

Subject Expungement of records for individuals not guilty of crime as a result of identity theft or mistaken identity

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Overview

Minnesota law permits certain criminal records to be expunged. In most cases, a person must petition for that expungement. In some cases where a prosecutor agrees to the expungement, no petition is required.

This bill establishes that records may be expunged when a person is charged with a crime as the result of identity theft or mistaken identity. In cases where the prosecutor agrees to the expungement, no petition is required.

Summary

Section	Description
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| 1 | Background studies conducted by Department of Human Services.
Establishes that the commissioner of human services cannot consider information contained in a record expunged pursuant to the new section granting expungement in cases involving mistaken identity. |
| 2 | Background studies conducted by a county agency for family child care.
Establishes that the commissioner of human services cannot consider information contained in a record expunged pursuant to the new section granting expungement in cases involving mistaken identity. |
| 3 | Identification data other than DNA.
Establishes that a law enforcement agency, the Bureau of Criminal Apprehension, or both must destroy fingerprints, other records of distinctive physical marks, and other identification data if there is a determination that the person was arrested as the result of mistaken identity. Requires prosecuting authorities that decline to charge a person based on the discovery that the person was charged as a result of mistaken identity to notify the relevant law enforcement agency. |

Section	Description
4	<p>Definitions.</p> <p>Defines the term “mistaken identity” to include situations where a person is the victim of identity theft or where there is a misidentification by a witness or law enforcement.</p>
5	<p>Mistaken identity; automatic expungement.</p> <p>Establishes a process for automatic expungement in cases where a prosecutor becomes aware that a person was charged with an offense as the result of mistaken identity. Requires the prosecutor to notify the court that a case is being dismissed because of mistaken identity, directs the court to issue an order expunging records in that situation, and establishes that the effect of the order is to return the person to the position the person held before the charge.</p>



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