time of the arrest or conviction, the public records under this section shall be retained for two years or until the person is eighteen years of age, whichever comes first, and shall then be automatically expunged [~~provided that if the arrest or conviction included multiple charges, only the portions of the public records related to the cannabis charge shall be expunged~~]. The public records shall be removed from all statewide criminal databases. The supreme court shall promulgate rules to implement the provisions of this section].

Automatic expungement HJC→under this section←HJC applies to HCPAC→court or agency←HCPAC HCPAC→public←HCPAC records

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involving only cannabis and cannabis paraphernalia charges and requires destruction of the records.

B. The administrative office of the courts shall implement a procedure allowing persons charged with offenses eligible for automatic expungement under this section to verify whether automatic expungement has occurred and request expedited automatic expungement if eligible charges have not yet been expunged. HCPAC→~~Requests from persons charged with offenses eligible for automatic expungement made under this subsection shall remain confidential and are not subject to disclosure.~~←HCPAC

HCPAC→C. If an arrest or conviction involved cannabis and non-cannabis charges, a person may request expungement of eligible cannabis charges as defined in Subsection A of this section by the administrative office of the courts through the procedure implemented in Subsection B of this section.

D. Requests for expungement to the administrative office of the courts from persons charged with offenses eligible for automatic expungement shall remain confidential and are not subject to disclosure."←HCPAC