



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

HB4566

Introduced 2/3/2004, by Lovana Jones - Annazette Collins -
Constance A. Howard - Arthur L. Turner - Charles G. Morrow III

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-915

Amends the Juvenile Court Act of 1987. Provides that a minor who is eligible to have his or her juvenile records expunged shall at the time of sentencing or dismissal of the case be informed by the judge of his or her right to expungement and shall be provided an expungement information packet by the clerk of the circuit court. Provides that if an objection to expungement is filed within 90 days of the notice of expungement, a hearing shall be set on the objections. Provides that the State Appellate Defender shall, by December 31, 2004, establish, maintain, and carry out a juvenile expungement program to provide information to minors eligible to have their records expunged. Provides that the State Appellate Defender shall establish and maintain a statewide toll-free telephone number that a person may use to receive information or assistance concerning the expungement of juvenile records. Provides that except with respect to law enforcement agencies, the Department of Corrections, State's Attorneys, or other prosecutors, an expunged juvenile record may not be considered by any private or public entity in employment matters, certification, licensing, revocation of certification or licensure, or registration. Provides that applications for employment must contain specific language that states that the applicant is not obligated to disclose expunged juvenile records of conviction or arrest. Provides that employers may not ask if an applicant has had a juvenile record expunged. Provides that effective January 1, 2005, the Department of Employment Security shall develop a program to inform employers that employers may not ask if an applicant had a juvenile record expunged and that application for employment must contain specific language that states that the applicant is not obligated to disclose expunged juvenile records of arrest or conviction. Effective immediately.

LRB093 19428 RLC 45166 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning minors.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 5-915 as follows:

6 (705 ILCS 405/5-915)

7 Sec. 5-915. Expungement of juvenile law enforcement and
8 ~~juvenile~~ court records.

9 (1) Whenever any person has attained the age of 17 or
10 whenever all juvenile court proceedings relating to that person
11 have been terminated, whichever is later, the person may
12 petition the court to expunge law enforcement records relating
13 to incidents occurring before his or her 17th birthday or his
14 or her juvenile court records, or both, but only in the
15 following circumstances:

16 (a) the minor was arrested and no petition for
17 delinquency was filed with the clerk of the circuit court;
18 or

19 (b) the minor was charged with an offense and was found
20 not delinquent of that offense; or

21 (c) the minor was placed under supervision pursuant to
22 Section 5-615, and the order of supervision has since been
23 successfully terminated; or

24 (c-5) the minor was placed on probation under Section
25 5-715, and the probation period has since been successfully
26 terminated; or

27 (d) the minor was adjudicated for an offense which
28 would be a Class B misdemeanor if committed by an adult.

29 (2) Any person may petition the court to expunge all law
30 enforcement records relating to any incidents occurring before
31 his or her 17th birthday which did not result in proceedings in
32 criminal court and all juvenile court records with respect to

1 any adjudications except those based upon first degree murder
2 and sex offenses which would be felonies if committed by an
3 adult, if the person for whom expungement is sought has had no
4 convictions for any crime since his or her 17th birthday and:

5 (a) has attained the age of 21 years; or

6 (b) 5 years have elapsed since all juvenile court
7 proceedings relating to him or her have been terminated or
8 his or her commitment to the Department of Corrections,
9 Juvenile Division pursuant to this Act has been terminated;
10 whichever is later of (a) or (b).

11 (2.5) If a minor is arrested and no petition for
12 delinquency is filed with the clerk of the circuit court as
13 provided in paragraph (a) of subsection (1) at the time the
14 minor is released from custody, the arresting officer at the
15 time of release shall notify verbally and in writing to the
16 minor or the minor's parents or guardians that if the State's
17 Attorney does not file a petition for delinquency, the minor
18 has a right to have his or her arrest record expunged when the
19 minor attains the age of 17 or when all juvenile court
20 proceedings relating to that minor have been terminated and
21 that unless a petition to expunge is filed, the minor shall
22 have an arrest record and shall provide the minor and the
23 minor's parents or guardians with an expungement information
24 packet, including a petition to expunge juvenile records
25 obtained from the clerk of the circuit court.

