

Public Act 100-285 (changes effective 01/01/2018)

JUVENILE EXPUNGEMENTS

- establishes definition for dissemination or disseminate
- defines records as related to an individual, proceeding or incident
- includes all juvenile records including electronic databases
- ADDS if expunged no evidence of a juvenile court record can be retained by any law enforcement agency, the juvenile court or by any municipal, county or state agency or department or by the Secretary of State
- juvenile records include:
  - all documents filed or maintained by juvenile court
  - all documents maintained by probation officers
  - ADDS to list of law enforcement records all documents or evidence of interaction with law enforcement
- ADDS – Dept. of State Police and all law enforcement agencies shall automatically expunge on or before January 1<sup>st</sup> of each year records relating to events occurring before a person's 18<sup>th</sup> birthday IF:
  - one year has elapsed since arrest or law enforcement contact AND
  - no petition or criminal charge was filed AND
  - six months has elapsed without additional arrests or filing of petition / criminal charge
- ADDS – if law enforcement unable to verify satisfaction of conditions 2 and 3, records that satisfy condition 1 of this section shall be automatically expunged IF records are not Class 2 Felony or higher or fall under Article II of criminal code relating to sex offenses
- the Court shall automatically order the expungement of the following records within 60 business days:
  - dismissal of delinquency petition or finding of not delinquent
  - successful completion of order of supervision (CUS)
  - adjudicated for Class B, Class C or petty / business offense
- the Court shall automatically order the expungement of the following records 2 years after the juvenile case was closed IF:
  - the adjudicated offense qualified AND
  - no delinquency or criminal proceedings are pending AND
  - the individual has not had any further delinquency adjudications or criminal convictions AND
  - the offense does not fall under the list of disqualified offenses
- allows chief law enforcement officer of an agency to certify in writing a request to not expunge records if needed for pending investigation involving a felony offense, these records must be kept in an intelligence file until the investigation is terminated or for one additional year, this does not disqualify other juvenile records of an individual from being expunged
- records not eligible for automatic expungement can still be expunged if qualify by petitioning the Court IF:
  - not for 1<sup>st</sup> degree murder or under the sex offender statutes where person has to register AND
  - 2 years have elapsed since juvenile proceedings were terminated AND
  - commitment to IDJJ has terminated



- if minor arrested and no petition is filed, the arresting agency shall notify verbally and in writing that the minor (parents, guardians) shall have an arrest record and provide minor (parents, guardians) with expungement packet information including information regarding the State's expungement laws
- if minor referred to court and at time of sentencing, dismissal or successful completion of supervision, the Judge will inform the minor of the rights to expungement, provide written instructions with information regarding the State's expungement laws
- multiple offenses can be included on the same petition
- law enforcement and circuit clerk shall send notice of expungement within 60 days of the automatic expungement to the minor
- with the exception of authorized military personnel, juvenile expunged records cannot be considered by any public or private entity for employment purposes, certifications, licensing, revocation of certification or licensing or registration
- employment applications must contain language that expunged juvenile records do not need to be listed nor can employer ask if a person has expunged juvenile records
- a person whose juvenile records are expunged is not entitled to reimbursement of fees, costs or other monies paid

DISQUALIFYING OFFENSES: 1<sup>st</sup> Degree Murder, Solicitation of 1<sup>st</sup> Degree Murder, Homicide of Unborn Child, 2<sup>nd</sup> Degree Murder, Voluntary Manslaughter of Unborn Child, Involuntary Manslaughter or Reckless Harm of Unborn Child, Kidnapping, Aggravated Kidnapping, Unlawful Restraint, Aggravated Unlawful Restraint, Forcible Detention, Child Abduction, Indecent Solicitation, Aggravated Assault, Domestic Battery, Aggravated Domestic Battery, Aggravated Battery, Abuse and Neglect of an Elderly Person or Long Term Care Person, Reckless Conduct, Aggravated Intimidation, Robbery, Aggravated Robbery, Armed Robbery, Vehicle Hijacking, Aggravated Vehicle Hijacking, Vehicle Invasion, Residential Burglary, Home Invasion, Arson, Aggravated Arson, Aggravated Discharge of a Firearm, Reckless Discharge of Firearm, Unlawful Sale and/or Delivery of Firearm, Possession of Stolen Firearm, Aggravated Possession of Stolen Firearm, Terrorism, Treason, Disarming Peace Officer, Armed Violence, Trafficking, Criminal Sexual Assault, Aggravated Criminal Sexual Assault, Predatory Criminal Sexual Assault, Criminal Sexual Abuse, Aggravated Criminal Sexual Abuse, Compelling Gang or Organization Membership, Hate Crime, Cyberstalking, certain laws pertaining to Perjury and juror service, Bribery



### **JUVENILE CATEGORY 1 EXPUNGEMENTS**

- must be 18 years old AND
- arrested, not charged OR
- found not delinquent OR
- placed on supervision (CUS) AND successfully completed term OR
- adjudicated for Class B or C Misdemeanor or petty or business offense AND successfully completed term

