



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4009

Introduced 1/8/2020, by Rep. Curtis J. Tarver, II - Kambium Buckner

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-915

Amends the Juvenile Court Act of 1987. Provides that the juvenile law enforcement records of a person who before his or her 18th birthday has committed an act which if committed by an adult would constitute a criminal violation under the Cannabis Control Act or a criminal violation of the Drug Paraphernalia Control Act with respect to cannabis are subject to automatic expungement. Provides that the law enforcement agency who initiated the violation shall automatically expunge, on or before January 1 and July 1 of each year, the juvenile law enforcement records of a person eligible under this provision. Provides that the law enforcement agency shall provide by rule the process for access, review, and confirmation of the automatic expungement by the law enforcement agency. Provides that the clerk of the circuit court shall expunge, upon order of the court, or in the absence of a court order on or before January 1 and July 1 of each year, the juvenile court records of a person who before his or her 18th birthday has committed an act which if committed by an adult would constitute a criminal violation under the Cannabis Control Act or a criminal violation of the Drug Paraphernalia Control Act with respect to cannabis in the clerk's possession or control and which contains the final satisfactory disposition which pertain to a person eligible under this provision. Effective immediately.

LRB101 15874 RLC 65231 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning courts.

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 (0.05) (Blank).

10 (0.1) (a) The Department of State Police and all law
11 enforcement agencies within the State shall automatically
12 expunge, on or before January 1 of each year, all juvenile law
13 enforcement records relating to events occurring before an
14 individual's 18th birthday if:

15 (1) one year or more has elapsed since the date of the
16 arrest or law enforcement interaction documented in the
17 records;

18 (2) no petition for delinquency or criminal charges
19 were filed with the clerk of the circuit court relating to
20 the arrest or law enforcement interaction documented in the
21 records; and

22 (3) 6 months have elapsed since the date of the arrest
23 without an additional subsequent arrest or filing of a

1 petition for delinquency or criminal charges whether
2 related or not to the arrest or law enforcement interaction
3 documented in the records.

4 (b) If the law enforcement agency is unable to verify
5 satisfaction of conditions (2) and (3) of this subsection
6 (0.1), records that satisfy condition (1) of this subsection
7 (0.1) shall be automatically expunged if the records relate to
8 an offense that if committed by an adult would not be an
9 offense classified as Class 2 felony or higher, an offense
10 under Article 11 of the Criminal Code of 1961 or Criminal Code
11 of 2012, or an offense under Section 12-13, 12-14, 12-14.1,
12 12-15, or 12-16 of the Criminal Code of 1961.

13 (0.15) If a juvenile law enforcement record meets paragraph
14 (a) of subsection (0.1) of this Section, a juvenile law
15 enforcement record created:

16 (1) prior to January 1, 2018, but on or after January
17 1, 2013 shall be automatically expunged prior to January 1,
18 2020;

19 (2) prior to January 1, 2013, but on or after January
20 1, 2000, shall be automatically expunged prior to January
21 1, 2023; and

22 (3) prior to January 1, 2000 shall not be subject to
23 the automatic expungement provisions of this Act.

24 Nothing in this subsection (0.15) shall be construed to
25 restrict or modify an individual's right to have his or her
26 juvenile law enforcement records expunged except as otherwise

1 may be provided in this Act.

2 (0.16) Notwithstanding any other provision of this
3 Section, commencing 180 days after the effective date of this
4 amendatory Act of the 101st General Assembly, the juvenile law
5 enforcement records of a person who before his or her 18th
6 birthday has committed an act which if committed by an adult
7 would constitute a criminal violation under the Cannabis
8 Control Act or a criminal violation of Section 3.5 of the Drug
9 Paraphernalia Control Act with respect to cannabis are subject
10 to automatic expungement. The law enforcement agency who
11 initiated the violation shall automatically expunge, on or
12 before January 1 and July 1 of each year, the juvenile law
13 enforcement records of a person eligible under this subsection
14 (0.16). The law enforcement agency shall provide by rule the
15 process for access, review, and confirmation of the automatic
16 expungement by the law enforcement agency.

