Chapter 137

EXPUNGEMENT OF CRIMINAL RECORDS

Original House Bill No. 184

AN ACT relating to expungement of certain criminal records; establishing procedures for the expungement of certain criminal records as specified; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 7-13-1401 is created to read:

ARTICLE 14
EXPUNGEMENT OF CRIMINAL RECORDS

7-13-1401. Petition for expungement; records of arrest, dismissal of charges, disposition; eligibility; no filing fee.

(a) A person may petition the court in which a proceeding occurred, or would have occurred, for an order expunging records of arrest, charges or dispositions which may have been made in the case, subject to the following limitations:

(i) At least one hundred eighty (180) days have passed since the arrest, or from the date the charge or charges were dismissed for which expungement is sought, there are no formal charges pending against the person when the petition is filed, the petitioner sufficiently demonstrates that his petition satisfies all the requirements of this section, and at least one (1) of the following applies:

(A) There were no convictions pursuant to any charge or charges, including a conviction pursuant to a different or lesser charge as the result of the incident leading to the arrest, there were no dispositions pursuant to W.S. 7-13-301 to any charge or charges as the result of the incident leading to the arrest, including dispositions to a different or lesser charge, there were no dispositions pursuant to W.S. 35-7-1037 to any charge or charges as the result of the incident leading to the arrest, including dispositions to a different or lesser charge, and there were no dispositions pursuant to former W.S. 7-13-203 to any charge or charges as the result of the incident leading to the arrest, including dispositions to a different or lesser charge;

(B) No criminal charges of any nature were filed in any court as the result of the incident leading to the arrest; or

(C) All criminal proceedings against the person were dismissed by the prosecutor or the court, and such proceedings were the result of the incident which led to the arrest.

(b) Any petition filed under this section shall be verified by the petitioner, served upon and reviewed by the prosecuting attorney, and no order granting expungement shall be issued prior to the expiration of twenty (20) days after service was made.

(c) The prosecuting attorney shall file with the court, an objection, if any, to the petition within twenty (20) days after service. If an objection is filed, the court shall set the matter for hearing. If no objection is filed, the court may summarily enter an order if the court finds that the petitioner is otherwise eligible for relief under this section.

(d) If the court finds that the petitioner is eligible for relief under this section, it shall issue an order granting the expungement of the applicable record. The court shall also place the court file under seal, available only for inspection by order of that court. The court shall transmit a certified copy of the order to the division of criminal investigation.

(e) There shall be no filing fee for a petition filed under this section.

(f) A person who has received an order of expungement under this section may respond to any inquiry as though the arrest, or charge or charges did not occur, unless otherwise provided by law.

(g) The state, through the prosecuting attorney, may appeal any order of expungement issued by any court under this section.

(h) Notwithstanding W.S. 1-39-101 through 1-39-120, the division of criminal investigation and its employees are immune from liability, either as an agency or individually, for any actions, inactions or omissions by the agency or any employee thereof, pursuant to this section.

(j) As used in this section:

(i) "Expungement" means only the classification of the record maintained in the files of the state central repository at the division of criminal investigation as defined by W.S. 7-19-107(a), in a manner reasonably tailored to ensure that the record will not be available for dissemination purposes other than to a criminal justice agency of any state or a federal criminal justice agency, to be used solely for criminal justice purposes. Expungement shall not include investigatory files of any local, state or federal criminal justice agency, where those files are being used solely for criminal justice purposes;

(ii) "Record" means any notation of the arrest, charge or disposition maintained in the state central repository at the division of criminal investigation, whether in paper or electronic format.

Section 2. This act is effective July 1, 2003.

Approved March 6, 2003.