



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1639

Introduced 2/22/2007, by Rep. Constance A. Howard

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-915

Amends the Juvenile Court Act of 1987. Lessens from 90 days to 45 days after notification of the petition to expunge juvenile records the period of time in which the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, or the arresting agency or agencies may file an objection to the petition.

LRB095 09748 RLC 29956 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 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

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

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

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

13 (b) 5 years have elapsed since all juvenile court
14 proceedings relating to him or her have been terminated or
15 his or her commitment to the Department of Juvenile Justice
16 pursuant to this Act has been terminated;

17 whichever is later of (a) or (b).

18 (2.5) If a minor is arrested and no petition for
19 delinquency is filed with the clerk of the circuit court as
20 provided in paragraph (a) of subsection (1) at the time the
21 minor is released from custody, the youth officer, if
22 applicable, or other designated person from the arresting
23 agency, shall notify verbally and in writing to the minor or
24 the minor's parents or guardians that if the State's Attorney
25 does not file a petition for delinquency, the minor has a right
26 to petition to have his or her arrest record expunged when the

1 minor attains the age of 17 or when all juvenile court
2 proceedings relating to that minor have been terminated and
3 that unless a petition to expunge is filed, the minor shall
4 have an arrest record and shall provide the minor and the
5 minor's parents or guardians with an expungement information
6 packet, including a petition to expunge juvenile records
7 obtained from the clerk of the circuit court.

8 (2.6) If a minor is charged with an offense and is found
9 not delinquent of that offense; or if a minor is placed under
10 supervision under Section 5-615, and the order of supervision
11 is successfully terminated; or if a minor is adjudicated for an
12 offense that would be a Class B misdemeanor, a Class C
13 misdemeanor, or a business or petty offense if committed by an
14 adult; or if a minor has incidents occurring before his or her
15 17th birthday that have not resulted in proceedings in criminal
16 court, or resulted in proceedings in juvenile court, and the
17 adjudications were not based upon first degree murder or sex
18 offenses that would be felonies if committed by an adult; then
19 at the time of sentencing or dismissal of the case, the judge
20 shall inform the delinquent minor of his or her right to
21 petition for expungement as provided by law, and the clerk of
22 the circuit court shall provide an expungement information
23 packet to the delinquent minor, written in plain language,
24 including a petition for expungement, a sample of a completed
25 petition, expungement instructions that shall include
26 information informing the minor that (i) once the case is

1 expunged, it shall be treated as if it never occurred, (ii) he
2 or she may apply to have petition fees waived, (iii) once he or
3 she obtains an expungement, he or she may not be required to
4 disclose that he or she had a juvenile record, and (iv) he or
5 she may file the petition on his or her own or with the
6 assistance of an attorney. The failure of the judge to inform
7 the delinquent minor of his or her right to petition for
8 expungement as provided by law does not create a substantive
9 right, nor is that failure grounds for: (i) a reversal of an
10 adjudication of delinquency, (ii) a new trial; or (iii) an
11 appeal.

12 (2.7) For counties with a population over 3,000,000, the
13 clerk of the circuit court shall send a "Notification of a
14 Possible Right to Expungement" post card to the minor at the
15 address last received by the clerk of the circuit court on the
16 date that the minor attains the age of 17 based on the
17 birthdate provided to the court by the minor or his or her
18 guardian in cases under paragraphs (b), (c), and (d) of
19 subsection (1); and when the minor attains the age of 21 based
20 on the birthdate provided to the court by the minor or his or
21 her guardian in cases under subsection (2).

22 (2.8) The petition for expungement for subsection (1) shall
23 be substantially in the following form:

24 IN THE CIRCUIT COURT OF, ILLINOIS
25 JUDICIAL CIRCUIT

1 IN THE INTEREST OF) NO.
 2)
 3)
 4)
 5 (Name of Petitioner)

PETITION TO EXPUNGE JUVENILE RECORDS

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

(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:

(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

1 supervision successfully terminated on

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

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

9 Charge(s):

10 Arresting Agency or Agencies:

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

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

17

18 Petitioner (Signature)

19

20 Petitioner's Street Address

21

22 City, State, Zip Code

1
2

2 Petitioner's Telephone Number

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

7
8

8 Petitioner (Signature)

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

11 IN THE CIRCUIT COURT OF, ILLINOIS

12 JUDICIAL CIRCUIT

13 IN THE INTEREST OF) NO.

14)

15)

16)

17 (Name of Petitioner)

18 PETITION TO EXPUNGE JUVENILE RECORDS

19 (705 ILCS 405/5-915 (SUBSECTION 2))

20 (Please prepare a separate petition for each offense)

21 Now comes, petitioner, and respectfully requests

1 that this Honorable Court enter an order expunging all Juvenile
2 Law Enforcement and Court records of petitioner and in support
3 thereof states that:

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

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

15 Petitioner was arrested on by the Police
16 Department for the offense of, and:

17 (Check whichever one occurred the latest:)

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

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

1 listed above. If petitioner has been arrested on additional
2 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 related to this incident, and (2) to
9 order the Clerk of the Court to expunge all records concerning
10 the 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.

