



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0542

Introduced 2/8/2007, by Sen. William Delgado

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-915

Amends the Juvenile Court Act of 1987. Provides that the court, on its own motion or upon the petition of a law enforcement official, shall immediately and automatically enter an order expunging any and all law enforcement records relating to an incident occurring before an individual's 17th birthday, and all of the individual's juvenile court records, or both, pertaining to the incident, including immediate notification to any and all contracted private electronic database corporations, but only in the following circumstances: (1) the minor was arrested and no petition for delinquency was filed with the clerk of the circuit court; or (2) the minor was charged with an offense and was found not delinquent of that offense. Provides that if a minor is charged with an offense and is found not delinquent of that offense the judge shall include an order of expungement in the final dismissal order, including immediate notification to applicable law enforcement or arresting agencies, and any and all contracted private electronic database corporations. Provides that an expungement order form shall be provided to the minor, in open court, for immediate completion and entry of order by the court.

LRB095 09517 RLC 29716 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 (0.1) As used in this Section:

10 "Expungement" means the complete obliteration and
11 destruction of the physical and electronic record and
12 further, the notification of all contracted private
13 electronic database systems corporation for immediate
14 destruction of any electronic record pertaining to the
15 specific record, for the purpose of immediate updating of
16 expunged records.

17 "Contracted private electronic database corporation"
18 means any corporation or entity in possession of court or
19 law enforcement records for the purposes of informing the
20 public during the course of a common background check of
21 any individual.

22 (0.5) The court, on its own motion or upon the petition of
23 a law enforcement official, shall immediately and

1 automatically enter an order expunging any and all law
2 enforcement records relating to an incident occurring before an
3 individual's 17th birthday, and all of the individual's
4 juvenile court records, or both, pertaining to the incident,
5 including immediate notification to any and all contracted
6 private electronic database corporations, but only in the
7 following circumstances:

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

10 or

11 (b) the minor was charged with an offense and was found
12 not delinquent of that offense.

13 The Department of State Police shall promulgate rules
14 establishing procedures to be followed by law enforcement
15 officials to ensure the prompt expungement of records under
16 this Section.

17 (1) Whenever any person has attained the age of 17 or
18 whenever all juvenile court proceedings relating to that person
19 have been terminated, whichever is later, the person may
20 petition the court to expunge law enforcement records relating
21 to incidents occurring before his or her 17th birthday or his
22 or her juvenile court records, or both, but only in the
23 following circumstances:

24 ~~(a) the minor was arrested and no petition for~~
25 ~~delinquency was filed with the clerk of the circuit court;~~

26 ~~or~~

1 ~~(b) the minor was charged with an offense and was found~~
2 ~~not delinquent of that offense; or~~

3 (a) ~~(e)~~ the minor was placed under supervision pursuant
4 to Section 5-615, and the order of supervision has since
5 been successfully terminated; or

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

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

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

18 (b) 2 ~~5~~ years have elapsed since all juvenile court
19 proceedings relating to him or her have been terminated or
20 his or her commitment to the Department of Juvenile Justice
21 pursuant to this Act has been terminated;

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

23 (2.5) If a minor is arrested and no petition for
24 delinquency is filed with the clerk of the circuit court as
25 provided in paragraph (a) of subsection (0.1) ~~(1)~~ at the time
26 the minor is released from custody, the youth officer, if

1 applicable, or other designated person from the arresting
2 agency, shall notify verbally and in writing to the minor or
3 the minor's parents or guardians that if the State's Attorney
4 does not file a petition for delinquency, the minor has a right
5 to ~~petition to~~ have his or her arrest record expunged
6 immediately and automatically ~~when the minor attains the age of~~
7 ~~17 or~~ when all juvenile court proceedings relating to that
8 minor have been terminated ~~and that unless a petition to~~
9 ~~expunge is filed, the minor shall have an arrest record and~~
10 ~~shall provide the minor and the minor's parents or guardians~~
11 ~~with an expungement information packet, including a petition to~~
12 ~~expunge juvenile records obtained from the clerk of the circuit~~
13 ~~court.~~

14 (2.5-5) If a minor is charged with an offense and is found
15 not delinquent of that offense the judge shall include an order
16 of expungement in the final dismissal order, including
17 immediate notification to applicable law enforcement or
18 arresting agencies, and any and all contracted private
19 electronic database corporations. An expungement order form
20 shall be provided to the minor, in open court, for immediate
21 completion and entry of order by the court.