26 (2.6) If a minor is charged with an offense and is found
27 not delinquent of that offense; or if a minor is placed under
28 supervision under Section 5-615, and the order of supervision
29 is successfully terminated; or if the minor was placed on
30 probation under Section 5-715, and the probation period is
31 terminated; or if a minor is adjudicated for an offense that
32 would be a Class B misdemeanor, a Class C misdemeanor, or a
33 business or petty offense if committed by an adult; or if a
34 minor has incidents occurring before his or her 17th birthday
35 that would have not resulted in proceedings in criminal court
36 or resulted in proceedings in juvenile court, and the

1 adjudications were not based upon first degree murder or sex
2 offenses that would be felonies if committed by an adult; then
3 at the time of sentencing or dismissal of the case, the judge
4 shall inform the minor defendant of his or her right to
5 expungement as provided by law, and the clerk of the circuit
6 court shall provide an expungement information packet to the
7 minor defendant, written in plain language, including a
8 petition for expungement, a sample of a completed petition,
9 expungement instructions that shall include information
10 informing the minor that (i) once the case is expunged, it
11 shall be treated as if it never occurred, (ii) he or she may
12 apply to have petition fees waived, (iii) once he or she
13 obtains an expungement, he or she may not be required to
14 disclose that he or she had a juvenile record, and (iv) he or
15 she may file the petition on his or her own or with the
16 assistance of an attorney. If a minor is placed on probation
17 and the probation period is terminated, the probation or court
18 services department shall inform the minor defendant of his or
19 her right to expungement as provided by law and provide the
20 minor defendant with an expungement information packet
21 including a petition to expunge juvenile records obtained from
22 the clerk of the circuit court.

23 (2.7) For counties with a population over 3,000,000, the
24 clerk of the circuit court shall send a "Notification of a
25 Possible Right to Expungement" post card to the minor at the
26 address last received by the clerk of the circuit court on the
27 date that the minor attains the age of 17 based on the
28 birthdate provided to the court by the minor or his or her
29 guardian in cases under paragraphs (b), (c), (c-5), and (d) of
30 subsection (1); and when the minor attains the age of 21 based
31 on the birthdate provided to the court by the minor or his or
32 her guardian in cases under subsection (2).

33 (2.8) The petition for expungement for this subsection (1)
34 shall be substantially in the following form:

35 IN THE CIRCUIT COURT OF....., ILLINOIS

1JUDICIAL CIRCUIT

2 IN THE INTEREST OF) _____ NO.

3

4 (Name of Petitioner)

5 PETITION TO EXPUNGE JUVENILE RECORDS

6 (705 ILCS 405/5-915 (SUBSECTION 1))

7 (Please prepare a separate petition for each offense)

8 Now comes....., petitioner, and respectfully requests
9 that this Honorable Court enter an order expunging all juvenile
10 law enforcement and court records of petitioner and in support
11 thereof states that: Petitioner has attained the age of 17,
12 his/her birth date being,, or all Juvenile Court
13 proceedings terminated as of....., whichever occurred later.
14 Petitioner was arrested on..... by the.....Police Department
15 for the offense of, and:

16 (Check One:)

17 () a. no petition was filed with the Clerk of the Circuit
18 Court.

19 () b. was charged with.....and was found not delinquent of
20 the offense.

21 () c. a petition was filed and the petition was Sol'd/DWOP'd
22 onon.....

23 () d. the finding of delinquency entered on , was vacated
24 on

25 () e. on.....placed under supervision pursuant to Section
26 2-20, 3-21, 4-18, or 5-615 of the Juvenile Court Act of 1987
27 and such order of supervision successfully terminated
28 on.....

29 () f. onplaced on probation pursuant to Section 5-715
30 [705 ILCS 405/5-715] of the Juvenile Court Act of 1987 and the
31 probation period terminated on.....

32 () g. was adjudicated for the offense, which would have been a
33 Class B misdemeanor, a Class C misdemeanor, or a lesser petty
34 offense or business offense if committed by an adult.

35 Petitionerhas has not been arrested on charges in
36 this or any county other than the charges listed above. If

1 petitioner has been arrested on additional charges, please list
2 the charges below:

3 Charge(s) :.....

4 Arresting Agency or Agencies:.....

5 Disposition/Result: (choose from a. through g., above):.....

6 WHEREFORE, the petitioner respectfully requests this Honorable
7 Court to (1) order all law enforcement agencies to expunge all
8 records of petitioner to this incident, and (2) to order the
9 Clerk of the Court to expunge all records concerning the
10 petitioner regarding this incident.

