



Adopted in House on Mar 26, 2004

09300HB4566ham002

LRB093 19428 RLC 49093 a

1 AMENDMENT TO HOUSE BILL 4566

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

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

7 (705 ILCS 405/5-915)

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

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

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

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

22 (c) the minor was placed under supervision pursuant to
23 Section 5-615, and the order of supervision has since been
24 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 have not resulted in proceedings in criminal
9 court, or resulted in proceedings in juvenile court, and the
10 adjudications were not based upon first degree murder or sex
11 offenses that would be felonies if committed by an adult; then
12 at the time of sentencing or dismissal of the case, the judge
13 shall inform the delinquent minor of his or her right to
14 petition for expungement as provided by law, and the clerk of
15 the circuit court shall provide an expungement information
16 packet to the delinquent minor, written in plain language,
17 including a petition for expungement, a sample of a completed
18 petition, expungement instructions that shall include
19 information informing the minor that (i) once the case is
20 expunged, it shall be treated as if it never occurred, (ii) he
21 or she may apply to have petition fees waived, (iii) once he or
22 she 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), 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)

9)

10 (Name of Petitioner)

11 PETITION TO EXPUNGE JUVENILE RECORDS

12 (705 ILCS 405/5-915 (SUBSECTION 1))

13 (Please prepare a separate petition for each offense)

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

22 (Check One:)

23 () a. no petition was filed with the Clerk of the Circuit
24 Court.

25 () b. was charged with and was found not delinquent of
26 the offense.

27 () c. a petition was filed and the petition was dismissed
28 without a finding of delinquency on

29 () d. on placed under supervision pursuant to Section
30 5-615 of the Juvenile Court Act of 1987 and such order of
31 supervision successfully terminated on

32 () e. was adjudicated for the offense, which would have been a
33 Class B misdemeanor, a Class C misdemeanor, or a petty offense

1 or business offense if committed by an adult.

2 Petitioner has has not been arrested on charges in
3 this or any county other than the charges listed above. If
4 petitioner has been arrested on additional charges, please list
5 the charges below:

6 Charge(s):

7 Arresting Agency or Agencies:

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

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

14
15 Petitioner (Signature)

16
17 Petitioner's Street Address

18
19 City, State, Zip code

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21 Petitioner's Telephone Number

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

26
27 Petitioner (Signature)

28 The Petition for Expungement for subsection (2) shall be

1 substantially in the following form:

2 IN THE CIRCUIT COURT OF, ILLINOIS

3 JUDICIAL CIRCUIT

4 IN THE INTEREST OF)

NO.

5)

6)

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8 (Name of Petitioner)

9 PETITION TO EXPUNGE JUVENILE RECORDS

10 (705 ILCS 405/5-915 (SUBSECTION 2))

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:

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

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

27 Petitioner was arrested on by the Police
28 Department for the offense of, and:

29 (Check whichever one occurred the latest:)

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

32 () b. 5 years have elapsed since all juvenile court
33 proceedings relating to the Petitioner have been terminated; or

1 the Petitioner's commitment to the Department of Corrections,
 2 Juvenile Division, pursuant to the expungement of juvenile law
 3 enforcement and court records provisions of the Juvenile Court
 4 Act of 1987 has been terminated. Petitioner ...has ...has not
 5 been arrested on charges in this or any other county other than
 6 the charge listed above. If petitioner has been arrested on
 7 additional charges, please list the charges below:

8 Charge(s):

9 Arresting Agency or Agencies:

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

11 WHEREFORE, the petitioner respectfully requests this Honorable
 12 Court to (1) order all law enforcement agencies to expunge all
 13 records of petitioner related to this incident, and (2) to
 14 order the Clerk of the Court to expunge all records concerning
 15 the petitioner regarding this incident.

16
 17 Petitioner (Signature)

18
 19 Petitioner's Street Address

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 21 City, State, Zip code

22
 23 Petitioner's Telephone Number

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

28
 29 Petitioner (Signature)

30 (3) The chief judge of the circuit in which an arrest was

1 made or a charge was brought or any judge of that circuit
2 designated by the chief judge may, upon verified petition of a
3 person who is the subject of an arrest or a juvenile court
4 proceeding under subsection (1) or (2) of this Section, order
5 the law enforcement records or official court file, or both, to
6 be expunged from the official records of the arresting
7 authority, the clerk of the circuit court and the Department of
8 State Police. The person whose records are to be expunged shall
9 petition the court using the appropriate form containing his or
10 her current address and shall promptly notify the clerk of the
11 circuit court of any change of address. Notice of the petition
12 shall be served upon the State's Attorney or prosecutor charged
13 with the duty of prosecuting the offense, the Department of
14 State Police, and the arresting agency or agencies by the clerk
15 of the circuit court. If an objection is filed within 90 days
16 of the notice of the petition, the clerk of the circuit court
17 shall set a date for hearing after the 90 day objection period.
18 At the hearing the court shall hear evidence on whether the
19 expungement should or should not be granted. Unless the State's
20 Attorney or prosecutor, the Department of State Police, or an
21 arresting agency objects to the expungement within 90 days of
22 the notice, the court may enter an order granting expungement.
23 The person whose records are to be expunged shall pay the clerk
24 of the circuit court a fee equivalent to the cost associated
25 with expungement of records by the clerk and the Department of
26 State Police. The clerk shall forward a certified copy of the
27 order to the Department of State Police, the appropriate
28 portion of the fee to the Department of State Police for
29 processing, and deliver a certified copy of the order to the
30 arresting agency. and upon the arresting authority which is the
31 subject of the petition for expungement.

