

AMENDMENTS TO LB265

(Amendments to Final Reading copy)

Introduced by Krist, 10.

1 1. Strike sections 4 and 7 and insert the following new section:

2 Sec. 6. Section 43-2,108.05, Revised Statutes Cumulative Supplement,
3 2014, is amended to read:

4 43-2,108.05 (1) If the court orders the record of a juvenile sealed
5 pursuant to section 43-2,108.04, the court shall:

6 (a) Order that all records, including any information or other data
7 concerning any proceedings relating to the offense, including the arrest,
8 taking into custody, petition, complaint, indictment, information, trial,
9 hearing, adjudication, correctional supervision, dismissal, or other
10 disposition or sentence, be deemed never to have occurred;

11 (b) Send notice of the order to seal the record (i) to the Nebraska
12 Commission on Law Enforcement and Criminal Justice, (ii) if the record
13 includes impoundment or prohibition to obtain a license or permit
14 pursuant to section 43-287, to the Department of Motor Vehicles, (iii) if
15 the juvenile whose record has been ordered sealed was a ward of the state
16 at the time the proceeding was initiated or if the Department of Health
17 and Human Services was a party in the proceeding, to such department, and
18 (iv) to law enforcement agencies, county attorneys, and city attorneys
19 referenced in the court record;

20 (c) Order all notified under subdivision (1)(b) of this section to
21 seal all records pertaining to the offense;

22 (d) If the case was transferred from district court to juvenile
23 court or was transferred under section 43-282, send notice of the order
24 to seal the record to the transferring court; and

25 (e) Explain to the juvenile what sealing the record means verbally
26 if the juvenile is present in the court at the time the court issues the

1 sealing order or by written notice sent by regular mail to the juvenile's
2 last-known address if the juvenile is not present in the court at the
3 time the court issues the sealing order.

4 (2) The effect of having a record sealed under section 43-2,108.04
5 is that thereafter no person is allowed to release any information
6 concerning such record, except as provided by this section. After a
7 record is sealed, the person whose record was sealed can respond to any
8 public inquiry as if the offense resulting in such record never occurred.
9 A government agency and any other public office or agency shall reply to
10 any public inquiry that no information exists regarding a sealed record.
11 Except as provided in subsection (3) of this section, an order to seal
12 the record applies to every government agency and any other public office
13 or agency that has a record relating to the offense, regardless of
14 whether it receives notice of the hearing on the sealing of the record or
15 a copy of the order. Upon the written request of a person whose record
16 has been sealed and the presentation of a copy of such order, a
17 government agency or any other public office or agency shall seal all
18 records pertaining to the offense.

19 (3) A sealed record is accessible to law enforcement officers,
20 county attorneys, and city attorneys in the investigation, prosecution,
21 and sentencing of crimes, to the sentencing judge in the sentencing of
22 criminal defendants, to a judge making a determination whether to
23 transfer a case to or from juvenile court, and to any attorney
24 representing the subject of the sealed record. Inspection of records that
25 have been ordered sealed under section 43-2,108.04 may be made by the
26 following persons or for the following purposes:

27 (a) By the court or by any person allowed to inspect such records by
28 an order of the court for good cause shown;

29 (b) By the court, city attorney, or county attorney for purposes of
30 collection of any remaining parental support or obligation balances under
31 section 43-290;

1 (c) By the Nebraska Probation System for purposes of juvenile intake
2 services, for presentence and other probation investigations, and for the
3 direct supervision of persons placed on probation and by the Department
4 of Correctional Services, the Office of Juvenile Services, a juvenile
5 assessment center, a criminal detention facility, a juvenile detention
6 facility, or a staff secure juvenile facility, for an individual
7 committed to it, placed with it, or under its care;

8 (d) By the Department of Health and Human Services for purposes of
9 juvenile intake services, the preparation of case plans and reports, the
10 preparation of evaluations, compliance with federal reporting
11 requirements, or the supervision and protection of persons placed with
12 the department or for licensing or certification purposes under sections
13 71-1901 to 71-1906.01, the Child Care Licensing Act, or the Children's
14 Residential Facilities and Placing Licensure Act;

15 (e) Upon application, by the person who is the subject of the sealed
16 record and by persons authorized by the person who is the subject of the
17 sealed record who are named in that application;

18 (f) At the request of a party in a civil action that is based on a
19 case that has a sealed record, as needed for the civil action. The party
20 also may copy the sealed record as needed for the civil action. The
21 sealed record shall be used solely in the civil action and is otherwise
22 confidential and subject to this section;

23 (g) By persons engaged in bona fide research, with the permission of
24 the court, only if the research results in no disclosure of the person's
25 identity and protects the confidentiality of the sealed record; or

26 (h) By a law enforcement agency if a person whose record has been
27 sealed applies for employment with the law enforcement agency.

28 (4) Nothing in this section prohibits the Department of Health and
29 Human Services from releasing information from sealed records in the
30 performance of its duties with respect to the supervision and protection
31 of persons served by the department.

1 (5) In any application for employment, bonding, license, education,
2 or other right or privilege, any appearance as a witness, or any other
3 public inquiry, a person cannot be questioned with respect to any offense
4 for which the record is sealed. If an inquiry is made in violation of
5 this subsection, the person may respond as if the offense never occurred.
6 Applications for employment shall contain specific language that states
7 that the applicant is not obligated to disclose a sealed record.
8 Employers shall not ask if an applicant has had a record sealed. The
9 Department of Labor shall develop a link on the department's web site to
10 inform employers that employers cannot ask if an applicant had a record
11 sealed and that an application for employment shall contain specific
12 language that states that the applicant is not obligated to disclose a
13 sealed record.

14 (6) Any person who violates this section may be held in contempt of
15 court.

16 2. On page 1, line 2; and page 30, line 18, strike "43-2,129," and
17 insert "43-2,108.05,".

18 3. On page 6, line 18, strike the new matter and insert "or (11)".

19 4. On page 10, line 5, after the semicolon insert "and"; strike
20 beginning with "Any" in line 6 through "(13)" in line 8; and in line 8
21 strike "subdivisions (11) and (12)" and insert "subdivision (11)".

22 5. On page 24, line 17, strike "15" and insert "14".

23 6. On page 30, line 11, strike "14,"; and in line 12 strike "17, and
24 20" and insert "16, and 19".

25 7. Renumber the remaining sections accordingly.