

AN ACT concerning minors.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Juvenile Court Act of 1987 is amended by changing Section 5-915 as follows:

(705 ILCS 405/5-915)

Sec. 5-915. Expungement of juvenile law enforcement and ~~juvenile~~ court records.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IN THE CIRCUIT COURT OF, ILLINOIS

.....JUDICIAL CIRCUIT

IN THE INTEREST OF)

NO.

)

)

.....)

(Name of Petitioner)

PETITION TO EXPUNGE JUVENILE RECORDS

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

(Please prepare a separate petition for each offense)

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

(Check One:)

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

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

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

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

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

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

Charge(s):

Arresting Agency or Agencies:

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

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

.....
Petitioner (Signature)

.....
Petitioner's Street Address

.....
City, State, Zip Code

.....
Petitioner's Telephone Number

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

.....
Petitioner (Signature)

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

IN THE CIRCUIT COURT OF, ILLINOIS

..... JUDICIAL CIRCUIT

IN THE INTEREST OF)

NO.

)

)

.....)

(Name of Petitioner)

PETITION TO EXPUNGE JUVENILE RECORDS

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

(Please prepare a separate petition for each offense)

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

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

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

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

(Check whichever one occurred the latest:)

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

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

Charge(s):

Arresting Agency or Agencies:

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

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

.....
Petitioner (Signature)

.....
Petitioner's Street Address

.....
City, State, Zip Code

.....
Petitioner's Telephone Number

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

.....
Petitioner (Signature)

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

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

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

IN THE CIRCUIT COURT OF, ILLINOIS

..... JUDICIAL CIRCUIT

IN THE INTEREST OF)

NO.

)

)

.....)

(Name of Petitioner)

NOTICE

TO: State's Attorney

TO: Arresting Agency

.....

.....

.....

.....

TO: Illinois State Police

.....

.....

ATTENTION: Expungement

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

.....

Petitioner's Signature

.....

Petitioner's Street Address

.....

City, State, Zip Code

.....

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
above-checked documents by:

(Check One:)

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

or

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

.....

Signature

Clerk of the Circuit Court or Deputy Clerk

Printed Name of Delinquent Minor/Petitioner:

Address:

Telephone Number:

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

IN THE CIRCUIT COURT OF, ILLINOIS

..... JUDICIAL CIRCUIT

IN THE INTEREST OF)

NO.

)

)

.....)

(Name of Petitioner)

DOB

Arresting Agency/Agencies

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 following form:

IN THE CIRCUIT COURT OF, ILLINOIS
..... JUDICIAL CIRCUIT

IN THE INTEREST OF)

NO.

)

)

.....)

(Name of Petitioner)

NOTICE OF OBJECTION

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 should or should not be granted.

DATED:

Name:

Attorney For:

Address:

City/State/Zip:

Telephone:

Attorney No.:

FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

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

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

- () Attorney, Public Defender or Minor;
- () 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; and
() Arresting agency or agencies.

Date:

Initials of Clerk completing this section:

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

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

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

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

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

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

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

(iii) The juvenile offenses that may be expunged;

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

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

(c) The State Appellate Defender shall establish and

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

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

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

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

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

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

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

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