

# EXPUNGEMENT HB 370

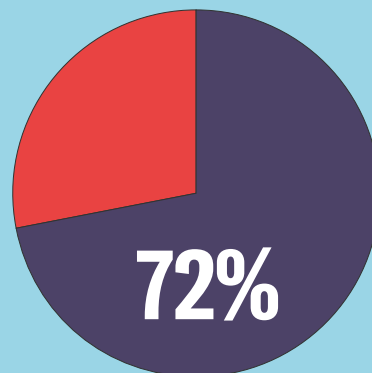
**Sponsors: Rep. Antonio Maestas, Rep. Andrea Romero, & Sen. Bill O' Neill**

## **Why Do We Need Expungement?**

In the United States, 265 million adults have some sort of publicly available criminal record ranging from petty arrests to serious felony convictions. People with arrest and conviction histories face numerous “collateral consequences” as a result of having a publicly available criminal record. These include difficulty finding employment, safe housing, education, and occupational licenses. New Mexico is one of only a handful of states that has no meaningful way for a person to limit who sees these public records, and as a result many New Mexico families suffer due to the stigma of a criminal record. New Mexico has one of the highest rates in the country of children with incarcerated parents, and the inability to expunge an old record affects entire families and communities.

## **What Does it Do?**

HB 370 would allow people with arrest and conviction records to have those public records destroyed. This means



**of New Mexicans are more likely to vote for public officials who support second chances for people with criminal records.**

*SOURCE: 2018 Latino Decisions/NM SAFE poll.*

the records would no longer be publicly available through New Mexico courts online website, on criminal background checks, or at local courthouses. HB 370 also allows victims of criminal identity theft to have their names removed from criminal cases.



**1 in 3 Americans has a publicly available criminal record.**

SOURCE: 1 in 3 Need Not Apply - National Employment Law Project

### **What Types of Cases Can Be Expunged?**

HB 370 allows people to expunge a wide variety of criminal records, everything from a petty misdemeanor arrest to a felony conviction. However, the bill requires graduated waiting periods depending on the seriousness of the offense. Certain types of convictions are never eligible for expungement: crimes against children, DWIs, sex crimes, and crimes resulting in great bodily harm or death of a person.

### **What Protections Are In Place For the Public?**

HB 370 has significant public protections. First, a person must petition the District Court to have a criminal record expunged and the court has discretion whether to grant an expungement based on certain criteria. Second, law enforcement has an opportunity to object to an expungement and must be given notice that a petition to expunge has been filed. Finally, while conviction records are expunged from public access, they are still maintained by the courts for habitual offender sentencing or as otherwise required by law (for example when a person applies for a job in a regulated field such as schools or federal military installations).

### **Tell Your Legislators and the Governor to Support HB 370**

New Mexico legislators often hear from constituents asking if expungement is possible. In fact, the Legislature has passed expungement several times in the past only to have the bill vetoed by the Governor! It's time New Mexico takes a significant step forward and allows people to move on from the stigma of a criminal record.

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SOURCE: Annie E. Casey 2016 - A Shared Sentence