11
12 Petitioner (Signature)

13
14 Petitioner's Street Address

15
16 City, State, Zip code

17
18 Petitioner's Telephone Number

19 Pursuant to the penalties of perjury under the Code of Civil
20 Procedure, 735, ILCS 5/1-109, I hereby certify that the
21 statements in this petition are true and correct, or on
22 information and belief I believe the same to be true.

23Petitioner (Signature)

24 The Petition for Expungement for subsection (2) shall be
25 substantially in the following form:

26 IN THE CIRCUIT COURT OF, ILLINOIS

27JUDICIAL CIRCUIT

28 IN THE INTEREST OF) _____ NO.

29

1 (Name of Petitioner)

2 PETITION TO EXPUNGE JUVENILE RECORDS

3 (705 ILCS 405/5-915 (SUBSECTION 2))

4 (Please prepare a separate petition for each offense)

5 Now comes, petitioner, and respectfully requests
6 that this Honorable Court enter an order expunging all Juvenile
7 Law Enforcement and Court records of petitioner and in support
8 thereof states that:

9 The incident for which the Petitioner seeks expungement
10 occurred before the Petitioner's 17th birthday and did not
11 result in proceedings in criminal court and the Petitioner has
12 not had any convictions for any crime since his/her 17th
13 birthday; or

14 The incident for which the Petitioner seeks expungement
15 occurred before the Petitioner's 17th birthday and the
16 adjudication was not based upon first-degree murder or offenses
17 which would be felonies if committed by an adult, and the
18 Petitioner has not had any convictions for any crime since
19 his/her 17th birthday.

20 Petitioner was arrested on by thePolice
21 Department for the offense of, and:

22 (Check whichever one occurred the latest:)

23 () a. The Petitioner has attained the age of 21 years, his/her
24 birthday being; or

25 () b. 5 years have elapsed since all juvenile court
26 proceedings relating to the Petitioner have been terminated; or
27 the Petitioner's commitment to the Department of Corrections,
28 Juvenile Division, pursuant to the expungement of juvenile law
29 enforcement and court records provisions of the Juvenile Court
30 Act of 1987 has been terminated. Petitioner ... has ... has not
31 been arrested on charges in this or any other county other than
32 the charge listed above. If petitioner has been arrested on
33 additional charges, please list the charges below:

34 Charge(s):

35 Arresting Agency or Agencies:.....

36 Disposition/Result: (choose from a or b, above):.....

1 WHEREFORE, the petitioner respectfully requests this Honorable
 2 Court to (1) order all law enforcement agencies to expunge all
 3 records of petitioner to this incident, and (2) to order the
 4 Clerk of the Court to expunge all records concerning the
 5 petitioner regarding this incident.

6
 7 Petitioner (Signature)

8
 9 Petitioner's Street Address

10
 11 City, State, Zip code

12
 13 Petitioner's Telephone Number

14 Pursuant to the penalties of perjury under the Code of Civil
 15 Procedure, 735, ILCS 5/1-109, I hereby certify that the
 16 statements in this petition are true and correct, or on
 17 information and belief I believe the same to be true.

18
 19 Petitioner (Signature)

20 (3) The chief judge of the circuit in which an arrest was
 21 made or a charge was brought or any judge of that circuit
 22 designated by the chief judge shall ~~may~~, upon verified petition
 23 of a person who is the subject of an arrest or a juvenile court
 24 proceeding under subsection (1) or (2) of this Section, order
 25 the law enforcement records or official court file, or both, to
 26 be expunged from the official records of the arresting
 27 authority, the clerk of the circuit court and the Department of
 28 State Police. The person whose records are to be expunged shall
 29 petition the court using the appropriate form containing his or
 30 her current address and shall promptly notify the clerk of the
 31 circuit court of any change of address. Notice that the
 32 person's records are to be expunged ~~of the petition~~ shall be

