



Sen. Kwame Raoul

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09800SB0978sam001

LRB098 05217 RLC 57749 a

1 AMENDMENT TO SENATE BILL 978

2 AMENDMENT NO. _____. Amend Senate Bill 978 by replacing
3 everything after the enacting clause with the following:

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

1 records of arrest, station adjustments, fingerprints,
2 probation adjustments, the issuance of a notice to appear,
3 or any other records maintained by a law enforcement agency
4 relating to a minor suspected of committing an offense.

5 (1) Whenever any person has attained the age of 18 or
6 whenever all juvenile court proceedings relating to that person
7 have been terminated, whichever is later, the person may
8 petition the court to expunge law enforcement records relating
9 to incidents occurring before his or her 18th birthday or his
10 or her juvenile court records, or both, but only in the
11 following circumstances:

12 (a) the minor was arrested and no petition for
13 delinquency was filed with the clerk of the circuit court;
14 or

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

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

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

23 (1.5) The Department of State Police shall automatically
24 expunge, on an annual basis, law enforcement records pertaining
25 to a minor who has been arrested if:

26 (a) the minor has been arrested and no petition for

1 delinquency was filed with the clerk of the circuit court;

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

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

6 The Department of State Police shall establish a process
7 for an individual to confirm that all law enforcement records
8 described in this subsection (1.5) have been expunged on an
9 annual basis.

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

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

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

23 whichever is later of (a) or (b). Nothing in this Section 5-915
24 precludes a minor from obtaining expungement under Section
25 5-622.

26 (2.5) If a minor is arrested and no petition for

1 delinquency is filed with the clerk of the circuit court as
2 provided in paragraph (a) of subsection (1) at the time the
3 minor is released from custody, the youth officer, if
4 applicable, or other designated person from the arresting
5 agency, shall notify verbally and in writing to the minor or
6 the minor's parents or guardians that if the State's Attorney
7 does not file a petition for delinquency, the minor has a right
8 to petition to have his or her arrest record expunged when the
9 minor attains the age of 18 or when all juvenile court
10 proceedings relating to that minor have been terminated and
11 that unless a petition to expunge is filed, the minor shall
12 have an arrest record and shall provide the minor and the
13 minor's parents or guardians with an expungement information
14 packet, including a petition to expunge juvenile records
15 obtained from the clerk of the circuit court.

16 (2.6) If a minor is charged with an offense and is found
17 not delinquent of that offense; or if a minor is placed under
18 supervision under Section 5-615, and the order of supervision
19 is successfully terminated; or if a minor is adjudicated for an
20 offense that would be a Class B misdemeanor, a Class C
21 misdemeanor, or a business or petty offense if committed by an
22 adult; or if a minor has incidents occurring before his or her
23 18th birthday that have not resulted in proceedings in criminal
24 court, or resulted in proceedings in juvenile court, and the
25 adjudications were not based upon first degree murder or sex
26 offenses that would be felonies if committed by an adult; then

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

20 (2.7) For counties with a population over 3,000,000, the
21 clerk of the circuit court shall send a "Notification of a
22 Possible Right to Expungement" post card to the minor at the
23 address last received by the clerk of the circuit court on the
24 date that the minor attains the age of 18 based on the
25 birthdate provided to the court by the minor or his or her
26 guardian in cases under paragraphs (b), (c), and (d) of

1 subsection (1); and when the minor attains the age of 21 based
2 on the birthdate provided to the court by the minor or his or
3 her guardian in cases under subsection (2).

4 (2.8) The petition for expungement for subsection (1) may
5 include multiple offenses on the same petition and shall be
6 substantially in the following form:

7 IN THE CIRCUIT COURT OF, ILLINOIS
8 JUDICIAL CIRCUIT

9 IN THE INTEREST OF) NO.
10)
11)
12)
13 (Name of Petitioner)

14 PETITION TO EXPUNGE JUVENILE RECORDS
15 (705 ILCS 405/5-915 (SUBSECTION 1))

16 ~~(Please prepare a separate petition for each offense)~~

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

1 (Check All That Apply ~~One~~.)

2 () a. no petition or petitions were ~~was~~ filed with the Clerk
3 of the Circuit Court.

4 () b. was charged with and was found not delinquent of
5 the offense or offenses.

6 () c. a petition or petitions were ~~was~~ filed and the petition
7 or petitions were ~~was~~ dismissed without a finding of
8 delinquency on

9 () d. on placed under supervision pursuant to Section
10 5-615 of the Juvenile Court Act of 1987 and such order of
11 supervision successfully terminated on

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

15 Petitioner has has not been arrested on charges in
16 this or any county other than the charges listed above. If
17 petitioner has been arrested on additional charges, please list
18 the charges below:

19 Charge(s):

20 Arresting Agency or Agencies:

21 Disposition/Result: (choose from a. through e., 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 to this incident or incidents, and (2) to
25 order the Clerk of the Court to expunge all records concerning
26 the petitioner regarding this incident or incidents.

