

1 HOUSE BILL 314

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Andrea Romero and Javier Martínez

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10 AN ACT

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

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

15 SECTION 1. Section 29-3A-8 NMSA 1978 (being Laws 2021  
16 (1st S.S.), Chapter 3, Section 5) is amended to read:

17 "29-3A-8. EXPUNGEMENT OF ARREST AND CONVICTION RECORDS--  
18 PROCEDURE.--

19 A. If a person was charged with an offense  
20 involving cannabis that is no longer a crime on [~~the effective~~  
21 ~~date of the Cannabis Regulation Act~~] June 29, 2021 or that  
22 would have resulted in a lesser offense if [~~that~~] the Cannabis  
23 Regulation Act had been in effect at the time of the offense,  
24 whether or not the person is convicted, all public records held  
25 by a court or an agency of the state or a local jurisdiction

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1 that relate to the person's arrest or conviction shall be  
2 automatically expunged two years after the date of the person's  
3 conviction or the date of the person's arrest if there was no  
4 conviction [~~provided that if the arrest or conviction included~~  
5 ~~multiple charges, only the portions of the public records~~  
6 ~~related to the cannabis charge shall be expunged~~]. If the  
7 person is or was under eighteen years of age at the time of the  
8 arrest or conviction, the public records under this section  
9 shall be retained for two years or until the person is eighteen  
10 years of age, whichever comes first, and shall then be  
11 automatically expunged [~~provided that if the arrest or~~  
12 ~~conviction included multiple charges, only the portions of the~~  
13 ~~public records related to the cannabis charge shall be~~  
14 ~~expunged. The public records shall be removed from all~~  
15 ~~statewide criminal databases. The supreme court shall~~  
16 ~~promulgate rules to implement the provisions of this section~~].  
17 Automatic expungement applies to court or agency records  
18 involving only cannabis and cannabis paraphernalia charges and  
19 requires destruction of the records.

20 B. The administrative office of the courts shall  
21 implement a procedure allowing persons charged with offenses  
22 eligible for automatic expungement under this section to verify  
23 whether automatic expungement has occurred and request  
24 expedited automatic expungement if eligible charges have not  
25 yet been expunged. Requests from persons charged with offenses

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1 eligible for automatic expungement made under this subsection  
2 shall remain confidential and are not subject to disclosure."

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