

Senate Engrossed House Bill
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 AGENCY DETERMINES THAT A PERSON HAS BEEN
6 WRONGFULLY ARRESTED OR CHARGED WITH A CRIME, THE LAW ENFORCEMENT AGENCY
7 SHALL NOTIFY THE PERSON WHO WAS ARRESTED OR CHARGED OF THE RIGHT TO FILE A
8 PETITION IN THE SUPERIOR COURT IN THE COUNTY WHERE THE ARREST OCCURRED
9 PURSUANT TO THIS SECTION. THE LAW ENFORCEMENT AGENCY SHALL NOTIFY THE
10 PERSON BY SENDING A WRITTEN NOTICE TO THE PERSON AT THE ADDRESS THAT THE
11 LAW ENFORCEMENT AGENCY HAS ON FILE FOR THE PERSON. NOTIFICATION IS DEEMED
12 COMPLETE ON DEPOSITING THE WRITTEN NOTICE IN THE UNITED STATES MAIL.

13 B. THE CLERK OF THE COURT SHALL NOT IMPOSE A FEE FOR FILING THE
14 PETITION.

15 C. AN ATTORNEY WHO REPRESENTS A PERSON OR A PROSECUTOR, IF THE
16 PERSON IS NOT REPRESENTED BY AN ATTORNEY, AND WHO DETERMINES THAT THE
17 PERSON WAS WRONGFULLY ARRESTED OR CHARGED WITH A CRIME SHALL DO EITHER OF
18 THE FOLLOWING:

19 1. NOTIFY THE PERSON WHO WAS ARRESTED OR CHARGED OF THE RIGHT TO
20 FILE A PETITION IN THE SUPERIOR COURT IN THE COUNTY WHERE THE ARREST
21 OCCURRED PURSUANT TO THIS SECTION.

22 2. PETITION THE SUPERIOR COURT TO ENTER ON ALL COURT RECORDS,
23 POLICE RECORDS AND ANY OTHER APPLICABLE RECORDS OF ANY OTHER AGENCY
24 RELATING TO THE ARREST OR CHARGE A NOTATION THAT THE PERSON HAS BEEN
25 CLEARED. THE PETITION SHALL IDENTIFY THE RECORDS THAT THE PETITIONER IS
26 REQUESTING BE INCLUDED IN THE ORDER.

27 ~~A.~~ D. Any person who is wrongfully arrested, ~~indicted~~ or ~~otherwise~~
28 charged ~~for any~~ WITH A crime may petition the superior court for entry on
29 all court records, police records and any other APPLICABLE records of any
30 other agency relating to ~~such~~ THE arrest or ~~indictment~~ CHARGE a notation
31 that the person has been cleared. THE PETITION SHALL IDENTIFY THE RECORDS
32 THAT THE PETITIONER IS REQUESTING BE INCLUDED IN THE ORDER.

33 ~~B.~~ E. After a hearing on the petition, if the ~~judge believes~~ COURT
34 FINDS that IT IS IN THE INTEREST OF justice ~~will be served by such entry~~,
35 the ~~judge~~ COURT shall issue ~~the~~ AN order requiring ~~the~~ AN entry ~~that~~ ON
36 the ~~person has been cleared on such~~ COURT, POLICE AND OTHER APPLICABLE
37 records, with accompanying justification ~~therefor, and shall cause~~. A
38 copy of ~~such~~ THE order ~~to be delivered~~ SHALL BE TRANSMITTED to all
39 APPLICABLE law enforcement, PROSECUTING AND OTHER agencies and courts.
40 The order shall ~~further~~ require that ~~all law enforcement agencies and~~
41 ~~courts shall not release copies of or provide access to such~~ THE records
42 ~~to~~ NOT BE RELEASED TO OR ACCESSED BY any person except on order of the
43 court.

1 F. THE PERSON MAY DENY THAT THE ARREST OR CHARGE EVER OCCURRED.
2 ~~F.~~ G. Any person who has notice of ~~such~~ THE order ISSUED PURSUANT
3 TO THIS SECTION and WHO fails to comply with the ~~court~~ order ~~issued~~
4 ~~pursuant to this section shall be~~ IS liable to the person for damages from
5 ~~such~~ THE failure TO COMPLY.