

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

400S0282

SENATE BILL NO. 31

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the expungement of
2 arrest records.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-3-26 be amended to read as follows:

5 23A-3-26. ~~Terms~~ The term, expungement, used in §§ 23A-3-27 to 23A-3-33, inclusive,
6 ~~mean:~~ means

7 ~~—(1)—~~ "Expungement," the sealing of all arrest records on file ~~within any court, detention~~
8 ~~or correctional facility, law enforcement agency, criminal justice agency, or~~
9 ~~Department of Public Safety~~ with the Unified Judicial System or Division of
10 Criminal Investigation concerning a person's ~~detection,~~ apprehension, arrest,
11 ~~detention,~~ trial, or disposition of an offense within the criminal justice system that
12 resulted in no accusatory instrument being filed or an acquittal. The term does not
13 include records concerning a guilty plea, conviction, or suspended imposition of
14 sentence. Expungement does not imply the physical destruction of records.

15 Section 2. That § 23A-3-30 be amended to read as follows:



1 23A-3-30. The court may enter an order of expungement if satisfied that the ends of justice
2 and the best interest of the public as well as the defendant or the arrested person will be served
3 by the entry of the order. The court may only expunge an arrest record if no accusatory
4 instrument was filed or there was an acquittal. The court may not expunge any record of a guilty
5 plea, conviction, or suspended imposition of sentence.

6 Section 3. That chapter 23A-3 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 For the purposes of this chapter, the term, accusatory instrument, includes a summons,
9 complaint, indictment, information, or a uniform traffic ticket.