

1 **** BILL NO. ****

2 INTRODUCED BY ****

3 BY REQUEST OF THE ****

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE
6 MISDEMEANOR EXPUNGEMENT CLARIFICATION ACT; DEFINING "SEAL"; PROVIDING THE EFFECT OF
7 EXPUNGED RECORDS; PROVIDING DIRECTION TO EMPLOYERS, HOUSING AUTHORITIES, AND
8 OCCUPATIONAL AND LICENSING BODIES REGARDING APPLICANTS WITH EXPUNGED RECORDS;
9 AMENDING SECTIONS 37-1-203 AND 46-18-1103, MCA; PROVIDING AN APPLICABILITY DATE."

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

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13 **Section 1.** Section 37-1-203, MCA, is amended to read:

14 **"37-1-203. Conviction not a sole basis for denial -- effect of expunged records. (1)** Criminal
15 convictions shall not operate as an automatic bar to being licensed to enter any occupation in the state of
16 Montana. No licensing authority shall refuse to license a person solely on the basis of a previous criminal
17 conviction; provided, however, where a license applicant has been convicted of a criminal offense and such
18 criminal offense relates to the public health, welfare, and safety as it applies to the occupation for which the
19 license is sought, the licensing agency may, after investigation, find that the applicant so convicted has not
20 been sufficiently rehabilitated as to warrant the public trust and deny the issuance of a license.

21 (2) As provided in [section 3], expunged records and completed applications of applicants who
22 answer 'no record' with respect to an inquiry relative to expunged records of prior arrests, criminal court
23 appearance or conviction may not be adversely considered in the determination to being licensed to enter any
24 occupation in the state of Montana."

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26 **Section 2.** Section 46-18-1103, MCA, is amended to read:

27 **"46-18-1103. Definitions.** As used in this part, the following definitions apply:

28 (1) "Expunge" or "expungement" means to permanently destroy, delete, or erase a record of an

offense from the criminal history record information system maintained by the department of justice in a manner that is appropriate for the record's physical or electronic form.

(2) (a) "Record" means any:

(i) identifiable description, notation, or photograph of an arrest and detention;

(ii) complaint, indictment, or information or any disposition arising from a complaint, indictment, or information;

(iii) sentence;

(iv) correctional status;

(v) release; or

(vi) court document or filing.

(b) The term does not include a fingerprint record or data that may be maintained for investigative purposes.

(3) "Seal" means to prohibit the disclosure of the existence or contents of a record."

NEW SECTION. Section 3. Effect of expunged records. (1) Expunged records may not disqualify a person in any examination, appointment or application for public service of this state or of any political subdivision of this state.

(2) An application used to screen applicants for employment, housing, or an occupational or professional license which seeks information concerning prior arrests or convictions of the applicant must include the following statement: "An applicant for employment or for housing or an occupational or professional license with an expunged record may answer 'no record' with respect to an inquiry relative to prior arrests, criminal court appearances or convictions. In addition, any applicant for employment or for housing or an occupational or professional license may answer 'no record' with respect to any inquiry relative to prior arrests, court appearances and adjudications in all cases of delinquency."

(3) A person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been expunged in an appearance as a witness in any proceeding or hearing. A state entity that inquires about a person's criminal history record shall advise the person of the person's right not to disclose expunged records pursuant to this section.

(4) Expunged records and completed applications of applicants who answer 'no record' with respect to an inquiry relative to expunged records of prior arrests, criminal court appearance or conviction as provided in subsection (2) may not be adversely considered in the determination of such applications.

NEW SECTION. Section 4. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 46, chapter 18, part 11, and the provisions of Title 46, chapter 18, part 11, apply to [section 3].

NEW SECTION. Section 5. Applicability. [This act] applies to expungement orders granted on and after the [effective date of this act].

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