

1446

2009-2010 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2009

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Introduced by M. of A. WRIGHT -- read once and referred to the Committee  
on Codes

AN ACT to amend the criminal procedure law, in relation to expungement  
of criminal records and penalties for violation of such provisions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. The criminal procedure law is amended by adding a new  
2     section 160.65 to read as follows:  
3     S 160.65 PETITION FOR EXPUNGEMENT OF RECORDS OF ARREST, INVESTIGATION,  
4             DETENTION AND COMPUTER DATABASES FOR THE INNOCENT, DISMISSED  
5             CASES, AND THE FALSELY ARRESTED.  
6     1. ANY PERSON WHO HAS BEEN ARRESTED WITH OR WITHOUT WARRANT MAY PETI-  
7     TION THE COURT IN WHICH THE PROCEEDING OCCURRED OR, IF THERE WERE NO  
8     COURT PROCEEDING, ANY COURT IN THE JURISDICTION WHERE THE ARREST  
9     OCCURRED, FOR AN ORDER EXPUNGING ANY AND ALL RECORDS OF ARREST, INVESTI-  
10    GATION, COMPUTER DATABASES, AND RECORDS OF DETENTION PURSUANT TO THAT  
11    VOIDABLE ARREST NOT LATER THAN THIRTY DAYS AFTER THE DATE ON WHICH THE  
12    ARREST BECOMES A VOIDABLE ARREST. LAW ENFORCEMENT AGENCIES MUST PROVIDE  
13    IMMEDIATE NOTIFICATION TO A PERSON WHEN A RECORD OF DETENTION OR ARREST  
14    IS BEING GENERATED ON SUCH PERSON. FOR PURPOSES OF THIS SUBDIVISION,  
15    THE TERM "VOIDABLE ARREST" MEANS ANY ARREST RESULTING IN THE FOLLOWING:  
16        (A) THE PERSON WAS RELEASED WITHOUT THE FILING OF FORMAL CHARGES;  
17        (B) A DETERMINATION THAT THE ARREST WAS WITHOUT PROBABLE CAUSE; OR  
18        (C) DISMISSAL OF PROCEEDINGS AGAINST THE PERSON.  
19    2. ANY PERSON WHO KNOWINGLY FAILS TO EXPUNGE OR OBLITERATE, OR WHO  
20    RELEASES INFORMATION ORDERED EXPUNGED, IS GUILTY OF A CLASS B MISDEMEA-  
21    NOR. A PERSON, WHO, KNOWING THE RECORDS ARE EXPUNGED, USES THE INFORMA-  
22    TION FOR FINANCIAL GAIN, OR WILLFUL DESTRUCTION OF A PERSON'S CHARACTER  
23    IS GUILTY OF A CLASS D FELONY.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1       3. A PERSON WHO HAS RECEIVED EXPUNGEMENT OF AN ARREST UNDER THIS  
2 SECTION MAY RESPOND TO ANY EMPLOYMENT INQUIRY AS THOUGH THE ARREST DID  
3 NOT OCCUR.  
4       S 2. This act shall take effect on the one hundred eightieth day after  
5 it shall have become a law.