



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB1952

Introduced 2/17/2021, by Rep. Curtis J. Tarver, II

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.

LRB102 10832 RLC 16162 b

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
21 the 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
3 interaction 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
14 paragraph (a) of subsection (0.1) of this Section, a juvenile
15 law 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
18 1, 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 102nd 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
18 delinquency or upon a finding of not delinquent, the
19 successful termination of an order of supervision, or the
20 successful termination of an adjudication for an offense which
21 would be a Class B misdemeanor, Class C misdemeanor, or a petty
22 or business offense if committed by an adult, the court shall
23 automatically order the expungement of the juvenile court
24 records and juvenile law enforcement records. The clerk shall
25 deliver a certified copy of the expungement order to the
26 Department of State Police and the arresting agency. Upon

1 request, the State's Attorney shall furnish the name of the
2 arresting agency. The expungement shall be completed within 60
3 business 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
7 the 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
22 shall automatically order the expungement of the juvenile
23 court and law enforcement records 2 years after the juvenile's
24 case was closed if no delinquency or criminal proceeding is
25 pending and the person has had no subsequent delinquency
26 adjudication or criminal conviction. The clerk shall deliver a

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

25 (b) If the chief law enforcement officer of the agency, or
26 his or her designee, certifies in writing that certain

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

9 (0.31) Notwithstanding any other provision of this
10 Section, commencing 180 after the effective date of this
11 amendatory Act of the 102nd General Assembly, the clerk of the
12 circuit court shall expunge, upon order of the court, or in the
13 absence of a court order on or before January 1 and July 1 of
14 each year, the juvenile court records of a person who before
15 his or her 18th birthday has committed an act which if
16 committed by an adult would constitute a criminal violation
17 under the Cannabis Control Act or a criminal violation of
18 Section 3.5 of the Drug Paraphernalia Control Act with respect
19 to cannabis in the clerk's possession or control and which
20 contains the final satisfactory disposition which pertain to a
21 person eligible under this subsection (0.31).

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

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

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

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

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

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

1 expungement under subsection (0.1), (0.2), or (0.3), the
2 person may petition the court at any time for expungement of
3 juvenile law enforcement records and juvenile court records
4 relating to the incident and, upon termination of all juvenile
5 court proceedings relating to that incident, the court shall
6 order the expungement of all records in the possession of the
7 Department of State Police, the clerk of the circuit court,
8 and law enforcement agencies relating to the incident, but
9 only in any of the following circumstances:

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

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

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

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

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

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

1 occurring before his or her 18th birthday eligible under this
2 Act have been expunged.

3 (1.6) (Blank).

4 (1.7) (Blank).

5 (1.8) (Blank).

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

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

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

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

1 (2.7) (Blank).

2 (2.8) (Blank).

3 (3) (Blank).

4 (3.1) (Blank).

5 (3.2) (Blank).

6 (3.3) (Blank).

7 (4) (Blank).

8 (5) (Blank).

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

13 (6) (Blank).

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

22 (7) (Blank).

23 (7.5) (Blank).

24 ~~(8) (a) (Blank). (b) (Blank). (c)~~ The expungement of
25 juvenile law enforcement or juvenile court records under
26 subsection (0.1), (0.2), or (0.3) of this Section shall be

1 funded by appropriation by the General Assembly for that
2 purpose.

3 (9) (Blank).

4 (10) (Blank).

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

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.