

# State of South Dakota

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2018

378Z0743

## HOUSE JUDICIARY ENGROSSED NO. **SB 185** - 2/23/2018

Introduced by: Senators Langer, Cronin, Haverly, Heinert, Kennedy, Kolbeck, Maher, Netherton, Partridge, Rusch, Wiik, and Youngberg and Representatives Johns, Ahlers, Gosch, Hunhoff, Rozum, and Stevens

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding criminal record  
2 expungement.

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

4 Section 1. That chapter 23A-3 be amended by adding a NEW SECTION to read:

5 If an arrested person is placed in a diversion program, the person is eligible for an  
6 expungement of the entire criminal record related to that arrest if:

7 (1) The person has successfully completed all the terms of the diversion program; and

8 (2) The person has not been charged with any new crimes, except for petty offenses or  
9 minor traffic citations, within one year and thirty days from the date of the successful  
10 completion of the diversion program.

11 Nothing in this section requires a state's attorney to place any arrested person into a  
12 diversion program or to otherwise create or implement a diversion program.

13 Section 2. That chapter 23A-3 be amended by adding a NEW SECTION to read:

14 If the requirements of section 1 of this Act have been met, the state's attorney shall file a



1 dismissal of all the charges related to that arrest and a notice of completion of the diversion  
2 program by the arrested person.

3 Section 3. That chapter 23A-3 be amended by adding a NEW SECTION to read:

4 Upon the filing of the dismissal and notice of completion of the diversion program, the court  
5 shall grant the expungement without the filing of a motion or any further action by the court.