#AutoErase

THE 2027 #AUTOERASE MODEL LEGISLATION

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PURPOSE

This bill erases an arrest record automatically, at no cost, whenever an arrest does not end in a conviction: no charge filed, charge dismissed, or acquittal. The person does nothing. It is written for states with no automatic law, and for states (like South Carolina) whose law covers only mistaken identity.

Each clause takes the strongest and fastest language found among the 29 automatic and agency-action laws in the #AutoErase 50-state research (Version 1: 25 automatic, 4 agency action). Version 2026.1 (Nov. 3, 2026) uses the format of current model acts: numbered sections with a short title, findings and purpose, an alphabetical definitions section, commentary, remedies, data reporting, rules and funding, severability and an effective date. The format follows the LAPPA Model Relief from Collateral Consequences of Conviction Act and the CCRC Model Law on Non-Conviction Records.

Bracketed words, such as [State] or [state criminal records repository], are filled in by each state's drafting office.

THE MODEL LEGISLATION

#AutoErase MODEL LEGISLATION, for the 2027 legislative sessions (text version 2026.4)

Issued November 3, 2026 by the #AutoErase Initiative (Charles Belk). Updates the 2014 #AutoErase Model Legislation.

Origin and use: The #AutoErase Initiative began after Charles Belk's wrongful arrest in Greater Los Angeles on Aug. 22, 2014. Its principles (automatic erasure at no cost, and the right to deny the arrest) are supported by NBCSL Policy Resolution LJE-16-22 (ratified Dec. 4, 2015) and NHCSL Resolution 2015-09 (Nov. 21, 2015). Any legislator or drafting office may copy and adapt this model without permission. This model is not legal advice.

Bill No.: [ ] · **Filed / introduced on:** [date] · **Sponsor(s):** [ ] · **Referred to:** [committee] · Companion bill: [ ] · Fiscal note: [ ]

Drafting note: Text in [brackets] is a placeholder or an option for each state's drafting office. Replace [State], agency names and code citations with local terms. Commentary in italics explains each choice and is not part of the bill.

Contents: 1. Short Title · 2. Findings and Purpose · 3. Definitions · 4. Automatic Erasure · 5. Duties of Agencies and Courts · 6. Notice to the Person · 7. Administrative Reversals · 8. Effect of Erasure; Right to Deny · 9. Limits on Inquiry and Use · 10. Private Providers of Criminal History

Information · 11. No Fee · 12. Civil Remedies · 13. Criminal Penalties · 14. Past Arrests · 15. Data Collection and Reporting · 16. Rules, Implementation and Funding · 17. Construction · 18. Severability · 19. Effective Date

AN ACT relating to criminal records; providing for the automatic erasure, at no cost, of arrest records when an arrest does not result in a conviction; requiring notice to the person; allowing the person to lawfully deny the arrest; providing remedies and penalties; and providing an effective date.

Be it enacted by the Legislature of the State of [State]:

SECTION 1. SHORT TITLE.

This Act may be cited as the "#AutoErase Act" [or the "Automatic Erasure of Arrest Records Act"].

SECTION 2. LEGISLATIVE FINDINGS AND PURPOSE.

(a) **Findings.**—The Legislature finds that:

(1) every year many people are arrested, detained or cited and are never charged, have their charges dismissed, or are found not guilty;

(2) the records of those arrests remain in police, court and state databases and are sold by private background screening companies, where they cost people jobs, housing, licenses and education even though the law presumes them innocent;

(3) most people cannot afford the time, fees and legal help that a petition requires, so relief that depends on a petition reaches few of the people entitled to it; and

(4) agencies already hold the information needed to identify these records and can erase them automatically.

(b) **Purpose.**—The purpose of this Act is to erase, automatically and at no cost, every record of an arrest that does not end in a conviction, to tell the person that it was erased, and to protect the person from its later disclosure or use.

SECTION 3. DEFINITIONS.

In this Act:

(a) "Arrest" means taking a person into custody, detaining, citing or fingerprinting a person in connection with a suspected criminal offense, whether or not the person is booked.

(b) "Arrest record" means any record, physical or electronic, of the arrest, detention, citation or charge of a person, including fingerprints, palm prints, photographs and booking photographs, physical measurements, DNA samples and profiles, arrest and booking reports, incident reports naming the person as an arrestee or suspect, bench warrants, court files and dockets, and every index entry that refers to them.

(c) "Erase" means to permanently destroy or delete a record, including all copies and backups, so that it cannot be retrieved, and to remove every index entry that refers to it.

(d) "Law enforcement agency" means the office of the attorney general, the [state police or highway patrol], any sheriff's office, any police department of a city, town or county, any campus, transit or capitol police, any state agency with arrest powers, and any other agency of this State or its political subdivisions that arrests, detains, fingerprints or photographs a person.

