



Adopted in House Comm. on Mar 04, 2004

09300HB4566ham001

LRB093 19428 RLC 48163 a

1 AMENDMENT TO HOUSE BILL 4566

2 AMENDMENT NO. _____. Amend House Bill 4566 by replacing
3 everything after the enacting clause with the following:

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

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

(2) Any person may petition the court to expunge all law enforcement records relating to any incidents occurring before his or her 17th birthday which did not result in proceedings in criminal court and all juvenile court records with respect to any adjudications except those based upon first degree murder and sex offenses which would be felonies if committed by an adult, if the person for whom expungement is sought has had no convictions for any crime since his or her 17th birthday and:

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

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

(2.5) If a minor is arrested and no petition for delinquency is filed with the clerk of the circuit court as provided in paragraph (a) of subsection (1) at the time the minor is released from custody, the youth officer, if applicable, or other designated person from the arresting agency, shall notify verbally and in writing to the minor or the minor's parents or guardians that if the State's Attorney does not file a petition for delinquency, the minor has a right to petition to have his or her arrest record expunged when the minor attains the age of 17 or when all juvenile court proceedings relating to that minor have been terminated and that unless a petition to expunge is filed, the minor shall have an arrest record and shall provide the minor and the minor's parents or guardians with an expungement information packet, including a petition to expunge juvenile records obtained from the clerk of the circuit court.

1 (2.6) If a minor is charged with an offense and is found
2 not delinquent of that offense; or if a minor is placed under
3 supervision under Section 5-615, and the order of supervision
4 is successfully terminated; or if a minor is adjudicated for an
5 offense that would be a Class B misdemeanor, a Class C
6 misdemeanor, or a business or petty offense if committed by an
7 adult; or if a minor has incidents occurring before his or her
8 17th birthday that would have not resulted in proceedings in
9 criminal court or resulted in proceedings in juvenile court,
10 and the adjudications were not based upon first degree murder
11 or sex offenses that would be felonies if committed by an
12 adult; then at the time of sentencing or dismissal of the case,
13 the judge shall inform the delinquent minor of his or her right
14 to expungement as provided by law, and the clerk of the circuit
15 court shall provide an expungement information packet to the
16 delinquent minor, written in plain language, including a
17 petition for expungement, a sample of a completed petition,
18 expungement instructions that shall include information
19 informing the minor that (i) once the case is expunged, it
20 shall be treated as if it never occurred, (ii) he or she may
21 apply to have petition fees waived, (iii) once he or she
22 obtains an expungement, he or she may not be required to
23 disclose that he or she had a juvenile record, and (iv) he or
24 she may file the petition on his or her own or with the
25 assistance of an attorney.

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

1 her guardian in cases under subsection (2).

2 (2.8) The petition for expungement for subsection (1) shall
3 be substantially in the following form:

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

5JUDICIAL CIRCUIT

6 IN THE INTEREST OF) _____ NO.

7

8 (Name of Petitioner)

9 PETITION TO EXPUNGE JUVENILE RECORDS

10 (705 ILCS 405/5-915 (SUBSECTION 1))

11 (Please prepare a separate petition for each offense)

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

20 (Check One:)

21 () a. no petition was filed with the Clerk of the Circuit
22 Court.

23 () b. was charged with.....and was found not delinquent of
24 the offense.

25 () c. a petition was filed and the petition was dismissed
26 without a finding of delinquency onon.....

27 () d. on.....placed under supervision pursuant to Section
28 5-615 of the Juvenile Court Act of 1987 and such order of
29 supervision successfully terminated on.....

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

33 Petitioner ...has has not been arrested on charges in

1 this or any county other than the charges listed above. If
2 petitioner has been arrested on additional charges, please list
3 the charges below:

4 Charge(s):.....

5 Arresting Agency or Agencies:.....

6 Disposition/Result: (choose from a. through e., above):.....

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

12
13 Petitioner (Signature)

14
15 Petitioner's Street Address

16
17 City, State, Zip code

18
19 Petitioner's Telephone Number

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

24Petitioner (Signature)

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

27 IN THE CIRCUIT COURT OF, ILLINOIS

.....JUDICIAL CIRCUIT

IN THE INTEREST OF) _____ NO.

.....

