

Subject Automatic expungement process  
Authors Long  
Analyst Ben Johnson (ben.johnson@house.mn)  
Date February 19, 2021

### Overview

Under current Minnesota law, a person seeking expungement of criminal records must file a petition with the court seeking an order expunging records. This bill establishes an automatic expungement process for certain offenses. The bill also expands the list of crimes that are eligible through the petition process.

### Summary

Section	Description
1	<b>Title.</b> States that the act may be referred to as the “Clean Slate Act.”
2	<b>Expungement of criminal records.</b> Makes a conforming change.
3	<b>Automatic expungement of records.</b> <b>Subd. 1. Eligibility; dismissal; exoneration.</b> Establishes that a person’s records are eligible for automatic expungement when certain charges involving controlled substance charges are dismissed pursuant to the process described in Minnesota Statutes, section 152.18; all charges are dismissed prior to a determination of probable cause; or all proceedings are resolved in favor of the defendant. <b>Subd. 2. Eligibility; diversion and stay of adjudication.</b> Establishes that a person is eligible for an automatic expungement if the person successfully completes the terms of a diversion program or a stay of adjudication and has not been petitioned or convicted of a crime for one year immediately following completion of the diversion program or period of supervision. <b>Subd. 3. Eligibility; certain criminal and delinquency proceedings.</b> Establishes that a person is eligible for automatic expungement if the person was adjudicated delinquent for, or convicted of, a qualifying offense; has not been convicted of a new crime in the applicable waiting period; is not incarcerated or

Section	Description
	<p>charged with an offense when the person becomes eligible; and has not been convicted of an offense in any other jurisdiction if the eligible offense was a felony. Provides that qualifying offenses include petty misdemeanors other than traffic and parking violations; misdemeanors other than DWI and offenses related to domestic or sexual assault; gross misdemeanors other than offenses related to domestic or sexual assault and certain other person offenses; and certain specified felonies that primarily involve theft or possession of a controlled substance.</p>
	<p><b>Subd. 4. Bureau of Criminal Apprehension to identify eligible persons and grant expungement relief.</b> Directs the Bureau of Criminal Apprehension to identify individuals who are eligible for expungement relief and provides notice to the person whose records will be expunged, the courts, other state and local agencies that hold records, and identifiable victims. Establishes that records may be opened in the case of a subsequent prosecution of the person. Allows a prosecuting agency to ask the court to prohibit automatic expungement at the time a person is sentenced.</p>
4	<p><b>Expungement of arrest.</b> Provides that a person may file a petition to expunge all records of an arrest if the prosecuting authority declined to press charges and the applicable statute of limitations has expired.</p>
5	<p><b>Certain criminal proceedings.</b> Adds offenses to the list of felony crimes for which a person may petition for expungement. The additional offenses are: wrongfully obtaining assistance; theft of \$5,000 to \$35,000; and possession of burglary or theft tools.</p>
6	<p><b>No petition required in certain cases with prosecutor agreement and notification.</b> Directs prosecutors to notify the court if the circumstances of a crime for which the prosecutor has agreed to support expungement indicate a nexus between the criminal record and the person's status as a crime victim, such as instances where a person was convicted of domestic assault and was also the victim of domestic assault, and directs the court to make the findings required to restore the person, in the contemplation of the law, to the status the person occupied before an arrest or conviction. Further provides that a prosecutor shall agree to the sealing of records in cases in which no charges were brought unless substantial and compelling reasons exist to object to the sealing.</p>
7	<p><b>Nature of remedy; standard.</b> Makes a conforming change.</p>

<b>Section</b>	<b>Description</b>
<b>8</b>	<b>Limitations of order effective January 1, 2015, and later.</b> Makes a conforming change. Provides that a prosecutor may request, and the district court must provide, certified records of conviction that have been expunged. Establishes that the subject of expunged records may request, and the court shall provide, certified or uncertified records of conviction for a record that has been expunged.
<b>9</b>	<b>Stay of order; appeal.</b> Makes a conforming change.
<b>10</b>	<b>Plea agreements; notification to victims.</b> Provides that notification to victims provided by prosecutors must include whether an offense is eligible for automatic expungement and, if so, that the victim has the right to express an objection to that relief. Requires prosecutors to make any objections known to the court.



**MN HOUSE  
RESEARCH**

*Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.*

[www.house.mn/hrd](http://www.house.mn/hrd) | 651-296-6753 | 155 State Office Building | St. Paul, MN 55155