

House Engrossed
wrongful arrest; record clearance

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HOUSE BILL 2491

AN ACT

AMENDING SECTION 13-4051, ARIZONA REVISED STATUTES; RELATING TO CRIMINAL RECORDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-4051, Arizona Revised Statutes, is amended to
3 read:
4 13-4051. Entry on records; stipulation; court order
5 A. IF A LAW ENFORCEMENT OFFICER OR A PARTY IN A CRIMINAL CASE
6 DETERMINES THAT A PERSON HAS BEEN WRONGFULLY ARRESTED OR CHARGED WITH A
7 CRIME, THE LAW ENFORCEMENT OFFICER OR A PARTY IN A CRIMINAL CASE SHALL
8 NOTIFY THE PERSON WHO WAS ARRESTED OR CHARGED OF THE RIGHT TO FILE A
9 PETITION IN THE SUPERIOR COURT IN THE COUNTY WHERE THE ARREST OCCURRED
10 PURSUANT TO THIS SECTION.
11 B. THE CLERK OF THE COURT SHALL NOT IMPOSE A FEE FOR FILING THE
12 PETITION.
13 ~~A.~~ C. Any person who is wrongfully arrested, ~~indicted~~ or ~~otherwise~~
14 charged ~~for any~~ WITH A crime may petition the superior court for entry on
15 all court records, police records and any other APPLICABLE records of any
16 other agency relating to ~~such~~ THE arrest or ~~indictment~~ CHARGE a notation
17 that the person has been cleared. THE PETITION SHALL IDENTIFY THE RECORDS
18 THAT THE PETITIONER IS REQUESTING BE INCLUDED IN THE ORDER.
19 ~~B.~~ D. After a hearing on the petition, if the ~~judge believes~~ COURT
20 FINDS that IT IS IN THE INTEREST OF justice ~~will be served by such entry~~,
21 the ~~judge~~ COURT shall issue ~~the~~ AN order requiring ~~the~~ AN entry ~~that~~ ON
22 the ~~person has been cleared on such~~ COURT, POLICE AND OTHER APPLICABLE
23 records, with accompanying justification ~~therefor, and shall cause~~. A
24 copy of ~~such~~ THE order ~~to be delivered~~ SHALL BE TRANSMITTED to all
25 APPLICABLE law enforcement, PROSECUTING AND OTHER agencies and
26 courts. The order shall ~~further~~ require that ~~all law enforcement agencies~~
27 ~~and courts shall not release copies of or provide access to such~~ THE
28 records ~~to~~ NOT BE RELEASED TO OR ACCESSED BY any person except on order of
29 the court.
30 E. THE PERSON MAY DENY THAT THE ARREST OR CHARGE EVER OCCURRED.
31 ~~C.~~ F. Any person who has notice of ~~such~~ THE order ISSUED PURSUANT
32 TO THIS SECTION and WHO fails to comply with the ~~court~~ order ~~issued~~
33 ~~pursuant to this section shall be~~ IS liable to the person for damages from
34 ~~such~~ THE failure TO COMPLY.