17 (0.2) (a) Upon dismissal of a petition alleging delinquency
18 or upon a finding of not delinquent, the successful termination
19 of an order of supervision, or the successful termination of an
20 adjudication for an offense which would be a Class B
21 misdemeanor, Class C misdemeanor, or a petty or business
22 offense if committed by an adult, the court shall automatically
23 order the expungement of the juvenile court records and
24 juvenile law enforcement records. The clerk shall deliver a
25 certified copy of the expungement order to the Department of
26 State Police and the arresting agency. Upon request, the

1 State's Attorney shall furnish the name of the arresting
2 agency. The expungement shall be completed within 60 business
3 days after the receipt of the expungement order.

4 (b) If the chief law enforcement officer of the agency, or
5 his or her designee, certifies in writing that certain
6 information is needed for a pending investigation involving the
7 commission of a felony, that information, and information
8 identifying the juvenile, may be retained until the statute of
9 limitations for the felony has run. If the chief law
10 enforcement officer of the agency, or his or her designee,
11 certifies in writing that certain information is needed with
12 respect to an internal investigation of any law enforcement
13 office, that information and information identifying the
14 juvenile may be retained within an intelligence file until the
15 investigation is terminated or the disciplinary action,
16 including appeals, has been completed, whichever is later.
17 Retention of a portion of a juvenile's law enforcement record
18 does not disqualify the remainder of his or her record from
19 immediate automatic expungement.

20 (0.3) (a) Upon an adjudication of delinquency based on any
21 offense except a disqualified offense, the juvenile court shall
22 automatically order the expungement of the juvenile court and
23 law enforcement records 2 years after the juvenile's case was
24 closed if no delinquency or criminal proceeding is pending and
25 the person has had no subsequent delinquency adjudication or
26 criminal conviction. The clerk shall deliver a certified copy

1 of the expungement order to the Department of State Police and
2 the arresting agency. Upon request, the State's Attorney shall
3 furnish the name of the arresting agency. The expungement shall
4 be completed within 60 business days after the receipt of the
5 expungement order. In this subsection (0.3), "disqualified
6 offense" means any of the following offenses: Section 8-1.2,
7 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 10-1, 10-2, 10-3, 10-3.1,
8 10-4, 10-5, 10-9, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,
9 11-6, 11-6.5, 12-2, 12-3.05, 12-3.3, 12-4.4a, 12-5.02, 12-6.2,
10 12-6.5, 12-7.1, 12-7.5, 12-20.5, 12-32, 12-33, 12-34, 12-34.5,
11 18-1, 18-2, 18-3, 18-4, 18-6, 19-3, 19-6, 20-1, 20-1.1, 24-1.2,
12 24-1.2-5, 24-1.5, 24-3A, 24-3B, 24-3.2, 24-3.8, 24-3.9,
13 29D-14.9, 29D-20, 30-1, 31-1a, 32-4a, or 33A-2 of the Criminal
14 Code of 2012, or subsection (b) of Section 8-1, paragraph (4)
15 of subsection (a) of Section 11-14.4, subsection (a-5) of
16 Section 12-3.1, paragraph (1), (2), or (3) of subsection (a) of
17 Section 12-6, subsection (a-3) or (a-5) of Section 12-7.3,
18 paragraph (1) or (2) of subsection (a) of Section 12-7.4,
19 subparagraph (i) of paragraph (1) of subsection (a) of Section
20 12-9, subparagraph (H) of paragraph (3) of subsection (a) of
21 Section 24-1.6, paragraph (1) of subsection (a) of Section
22 25-1, or subsection (a-7) of Section 31-1 of the Criminal Code
23 of 2012.

24 (b) If the chief law enforcement officer of the agency, or
25 his or her designee, certifies in writing that certain
26 information is needed for a pending investigation involving the

1 commission of a felony, that information, and information
2 identifying the juvenile, may be retained in an intelligence
3 file until the investigation is terminated or for one
4 additional year, whichever is sooner. Retention of a portion of
5 a juvenile's juvenile law enforcement record does not
6 disqualify the remainder of his or her record from immediate
7 automatic expungement.