22 (2.6) If a minor is ~~charged with an offense and is found~~
23 ~~not delinquent of that offense; or if a minor is~~ placed under
24 supervision under Section 5-615, and the order of supervision
25 is successfully terminated; or if a minor is adjudicated for an
26 offense that would be a ~~Class B~~ misdemeanor, ~~a Class C~~

1 ~~misdemeanor,~~ or a business or petty offense if committed by an
2 adult; or if a minor has incidents occurring before his or her
3 17th birthday that have not resulted in proceedings in criminal
4 court, or resulted in proceedings in juvenile court, and the
5 adjudications were not based upon first degree murder or sex
6 offenses that would be felonies if committed by an adult; then
7 at the time of sentencing or dismissal of the case, the judge
8 shall inform the delinquent minor of his or her right to
9 petition for expungement as provided by law, and the clerk of
10 the circuit court shall provide an expungement information
11 packet to the delinquent minor, written in plain language,
12 including a petition for expungement, a sample of a completed
13 petition, expungement instructions that shall include
14 information informing the minor that (i) once the case is
15 expunged, it shall be treated as if it never occurred, (ii) he
16 or she may apply to have petition fees waived, (iii) once he or
17 she obtains an expungement, he or she may not be required to
18 disclose that he or she had a juvenile record, and (iv) he or
19 she may file the petition on his or her own or with the
20 assistance of an attorney. The failure of the judge to inform
21 the delinquent minor of his or her right to petition for
22 expungement as provided by law does not create a substantive
23 right, nor is that failure grounds for: (i) a reversal of an
24 adjudication of delinquency, (ii) a new trial; or (iii) an
25 appeal.

26 (2.7) For counties with a population over 3,000,000, the

1 clerk of the circuit court shall send a "Notification of a
 2 Possible Right to Expungement" post card to the minor at the
 3 address last received by the clerk of the circuit court on the
 4 date that the minor attains the age of 17 based on the
 5 birthdate provided to the court by the minor or his or her
 6 guardian in cases under paragraphs (a) or (b), ~~(c), and (d)~~ of
 7 subsection (1); and when the minor attains the age of 21 based
 8 on the birthdate provided to the court by the minor or his or
 9 her guardian in cases under subsection (2). The post card shall
 10 include the URL for the Illinois Juvenile Expungement Website
 11 for informational and court form access purposes.

12 (2.8) The petition for expungement for subsection (1) shall
 13 be substantially in the following form:

14 IN THE CIRCUIT COURT OF, ILLINOIS
 15 JUDICIAL CIRCUIT

16 IN THE INTEREST OF) NO.
 17)
 18)
 19)
 20 (Name of Petitioner)

21 PETITION TO EXPUNGE JUVENILE RECORDS
 22 (705 ILCS 405/5-915 (SUBSECTION 1))

23 (Please prepare a separate petition for each offense)

24 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: Petitioner has attained the age of 17,
 4 his/her birth date being, or all Juvenile Court
 5 proceedings terminated as of, whichever occurred later.
 6 Petitioner was arrested on by the Police
 7 Department for the offense of, and:

8 (Check One:)

9 () a. no petition was filed with the Clerk of the Circuit
 10 Court.

11 () b. was charged with and was found not delinquent of
 12 the offense.

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

15 () d. on placed under supervision pursuant to Section
 16 5-615 of the Juvenile Court Act of 1987 and such order of
 17 supervision successfully terminated on

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

21 Petitioner has has not been arrested on charges in
 22 this or any county other than the charges listed above. If
 23 petitioner has been arrested on additional charges, please list
 24 the charges below:

25 Charge(s):

26 Arresting Agency or Agencies:

1 Disposition/Result: (choose from a. through e., 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 to this incident, and (2) to order the
5 Clerk of the Court to expunge all records concerning the
6 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)

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

3 IN THE CIRCUIT COURT OF, ILLINOIS
4 JUDICIAL CIRCUIT

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

10 PETITION TO EXPUNGE JUVENILE RECORDS
11 (705 ILCS 405/5-915 (SUBSECTION 2))

12 (Please prepare a separate petition for each offense)

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

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

22 The incident for which the Petitioner seeks expungement
23 occurred before the Petitioner's 17th birthday and the

1 adjudication was not based upon first-degree murder or sex
2 offenses which would be felonies if committed by an adult, and
3 the Petitioner has not had any convictions for any crime since
4 his/her 17th birthday.

5 Petitioner was arrested on by the Police
6 Department for the offense of, and:

7 (Check whichever one occurred the latest:)

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

10 () b. 5 years have elapsed since all juvenile court
11 proceedings relating to the Petitioner have been terminated; or
12 the Petitioner's commitment to the Department of Juvenile
13 Justice pursuant to the expungement of juvenile law enforcement
14 and court records provisions of the Juvenile Court Act of 1987
15 has been terminated. Petitioner ...has ...has not been arrested
16 on charges in this or any other county other than the charge
17 listed above. If petitioner has been arrested on additional
18 charges, please list the charges below:

19 Charge(s):

20 Arresting Agency or Agencies:

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

22 WHEREFORE, the petitioner respectfully requests this Honorable
23 Court to (1) order all law enforcement agencies to expunge all
24 records of petitioner related to this incident, and (2) to
25 order the Clerk of the Court to expunge all records concerning
26 the petitioner regarding this incident.

