

SB3463



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3463

Introduced 2/8/2024, by Sen. Robert Peters

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-915

Amends the Juvenile Court Act of 1987. Provides that on the date that the juvenile is adjudicated delinquent, the juvenile court judge shall schedule a date to enter the automatic expungement order. Provides that the juvenile must be notified but shall not be required to be present for the scheduled court date when automatic expungement is to be ordered.

LRB103 36291 RLC 66388 b

A BILL FOR

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 juvenile court records.

9 (0.05) (Blank).

10 (0.1) (a) The Illinois State Police and all law enforcement
11 agencies within the State shall automatically expunge, on or
12 before January 1 of each year, except as described in
13 paragraph (c) of this subsection (0.1), all juvenile law
14 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 this subsection
19 (0.1).

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

23 (1) prior to January 1, 2018, but on or after January
24 1, 2013 shall be automatically expunged prior to January
25 1, 2020;

26 (2) prior to January 1, 2013, but on or after January

1 1, 2000, shall be automatically expunged prior to January
2 1, 2023; and

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

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

9 (0.2) (a) Upon dismissal of a petition alleging delinquency
10 or upon a finding of not delinquent, the successful
11 termination of an order of supervision, or the successful
12 termination of an adjudication for an offense which would be a
13 Class B misdemeanor, Class C misdemeanor, or a petty or
14 business offense if committed by an adult, the court shall
15 automatically order the expungement of the juvenile court
16 records and juvenile law enforcement records. The clerk shall
17 deliver a certified copy of the expungement order to the
18 Illinois State Police and the arresting agency. Upon request,
19 the State's Attorney shall furnish the name of the arresting
20 agency. The expungement shall be completed within 60 business
21 days after the receipt of the expungement order.

22 (b) If the chief law enforcement officer of the agency, or
23 the chief law enforcement officer's designee, certifies in
24 writing that certain information is needed for a pending
25 investigation involving the commission of a felony, that
26 information, and information identifying the juvenile, may be

1 retained until the statute of limitations for the felony has
2 run. If the chief law enforcement officer of the agency, or the
3 chief law enforcement officer's designee, certifies in writing
4 that certain information is needed with respect to an internal
5 investigation of any law enforcement office, that information
6 and information identifying the juvenile may be retained
7 within an intelligence file until the investigation is
8 terminated or the disciplinary action, including appeals, has
9 been completed, whichever is later. Retention of a portion of
10 a juvenile's law enforcement record does not disqualify the
11 remainder of a juvenile's record from immediate automatic
12 expungement.

13 (0.3) (a) Upon an adjudication of delinquency based on any
14 offense except a disqualified offense, the juvenile court
15 shall automatically order the expungement of the juvenile
16 court and law enforcement records 2 years after the juvenile's
17 case was closed if no delinquency or criminal proceeding is
18 pending and the person has had no subsequent delinquency
19 adjudication or criminal conviction. On the date that the
20 juvenile is adjudicated delinquent, the juvenile court judge
21 shall schedule a date to enter the automatic expungement
22 order. The juvenile must be notified but shall not be required
23 to be present for the scheduled court date when automatic
24 expungement is to be ordered. The clerk shall deliver a
25 certified copy of the expungement order to the Illinois State
26 Police and the arresting agency. Upon request, the State's

1 Attorney shall furnish the name of the arresting agency. The
2 expungement shall be completed within 60 business days after
3 the receipt of the expungement order. In this subsection
4 (0.3), "disqualified offense" means any of the following
5 offenses: Section 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2,
6 10-1, 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-9, 11-1.20, 11-1.30,
7 11-1.40, 11-1.50, 11-1.60, 11-6, 11-6.5, 12-2, 12-3.05,
8 12-3.3, 12-4.4a, 12-5.02, 12-6.2, 12-6.5, 12-7.1, 12-7.5,
9 12-20.5, 12-32, 12-33, 12-34, 12-34.5, 18-1, 18-2, 18-3, 18-4,
10 18-6, 19-3, 19-6, 20-1, 20-1.1, 24-1.2, 24-1.2-5, 24-1.5,
11 24-3A, 24-3B, 24-3.2, 24-3.8, 24-3.9, 29D-14.9, 29D-20, 30-1,
12 31-1a, 32-4a, or 33A-2 of the Criminal Code of 2012, or
13 subsection (b) of Section 8-1, paragraph (4) of subsection (a)
14 of Section 11-14.4, subsection (a-5) of Section 12-3.1,
15 paragraph (1), (2), or (3) of subsection (a) of Section 12-6,
16 subsection (a-3) or (a-5) of Section 12-7.3, paragraph (1) or
17 (2) of subsection (a) of Section 12-7.4, subparagraph (i) of
18 paragraph (1) of subsection (a) of Section 12-9, subparagraph
19 (H) of paragraph (3) of subsection (a) of Section 24-1.6,
20 paragraph (1) of subsection (a) of Section 25-1, or subsection
21 (a-7) of Section 31-1 of the Criminal Code of 2012.

22 (b) If the chief law enforcement officer of the agency, or
23 the chief law enforcement officer's designee, certifies in
24 writing that certain information is needed for a pending
25 investigation involving the commission of a felony, that
26 information, and information identifying the juvenile, may be

1 retained in an intelligence file until the investigation is
2 terminated or for one additional year, whichever is sooner.
3 Retention of a portion of a juvenile's juvenile law
4 enforcement record does not disqualify the remainder of a
5 juvenile's record from immediate automatic expungement.

