



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB2632

Introduced 2/15/2023, by Rep. Curtis J. Tarver, II

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-915

Amends the Juvenile Court Act of 1987. Provides that the juvenile law enforcement records of a person who before his or her 21st birthday has committed an act which if committed by an adult would constitute a criminal violation under the Cannabis Control Act or a criminal violation of the Drug Paraphernalia Control Act with respect to cannabis are subject to automatic expungement. Provides that the law enforcement agency who initiated the violation shall automatically expunge, on or before January 1 and July 1 of each year, the juvenile law enforcement records of a person eligible under this provision. Provides that the law enforcement agency shall provide by rule the process for access, review, and confirmation of the automatic expungement by the law enforcement agency. Provides that the clerk of the circuit court shall expunge, upon order of the court, or in the absence of a court order on or before January 1 and July 1 of each year, the juvenile court records of a person who before his or her 21st birthday has committed an act which if committed by an adult would constitute a criminal violation under the Cannabis Control Act or a criminal violation of the Drug Paraphernalia Control Act with respect to cannabis in the clerk's possession or control and which contains the final satisfactory disposition which pertain to a person eligible under this provision. Effective immediately.

LRB103 26859 RLC 53223 b

1 AN ACT concerning criminal law.

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 juvenile court records.

9 (0.05) (Blank).

10 (0.1) (a) The Illinois State Police and all law  
11 enforcement agencies within the State shall automatically  
12 expunge, on or before January 1 of each year, except as  
13 described in paragraph (c) of subsection (0.1), all juvenile  
14 law enforcement records relating to events occurring before an  
15 individual's 18th birthday if:

16 (1) one year or more has elapsed since the date of the  
17 arrest or law enforcement interaction documented in the  
18 records;

19 (2) no petition for delinquency or criminal charges  
20 were filed with the clerk of the circuit court relating to  
21 the arrest or law enforcement interaction documented in  
22 the records; and

23 (3) 6 months have elapsed since the date of the arrest

1 without an additional subsequent arrest or filing of a  
2 petition for delinquency or criminal charges whether  
3 related or not to the arrest or law enforcement  
4 interaction documented in the records.

5 (b) If the law enforcement agency is unable to verify  
6 satisfaction of conditions (2) and (3) of this subsection  
7 (0.1), records that satisfy condition (1) of this subsection  
8 (0.1) shall be automatically expunged if the records relate to  
9 an offense that if committed by an adult would not be an  
10 offense classified as a Class 2 felony or higher, an offense  
11 under Article 11 of the Criminal Code of 1961 or Criminal Code  
12 of 2012, or an offense under Section 12-13, 12-14, 12-14.1,  
13 12-15, or 12-16 of the Criminal Code of 1961.

14 (c) If the juvenile law enforcement record was received  
15 through a public submission to a statewide student  
16 confidential reporting system administered by the Illinois  
17 State Police, the record will be maintained for a period of 5  
18 years according to all other provisions in subsection (0.1).

19 (0.15) If a juvenile law enforcement record meets  
20 paragraph (a) of subsection (0.1) of this Section, a juvenile  
21 law enforcement record created:

22 (1) prior to January 1, 2018, but on or after January  
23 1, 2013 shall be automatically expunged prior to January  
24 1, 2020;

25 (2) prior to January 1, 2013, but on or after January  
26 1, 2000, shall be automatically expunged prior to January

1 1, 2023; and

2 (3) prior to January 1, 2000 shall not be subject to  
3 the automatic expungement provisions of this Act.

4 Nothing in this subsection (0.15) shall be construed to  
5 restrict or modify an individual's right to have his or her  
6 juvenile law enforcement records expunged except as otherwise  
7 may be provided in this Act.