1
.....

2 Petitioner (Signature)

3
.....

4 Petitioner's Street Address

5
.....

6 City, State, Zip Code

7
.....

8 Petitioner's Telephone Number

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

13
.....

14 Petitioner (Signature)

15 (3) The chief judge of the circuit in which an arrest was
16 made or a charge was brought or any judge of that circuit
17 designated by the chief judge may, upon verified petition of a
18 person who is the subject of an arrest or a juvenile court
19 proceeding under subsection (1) or (2) of this Section, order
20 the law enforcement records or official court file, or both, to
21 be expunged from the official records of the arresting
22 authority, the clerk of the circuit court and the Department of

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

24 (3.1) The Notice of Expungement shall be in substantially
25 the following form:

26 IN THE CIRCUIT COURT OF, ILLINOIS

1 a Petition to Expunge Juvenile records in the above-entitled
2 matter, at which time and place you may appear.

3
4 Petitioner's Signature
5
6 Petitioner's Street Address
7
8 City, State, Zip Code
9
10 Petitioner's Telephone Number

11 PROOF OF SERVICE

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

15 (Check One:)
16 delivering copies personally to each entity to whom they are
17 directed;
18 or
19 by mailing copies to each entity to whom they are directed by
20 depositing the same in the U.S. Mail, proper postage fully
21 prepaid, before the hour of 5:00 p.m., at the United States
22 Postal Depository located at

23

24
25 Signature

26 Clerk of the Circuit Court or Deputy Clerk

1 Printed Name of Delinquent Minor/Petitioner:

2 Address:

3 Telephone Number:

4 (3.2) The Order of Expungement shall be in substantially
5 the following form:

6 IN THE CIRCUIT COURT OF, ILLINOIS
7 JUDICIAL CIRCUIT

8 IN THE INTEREST OF) NO.

9)

10)

11)

12 (Name of Petitioner)

13 DOB

14 Arresting Agency/Agencies

15 ORDER OF EXPUNGEMENT

16 (705 ILCS 405/5-915 (SUBSECTION 3))

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

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

23 () 2. The Illinois State Police Bureau of Identification
24 and the following law enforcement agencies expunge all records

1 of petitioner relating to an arrest dated for the
2 offense of

3 Law Enforcement Agencies:
4
5

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

8 ENTER:

9

10 JUDGE

11 DATED:

12 Name:

13 Attorney for:

14 Address: City/State/Zip:

15 Attorney Number:

16 (3.3) The Notice of Objection shall be in substantially the
17 following form:

18 IN THE CIRCUIT COURT OF, ILLINOIS
19 JUDICIAL CIRCUIT

20 IN THE INTEREST OF) NO.

21)

22)

23)

24 (Name of Petitioner)

NOTICE OF OBJECTION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

TO:(Attorney, Public Defender, Minor)

.....

.....

TO:(Illinois State Police)

.....

.....

TO:(Clerk of the Court)

.....

.....

TO:(Judge)

.....

.....

TO:(Arresting Agency/Agencies)

.....

.....

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's 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; or
- () Arresting Agency or Agencies.

The agency checked above respectfully requests that this case be continued and set for hearing on whether the expungement

1 should or should not be granted.

2 DATED:

3 Name:

4 Attorney For:

5 Address:

6 City/State/Zip:

7 Telephone:

8 Attorney No.:

9 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

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

15 A copy of this completed Notice of Objection containing the
16 court date, time, and location, has been sent via regular U.S.
17 Mail to the following entities. (If more than one Notice of
18 Objection is received on the same case, each one must be
19 completed with the court date, time and location and mailed to
20 the following entities):

21 () Attorney, Public Defender or Minor;

22 () State's Attorney's Office;

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

25 () Department of Illinois State Police; and

26 () Arresting agency or agencies.

1 Date:

2 Initials of Clerk completing this section:

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

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

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

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

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

25 (i) An explanation of the State's juvenile expungement
26 process;

1 (ii) The circumstances under which juvenile
2 expungement may occur;

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

4 (iv) The steps necessary to initiate and complete the
5 juvenile expungement process; and

6 (v) Directions on how to contact the State Appellate
7 Defender.

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

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

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

1 implementation of this Section.

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

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

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