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

18 (0.5) Subsection (0.1) or (0.2) of this Section does not
19 apply to violations of traffic, boating, fish and game laws,
20 or county or municipal ordinances.

21 (0.6) Juvenile law enforcement records of a plaintiff who
22 has filed civil litigation against the governmental entity or
23 its law enforcement agency or personnel that created,
24 maintained, or used the records, or juvenile law enforcement
25 records that contain information related to the allegations
26 set forth in the civil litigation may not be expunged until

1 after 2 years have elapsed after the conclusion of the
2 lawsuit, including any appeal.

3 (0.7) Officer-worn body camera recordings shall not be
4 automatically expunged except as otherwise authorized by the
5 Law Enforcement Officer-Worn Body Camera Act.

6 (1) Whenever a person has been arrested, charged, or
7 adjudicated delinquent for an incident occurring before a
8 person's 18th birthday that if committed by an adult would be
9 an offense, and that person's juvenile law enforcement and
10 juvenile court records are not eligible for automatic
11 expungement under subsection (0.1), (0.2), or (0.3), the
12 person may petition the court at any time at no cost to the
13 person for expungement of juvenile law enforcement records and
14 juvenile court records relating to the incident and, upon
15 termination of all juvenile court proceedings relating to that
16 incident, the court shall order the expungement of all records
17 in the possession of the Illinois State Police, the clerk of
18 the circuit court, and law enforcement agencies relating to
19 the incident, but only in any of the following circumstances:

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

22 (a-5) the minor was charged with an offense and the
23 petition or petitions were dismissed without a finding of
24 delinquency;

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

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

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

7 (1.5) At no cost to the person, the Illinois State Police
8 shall allow a person to use the Access and Review process,
9 established in the Illinois State Police, for verifying that
10 the person's juvenile law enforcement records relating to
11 incidents occurring before the person's 18th birthday eligible
12 under this Act have been expunged.

13 (1.6) (Blank).

14 (1.7) (Blank).

15 (1.8) (Blank).

16 (2) Any person whose delinquency adjudications are not
17 eligible for automatic expungement under subsection (0.3) of
18 this Section may petition the court at no cost to the person to
19 expunge all juvenile law enforcement records relating to any
20 incidents occurring before the person's 18th birthday which
21 did not result in proceedings in criminal court and all
22 juvenile court records with respect to any adjudications
23 except those based upon first degree murder or an offense
24 under Article 11 of the Criminal Code of 2012 if the person is
25 required to register under the Sex Offender Registration Act
26 at the time the person petitions the court for expungement;

1 provided that 2 years have elapsed since all juvenile court
2 proceedings relating to the person have been terminated and
3 the person's commitment to the Department of Juvenile Justice
4 under this Act has been terminated.

5 (2.5) If a minor is arrested and no petition for
6 delinquency is filed with the clerk of the circuit court at the
7 time the minor is released from custody, the youth officer, if
8 applicable, or other designated person from the arresting
9 agency, shall notify verbally and in writing to the minor or
10 the minor's parents or guardians that the minor shall have an
11 arrest record and shall provide the minor and the minor's
12 parents or guardians with an expungement information packet,
13 information regarding this State's expungement laws including
14 a petition to expunge juvenile law enforcement and juvenile
15 court records obtained from the clerk of the circuit court.

16 (2.6) If a minor is referred to court, then, at the time of
17 sentencing, dismissal of the case, or successful completion of
18 supervision, the judge shall inform the delinquent minor of
19 the minor's rights regarding expungement and the clerk of the
20 circuit court shall provide an expungement information packet
21 to the minor, written in plain language, including information
22 regarding this State's expungement laws and a petition for
23 expungement, a sample of a completed petition, expungement
24 instructions that shall include information informing the
25 minor that (i) once the case is expunged, it shall be treated
26 as if it never occurred, (ii) the minor shall not be charged a

1 fee to petition for expungement, (iii) once the minor obtains
2 an expungement, the minor may not be required to disclose that
3 the minor had a juvenile law enforcement or juvenile court
4 record, and (iv) if petitioning the minor may file the
5 petition on the minor's own or with the assistance of an
6 attorney. The failure of the judge to inform the delinquent
7 minor of the minor's right to petition for expungement as
8 provided by law does not create a substantive right, nor is
9 that failure grounds for: (i) a reversal of an adjudication of
10 delinquency; (ii) a new trial; or (iii) an appeal.

11 (2.7) (Blank).

12 (2.8) (Blank).

13 (3) (Blank).

14 (3.1) (Blank).

15 (3.2) (Blank).

16 (3.3) (Blank).

17 (4) (Blank).

18 (5) (Blank).

19 (5.5) Whether or not expunged, records eligible for
20 automatic expungement under subdivision (0.1) (a), (0.2) (a), or
21 (0.3) (a) may be treated as expunged by the individual subject
22 to the records.

23 (6) (Blank).

24 (6.5) The Illinois State Police or any employee of the
25 Illinois State Police shall be immune from civil or criminal
26 liability for failure to expunge any records of arrest that

1 are subject to expungement under this Section because of
2 inability to verify a record. Nothing in this Section shall
3 create Illinois State Police liability or responsibility for
4 the expungement of juvenile law enforcement records it does
5 not possess.

6 (7) (Blank).

7 (7.5) (Blank).

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

12 (9) (Blank).

13 (10) (Blank).

14 (Source: P.A. 102-538, eff. 8-20-21; 102-558, eff. 8-20-21;
15 102-752, eff. 1-1-23; 103-22, eff. 8-8-23; 103-154, eff.
16 6-30-23; 103-379, eff. 7-28-23; revised 8-30-23.)