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

17 IN THE CIRCUIT COURT OF, ILLINOIS

18 JUDICIAL CIRCUIT

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

6 PETITION TO EXPUNGE JUVENILE RECORDS
 7 (705 ILCS 405/5-915 (SUBSECTION 2))

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:

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

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

24 Petitioner was arrested on by the Police
 25 Department for the offense of, and:

1 (Check whichever one occurred the latest:)

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

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

13 Charge(s):

14 Arresting Agency or Agencies:

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

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

21

22 Petitioner (Signature)

23

24 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 (3) The chief judge of the circuit in which an arrest was
 12 made or a charge was brought or any judge of that circuit
 13 designated by the chief judge may, upon verified petition of a
 14 person who is the subject of an arrest or a juvenile court
 15 proceeding under subsection (1) or (2) of this Section, order
 16 the law enforcement records or official court file, or both, to
 17 be expunged from the official records of the arresting
 18 authority, the clerk of the circuit court and the Department of
 19 State Police. The person whose records are to be expunged shall
 20 petition the court using the appropriate form containing his or
 21 her current address and shall promptly notify the clerk of the
 22 circuit court of any change of address. Notice of the petition
 23 shall be served upon the State's Attorney or prosecutor charged
 24 with the duty of prosecuting the offense, the Department of

1 State Police, and the arresting agency or agencies by the clerk
 2 of the circuit court. If an objection is filed within 45 days
 3 of the notice of the petition, the clerk of the circuit court
 4 shall set a date for hearing after the 45 day objection period.
 5 At the hearing the court shall hear evidence on whether the
 6 expungement should or should not be granted. Unless the State's
 7 Attorney or prosecutor, the Department of State Police, or an
 8 arresting agency objects to the expungement within 45 days of
 9 the notice, the court may enter an order granting expungement.
 10 The person whose records are to be expunged shall pay the clerk
 11 of the circuit court a fee equivalent to the cost associated
 12 with expungement of records by the clerk and the Department of
 13 State Police. The clerk shall forward a certified copy of the
 14 order to the Department of State Police, the appropriate
 15 portion of the fee to the Department of State Police for
 16 processing, and deliver a certified copy of the order to the
 17 arresting agency.

18 (3.1) The Notice of Expungement shall be in substantially
 19 the following form:

20 IN THE CIRCUIT COURT OF, ILLINOIS
 21 JUDICIAL CIRCUIT

22 IN THE INTEREST OF) NO.
 23)
 24)
 25)

1 (Name of Petitioner)

2 NOTICE

3 TO: State's Attorney

4 TO: Arresting Agency

5

6

7

8

9

10

11 TO: Illinois State Police

12

13

14

15

16 ATTENTION: Expungement

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

22

23 Petitioner's Signature

24

25 Petitioner's Street Address

1
 2 City, State, Zip Code
 3
 4 Petitioner's Telephone Number

5 PROOF OF SERVICE

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

9 (Check One:)

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

12 or

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

17

18
19 Signature

20 Clerk of the Circuit Court or Deputy Clerk

21 Printed Name of Delinquent Minor/Petitioner:

22 Address:

23 Telephone Number:

24 (3.2) The Order of Expungement shall be in substantially
 25 the following form:

26 IN THE CIRCUIT COURT OF, ILLINOIS

1 Court expunge all records regarding the above-captioned case.

2 ENTER:

3

4 JUDGE

5 DATED:

6 Name:

7 Attorney for:

8 Address: City/State/Zip:

9 Attorney Number:

10 (3.3) The Notice of Objection shall be in substantially the
11 following form:

12 IN THE CIRCUIT COURT OF, ILLINOIS
13 JUDICIAL CIRCUIT

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

19 NOTICE OF OBJECTION

20 TO: (Attorney, Public Defender, Minor)
21

22

23 TO: (Illinois State Police)

24

1

2 TO: (Clerk of the Court)

3

4

5 TO: (Judge)

6

7

8 TO: (Arresting Agency/Agencies)

9

10

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

14 () State's Attorney's Office;

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

17 () Department of Illinois State Police; or

18 () Arresting Agency or Agencies.

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

22 DATED:

23 Name:

24 Attorney For:

25 Address:

26 City/State/Zip:

1 Telephone:

2 Attorney No.:

3 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

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

9 A copy of this completed Notice of Objection containing the
10 court date, time, and location, has been sent via regular U.S.
11 Mail to the following entities. (If more than one Notice of
12 Objection is received on the same case, each one must be
13 completed with the court date, time and location and mailed to
14 the following entities):

15 () Attorney, Public Defender or Minor;

16 () State's Attorney's Office;

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

19 () Department of Illinois State Police; and

20 () Arresting agency or agencies.

21 Date:

22 Initials of Clerk completing this section:

23 (4) Upon entry of an order expunging records or files, the
24 offense, which the records or files concern shall be treated as
25 if it never occurred. Law enforcement officers and other public
26 offices and agencies shall properly reply on inquiry that no

1 record or file exists with respect to the person.

2 (5) Records which have not been expunged are sealed, and
3 may be obtained only under the provisions of Sections 5-901,
4 5-905 and 5-915.

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

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

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

19 (i) An explanation of the State's juvenile expungement
20 process;

21 (ii) The circumstances under which juvenile
22 expungement may occur;

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

24 (iv) The steps necessary to initiate and complete the
25 juvenile expungement process; and

26 (v) Directions on how to contact the State Appellate

1 Defender.

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

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

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

22 (8) (a) Except with respect to law enforcement agencies, the
23 Department of Corrections, State's Attorneys, or other
24 prosecutors, an expunged juvenile record may not be considered
25 by any private or public entity in employment matters,
26 certification, licensing, revocation of certification or

1 licensure, or registration. Applications for employment must
2 contain specific language that states that the applicant is not
3 obligated to disclose expunged juvenile records of conviction
4 or arrest. Employers may not ask if an applicant has had a
5 juvenile record expunged. Effective January 1, 2005, the
6 Department of Labor shall develop a link on the Department's
7 website to inform employers that employers may not ask if an
8 applicant had a juvenile record expunged and that application
9 for employment must contain specific language that states that
10 the applicant is not obligated to disclose expunged juvenile
11 records of arrest or conviction.

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

18 (c) The expungement of juvenile records under Section 5-622
19 shall be funded by the additional fine imposed under Section
20 5-9-1.17 of the Unified Code of Corrections and additional
21 appropriations made by the General Assembly for such purpose.

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

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