

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 (0.05) For purposes of this Section and Section 5-622:

10 "Expunge" means to physically destroy the records and
11 to obliterate the minor's name from any official index or
12 public record, or both. Nothing in this Act shall require
13 the physical destruction of the internal office records,
14 files, or databases maintained by a State's Attorney's
15 Office or other prosecutor.

16 "Law enforcement record" includes but is not limited to
17 records of arrest, station adjustments, fingerprints,
18 probation adjustments, the issuance of a notice to appear,
19 or any other records maintained by a law enforcement agency
20 relating to a minor suspected of committing an offense.

21 (1) Whenever any person has attained the age of 18 or
22 whenever all juvenile court proceedings relating to that person
23 have been terminated, whichever is later, the person may

1 petition the court to expunge law enforcement records relating
2 to incidents occurring before his or her 18th birthday or his
3 or her juvenile court records, or both, but only in the
4 following circumstances:

5 (a) the minor was arrested and no petition for
6 delinquency was filed with the clerk of the circuit court;
7 or

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

10 (c) the minor was placed under supervision pursuant to
11 Section 5-615, and the order of supervision has since been
12 successfully terminated; or

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

16 (1.5) The Department of State Police shall automatically
17 expunge, on an annual basis, law enforcement records pertaining
18 to a minor who has been arrested if:

19 (a) the minor has been arrested and no petition for
20 delinquency was filed with the clerk of the circuit court;

21 (b) the minor has attained the age of 18 years; and

22 (c) since the date of the minor's most recent arrest,
23 at least 6 months have elapsed without an additional
24 arrest.

25 The Department of State Police shall establish a process
26 for an individual to confirm that all law enforcement records

1 described in this subsection (1.5) have been expunged on an
2 annual basis.

3 (2) Any person may petition the court to expunge all law
4 enforcement records relating to any incidents occurring before
5 his or her 18th birthday which did not result in proceedings in
6 criminal court and all juvenile court records with respect to
7 any adjudications except those based upon first degree murder
8 and sex offenses which would be felonies if committed by an
9 adult, if the person for whom expungement is sought has had no
10 convictions for any crime since his or her 18th birthday and:

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

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

16 whichever is later of (a) or (b). Nothing in this Section 5-915
17 precludes a minor from obtaining expungement under Section
18 5-622.

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

1 to petition to have his or her arrest record expunged when the
2 minor attains the age of 18 or when all juvenile court
3 proceedings relating to that minor have been terminated and
4 that unless a petition to expunge is filed, the minor shall
5 have an arrest record and shall provide the minor and the
6 minor's parents or guardians with an expungement information
7 packet, including a petition to expunge juvenile records
8 obtained from the clerk of the circuit court.

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

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

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

23 (2.8) The petition for expungement for subsection (1) may
24 include multiple offenses on the same petition and shall be
25 substantially in the following form:

26 IN THE CIRCUIT COURT OF, ILLINOIS

1 delinquency on

2 () d. on placed under supervision pursuant to Section
3 5-615 of the Juvenile Court Act of 1987 and such order of
4 supervision successfully terminated on

5 () e. was adjudicated for the offense or offenses, which would
6 have been a Class B misdemeanor, a Class C misdemeanor, or a
7 petty offense or business offense if committed by an adult.

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

12 Charge(s):

13 Arresting Agency or Agencies:

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

15 WHEREFORE, the petitioner respectfully requests this Honorable
16 Court to (1) order all law enforcement agencies to expunge all
17 records of petitioner to this incident or incidents, and (2) to
18 order the Clerk of the Court to expunge all records concerning
19 the petitioner regarding this incident or incidents.

20

21 Petitioner (Signature)

22

23 Petitioner's Street Address

1
2

City, State, Zip Code

3
4

Petitioner's Telephone Number

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

9
10

Petitioner (Signature)

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

13 IN THE CIRCUIT COURT OF, ILLINOIS

14 JUDICIAL CIRCUIT

15 IN THE INTEREST OF) NO.

16)

17)

18)

19 (Name of Petitioner)

20 PETITION TO EXPUNGE JUVENILE RECORDS

1 (705 ILCS 405/5-915 (SUBSECTION 2))

2 (Please prepare a separate petition for each offense)

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

7 The incident for which the Petitioner seeks expungement
8 occurred before the Petitioner's 18th birthday and did not
9 result in proceedings in criminal court and the Petitioner has
10 not had any convictions for any crime since his/her 18th
11 birthday; and

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

18 Petitioner was arrested on by the Police
19 Department for the offense of, and:

20 (Check whichever one occurred the latest:)

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

23 () b. 5 years have elapsed since all juvenile court
24 proceedings relating to the Petitioner have been terminated; or
25 the Petitioner's commitment to the Department of Juvenile
26 Justice pursuant to the expungement of juvenile law enforcement

1 and court records provisions of the Juvenile Court Act of 1987
 2 has been terminated. Petitioner ...has ...has not been arrested
 3 on charges in this or any other county other than the charge
 4 listed above. If petitioner has been arrested on additional
 5 charges, please list the charges below:

6 Charge(s):

7 Arresting Agency or Agencies:

8 Disposition/Result: (choose from a or b, 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 related to this incident, and (2) to
 12 order the Clerk of the Court to expunge all records concerning
 13 the petitioner regarding this incident.