8 (0.31) Notwithstanding any other provision of this
9 Section, commencing 180 after the effective date of this
10 amendatory Act of the 101st General Assembly, the clerk of the
11 circuit court shall expunge, upon order of the court, or in the
12 absence of a court order on or before January 1 and July 1 of
13 each year, the juvenile court records of a person who before
14 his or her 18th birthday has committed an act which if
15 committed by an adult would constitute a criminal violation
16 under the Cannabis Control Act or a criminal violation of
17 Section 3.5 of the Drug Paraphernalia Control Act with respect
18 to cannabis in the clerk's possession or control and which
19 contains the final satisfactory disposition which pertain to a
20 person eligible under this subsection (0.31).

21 (0.4) Automatic expungement for the purposes of this
22 Section shall not require law enforcement agencies to
23 obliterate or otherwise destroy juvenile law enforcement
24 records that would otherwise need to be automatically expunged
25 under this Act, except after 2 years following the subject
26 arrest for purposes of use in civil litigation against a

1 governmental entity or its law enforcement agency or personnel
2 which created, maintained, or used the records. However, these
3 juvenile law enforcement records shall be considered expunged
4 for all other purposes during this period and the offense,
5 which the records or files concern, shall be treated as if it
6 never occurred as required under Section 5-923.

7 (0.5) Subsection (0.1) or (0.2) of this Section does not
8 apply to violations of traffic, boating, fish and game laws, or
9 county or municipal ordinances.

10 (0.6) Juvenile law enforcement records of a plaintiff who
11 has filed civil litigation against the governmental entity or
12 its law enforcement agency or personnel that created,
13 maintained, or used the records, or juvenile law enforcement
14 records that contain information related to the allegations set
15 forth in the civil litigation may not be expunged until after 2
16 years have elapsed after the conclusion of the lawsuit,
17 including any appeal.

18 (0.7) Officer-worn body camera recordings shall not be
19 automatically expunged except as otherwise authorized by the
20 Law Enforcement Officer-Worn Body Camera Act.

21 (1) Whenever a person has been arrested, charged, or
22 adjudicated delinquent for an incident occurring before his or
23 her 18th birthday that if committed by an adult would be an
24 offense, and that person's juvenile law enforcement and
25 juvenile court records are not eligible for automatic
26 expungement under subsection (0.1), (0.2), or (0.3), the person

1 may petition the court at any time for expungement of juvenile
2 law enforcement records and juvenile court records relating to
3 the incident and, upon termination of all juvenile court
4 proceedings relating to that incident, the court shall order
5 the expungement of all records in the possession of the
6 Department of State Police, the clerk of the circuit court, and
7 law enforcement agencies relating to the incident, but only in
8 any of the following circumstances:

9 (a) the minor was arrested and no petition for
10 delinquency was filed with the clerk of the circuit court;

11 (a-5) the minor was charged with an offense and the
12 petition or petitions were dismissed without a finding of
13 delinquency;

14 (b) the minor was charged with an offense and was found
15 not delinquent of that offense;

16 (c) the minor was placed under supervision under
17 Section 5-615, and the order of supervision has since been
18 successfully terminated; or

19 (d) the minor was adjudicated for an offense which
20 would be a Class B misdemeanor, Class C misdemeanor, or a
21 petty or business offense if committed by an adult.

22 (1.5) The Department of State Police shall allow a person
23 to use the Access and Review process, established in the
24 Department of State Police, for verifying that his or her
25 juvenile law enforcement records relating to incidents
26 occurring before his or her 18th birthday eligible under this

1 Act have been expunged.

2 (1.6) (Blank).

3 (1.7) (Blank).

4 (1.8) (Blank).