8 (0.16) Notwithstanding any other provision of this  
9 Section, commencing 180 days after the effective date of this  
10 amendatory Act of the 103rd General Assembly, the juvenile law  
11 enforcement records of a person who before his or her 21st  
12 birthday has committed an act which if committed by an adult  
13 would constitute a criminal violation under the Cannabis  
14 Control Act or a criminal violation of Section 3.5 of the Drug  
15 Paraphernalia Control Act with respect to cannabis are subject  
16 to automatic expungement. The law enforcement agency who  
17 initiated the violation shall automatically expunge, on or  
18 before January 1 and July 1 of each year, the juvenile law  
19 enforcement records of a person eligible under this subsection  
20 (0.16). The law enforcement agency shall provide by rule the  
21 process for access, review, and confirmation of the automatic  
22 expungement by the law enforcement agency.

23 (0.2) (a) Upon dismissal of a petition alleging  
24 delinquency or upon a finding of not delinquent, the  
25 successful termination of an order of supervision, or the  
26 successful termination of an adjudication for an offense which

1 would be a Class B misdemeanor, Class C misdemeanor, or a petty  
2 or business offense if committed by an adult, the court shall  
3 automatically order the expungement of the juvenile court  
4 records and juvenile law enforcement records. The clerk shall  
5 deliver a certified copy of the expungement order to the  
6 Illinois State Police and the arresting agency. Upon request,  
7 the State's Attorney shall furnish the name of the arresting  
8 agency. The expungement shall be completed within 60 business  
9 days after the receipt of the expungement order.

10 (b) If the chief law enforcement officer of the agency, or  
11 his or her designee, certifies in writing that certain  
12 information is needed for a pending investigation involving  
13 the commission of a felony, that information, and information  
14 identifying the juvenile, may be retained until the statute of  
15 limitations for the felony has run. If the chief law  
16 enforcement officer of the agency, or his or her designee,  
17 certifies in writing that certain information is needed with  
18 respect to an internal investigation of any law enforcement  
19 office, that information and information identifying the  
20 juvenile may be retained within an intelligence file until the  
21 investigation is terminated or the disciplinary action,  
22 including appeals, has been completed, whichever is later.  
23 Retention of a portion of a juvenile's law enforcement record  
24 does not disqualify the remainder of his or her record from  
25 immediate automatic expungement.

26 (0.3) (a) Upon an adjudication of delinquency based on any

1 offense except a disqualified offense, the juvenile court  
2 shall automatically order the expungement of the juvenile  
3 court and law enforcement records 2 years after the juvenile's  
4 case was closed if no delinquency or criminal proceeding is  
5 pending and the person has had no subsequent delinquency  
6 adjudication or criminal conviction. The clerk shall deliver a  
7 certified copy of the expungement order to the Illinois State  
8 Police and the arresting agency. Upon request, the State's  
9 Attorney shall furnish the name of the arresting agency. The  
10 expungement shall be completed within 60 business days after  
11 the receipt of the expungement order. In this subsection  
12 (0.3), "disqualified offense" means any of the following  
13 offenses: Section 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2,  
14 10-1, 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-9, 11-1.20, 11-1.30,  
15 11-1.40, 11-1.50, 11-1.60, 11-6, 11-6.5, 12-2, 12-3.05,  
16 12-3.3, 12-4.4a, 12-5.02, 12-6.2, 12-6.5, 12-7.1, 12-7.5,  
17 12-20.5, 12-32, 12-33, 12-34, 12-34.5, 18-1, 18-2, 18-3, 18-4,  
18 18-6, 19-3, 19-6, 20-1, 20-1.1, 24-1.2, 24-1.2-5, 24-1.5,  
19 24-3A, 24-3B, 24-3.2, 24-3.8, 24-3.9, 29D-14.9, 29D-20, 30-1,  
20 31-1a, 32-4a, or 33A-2 of the Criminal Code of 2012, or  
21 subsection (b) of Section 8-1, paragraph (4) of subsection (a)  
22 of Section 11-14.4, subsection (a-5) of Section 12-3.1,  
23 paragraph (1), (2), or (3) of subsection (a) of Section 12-6,  
24 subsection (a-3) or (a-5) of Section 12-7.3, paragraph (1) or  
25 (2) of subsection (a) of Section 12-7.4, subparagraph (i) of  
26 paragraph (1) of subsection (a) of Section 12-9, subparagraph

1 (H) of paragraph (3) of subsection (a) of Section 24-1.6,  
2 paragraph (1) of subsection (a) of Section 25-1, or subsection  
3 (a-7) of Section 31-1 of the Criminal Code of 2012.