(e) "Mistaken identity" means the arrest of a person because of misidentification by a witness or law enforcement, confusion as to the identity of the person who committed the offense, misinformation provided to law enforcement as to that identity, the use of the person's identifying information by another person, or any other mistake as to the identity of the person who committed the offense, including the arrest of a person who fit a description given of a suspect but did not commit the offense.

(f) "Private provider of criminal history information" means any person or entity, other than a law enforcement agency, prosecuting agency or court, that collects, maintains, sells or publishes criminal history information, including a consumer reporting agency, background screening company, data broker and any website that publishes booking photographs. The term does not include a person engaged in bona fide news reporting, an attorney acting for a client, or a person using records solely for research with personal identifiers removed.

(g) "Prosecuting agency" means the office of the attorney general and any [district attorney, state's attorney, solicitor or city attorney] with authority to file a criminal charge.

(h) "Repository" means the [state central criminal history records repository].

(i) "Terminated in favor of the person" means that every charge arising from an arrest ended without a conviction, including by acquittal; by dismissal for any reason, with or without prejudice, including a nolle prosequi, a no true bill, a finding of no probable cause or a dismissal on procedural or technical grounds; by reversal of a conviction on appeal with no retrial; or by completion of a diversion program.

SECTION 4. AUTOMATIC ERASURE.

(a) **In general.**—The arrest record of a person shall be erased automatically, at no cost and without any petition, motion, application or request by the person, as provided in this section.

(b) **Released without charge.**—If a person is released from custody without being charged, the arresting agency shall destroy the person's fingerprints, photographs and arrest card immediately upon release and shall erase all other arrest records within thirty (30) days after release.

(c) **No charge filed.**—If no complaint, information, indictment or citation has been filed in any court within thirty (30) days after the arrest, or if the prosecuting agency declines to prosecute, whichever occurs first, the arrest record shall be erased within thirty (30) days after that date. The prosecuting agency may extend the thirty-day filing period once, by up to [ninety (90)] additional days, by certifying in writing to the repository that the investigation of the person is active and continuing, and shall send a copy of the certification to the person. If no charge is filed by the end of the extension, the arrest record shall be erased within thirty (30) days after that date.

(d) **Terminated in favor of the person.**—When a case is terminated in favor of the person, the court shall order erasure at the time of the dismissal, verdict or other final disposition, and the arrest record shall be erased within thirty (30) days.

(e) **Mistaken identity.**—If any law enforcement agency, prosecuting agency or court determines at any time that a person was arrested because of mistaken identity, the arrest record shall be erased within thirty (30) days after that determination, whether or not a charge was filed.

(f) **Exception; later prosecution.**—Subsection (d) does not apply to a charge dismissed as part of a plea agreement under which the person is convicted of another offense arising from the same arrest. Erasure under this section does not bar a later prosecution based on new evidence.

(g) **No waiver.**—No plea, diversion or other agreement may require a person to waive erasure under this Act. Any such waiver is void.

(h) **Investigative files.**—This Act does not require an agency to destroy its investigative file on the underlying offense. Within the time limits of this section, the agency shall remove or redact the person's name, photographs, fingerprints and other identifying information from that file, and shall not use the file to identify the person as a suspect.

Commentary: Each deadline is the shortest found among the 29 automatic and agency-action laws in the #AutoErase 50-state research (for example, immediate destruction of prints in Michigan, 30-day closure in Missouri, erasure ordered at dismissal in New Jersey). The no-waiver rule follows the CCRC Model Law on Non-Conviction Records and the LAPPA model act. The one-time extension in subsection (c) for an active investigation follows the CCRC Model Law, § 2(a), which allows up to 120 days; this model caps it at [90] days and requires a written certification copied to the person.

SECTION 5. DUTIES OF AGENCIES AND COURTS.

(a) **Erasure.**—The arresting agency, the prosecuting agency and the clerk of court shall each erase every arrest record in its possession, including any booking photograph posted on any website the agency controls.

(b) **Review process.**—Each arresting agency shall establish a review process to verify that erasure has occurred in every case required by this Act.

(c) **Notice to other agencies.**—Any agency that transmitted an arrest record to another agency, including the repository, the Federal Bureau of Investigation or the National Crime Information Center, shall within ten (10) days after the erasure date notify that agency that the record must be erased and request its erasure or return. The repository shall erase the record within thirty (30) days after notice and shall request removal from every federal database.

(d) **DNA.**—Any DNA sample and DNA profile taken because of the arrest shall be destroyed and removed from every state DNA database within the same time limits.

(e) **Correction of errors.**—A person, or the person's attorney, may at any time and at no cost ask any agency to erase or correct a record that should have been erased under this Act. The agency shall act on the request within thirty (30) days and notify the person of the result.