14

15 Petitioner (Signature)

16

17 Petitioner's Street Address

18

19 City, State, Zip Code

20

21 Petitioner's Telephone Number

22 Pursuant to the penalties of perjury under the Code of Civil

1 Procedure, 735 ILCS 5/1-109, I hereby certify that the
 2 statements in this petition are true and correct, or on
 3 information and belief I believe the same to be true.

4
 5 Petitioner (Signature)

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

1 arresting agency objects to the expungement within 45 days of
 2 the notice, the court may enter an order granting expungement.
 3 The person whose records are to be expunged shall pay the clerk
 4 of the circuit court a fee equivalent to the cost associated
 5 with expungement of records by the clerk and the Department of
 6 State Police. The clerk shall forward a certified copy of the
 7 order to the Department of State Police, the appropriate
 8 portion of the fee to the Department of State Police for
 9 processing, and deliver a certified copy of the order to the
 10 arresting agency.

11 (3.1) The Notice of Expungement shall be in substantially
 12 the following form:

13 IN THE CIRCUIT COURT OF, ILLINOIS
 14 JUDICIAL CIRCUIT

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

20 NOTICE

21 TO: State's Attorney

22 TO: Arresting Agency

23

24

1
2

3
4

5 TO: Illinois State Police

6
7

8
9

10 ATTENTION: Expungement

11 You are hereby notified that on, at, in courtroom

12 ..., located at ..., before the Honorable ..., Judge, or any

13 judge sitting in his/her stead, I shall then and there present

14 a Petition to Expunge Juvenile records in the above-entitled

15 matter, at which time and place you may appear.

16
17

18 Petitioner's Signature

19
20

21 Petitioner's Street Address

22
23

24 City, State, Zip Code

25
26

Petitioner's Telephone Number

PROOF OF SERVICE

On the day of, 20..., I on oath state that I

served this notice and true and correct copies of the

1 above-checked documents by:

2 (Check One:)

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

5 or

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

10

11

12 Signature

13 Clerk of the Circuit Court or Deputy Clerk

14 Printed Name of Delinquent Minor/Petitioner:

15 Address:

16 Telephone Number:

17 (3.2) The Order of Expungement shall be in substantially
18 the following form:

19 IN THE CIRCUIT COURT OF, ILLINOIS

20 JUDICIAL CIRCUIT

21 IN THE INTEREST OF) NO.

22)

23)

24)

25 (Name of Petitioner)

1 DOB

2 Arresting Agency/Agencies

3 ORDER OF EXPUNGEMENT

4 (705 ILCS 405/5-915 (SUBSECTION 3))

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

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

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

15 Law Enforcement Agencies:

16

17

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

20 ENTER:

21
22 JUDGE

23 DATED:

24 Name:

25 Attorney for:

1 Address: City/State/Zip:

2 Attorney Number:

3 (3.3) The Notice of Objection shall be in substantially the
4 following form:

5 IN THE CIRCUIT COURT OF, ILLINOIS
6 JUDICIAL CIRCUIT

7 IN THE INTEREST OF) NO.
8)
9)
10)
11 (Name of Petitioner)

12 NOTICE OF OBJECTION

13 TO:(Attorney, Public Defender, Minor)

14

15

16 TO:(Illinois State Police)

17

18

19 TO:(Clerk of the Court)

20

21

22 TO:(Judge)

23

24

1 TO: (Arresting Agency/Agencies)
 2
 3

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

- 7 () State's Attorney's Office;
- 8 () Prosecutor (other than State's Attorney's Office) charged
- 9 with the duty of prosecuting the offense sought to be expunged;
- 10 () Department of Illinois State Police; or
- 11 () Arresting Agency or Agencies.

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

15 DATED:

16 Name:

17 Attorney For:

18 Address:

19 City/State/Zip:

20 Telephone:

21 Attorney No.:

22 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

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

26 (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

1 the information is kept in a manner that does not enable
2 identification of the offender. This information may only be
3 used for statistical and bona fide research purposes.

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

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

12 (i) An explanation of the State's juvenile expungement
13 process;

14 (ii) The circumstances under which juvenile
15 expungement may occur;

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

17 (iv) The steps necessary to initiate and complete the
18 juvenile expungement process; and

19 (v) Directions on how to contact the State Appellate
20 Defender.

21 (c) The State Appellate Defender shall establish and
22 maintain a statewide toll-free telephone number that a person
23 may use to receive information or assistance concerning the
24 expungement of juvenile records. The State Appellate Defender
25 shall advertise the toll-free telephone number statewide. The
26 State Appellate Defender shall develop an expungement

1 information packet that may be sent to eligible persons seeking
2 expungement of their juvenile records, which may include, but
3 is not limited to, a pre-printed expungement petition with
4 instructions on how to complete the petition and a pamphlet
5 containing information that would assist individuals through
6 the juvenile expungement process.

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

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

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

1 applicant had a juvenile record expunged and that application
2 for employment must contain specific language that states that
3 the applicant is not obligated to disclose expunged juvenile
4 records of arrest or conviction.

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

11 (c) The expungement of juvenile records under Section 5-622
12 shall be funded by the additional fine imposed under Section
13 5-9-1.17 of the Unified Code of Corrections and additional
14 appropriations made by the General Assembly for such purpose.

15 (9) The changes made to this Section by Public Act 98-61
16 ~~this amendatory Act of the 98th General Assembly~~ apply to law
17 enforcement records of a minor who has been arrested or taken
18 into custody on or after January 1, 2014 (the effective date of
19 Public Act 98-61) ~~this amendatory Act~~.

20 (Source: P.A. 98-61, eff. 1-1-14; revised 11-22-13.)