4 (b) If the chief law enforcement officer of the agency, or  
5 his or her designee, certifies in writing that certain  
6 information is needed for a pending investigation involving  
7 the commission of a felony, that information, and information  
8 identifying the juvenile, may be retained in an intelligence  
9 file until the investigation is terminated or for one  
10 additional year, whichever is sooner. Retention of a portion  
11 of a juvenile's juvenile law enforcement record does not  
12 disqualify the remainder of his or her record from immediate  
13 automatic expungement.

14 (0.31) Notwithstanding any other provision of this  
15 Section, commencing 180 after the effective date of this  
16 amendatory Act of the 103rd General Assembly, the clerk of the  
17 circuit court shall expunge, upon order of the court, or in the  
18 absence of a court order on or before January 1 and July 1 of  
19 each year, the juvenile court records of a person who before  
20 his or her 21st birthday has committed an act which if  
21 committed by an adult would constitute a criminal violation  
22 under the Cannabis Control Act or a criminal violation of  
23 Section 3.5 of the Drug Paraphernalia Control Act with respect  
24 to cannabis in the clerk's possession or control and which  
25 contains the final satisfactory disposition which pertain to a  
26 person eligible under this subsection (0.31).

1           (0.4) Automatic expungement for the purposes of this  
2 Section shall not require law enforcement agencies to  
3 obliterate or otherwise destroy juvenile law enforcement  
4 records that would otherwise need to be automatically expunged  
5 under this Act, except after 2 years following the subject  
6 arrest for purposes of use in civil litigation against a  
7 governmental entity or its law enforcement agency or personnel  
8 which created, maintained, or used the records. However, these  
9 juvenile law enforcement records shall be considered expunged  
10 for all other purposes during this period and the offense,  
11 which the records or files concern, shall be treated as if it  
12 never occurred as required under Section 5-923.

13           (0.5) Subsection (0.1) or (0.2) of this Section does not  
14 apply to violations of traffic, boating, fish and game laws,  
15 or county or municipal ordinances.

16           (0.6) Juvenile law enforcement records of a plaintiff who  
17 has filed civil litigation against the governmental entity or  
18 its law enforcement agency or personnel that created,  
19 maintained, or used the records, or juvenile law enforcement  
20 records that contain information related to the allegations  
21 set forth in the civil litigation may not be expunged until  
22 after 2 years have elapsed after the conclusion of the  
23 lawsuit, including any appeal.

24           (0.7) Officer-worn body camera recordings shall not be  
25 automatically expunged except as otherwise authorized by the  
26 Law Enforcement Officer-Worn Body Camera Act.



1           (1) Whenever a person has been arrested, charged, or  
2 adjudicated delinquent for an incident occurring before his or  
3 her 18th birthday that if committed by an adult would be an  
4 offense, and that person's juvenile law enforcement and  
5 juvenile court records are not eligible for automatic  
6 expungement under subsection (0.1), (0.2), or (0.3), the  
7 person may petition the court at any time for expungement of  
8 juvenile law enforcement records and juvenile court records  
9 relating to the incident and, upon termination of all juvenile  
10 court proceedings relating to that incident, the court shall  
11 order the expungement of all records in the possession of the  
12 Illinois State Police, the clerk of the circuit court, and law  
13 enforcement agencies relating to the incident, but only in any  
14 of the following circumstances:

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

17           (a-5) the minor was charged with an offense and the  
18 petition or petitions were dismissed without a finding of  
19 delinquency;

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

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

25           (d) the minor was adjudicated for an offense which  
26 would be a Class B misdemeanor, Class C misdemeanor, or a

1 petty or business offense if committed by an adult.

2 (1.5) The Illinois State Police shall allow a person to  
3 use the Access and Review process, established in the Illinois  
4 State Police, for verifying that his or her juvenile law  
5 enforcement records relating to incidents occurring before his  
6 or her 18th birthday eligible under this Act have been  
7 expunged.

