

HOUSE BILL NO. 169

INTRODUCED BY LEE, BISHOP, CONNELLY

IN THE HOUSE

JANUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 14, 1989	FIRST READING.
FEBRUARY 18, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1989	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 21, 1989	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 83; NOES, 14.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 14, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 15, 1989	SECOND READING, CONCURRED IN.
MARCH 17, 1989	THIRD READING, CONCURRED IN. AYES, 47; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 30, 1989	RECEIVED FROM SENATE.
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MARCH 31, 1989

SECOND READING, AMENDMENTS  
CONCURRED IN.

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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House BILL NO. 169

INTRODUCED BY Joe Bishop Connelly

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT WHEN IMPOSITION OF A SENTENCE IS DEFERRED, THE DEFERRAL PERIOD HAS PASSED, AND THE CHARGES ARE DISMISSED, THE DEFENDANT'S RECORD MAY NOT BE EXPUNGED; AND AMENDING SECTION 46-18-204, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 46-18-204, MCA, is amended to read:

**"46-18-204. Dismissal after deferred imposition.**

Whenever the court has deferred the imposition of sentence and after termination of the time period during which imposition of sentence has been deferred, upon motion of the court, the defendant, or the defendant's attorney, the court may allow the defendant to withdraw his plea of guilty or may strike the verdict of guilty from the record and order that the charge or charges against him be dismissed. Upon dismissal of the charges, ~~the court shall send an order directing the department of justice to expunge the~~ defendant's record may not be expunged. ~~The order must adequately identify the defendant, such as by sex, race, date of birth, and the current status of the charges to be~~ expunged."

-End-



INTRODUCED BILL  
HB 169

APPROVED BY COMMITTEE  
ON JUDICIARY

HOUSE BILL NO. 169

INTRODUCED BY LEE, BISHOP, CONNELLY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT WHEN IMPOSITION OF A SENTENCE IS DEFERRED, THE DEFERRAL PERIOD HAS PASSED, AND THE CHARGES ARE DISMISSED, THE DEFENDANT'S RECORD MAY NOT BE EXPUNGED; PROVIDING FOR NOTICE OF DISMISSAL; RESTRICTING ACCESS TO THE RECORDS; AND AMENDING SECTION 46-18-204, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 46-18-204, MCA, is amended to read:**"46-18-204. Dismissal after deferred imposition.**

Whenever the court has deferred the imposition of sentence and after termination of the time period during which imposition of sentence has been deferred, upon motion of the court, the defendant, or the defendant's attorney, the court may allow the defendant to withdraw his plea of guilty or may strike the verdict of guilty from the record and order that the charge or charges against him be dismissed. Upon dismissal--of--the--charges, the--court--shall--send--an--order directing--the--department--of--justice---to---expunge the defendant's--record--~~may--not--be--expunged~~---The order must adequately identify the defendant, such--as--by--sex,--race, date--of--birth,--and--the--current--status--of--the--charges--to--be

expunged: A COPY OF THE ORDER OF DISMISSAL MUST BE SENT TO THE PROSECUTOR AND THE DEPARTMENT OF JUSTICE, ACCOMPANIED BY A FORM PREPARED BY THE DEPARTMENT OF JUSTICE AND CONTAINING IDENTIFYING INFORMATION ABOUT THE DEFENDANT. AFTER THE CHARGE IS DISMISSED ALL RECORDS AND DATA RELATING TO THE CHARGE ARE CONFIDENTIAL CRIMINAL JUSTICE INFORMATION AS DEFINED IN 44-5-103 AND PUBLIC ACCESS TO THE INFORMATION CAN ONLY BE OBTAINED BY DISTRICT COURT ORDER UPON GOOD CAUSE SHOWN."

-End-



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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT WHEN IMPOSITION OF A SENTENCE IS DEFERRED, THE DEFERRAL PERIOD HAS PASSED, AND THE CHARGES ARE DISMISSED, THE DEFENDANT'S RECORD MAY NOT BE EXPUNGED; PROVIDING FOR NOTICE OF DISMISSAL; RESTRICTING ACCESS TO THE RECORDS; AND AMENDING SECTION 46-18-204, MCA."

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-End-

SENATE STANDING COMMITTEE REPORT

March 14, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 169 (third reading copy -- blue), respectfully report that HB 169 be amended and as so amended be concurred in:

Sponsor: Lee (Van Valkenburg)

1. Title, line 8.  
Strike: "AND"

2. Title, line 9.  
Following: "MCA"  
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 2.  
Following: line 9  
Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

AND AS AMENDED BE CONCURRED IN

Signed: 

Bruce D. Crippen, Chairman

HB 169  
SENATE

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2 INTRODUCED BY LEE, BISHOP, CONNELLY

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9 SECTION 46-18-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
10 DATE."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 46-18-204, MCA, is amended to read:

14 "46-18-204. Dismissal after deferred imposition.

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16 and after termination of the time period during which  
17 imposition of sentence has been deferred, upon motion of the  
18 court, the defendant, or the defendant's attorney, the court  
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8 DEFINED IN 44-5-103 AND PUBLIC ACCESS TO THE INFORMATION CAN  
9 ONLY BE OBTAINED BY DISTRICT COURT ORDER UPON GOOD CAUSE  
10 SHOWN."

11 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS  
12 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-