1 served upon the State's Attorney or prosecutor charged with the
2 duty of prosecuting the offense, the Department of State
3 Police, the arresting authority, and the chief legal officer of
4 the unit of local government effecting the arrest by the clerk
5 of the circuit court. If an objection is filed within 90 days
6 of the notice of the proposed expungement, the clerk of the
7 circuit court shall set a date for hearing after the 90 day
8 objection period. At the hearing the court shall hear evidence
9 on whether the expungement should or should not be granted.
10 Unless the State's Attorney or prosecutor, the Department of
11 State Police, or an arresting agency objects to the expungement
12 within 90 days of the notice, the court shall automatically
13 enter an order granting expungement. The person whose records
14 are to be expunged shall pay the clerk of the circuit court a
15 fee equivalent to the cost associated with expungement of
16 records by the clerk and the Department of State Police. The
17 clerk shall forward the Department of State Police portion of
18 the fee to the Department of State Police and it shall be
19 deposited into the State Police Services Fund. The clerk shall
20 deliver a certified copy of the order to the arresting agency,
21 and when appropriate, the Department of State Police Bureau of
22 Identification and upon the arresting authority which is the
23 subject of the petition for expungement.

24 (4) Upon entry of an order expunging records or files, the
25 offense, which the records or files concern shall be treated as
26 if it never occurred. Law enforcement officers and other public
27 offices and agencies shall properly reply on inquiry that no
28 record or file exists with respect to the person.

29 (5) Records which have not been expunged are sealed, and
30 may be obtained only under the provisions of Sections 5-901,
31 5-905 and 5-915.

32 (6) Nothing in this Section shall be construed to prohibit
33 the maintenance of information relating to an offense after
34 records or files concerning the offense have been expunged if
35 the information is kept in a manner that does not enable
36 identification of the offender. This information may only be

1 used for statistical and bona fide research purposes.

2 (7) (a) The State Appellate Defender shall establish,
3 maintain, and carry out, by December 31, 2004, a juvenile
4 expungement program to provide information and assistance to
5 minors eligible to have their juvenile records expunged.

6 (b) The State Appellate Defender shall develop brochures,
7 pamphlets, and other materials in printed form and through the
8 agency's World Wide Web site. The pamphlets and other materials
9 shall include at a minimum the following information:

10 (i) An explanation of the State's juvenile expungement
11 process;

12 (ii) The circumstances under which juvenile
13 expungement may occur;

14 (iii) The juvenile offenses that may be expunged;

15 (iv) The steps necessary to initiate and complete the
16 juvenile expungement process; and

17 (v) Directions on how to contact the State Appellate
18 Defender.

19 (c) The State Appellate Defender shall establish and
20 maintain a statewide toll-free telephone number that a person
21 may use to receive information or assistance concerning the
22 expungement of juvenile records. The State Appellate Defender
23 shall advertise the toll-free telephone number statewide. The
24 State Appellate Defender shall develop an expungement
25 information packet that may be sent to eligible persons seeking
26 expungement of their juvenile records, which may include, but
27 is not limited to, a pre-printed expungement petition with
28 instructions on how to complete the petition and a pamphlet
29 containing information that would assist individuals through
30 the juvenile expungement process.

31 (d) The State Appellate Defender shall compile a statewide
32 list of volunteer attorneys willing to assist eligible
33 individuals through the juvenile expungement process.

34 (e) This Section shall be implemented from funds
35 appropriated by the General Assembly to the State Appellate
36 Defender for this purpose. The State Appellate Defender shall

1 employ the necessary staff and adopt the necessary rules for
2 implementation of this Section.

3 (8) (a) Except with respect to law enforcement agencies,
4 the Department of Corrections, State's Attorneys, or other
5 prosecutors, an expunged juvenile record may not be considered
6 by any private or public entity in employment matters,
7 certification, licensing, revocation of certification or
8 licensure, or registration. Applications for employment must
9 contain specific language that states that the applicant is not
10 obligated to disclose expunged juvenile records of conviction
11 or arrest. Employers may not ask if an applicant has had a
12 juvenile record expunged. Effective January 1, 2005, the
13 Department of Employment Security shall develop a program to
14 inform employers that employers may not ask if an applicant had
15 a juvenile record expunged and that application for employment
16 must contain specific language that states that the applicant
17 is not obligated to disclose expunged juvenile records of
18 arrest or conviction.

19 (b) A person whose juvenile records have been expunged is
20 not entitled to remission of any fines, costs, or other money
21 paid as a consequence of expungement. This amendatory Act of
22 the 93rd General Assembly does not affect the right of the
23 victim of a crime to prosecute or defend a civil action for
24 damages.

25 (Source: P.A. 90-590, eff. 1-1-99.)

26 Section 99. Effective date. This Act takes effect upon
27 becoming law.