(f) **Copy for the person; pending claims.**—(1) At the person's request, made at any time before erasure, the agency shall give the person a copy of the arrest record at no cost before erasing it. (2) If the person gives the agency written notice that the person has filed or intends to file a claim arising from the arrest, the agency shall keep one copy of the arrest record under seal, available only to the person, the parties and the court in that matter, and shall erase it within thirty (30) days after the claim is finally resolved, or [two (2)] years after the notice if no claim is filed.

Commentary: South Carolina keeps mistaken-identity arrest records under seal for 3 years and 120 days, partly so they are available for lawsuits. Subsection (f) keeps that benefit only when the person asks for it, so the record does not outlive its use. The CCRC Model Law on Non-Conviction Records, § 4(a)(1), likewise allows access to expunged records for civil litigation. Subsection 4(h) follows the same model's distinction between the person's arrest record and the agency's file on the offense.

SECTION 6. NOTICE TO THE PERSON.

(a) **Notice of erasure.**—Within ten (10) days after erasure, the arresting agency shall send the person, at the person's last known address and by electronic means if available, at no cost, written notice and a certificate stating that all arrest records have been erased under this Act.

(b) **Copies.**—The person may request a copy of the certificate at any time at no cost.

(c) **Notice of rights.**—At release, and at the final disposition of any case, the arresting agency or the court shall tell the person, orally and in writing, that the arrest record will be erased automatically and what rights the person has under Sections 8 and 9.

(d) **Public notice.**—The [attorney general] shall publish on a public website a plain-language explanation of this Act and how to request a correction under Section 5(e).

Commentary: Notice to the person is required in only 4 of the 29 laws (Maryland, Rhode Island, Vermont, Georgia). Subsections (c) and (d) follow the CCRC Model Law, Section 3(a)(9).

SECTION 7. ADMINISTRATIVE REVERSALS.

Within thirty (30) days after erasure, the [Department of Motor Vehicles] shall reverse any license suspension, revocation or points imposed solely because of the arrest or charge, and any insurer shall refund any premium increase based solely on the arrest or charge. Any bail or bond posted by the person shall be returned, less only amounts already applied to court-ordered obligations unrelated to the arrest.

SECTION 8. EFFECT OF ERASURE; RIGHT TO DENY.

(a) **Effect.**—Upon erasure, the arrest shall be treated in all respects as if it had never occurred.

(b) **Right to deny.**—A person whose arrest record is erased under this Act may deny, for any purpose, that the arrest ever occurred, and shall not be required to disclose the arrest for any purpose, including, but not limited to, any application for employment, housing, education, credit, professional license, concealed weapons permit or the purchase of a firearm. No person

shall be held guilty of perjury or of giving a false statement for failing to recite or acknowledge the arrest.

(c) **Prior record no bar.**—A person is entitled to erasure under this Act regardless of any prior record of arrest or conviction.

SECTION 9. LIMITS ON INQUIRY AND USE.

(a) **Inquiry.**—No employer, landlord, educational institution, licensing board or state or local government agency may ask about, require or request disclosure of, or use an erased arrest in any decision, or deny an application solely because the person declines to disclose it.

(b) **Criminal justice use.**—No law enforcement agency, prosecuting agency or court may use an erased arrest against the person in any later charging, bail or sentencing decision.

(c) **No liability for disregarding an erased arrest.**—No employer, landlord, educational institution or licensing board may be held liable in any civil action for a decision made without regard to an arrest that was erased under this Act.

SECTION 10. PRIVATE PROVIDERS OF CRIMINAL HISTORY INFORMATION.

(a) **Deletion.**—A private provider of criminal history information shall delete an erased arrest record within thirty (30) days after receiving notice of erasure or after the record is removed from the public source, whichever is earlier, and shall not thereafter sell, publish or report it.

(b) **Bulk data contracts.**—Any agency that sells or provides criminal history information in bulk shall require, by contract, that the recipient delete records erased under this Act and shall send the recipient a list of erased records at least monthly.

SECTION 11. NO FEE.

No fee, cost or charge of any kind may be imposed on the person for any action required by this Act.

SECTION 12. CIVIL REMEDIES.

(a) **Right of action.**—A person harmed by a violation of this Act may bring a civil action against the agency, person or entity responsible to compel compliance and to recover damages.

(b) **Damages.**—The court shall award actual damages or [$1,000] for each violation, whichever is greater; for a willful violation, additional damages of not less than [$1,000] nor more than [$10,000]; and reasonable attorney's fees and costs.

(c) **Limitation.**—An action under this section shall be brought within [two (2)] years after the person discovers the violation.