8 (1.6) (Blank).

9 (1.7) (Blank).

10 (1.8) (Blank).

11 (2) Any person whose delinquency adjudications are not  
12 eligible for automatic expungement under subsection (0.3) of  
13 this Section may petition the court to expunge all juvenile  
14 law enforcement records relating to any incidents occurring  
15 before his or her 18th birthday which did not result in  
16 proceedings in criminal court and all juvenile court records  
17 with respect to any adjudications except those based upon  
18 first degree murder or an offense under Article 11 of the  
19 Criminal Code of 2012 if the person is required to register  
20 under the Sex Offender Registration Act at the time he or she  
21 petitions the court for expungement; provided that 2 years  
22 have elapsed since all juvenile court proceedings relating to  
23 him or her have been terminated and his or her commitment to  
24 the Department of Juvenile Justice under this Act has been  
25 terminated.

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

1 delinquency is filed with the clerk of the circuit court at the  
2 time the minor is released from custody, the youth officer, if  
3 applicable, or other designated person from the arresting  
4 agency, shall notify verbally and in writing to the minor or  
5 the minor's parents or guardians that the minor shall have an  
6 arrest record and shall provide the minor and the minor's  
7 parents or guardians with an expungement information packet,  
8 information regarding this State's expungement laws including  
9 a petition to expunge juvenile law enforcement and juvenile  
10 court records obtained from the clerk of the circuit court.

11 (2.6) If a minor is referred to court, then, at the time of  
12 sentencing, dismissal of the case, or successful completion of  
13 supervision, the judge shall inform the delinquent minor of  
14 his or her rights regarding expungement and the clerk of the  
15 circuit court shall provide an expungement information packet  
16 to the minor, written in plain language, including information  
17 regarding this State's expungement laws and a petition for  
18 expungement, a sample of a completed petition, expungement  
19 instructions that shall include information informing the  
20 minor that (i) once the case is expunged, it shall be treated  
21 as if it never occurred, (ii) he or she may apply to have  
22 petition fees waived, (iii) once he or she obtains an  
23 expungement, he or she may not be required to disclose that he  
24 or she had a juvenile law enforcement or juvenile court  
25 record, and (iv) if petitioning he or she may file the petition  
26 on his or her own or with the assistance of an attorney. The

1 failure of the judge to inform the delinquent minor of his or  
2 her right to petition for expungement as provided by law does  
3 not create a substantive right, nor is that failure grounds  
4 for: (i) a reversal of an adjudication of delinquency; (ii) a  
5 new trial; or (iii) an appeal.

6 (2.7) (Blank).

7 (2.8) (Blank).

8 (3) (Blank).

9 (3.1) (Blank).

10 (3.2) (Blank).

11 (3.3) (Blank).

12 (4) (Blank).

13 (5) (Blank).

14 (5.5) Whether or not expunged, records eligible for  
15 automatic expungement under subdivision (0.1) (a), (0.2) (a), or  
16 (0.3) (a) may be treated as expunged by the individual subject  
17 to the records.

18 (6) (Blank).

19 (6.5) The Illinois State Police or any employee of the  
20 Illinois State Police shall be immune from civil or criminal  
21 liability for failure to expunge any records of arrest that  
22 are subject to expungement under this Section because of  
23 inability to verify a record. Nothing in this Section shall  
24 create Illinois State Police liability or responsibility for  
25 the expungement of juvenile law enforcement records it does  
26 not possess.

1 (7) (Blank).

2 (7.5) (Blank).

3 (8) The expungement of juvenile law enforcement or  
4 juvenile court records under subsection (0.1), (0.2), or (0.3)  
5 of this Section shall be funded by appropriation by the  
6 General Assembly for that purpose.

7 (9) (Blank).

8 (10) (Blank).

9 (Source: P.A. 102-538, eff. 8-20-21; 102-558, eff. 8-20-21;  
10 102-752, eff. 1-1-23; revised 8-23-22.)

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