32 (3.1) The Notice of Expungement shall be in substantially
33 the following form:

34 IN THE CIRCUIT COURT OF, ILLINOIS

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.... JUDICIAL CIRCUIT

IN THE INTEREST OF)
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.....)
(Name of Petitioner)

NO.

NOTICE

TO: State's Attorney
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.....

TO: Arresting Agency
.....
.....

TO: Illinois State Police
.....
.....

ATTENTION: Expungement

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

.....
Petitioner's Signature
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Petitioner's Street Address
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City, State, Zip code
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Petitioner's Telephone Number

PROOF OF SERVICE

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On the day of, 20..., I on oath state that I served this notice and true and correct copies of the above-checked documents by:

(Check One:)

delivering copies personally to each entity to whom they are directed;

or

by mailing copies to each entity to whom they are directed by depositing the same in the U.S. Mail, proper postage fully prepaid, before the hour of 5:00 p.m., at the United States Postal Depository located at

.....

Signature

Clerk of the Circuit Court or Deputy Clerk

Printed Name of Delinquent Minor/Petitioner:

Address:

Telephone Number:

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

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

IN THE INTEREST OF) NO.

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.....)

(Name of Petitioner)

DOB

Arresting Agency/Agencies

ORDER OF EXPUNGEMENT

(705 ILCS 405/5-915 (SUBSECTION 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

1 waive all costs in this matter, IT IS HEREBY ORDERED that:

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

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

8 Law Enforcement Agencies:

9

10

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

13 ENTER:

14 JUDGE

15
16 DATED:

17 Name:

18 Attorney for:

19 Address: City/State/Zip:

20 Attorney Number:

21 (3.3) The Notice of Objection shall be in substantially the
22 following form:

23 IN THE CIRCUIT COURT OF, ILLINOIS

24 JUDICIAL CIRCUIT

25 IN THE INTEREST OF)

NO.

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28)

29 (Name of Petitioner)

30 NOTICE OF OBJECTION

31 TO: (Attorney, Public Defender, Minor)

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34 TO: (Illinois State Police)

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3 TO: (Clerk of the Court)

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6 TO: (Judge)

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9 TO: (Arresting Agency/Agencies)

10

11

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

15 () State's Attorney's Office

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

18 () Department of Illinois State Police

19 () Arresting Agency or Agencies

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

23 DATED:

24 Name:

25 Attorney For:

26 Address:

27 City/State/Zip:

28 Telephone:

29 Attorney No.:

30 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

31 This matter has been set for hearing on the foregoing
32 objection, on in room, located at, before the
33 Honorable, Judge, or any judge sitting in his/her stead.

34 (Only one hearing shall be set, regardless of the number of

1 Notices of Objection received on the same case).

2 A copy of this completed Notice of Objection containing the
3 court date, time, and location, has been sent via regular U.S.
4 Mail to the following entities. (If more than one Notice of
5 Objection is received on the same case, each one must be
6 completed with the court date, time and location and mailed to
7 the following entities):

8 () Attorney, Public Defender or Minor;

9 () State's Attorney's Office;

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

12 () Department of Illinois State Police; and

13 () Arresting agency or agencies.

14 Date:

15 Initials of Clerk completing this section:

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

21 (5) Records which have not been expunged are sealed, and
22 may be obtained only under the provisions of Sections 5-901,
23 5-905 and 5-915.

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

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

34 (b) The State Appellate Defender shall develop brochures,

1 pamphlets, and other materials in printed form and through the
2 agency's World Wide Web site. The pamphlets and other materials
3 shall include at a minimum the following information:

4 (i) An explanation of the State's juvenile expungement
5 process;

6 (ii) The circumstances under which juvenile
7 expungement may occur;

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

9 (iv) The steps necessary to initiate and complete the
10 juvenile expungement process; and

11 (v) Directions on how to contact the State Appellate
12 Defender.

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

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

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

33 (8) (a) Except with respect to law enforcement agencies, the
34 Department of Corrections, State's Attorneys, or other

1 prosecutors, an expunged juvenile record may not be considered
2 by any private or public entity in employment matters,
3 certification, licensing, revocation of certification or
4 licensure, or registration. Applications for employment must
5 contain specific language that states that the applicant is not
6 obligated to disclose expunged juvenile records of conviction
7 or arrest. Employers may not ask if an applicant has had a
8 juvenile record expunged. Effective January 1, 2005, the
9 Department of Labor shall develop a link on the Department's
10 website to inform employers that employers may not ask if an
11 applicant had a juvenile record expunged and that application
12 for employment must contain specific language that states that
13 the applicant is not obligated to disclose expunged juvenile
14 records of arrest or conviction.

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

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

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."