(Name of Petitioner)

PETITION TO EXPUNGE JUVENILE RECORDS

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

(Please prepare a separate petition for each offense)

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

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

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

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

(Check whichever one occurred the latest:)

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

() b. 5 years have elapsed since all juvenile court proceedings relating to the Petitioner have been terminated; or the Petitioner's commitment to the Department of Corrections, Juvenile Division, pursuant to the expungement of juvenile law enforcement and court records provisions of the Juvenile Court Act of 1987 has been terminated. Petitioner ... has ... has not been arrested on charges in this or any other county other than

1 the charge listed above. If petitioner has been arrested on
2 additional charges, please list the charges below:

3 Charge(s):

4 Arresting Agency or Agencies:.....

5 Disposition/Result: (choose from a or b, 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.

23
24 Petitioner (Signature)

25 (3) The chief judge of the circuit in which an arrest was
26 made or a charge was brought or any judge of that circuit
27 designated by the chief judge may, upon verified petition of a
28 person who is the subject of an arrest or a juvenile court
29 proceeding under subsection (1) or (2) of this Section, order
30 the law enforcement records or official court file, or both, to

1 be expunged from the official records of the arresting
2 authority, the clerk of the circuit court and the Department of
3 State Police. The person whose records are to be expunged shall
4 petition the court using the appropriate form containing his or
5 her current address and shall promptly notify the clerk of the
6 circuit court of any change of address. Notice that the
7 person's records are to be expunged ~~of the petition~~ shall be
8 served upon the State's Attorney or prosecutor charged with the
9 duty of prosecuting the offense, the Department of State
10 Police, and the arresting agency or agencies by the clerk of
11 the circuit court. If an objection is filed within 90 days of
12 the notice of the proposed expungement, the clerk of the
13 circuit court shall set a date for hearing after the 90 day
14 objection period. At the hearing the court shall hear evidence
15 on whether the expungement should or should not be granted.
16 Unless the State's Attorney or prosecutor, the Department of
17 State Police, or an arresting agency objects to the expungement
18 within 90 days of the notice, the court shall automatically
19 enter an order granting expungement. The person whose records
20 are to be expunged shall pay the clerk of the circuit court a
21 fee equivalent to the cost associated with expungement of
22 records by the clerk and the Department of State Police. The
23 clerk shall forward the Department of State Police portion of
24 the fee to the Department of State Police and it shall be
25 deposited into the State Police Services Fund. The clerk shall
26 deliver a certified copy of the order to the arresting agency,
27 and when appropriate, the Department of State Police Bureau of
28 Identification ~~and upon the arresting authority which is the~~
29 ~~subject of the petition for expungement.~~

30 (3.1) The Notice of Expungement shall be in substantially
31 the following form:

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

33JUDICIAL CIRCUIT

34 IN THE INTEREST OF) _____ NO.

1

2 (Name of Petitioner)

3 NOTICE TO: State's Attorney

4 TO: Arresting Agency

5 TO: Illinois State Police

6 ATTENTION: Expungement

7 You are hereby notified that on....., at....., in courtroom
8 ..., located at..., before the Honorable..., Judge, or any
9 judge sitting in his/her stead, I shall then and there present
10 a Petition to Expunge Juvenile records in the above-entitled
11 matter, at which time and place you may appear.

12

13 Petitioner's Signature

14

15 Petitioner's Street Address

16

17 City, State, Zip code

18

19 Petitioner's Telephone Number

20 PROOF OF SERVICE

21 On the.....day of....., 200..., I on oath state that I
22 served this notice and true and correct copies of the
23 above-checked documents by: (Check One:) delivering copies
24 personally to each entity to whom they are directed; or by
25 mailing copies to each entity to whom they are directed by
26 depositing the same in the U.S. Mail, proper postage fully
27 prepaid, before the hour of 5:00 p.m., at the United States
28 Postal Depository located at

29 Signature Clerk of the Circuit Court or Deputy Clerk

30 Printed Name of Delinquent Minor/Petitioner:....

31 Address:.....

32 Telephone Number:.....

33 (3.2) The Order of Expungement shall be in substantially
34 the following form:

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

JUDICIAL CIRCUIT

IN THE INTEREST OF

.....

(Name of Petitioner)

DOB.....

Arresting Agency/Agencies.....

ORDER OF EXPUNGEMENT

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

This matter having been heard on the petitioner's motion and the court being fully advised in the premises does find that the petitioner is indigent or has presented reasonable cause to waive all costs in this matter, IT IS HEREBY ORDERED that:

() 1. Clerk of Court and Department of State Police costs are hereby waived in this matter.

() 2. The Illinois State Police Bureau of Identification and the following law enforcement agencies expunge all records of petitioner relating to an arrest dated.....for the offense of.....