(d) **Good faith.**—An agency, officer or employee that acts in good faith and with reasonable care to comply with this Act is not liable for damages under subsection (b) for an error, but remains subject to an action to compel compliance. This subsection does not apply to a willful or knowing violation.

Commentary: Drawn from Maryland's right to sue (HB 10, 2007) and Pennsylvania's damages scale (18 Pa.C.S. § 9183).

SECTION 13. CRIMINAL PENALTIES.

(a) **Prohibited conduct.**—Except as required by court order, a person who knows that an arrest record has been erased under this Act may not open, review, use or disclose to another person any information from that record.

(b) **Penalty.**—A person who knowingly violates subsection (a) or Section 9(a) is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding [$1,000] or imprisonment not exceeding [one (1) year], or both, for each violation.

(c) **Removal from office.**—An officer or employee of this State or any of its political subdivisions who is convicted under this section may also be removed or dismissed from public service.

(d) **Remedies cumulative.**—The penalties in this section are in addition to the civil remedies in Section 12.

Commentary: Restores the penalty in Section 1(G) of the 2014 #AutoErase Model Legislation, modeled on Maryland Crim. Proc. § 10-108 and Virginia § 19.2-392.4. Only 4 of the 29 laws have a penalty written for cleared records.

SECTION 14. PAST ARRESTS.

(a) **Applicability.**—This Act applies to arrests made before, on or after its effective date.

(b) **Existing records.**—The repository shall identify every arrest record made before the effective date that qualifies for erasure and shall see that it is erased within [one (1) year] after the effective date, without any action by the person. The repository may set a schedule that erases the oldest records first.

(c) **Request at any time.**—A person whose qualifying record has not yet been erased may request erasure under Section 5(e).

SECTION 15. DATA COLLECTION AND REPORTING.

By [January 31] of each year, the repository shall publish and send to the [Legislature] a report for the previous year stating, for the State and for each agency: the number of arrest records erased under each subsection of Section 4; the average number of days from the triggering event to erasure; the number of correction requests under Section 5(e) and how they were resolved; and each agency that missed a deadline under this Act. The report shall contain no personal identifying information.

SECTION 16. RULES, IMPLEMENTATION AND FUNDING.

(a) **Rules.**—The [attorney general / repository / court administrator] shall adopt rules to implement this Act within [six (6)] months after its effective date.

(b) **Automation.**—Agencies shall use automated means to identify and erase qualifying records wherever possible.

(c) **Funding.**—There is appropriated [$] from the [General Fund] to the [repository] for the purposes of this Act.

SECTION 17. CONSTRUCTION.

This Act shall be liberally construed to protect people whose arrests did not result in a conviction. It does not limit any other law that provides for expungement, sealing or other relief. Where this Act and another law conflict, the provision more favorable to the person applies. Nothing in this Act requires an agency to act contrary to federal law; where federal law requires a record to be kept, the agency shall keep it under seal for that purpose only and shall erase it as soon as federal law permits. [This Act applies to the arrests of both adults and juveniles.]

SECTION 18. SEVERABILITY.

If any provision of this Act or its application is held invalid, the invalidity does not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 19. EFFECTIVE DATE.

This Act takes effect [upon approval by the Governor / on (date)]. [Sections 4 through 11 apply to arrests made on or after (date), and Section 14 governs earlier arrests.] An agency that certifies to the repository that it lacks the automated systems needed to meet the deadlines in Sections 4 through 6 shall meet those deadlines no later than [eighteen (18)] months after the effective date, and until then shall erase any qualifying record within thirty (30) days after a request under Section 5(e).

Synopsis (plain language). This Act erases arrest records automatically and for free when an arrest does not end in a conviction: release without charge, no charge filed within 30 days (or up to [90] more days if a prosecutor certifies an active investigation), any dismissal, or acquittal. Fingerprints and photographs are destroyed on release; all other records within 30 days. The person is told in writing, may lawfully deny the arrest, and may sue if an agency fails to act. Anyone who knowingly discloses an erased record, or makes the person disclose it, commits a misdemeanor. The State must report each year on how many records were erased and how fast.

Model status. Version history: 2014 #AutoErase Model Legislation (Section 1 (A)-(J)) · Version 2026.1 (Nov. 3, 2026; restructured into 19 sections) · Version 2026.2 (Nov. 3, 2026; adds origin note, 3(f) news and research exclusion, 4(h) investigative files, 5(f) copy for the person, 9(c) employer liability shield, federal-law and juvenile clauses in Section 17) · Version 2026.3 (Nov. 3, 2026; adds one-time extension of up to [90] days in 4(c) for an active investigation) · Version 2026.4 (Nov. 3, 2026; adds good-faith protection in 12(d) and a phased start of up to [18] months in Section 19 for agencies without automated systems). Endorsements: [organization, resolution no., date]. Contact: #AutoErase Initiative, [contact].

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