### **JUVENILE CATEGORY 2 EXPUNGEMENTS**

- cannot be offense of 1<sup>st</sup> Degree Murder or any sex offense under Article II and offense that requires some form of registration
- cannot have committed a criminal offense as an adult prior to expungement
- must be 21 years old
- 5 years have elapsed since last juvenile case terminated
- 5 years have elapsed since completion of IDJJ commitment

### **JUVENILE 1<sup>ST</sup> TIME OFFENDER EXPUNGEMENT**

- offense was Class A Misdemeanor
- successfully completed term of Probation
- attorney filed motion during court proceedings

### **JUVENILE COURT RECORDS**

- ADDS that ALL juvenile records that have not been expunged are sealed and cannot be disclosed to the general public and can only be accessed by authorized persons or entities (parents, guardian, counsel, law enforcement officers / agencies, judges, prosecutors, hearing officers, probation officers, social workers, persons / entities providing temporary or permanent care of adjudicated individual, prison review boards, authorized military personnel, victims and legal subrogates –only name, address, disposition of juvenile case) unless with valid court order
- ADDS municipal ordinance violations to records that are sealed if person is under 18 when arrested or taken into custody
- willful violation by someone other than the subject of record of this act is a Class C Misdemeanor
- a juvenile adjudication shall
  - NEVER be considered a conviction nor an adjudicated individual be considered a criminal
  - not be used to impose civil consequences
  - not disqualify any individual from civil service appointment, holding public office or receiving license granted by public authority
- a civil subpoena for juvenile records is not an order of the court and not acceptable



## Petitions for Juvenile Expungement Eligibility

Eligible for juvenile expungement when all court proceedings related to that incident are closed

Arrest- no court action

Case dismissed

Found not guilty

Supervision successfully completed

Class B or C Misdemeanor/petty offense

If not eligible for automatic expungement, these rules apply

Eligible for juvenile expungement 2 years from date last sentence is completed

Adjudication for felony or class A

Not eligible for expungement if

- First degree murder

- Sex offense and minor is required to register

## Automatic Expungement Eligibility

All Law enforcement agencies shall automatically expunge records (arrests without court action)

At least once per year before Jan. 1

IF

At least one year has passed and no case was filed related to the arrest

AND

No additional arrest or case filed in previous 6 months

UNLESS

No auto expunge for CL 2 or higher or sex offense only if above cannot be verified

If delinquency case filed, the court shall order expungement of law enforcement and court records within 60 business days of:

Case closed

IF

Case dismissed

OR

Found not guilty

OR

Successfully completes supervision

OR

Class B or C misdemeanor or petty offense

2 years after case closed

IF

Class A or felony

AND

Not a disqualified offense (see list)

AND

No juvenile or criminal case pending

AND

No subsequent adjudications or criminal convictions





# Disqualifying Offenses

## 720 ILCS 5:

8-1(b), Solicitation of murder	12-2, Agg Assault	18-1, Robbery/Agg Robbery
8-1.2, Solicitation of murder for hire	12-3.05, Agg Battery	18-2, Armed Robbery
9-1, First degree Murder	12-3.1(a-5), Agg Battery of an Unborn Child	18-3, 1B-4, Vehicular Hijacking
9-1.2, Intentional Homicide of an Unborn Child	12-3.3, Agg Domestic Battery	18-6 Vehicular Invasion
9-2, Second Degree Murder	12-4.4a, Abuse or Criminal Neglect of Elderly Person	19-3, Residential Burglary
9-2.1, Voluntary Manslaughter of an Unborn Child	12-5.02, Vehicular Endangerment	19-6, Home Invasion
9-3, Involuntary Manslaughter and Reckless Homicide	12-6(a)(2), Intimidation by threat of physical confinement/restraint	20-1, Arson/Residential Arson/Place of Worship
9-3.2, Involuntary Manslaughter/Reckless Homicide Unborn Child	12-6(a)(3) Intimidation	20-1.1, Agg Arson
10-1, Kidnapping	12-6.2, Agg intimidation	24-1.2, Agg Discharge of a Firearm
10-2, Aggravated Kidnapping	12-6.5, Compelling organization membership of persons	24-1.2-5, Agg Discharge of a Machine Gun/Sil
10-3, Unlawful Restraint	12-7.1, Hate Crime	24-1.5, Reckless Discharge of a Firearm
10-4, Forcible Detention	12-7.3(a-3), Stalking	24-1.6(a)(3)(H), Agg Unlawful Use of a Weap
10-5, Child Abduction	12-7.3(a-5), Stalking	24-3A, Gunrunning
10-9, Trafficking in Persons, Involuntary Servitude	12-7.4(a)(1), Agg Stalking - causes bodily harm to victim	24-3B, Firearms Trafficking
11-1.20, Criminal Sexual Assault	12-7.4(a)(2), Agg Stalking - confines or restrains	24-3.2, Unlawful Discharge of Firearm
11-1.30, Agg Criminal Sexual Assault	12-7.5, Cyberstalking	24-3.8, Possession of a Stolen Firearm
11-1.40, Predatory Criminal Sexual Assault of a Child	12-9(a)(1)(X), Threatening Public Officials	24-3.9, Agg Possession of a Stolen Firearm
11-1.50, Criminal Sexual Abuse	12-20.5 (now 29d-15.1), Causing a Catastrophe	25-1(a)(1), Mob Action
11-1.60, Agg Criminal Sexual Abuse	12-20.5 (now 29d-15.2), Possession of a Deadly Substance	29D-14.9, Terrorism
11-6, Indecent Solicitation of a Child	12-32, Ritual Mutilation	29D-20, Making a Terrorist Threat
11-6.5, Indecent Solicitation of an Adult	12-33, Ritualized Abuse of a Child	30-1, Treason
11-14.4(a)(4), Promoting Juvenile Prostitution	12-34, Female Genital Mutilation	31-1(a-7), Resisting a peace officer
	12-34.5, Inducement to Commit Suicide	31-1a, Disarming a peace officer/correctional
		32-4a, Harassment
		33A-2, Armed Violence





