

# State of South Dakota

## EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

397T0625

### SENATE BILL NO. 78

Introduced by: Senators Olson (Russell), Johnston, Krebs, Nygaard, Peters, Rampelberg, and Vehle and Representatives Fargen, Blake, Gibson, Hansen (Jon), Killer, Kirkeby, Lucas, Sigdestad, Stricherz, and Tornow

1 FOR AN ACT ENTITLED, An Act to allow an arrest to be expunged when the criminal case  
2 is dismissed.

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

4 Section 1. That § 23A-3-27 be amended to read as follows:

5 23A-3-27. An arrested person may apply to the court that would have jurisdiction over the  
6 crime for which the person was arrested, for entry of an order expunging the record of the arrest  
7 ~~after one year from the date of any arrest, if no accusatory instrument was filed, or at any time~~  
8 ~~after an acquittal;~~

9 (1) After one year from the date of any arrest if no accusatory instrument was filed;

10 (2) At any time after the prosecuting attorney formally dismisses the criminal case on the  
11 record. The dismissal of the criminal case may include an order to expunge the record  
12 of arrest; or

13 (3) At any time after an acquittal.