5 (2) Any person whose delinquency adjudications are not
6 eligible for automatic expungement under subsection (0.3) of
7 this Section may petition the court to expunge all juvenile law
8 enforcement records relating to any incidents occurring before
9 his or her 18th birthday which did not result in proceedings in
10 criminal court and all juvenile court records with respect to
11 any adjudications except those based upon first degree murder
12 or an offense under Article 11 of the Criminal Code of 2012 if
13 the person is required to register under the Sex Offender
14 Registration Act at the time he or she petitions the court for
15 expungement; provided that: ~~(a) (blank); or (b)~~ 2 years have
16 elapsed since all juvenile court proceedings relating to him or
17 her have been terminated and his or her commitment to the
18 Department of Juvenile Justice under this Act has been
19 terminated.

20 (2.5) If a minor is arrested and no petition for
21 delinquency is filed with the clerk of the circuit court at the
22 time the minor is released from custody, the youth officer, if
23 applicable, or other designated person from the arresting
24 agency, shall notify verbally and in writing to the minor or
25 the minor's parents or guardians that the minor shall have an
26 arrest record and shall provide the minor and the minor's

1 parents or guardians with an expungement information packet,
2 information regarding this State's expungement laws including
3 a petition to expunge juvenile law enforcement and juvenile
4 court records obtained from the clerk of the circuit court.

5 (2.6) If a minor is referred to court, then, at the time of
6 sentencing, ~~or~~ dismissal of the case, or successful completion
7 of supervision, the judge shall inform the delinquent minor of
8 his or her rights regarding expungement and the clerk of the
9 circuit court shall provide an expungement information packet
10 to the minor, written in plain language, including information
11 regarding this State's expungement laws and a petition for
12 expungement, a sample of a completed petition, expungement
13 instructions that shall include information informing the
14 minor that (i) once the case is expunged, it shall be treated
15 as if it never occurred, (ii) he or she may apply to have
16 petition fees waived, (iii) once he or she obtains an
17 expungement, he or she may not be required to disclose that he
18 or she had a juvenile law enforcement or juvenile court record,
19 and (iv) if petitioning he or she may file the petition on his
20 or her own or with the assistance of an attorney. The failure
21 of the judge to inform the delinquent minor of his or her right
22 to petition for expungement as provided by law does not create
23 a substantive right, nor is that failure grounds for: (i) a
24 reversal of an adjudication of delinquency; ~~or~~ (ii) a new trial;
25 or (iii) an appeal.

26 (2.7) (Blank).

1 (2.8) (Blank).

2 (3) (Blank).

3 (3.1) (Blank).

4 (3.2) (Blank).

5 (3.3) (Blank).

6 (4) (Blank).

7 (5) (Blank).

8 (5.5) Whether or not expunged, records eligible for
9 automatic expungement under subdivision (0.1) (a), (0.2) (a), or
10 (0.3) (a) may be treated as expunged by the individual subject
11 to the records.

12 (6) (Blank).

13 (6.5) The Department of State Police or any employee of the
14 Department shall be immune from civil or criminal liability for
15 failure to expunge any records of arrest that are subject to
16 expungement under this Section because of inability to verify a
17 record. Nothing in this Section shall create Department of
18 State Police liability or responsibility for the expungement of
19 juvenile law enforcement records it does not possess.

20 (7) (Blank).

21 (7.5) (Blank).

22 (8) ~~(a) (Blank).~~ ~~(b) (Blank).~~ ~~(c)~~ The expungement of
23 juvenile law enforcement or juvenile court records under
24 subsection (0.1), (0.2), or (0.3) of this Section shall be
25 funded by appropriation by the General Assembly for that
26 purpose.

1 (9) (Blank).

2 (10) (Blank).

3 (Source: P.A. 99-835, eff. 1-1-17; 99-881, eff. 1-1-17;
4 100-201, eff. 8-18-17; 100-285, eff. 1-1-18; 100-720, eff.
5 8-3-18; 100-863, eff. 8-14-18; 100-987, eff. 7-1-19; 100-1162,
6 eff. 12-20-18; revised 7-16-19.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.