

AMENDMENTS TO LB595

(Amendments to Standing Committee amendments, AM1164)

Introduced by Albrecht, 17.

1           1. Strike sections 33 and 34 and insert the following new sections:  
2           Sec. 33. Section 43-2,108.02, Reissue Revised Statutes of Nebraska,  
3 as amended by section 3, Legislative Bill 354, One Hundred Sixth  
4 Legislature, First Session, 2019, is amended to read:

5           43-2,108.02 (1) By January 1, 2020, the Supreme Court shall  
6 promulgate a written notice that:

7           (a) States in developmentally appropriate language that, for a  
8 juvenile described in section 43-2,108.01, the juvenile's record will be  
9 automatically sealed if (i) no charges are filed as a result of the  
10 determination of the prosecuting attorney, (ii) the charges are  
11 dismissed, (iii) the juvenile has satisfactorily completed the diversion,  
12 mediation, restorative justice, probation, supervision, or other  
13 treatment or rehabilitation program provided under the Nebraska Juvenile  
14 Code, or (iv) the juvenile has satisfactorily completed the county court  
15 diversion program, probation ordered by the court, or sentence ordered by  
16 the court;

17           (b) States in developmentally appropriate language that, if the  
18 record is not sealed as provided in subdivision (1)(a) of this section,  
19 the juvenile or the juvenile's parent or guardian may file a motion to  
20 seal the record with the court when the juvenile reaches the age of  
21 majority or six months have passed since the case was closed, whichever  
22 occurs sooner; and

23           (c) Explains in developmentally appropriate language what sealing  
24 the record means.

25           (2) For a juvenile described in section 43-2,108.01, the county  
26 attorney or city attorney shall attach a copy of the notice to any

1 juvenile petition or criminal complaint.

2 Sec. 34. Section 43-2,108.03, Reissue Revised Statutes of Nebraska,  
3 as amended by section 4, Legislative Bill 354, One Hundred Sixth  
4 Legislature, First Session, 2019, is amended to read:

5 43-2,108.03 (1)(a) If a juvenile described in section 43-2,108.01  
6 was taken into custody, arrested, cited in lieu of arrest, or referred  
7 for prosecution without citation but no juvenile petition or criminal  
8 complaint was filed against the juvenile with respect to the arrest or  
9 custody, the county attorney or city attorney shall notify the government  
10 agency responsible for the arrest, custody, citation in lieu of arrest,  
11 or referral for prosecution without citation that no criminal charge or  
12 juvenile court petition was filed. The county attorney or city attorney  
13 shall provide written notification to the juvenile that no juvenile  
14 petition or criminal complaint was filed and provide the juvenile with  
15 the notice described in section 43-2,108.02.

16 (b) If a juvenile described in subdivision (1)(a) of this section  
17 discovers that his or her record was not automatically sealed, such  
18 juvenile may notify the county attorney, who shall cause the record to be  
19 sealed by providing the notice required by subdivision (1)(a) of this  
20 section.

21 (2)(a) If the county attorney or city attorney offered and a  
22 juvenile described in section 43-2,108.01 has agreed to pretrial  
23 diversion, ~~or~~ mediation, or restorative justice, the county attorney or  
24 city attorney shall notify the government agency responsible for the  
25 arrest or custody when the juvenile has satisfactorily completed the  
26 resulting diversion, ~~or~~ mediation, or restorative justice. At the time  
27 the juvenile is offered diversion or mediation, the county attorney or  
28 city attorney shall provide the notice described in section 43-2,108.02  
29 to the juvenile. The county attorney or city attorney shall also provide  
30 written notification to the juvenile of his or her satisfactory or  
31 unsatisfactory completion of diversion, ~~or~~ mediation, or restorative

1 justice.

2 (b) If a juvenile who was satisfactorily discharged from diversion,  
3 ~~or~~ mediation, or restorative justice discovers that his or her record was  
4 not automatically sealed, the juvenile may notify the county attorney,  
5 who shall cause the record to be sealed by providing the notice required  
6 by subdivision (2)(a) of this section.

7 (3)(a) If the juvenile was taken into custody, arrested, cited in  
8 lieu of arrest, or referred for prosecution without citation and charges  
9 were filed but the case was dismissed by the court, the court shall seal  
10 the record as set forth in section 43-2,108.05.

11 (b) If a juvenile described in subdivision (3)(a) discovers that his  
12 or her record was not automatically sealed, the juvenile may notify the  
13 court, which shall seal the record as set forth in section 43-2,108.05.

14 (4)(a) If a juvenile described in section 43-2,108.01 has  
15 satisfactorily completed the probation, supervision, or other treatment  
16 or rehabilitation program provided under the Nebraska Juvenile Code or if  
17 the juvenile has satisfactorily completed the probation or sentence  
18 ordered by a county court, the court shall seal the records as set forth  
19 in section 43-2,108.05.

20 (b) If a juvenile described in subdivision (4)(a) discovers that his  
21 or her record was not automatically sealed, the juvenile may notify the  
22 court, which shall seal the record as set forth in section 43-2,108.05.

23 (5) A government agency or court that receives notice under  
24 subdivision (1)(a) or (2)(a) of this section shall, upon such receipt,  
25 immediately seal all records housed at that government agency or court  
26 pertaining to the citation, arrest, record of custody, complaint,  
27 disposition, diversion, ~~or~~ mediation, or restorative justice.

28 (6) When a juvenile described in section 43-2,108.01 whose records  
29 have not been automatically sealed as provided in subsection (1), (2),  
30 (3), or (4) of this section reaches the age of majority or six months  
31 have passed since the case was closed, whichever occurs sooner, such

1 juvenile or his or her parent or guardian may file a motion in the court  
2 of record asking the court to seal the record pertaining to the offense  
3 which resulted in disposition, adjudication, or diversion in juvenile  
4 court or diversion or sentence of the county court. The motion shall set  
5 forth the facts supporting the argument that the individual who is the  
6 subject of the juvenile petition or criminal complaint has been  
7 satisfactorily rehabilitated.

8 2. On page 51, line 11, strike "43-2,108.02, 43-2,108.03,"; in line  
9 12, strike the second "and"; and in line 13 after the last comma insert  
10 "and sections 43-2,108.02 and 43-2,108.03, Reissue Revised Statutes of  
11 Nebraska, as amended by sections 3 and 4, respectively, Legislative Bill  
12 354, One Hundred Sixth Legislature, First Session, 2019".