

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

27 (2) Any person may petition the court to expunge all law
28 enforcement records relating to any incidents occurring before
29 his or her 17th birthday which did not result in proceedings in
30 criminal court and all juvenile court records with respect to
31 any adjudications except those based upon first degree murder
32 and sex offenses which would be felonies if committed by an

1 adult, if the person for whom expungement is sought has had no
2 convictions for any crime since his or her 17th birthday and:

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

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

9 (2.5) If a minor is arrested and no petition for
10 delinquency is filed with the clerk of the circuit court as
11 provided in paragraph (a) of subsection (1) at the time the
12 minor is released from custody, the youth officer, if
13 applicable, or other designated person from the arresting
14 agency, shall notify verbally and in writing to the minor or
15 the minor's parents or guardians that if the State's Attorney
16 does not file a petition for delinquency, the minor has a right
17 to petition to have his or her arrest record expunged when the
18 minor attains the age of 17 or when all juvenile court
19 proceedings relating to that minor have been terminated and
20 that unless a petition to expunge is filed, the minor shall
21 have an arrest record and shall provide the minor and the
22 minor's parents or guardians with an expungement information
23 packet, including a petition to expunge juvenile records
24 obtained from the clerk of the circuit court.

25 (2.6) If a minor is charged with an offense and is found
26 not delinquent of that offense; or if a minor is placed under
27 supervision under Section 5-615, and the order of supervision
28 is successfully terminated; or if a minor is adjudicated for an
29 offense that would be a Class B misdemeanor, a Class C
30 misdemeanor, or a business or petty offense if committed by an
31 adult; or if a minor has incidents occurring before his or her
32 17th birthday that have not resulted in proceedings in criminal
33 court, or resulted in proceedings in juvenile court, and the
34 adjudications were not based upon first degree murder or sex
35 offenses that would be felonies if committed by an adult; then
36 at the time of sentencing or dismissal of the case, the judge

1 shall inform the delinquent minor of his or her right to
 2 petition for expungement as provided by law, and the clerk of
 3 the circuit court shall provide an expungement information
 4 packet to the delinquent minor, written in plain language,
 5 including a petition for expungement, a sample of a completed
 6 petition, expungement instructions that shall include
 7 information informing the minor that (i) once the case is
 8 expunged, it shall be treated as if it never occurred, (ii) he
 9 or she may apply to have petition fees waived, (iii) once he or
 10 she obtains an expungement, he or she may not be required to
 11 disclose that he or she had a juvenile record, and (iv) he or
 12 she may file the petition on his or her own or with the
 13 assistance of an attorney. The failure of the judge to inform
 14 the delinquent minor of his or her right to petition for
 15 expungement as provided by law does not create a substantive
 16 right, nor is that failure grounds for: (i) a reversal of an
 17 adjudication of delinquency, (ii) a new trial; or (iii) an
 18 appeal.

19 (2.7) For counties with a population over 3,000,000, the
 20 clerk of the circuit court shall send a "Notification of a
 21 Possible Right to Expungement" post card to the minor at the
 22 address last received by the clerk of the circuit court on the
 23 date that the minor attains the age of 17 based on the
 24 birthdate provided to the court by the minor or his or her
 25 guardian in cases under paragraphs (b), (c), and (d) of
 26 subsection (1); and when the minor attains the age of 21 based
 27 on the birthdate provided to the court by the minor or his or
 28 her guardian in cases under subsection (2).

29 (2.8) The petition for expungement for subsection (1) shall
 30 be substantially in the following form:

31 IN THE CIRCUIT COURT OF, ILLINOIS

32JUDICIAL CIRCUIT

33 IN THE INTEREST OF)

34 NO.

35

1)

2

3)

4)

5 (Name of Petitioner)

6 PETITION TO EXPUNGE JUVENILE RECORDS

7 (705 ILCS 405/5-915 (SUBSECTION 1))

8 (Please prepare a separate petition for each offense)

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

17 (Check One:)

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

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

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

24 () d. on placed under supervision pursuant to Section
25 5-615 of the Juvenile Court Act of 1987 and such order of
26 supervision successfully terminated on

27 () e. was adjudicated for the offense, which would have been a
28 Class B misdemeanor, a Class C misdemeanor, or a petty offense
29 or business offense if committed by an adult.

