

1 **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2 **June 10, 2022**

3 **NO. 22-8500-027**

4 **IN THE MATTER OF THE AUTOMATIC**
5 **EXPUNGEMENT OF CERTAIN**
6 **CANNABIS-RELATED COURT RECORDS**
7 **UNDER THE CRIMINAL RECORD**
8 **EXPUNGEMENT ACT**

9 **ORDER**

10 WHEREAS, the Criminal Record Expungement Act, NMSA 1978, §§ 29-3A-
11 1 to -9 (2019, as amended through 2021), requires that public records related to an
12 arrest for or conviction of certain cannabis-related offenses be automatically
13 expunged two years after the date of the person’s conviction or the date of the
14 person’s arrest if there was no conviction;

15 WHEREAS, under Section 29-3A-9(E), the prosecutor of cannabis-related
16 records shall have until July 1, 2022, to review all records that may be eligible for
17 automatic expungement and determine whether to challenge the dismissal and
18 expungement or redesignation as a penalty assessment citation;

19 WHEREAS, a challenge to the dismissal and automatic expungement of
20 eligible cannabis-related public records should be filed individually as a new civil
21 case on a Supreme Court-approved form;

1 WHEREAS, under Section 29-3A-8, the Administrative Office of the Courts
2 (AOC) must identify and expunge court records related to an arrest or conviction for
3 an offense involving cannabis that is no longer a crime under the Cannabis
4 Regulation Act, NMSA 1978, §§ 26-2C-1 to -42 (2021), or that would have resulted
5 in a lesser offense if the Cannabis Regulation Act had been in effect at the time of
6 the offense; and

7 WHEREAS, the Court having considered the foregoing and being sufficiently
8 advised, Chief Justice C. Shannon Bacon, Justice Michael E. Vigil, Justice David K.
9 Thomson, Justice Julie J. Vargas, and Justice Briana H. Zamora concurring;

10 NOW, THEREFORE, IT IS ORDERED that the following process shall be
11 implemented to achieve the automatic expungement of eligible cannabis-related
12 court records:

- 13 1. The district attorney and any other prosecuting attorney who has
14 entered an appearance on any case eligible for automatic expungement
15 under the Criminal Record Expungement Act shall use new Form 4-
16 957.1 NMRA to file individual objection(s) to the automatic
17 expungement of any eligible cannabis-related public records;
- 18 2. Objections shall be filed electronically in the jurisdiction of origin,
19 which shall then open a new criminal record expungement case;

1 3. The AOC shall identify court records related to an arrest or conviction
2 of certain cannabis-related offenses. In cases involving only charges or
3 convictions eligible for automatic expungement, the AOC shall
4 expunge all related records in accordance with the expungement
5 requirements in the Criminal Record Expungement Act. In court cases
6 involving multiple charges, the AOC shall expunge only the charges
7 eligible under the Criminal Record Expungement Act, in accordance
8 with Section 29-3A-8, and shall redact only the portions of the court
9 documents related to the cannabis charge;

10 IT IS FURTHER ORDERED that new Form 4-957.1 NMRA is ADOPTED;

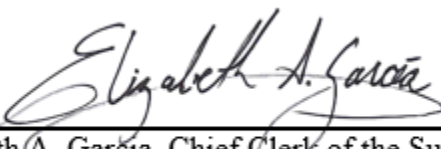
11 and

12 IT IS FURTHER ORDERED that above-referenced new form shall be
13 **effective immediately, June 10, 2022.**

14 IT IS SO ORDERED.



WITNESS, the Honorable C. Shannon Bacon, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 10th day of June, 2022.


Elizabeth A. Garcia, Chief Clerk of the Supreme Court
of the State of New Mexico