

1 HOUSE BILL NO. 175

2 INTRODUCED BY D. MORTENSEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE EXPUNGEMENT OF RECORDS WHEN A
5 PERSON IS ARRESTED OR CHARGED WITH AN OFFENSE AND IS NOT CONVICTED OF A CRIME,
6 INCLUDING WHEN NO CHARGES ARE FILED AFTER ARREST; AND PROVIDING RULEMAKING
7 AUTHORITY."

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

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11 NEW SECTION. **Section 1. Eligibility for expungement of records of arrest, investigation, and**
12 **detention -- requirements.** (1) A person who has been arrested or formally charged with an offense may petition
13 the district court for an order requiring the expungement of all records of arrest, investigation, detention, and any
14 court proceedings that may have been held in the case, subject to the following conditions:

15 (a) at least 30 days have passed since the arrest for which expungement is sought;

16 (b) there are no criminal proceedings pending against the petitioner; and

17 (c) one of the following occurred:

18 (i) charges were screened by the investigating law enforcement agency and the prosecutor has made
19 a final determination that no charges will be filed in the case;

20 (ii) the case was dismissed with prejudice;

21 (iii) the person was acquitted at trial on all of the charges contained in the case; or

22 (iv) the statute of limitations has expired on all of the charges contained in the case.

23 (2) A copy of the order of expungement must be sent to the appropriate law enforcement agency, the
24 prosecutor, if any, and the department of justice, accompanied by a form prepared by the department of justice
25 and containing identifying information about the petitioner.

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

29 (4) The department of justice may adopt rules to implement procedures regarding law enforcement
30 agency procedures for handling the expunged records.