Law Enforcement Agencies:

.....

.....

() 3. IT IS FURTHER ORDERED that the Clerk of the Circuit Court expunge all records regarding the above-captioned case.

ENTER:.....

JUDGE

DATED:.....

Name:

Attorney for:

Address: City/State/Zip:

Attorney Number:

(3.3) The Notice of Objection shall be in substantially the following form:

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

.....JUDICIAL CIRCUIT

IN THE INTEREST OF) _____ NO.

(Name of Petitioner)

NOTICE OF OBJECTION

TO: (Attorney, Public Defender, Minor)

TO: (Judge) TO: (Illinois State Police)

TO: (Arresting Agency/Agencies)

TO: (Clerk of the Court)

ATTENTION: You are hereby notified that an objection has been filed by the following entity regarding the above-named minor's petition for expungement of juvenile records:

() State's Attorney' Office

() Prosecutor (other than State's Attorney's Office) charged with the duty of prosecuting the offense sought to be expunged

() Department of Illinois State Police

() Arresting Agency or Agencies

The agency checked above respectfully requests that this case be continued and set for hearing on whether the expungement should or should not be granted.

DATED:.....

Name:

Attorney For:

Address:

City/State/Zip:

Telephone:

Attorney No.:

FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

This matter has been set for hearing on the foregoing objection, onin room....., located at....., before the Honorable, Judge, or any judge sitting in his/her stead. (Only one hearing shall be set, regardless of the number of Notices of Objection received on the same case).

A copy of this completed Notice of Objection containing the court date, time, and location, has been sent via regular U.S.

1 Mail to the following entities. (If more than one Notice of
2 Objection is received on the same case, each one must be
3 completed with the court date, time and location and mailed to
4 the following entities):

5 () Attorney, Public Defender or Minor;

6 () State's Attorney's Office;

7 () Prosecutor (other than State's Attorney's Office) charged
8 with the duty of prosecuting the offense sought to be expunged;

9 () Department of Illinois State Police; and

10 () Arresting agency or agencies.

11 Date:.....

12 Initials of Clerk completing this section:.....

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

18 (5) Records which have not been expunged are sealed, and
19 may be obtained only under the provisions of Sections 5-901,
20 5-905 and 5-915.

21 (6) Nothing in this Section shall be construed to prohibit
22 the maintenance of information relating to an offense after
23 records or files concerning the offense have been expunged if
24 the information is kept in a manner that does not enable
25 identification of the offender. This information may only be
26 used for statistical and bona fide research purposes.

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

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

1 (i) An explanation of the State's juvenile expungement
2 process;

3 (ii) The circumstances under which juvenile
4 expungement may occur;

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

6 (iv) The steps necessary to initiate and complete the
7 juvenile expungement process; and

8 (v) Directions on how to contact the State Appellate
9 Defender.

10 (c) The State Appellate Defender shall establish and
11 maintain a statewide toll-free telephone number that a person
12 may use to receive information or assistance concerning the
13 expungement of juvenile records. The State Appellate Defender
14 shall advertise the toll-free telephone number statewide. The
15 State Appellate Defender shall develop an expungement
16 information packet that may be sent to eligible persons seeking
17 expungement of their juvenile records, which may include, but
18 is not limited to, a pre-printed expungement petition with
19 instructions on how to complete the petition and a pamphlet
20 containing information that would assist individuals through
21 the juvenile expungement process.

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

25 (e) This Section shall be implemented from funds
26 appropriated by the General Assembly to the State Appellate
27 Defender for this purpose. The State Appellate Defender shall
28 employ the necessary staff and adopt the necessary rules for
29 implementation of this Section.

30 (8) (a) Except with respect to law enforcement agencies,
31 the Department of Corrections, State's Attorneys, or other
32 prosecutors, an expunged juvenile record may not be considered
33 by any private or public entity in employment matters,
34 certification, licensing, revocation of certification or

1 licensure, or registration. Applications for employment must
2 contain specific language that states that the applicant is not
3 obligated to disclose expunged juvenile records of conviction
4 or arrest. Employers may not ask if an applicant has had a
5 juvenile record expunged. Effective January 1, 2005, the
6 Department of Employment Security shall develop a program to
7 inform employers that employers may not ask if an applicant had
8 a juvenile record expunged and that application for employment
9 must contain specific language that states that the applicant
10 is not obligated to disclose expunged juvenile records of
11 arrest or conviction.

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

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

19 Section 99. Effective date. This Act takes effect upon
20 becoming law."