1
2

3 Petitioner (Signature)

4 (3) The chief judge of the circuit in which an arrest was
5 made or a charge was brought or any judge of that circuit
6 designated by the chief judge may, upon verified petition of a
7 person who is the subject of an arrest or a juvenile court
8 proceeding under subsection (1) or (2) of this Section, order
9 the law enforcement records or official court file, or both, to
10 be expunged from the official records of the arresting
11 authority, the clerk of the circuit court and the Department of
12 State Police. The person whose records are to be expunged shall
13 petition the court using the appropriate form containing his or
14 her current address and shall promptly notify the clerk of the
15 circuit court of any change of address. Notice of the petition
16 shall be served upon the State's Attorney or prosecutor charged
17 with the duty of prosecuting the offense, the Department of
18 State Police, and the arresting agency or agencies by the clerk
19 of the circuit court. If an objection is filed within 45 ~~90~~
20 days of the notice of the petition, the clerk of the circuit
21 court shall set a date for hearing after the 45 ~~90~~ day
22 objection period. At the hearing the court shall hear evidence
23 on whether the expungement should or should not be granted.
24 Unless the State's Attorney or prosecutor, the Department of
25 State Police, or an arresting agency objects to the expungement
26 within 45 ~~90~~ days of the notice, the court may enter an order
granting expungement. The person whose records are to be

1 expunged shall pay the clerk of the circuit court a fee
 2 equivalent to the cost associated with expungement of records
 3 by the clerk and the Department of State Police. The clerk
 4 shall forward a certified copy of the order to the Department
 5 of State Police, the appropriate portion of the fee to the
 6 Department of State Police for processing, and deliver a
 7 certified copy of the order to the arresting agency.

8 (3.1) The Notice 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) NO.
 13)
 14)
 15)
 16 (Name of Petitioner)

17 NOTICE

18 TO: State's Attorney

19 TO: Arresting Agency

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TO: Illinois State Police

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ATTENTION: Expungement

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

13

Petitioner's Signature

14
15

Petitioner's Street Address

16
17

City, State, Zip Code

18
19

Petitioner's Telephone Number

20
21 PROOF OF SERVICE

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

25 (Check One:)

26 delivering copies personally to each entity to whom they are

1 directed;
 2 or
 3 by mailing copies to each entity to whom they are directed by
 4 depositing the same in the U.S. Mail, proper postage fully
 5 prepaid, before the hour of 5:00 p.m., at the United States
 6 Postal Depository located at
 7
 8

9 Signature

10 Clerk of the Circuit Court or Deputy Clerk

11 Printed Name of Delinquent Minor/Petitioner:

12 Address:

13 Telephone Number:

14 (3.2) The Order of Expungement shall be in substantially
 15 the following form:

16 IN THE CIRCUIT COURT OF, ILLINOIS

17 JUDICIAL CIRCUIT

18 IN THE INTEREST OF) NO.

19)

20)

21)

22 (Name of Petitioner)

23 DOB

24 Arresting Agency/Agencies

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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 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

1 following form:

2 IN THE CIRCUIT COURT OF, ILLINOIS
3 JUDICIAL CIRCUIT

4 IN THE INTEREST OF) NO.
5)
6)
7)
8 (Name of Petitioner)

9 NOTICE OF OBJECTION

10 TO: (Attorney, Public Defender, Minor)
11

12

13 TO: (Illinois State Police)

14

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16 TO: (Clerk of the Court)

17

18

19 TO: (Judge)

20

21

22 TO: (Arresting Agency/Agencies)

23

24

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

4 () State's Attorney's Office;

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

7 () Department of Illinois State Police; or

8 () Arresting Agency or Agencies.

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

12 DATED:

13 Name:

14 Attorney For:

15 Address:

16 City/State/Zip:

17 Telephone:

18 Attorney No.:

19 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

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

23 (Only one hearing shall be set, regardless of the number of
24 Notices of Objection received on the same case).

25 A copy of this completed Notice of Objection containing the
26 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.

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

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

9 (i) An explanation of the State's juvenile expungement
10 process;

11 (ii) The circumstances under which juvenile
12 expungement may occur;

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

14 (iv) The steps necessary to initiate and complete the
15 juvenile expungement process; and

16 (v) Directions on how to contact the State Appellate
17 Defender.

18 (c) The State Appellate Defender shall establish and
19 maintain a statewide toll-free telephone number that a person
20 may use to receive information or assistance concerning the
21 expungement of juvenile records. The State Appellate Defender
22 shall advertise the toll-free telephone number statewide. The
23 State Appellate Defender shall develop an expungement
24 information packet that may be sent to eligible persons seeking
25 expungement of their juvenile records, which may include, but
26 is not limited to, a pre-printed expungement petition with

1 instructions on how to complete the petition and a pamphlet
2 containing information that would assist individuals through
3 the juvenile expungement process.

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

7 (e) This Section shall be implemented from funds
8 appropriated by the General Assembly to the State Appellate
9 Defender for this purpose. The State Appellate Defender shall
10 employ the necessary staff and adopt the necessary rules for
11 implementation of this Section.

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

1 records of arrest or conviction.

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

8 (Source: P.A. 93-912, eff. 8-12-04; 94-696, eff. 6-1-06.)