30 Petitioner has has not been arrested on charges in
31 this or any county other than the charges listed above. If
32 petitioner has been arrested on additional charges, please list
33 the charges below:

34 Charge(s):

35 Arresting Agency or Agencies:

36 Disposition/Result: (choose from a. through e., 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 The Petition for Expungement for subsection (2) shall be
21 substantially in the following form:

22 IN THE CIRCUIT COURT OF, ILLINOIS

23 JUDICIAL CIRCUIT

24 IN THE INTEREST OF)

25 NO.

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27)

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29)

1)

2 (Name of Petitioner)

3 PETITION TO EXPUNGE JUVENILE RECORDS

4 (705 ILCS 405/5-915 (SUBSECTION 2))

5 (Please prepare a separate petition for each offense)

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

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

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

21 Petitioner was arrested on by the Police
22 Department for the offense of, and:

23 (Check whichever one occurred the latest:)

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

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

35 Charge(s):

36 Arresting Agency or Agencies:

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

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

7
8 Petitioner (Signature)

9
10 Petitioner's Street Address

11
12 City, State, Zip Code

13
14 Petitioner's Telephone Number

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

19
20 Petitioner (Signature)

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

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

21 (3.1) The Notice of Expungement shall be in substantially
 22 the following form:

23 IN THE CIRCUIT COURT OF, ILLINOIS

24 JUDICIAL CIRCUIT

25 IN THE INTEREST OF)

26 NO.

27
 28)

29
 30)

31)

32 (Name of Petitioner)

33 NOTICE

34 TO: State's Attorney

35 TO: Arresting Agency

36

1

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6 TO: Illinois State Police

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11 ATTENTION: Expungement

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

17

18 Petitioner's Signature

19

20 Petitioner's Street Address

21

22 City, State, Zip Code

23

24 Petitioner's Telephone Number

25 PROOF OF SERVICE

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

29 (Check One:)

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

32 or

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

1

2

3 Signature

4 Clerk of the Circuit Court or Deputy Clerk

5 Printed Name of Delinquent Minor/Petitioner:

6 Address:

7 Telephone Number:

8 (3.2) The Order of Expungement shall be in substantially
9 the following form:

10 IN THE CIRCUIT COURT OF, ILLINOIS

11 JUDICIAL CIRCUIT

12 IN THE INTEREST OF)

13 NO.

14

15)

16

17)

18)

19 (Name of Petitioner)

20 DOB

21 Arresting Agency/Agencies

22 ORDER OF EXPUNGEMENT

23 (705 ILCS 405/5-915 (SUBSECTION 3))

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

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

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

34 Law Enforcement Agencies:

35

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1

2

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

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; or

10 () Arresting Agency or Agencies.

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

14 DATED:

15 Name:

16 Attorney For:

17 Address:

18 City/State/Zip:

19 Telephone:

20 Attorney No.:

21 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

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

27 A copy of this completed Notice of Objection containing the
28 court date, time, and location, has been sent via regular U.S.
29 Mail to the following entities. (If more than one Notice of
30 Objection is received on the same case, each one must be
31 completed with the court date, time and location and mailed to
32 the following entities):

33 () Attorney, Public Defender or Minor;

34 () State's Attorney's Office;

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

1 () Department of Illinois State Police; and

2 () Arresting agency or agencies.

3 Date:

4 Initials of Clerk completing this section:

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

10 (5) Records which have not been expunged are sealed, and
11 may be obtained only under the provisions of Sections 5-901,
12 5-905 and 5-915.

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

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

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

27 (i) An explanation of the State's juvenile expungement
28 process;

29 (ii) The circumstances under which juvenile
30 expungement may occur;

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

32 (iv) The steps necessary to initiate and complete the
33 juvenile expungement process; and

34 (v) Directions on how to contact the State Appellate
35 Defender.

36 (c) The State Appellate Defender shall establish and

1 maintain a statewide toll-free telephone number that a person
2 may use to receive information or assistance concerning the
3 expungement of juvenile records. The State Appellate Defender
4 shall advertise the toll-free telephone number statewide. The
5 State Appellate Defender shall develop an expungement
6 information packet that may be sent to eligible persons seeking
7 expungement of their juvenile records, which may include, but
8 is not limited to, a pre-printed expungement petition with
9 instructions on how to complete the petition and a pamphlet
10 containing information that would assist individuals through
11 the juvenile expungement process.

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

15 (e) This Section shall be implemented from funds
16 appropriated by the General Assembly to the State Appellate
17 Defender for this purpose. The State Appellate Defender shall
18 employ the necessary staff and adopt the necessary rules for
19 implementation of this Section.

20 (8) (a) Except with respect to law enforcement agencies, the
21 Department of Corrections, State's Attorneys, or other
22 prosecutors, an expunged juvenile record may not be considered
23 by any private or public entity in employment matters,
24 certification, licensing, revocation of certification or
25 licensure, or registration. Applications for employment must
26 contain specific language that states that the applicant is not
27 obligated to disclose expunged juvenile records of conviction
28 or arrest. Employers may not ask if an applicant has had a
29 juvenile record expunged. Effective January 1, 2005, the
30 Department of Labor shall develop a link on the Department's
31 website to inform employers that employers may not ask if an
32 applicant had a juvenile record expunged and that application
33 for employment must contain specific language that states that
34 the applicant is not obligated to disclose expunged juvenile
35 records of arrest or conviction.

36 (b) A person whose juvenile records have been expunged is

1 not entitled to remission of any fines, costs, or other money
2 paid as a consequence of expungement. This amendatory Act of
3 the 93rd General Assembly does not affect the right of the
4 victim of a crime to prosecute or defend a civil action for
5 damages.

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

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