

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

397T0625

SENATE JUDICIARY ENGROSSED NO. **SB 78** 1/26/2012

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) With the consent of the prosecuting attorney at any time after the prosecuting
11 attorney formally dismisses the entire criminal case on the record; or

12 (3) At any time after an acquittal.