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## News- previous articles

### Amended Juvenile Records Law takes effect January 2018

12/21/2017 6:56:00 PM

PA100-0285 (<http://www.ilga.gov/legislation/publicacts/100/100-0285.htm>) takes effect January 1, 2018. It requires

(705 ILCS 405/5-915) (<http://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=070504050K5-915>) Sec. 5-915. Expungement of juvenile law enforcement and court records.

(0.1) (a) The Department of State Police and all law enforcement agencies within the State shall automatically expunge, on or before January 1 of each year, all law enforcement records relating to events occurring before an individual's 18th birthday if: .....[See the law for the parameters]

.....(a-5) Local law enforcement agencies shall send written notice to the minor of the expungement of any records within 60 days of automatic expungement or the date of service of an expungement order, whichever applies. If a minor's court file has been expunged, the clerk of the circuit court shall send written notice to the minor of the expungement of any records within 60 days of automatic expungement or the date of service of an expungement order, whichever applies.

(b) Except with respect to authorized military personnel, 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 within the State must contain specific language that states that the applicant is not obligated to disclose expunged juvenile records of adjudication or arrest. Employers may not ask, in any format or context, if an applicant has had a juvenile record expunged. Information about an expunged record obtained by a potential employer, even inadvertently, from an employment application that does not contain specific language that states that the applicant is not obligated to disclose expunged juvenile records of adjudication or arrest, shall be treated as dissemination of an expunged record by the employer.

(c) 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.

On December 15, 2017 The Cook County Justice Advisory Council issued a memo regarding the implementation of the Juvenile Records Expungement law. In regards to a statement of compliance to the law its states (in part):

"Effective Date

As expungements of the mere arrest category of cases (those arrests which do not lead to filings of petitions for a finding of delinquency) are required to take place by January 1st of each year according to the language of the new statute – and because this January 1st is both the effective date and a holiday -- there is no requirement nor would it be possible for the law enforcement agencies to have expunged these records before the law went into effect. This is our view and the view of advocates for the bill who we have worked with during the development and passage of the bill."

A link to the law <http://www.ilga.gov/legislation/publicacts/100/100-0285.htm>  
(<http://www.ilga.gov/legislation/publicacts/100/100-0285.htm>)

## Module 7: Juvenile New Legislation

### The Youth Opportunity and Fairness Act

This bill recognizes the importance of second chances

- HB 3817 will take effect on Jan. 1, 2018.
- Provides more clearly defined protections for juvenile records
- Juvenile records are to be sealed and never disclosed to the general public regardless if expungement has occurred or not;
- Individuals who willfully violate The Youth Opportunity and Fairness Act by divulging juvenile records will face a fine of \$1,000
- Individuals now no longer need to be 21 years old to be eligible to petition for an expungement
- Adjudications in connection to juvenile records will not disqualify an individual from holding public office, receiving a license through public authority, or disqualify any civil service application or appointment

## Conor's Law: (See Handout)

20 ILCS 2605/2605-54 (New); 50 ILCS 705/10.17-5  
(New); 625 ILCS 5/4-203

Effective January 1, 2018

## Module 8: Juvenile Expungement

**"DHS-CONOR'S LAW"**

**20 ILCS 2605/2605-54 (new), 50 ILCS 705/10.17-5 (new)**

**625 ILCS 5/4-203**

**Effective Date: 01/01/2018**

**Public Act: 100-0537**

**Synopsis:**

Amends the Illinois Police Training Act. Provides that Illinois Law Enforcement Training Standards Board shall create a model policy to train law enforcement officers to respond to a person arrested while under the influence of alcohol or drugs and the eventual release of that person from custody. Provides that the Board shall create a separate model policy for the release of persons arrested under the influence of alcohol or drugs who are under the age of 21 years of age. Provides that this policy shall include, but not be limited to, language requiring the arresting officer to make a reasonable attempt to contact a responsible adult who is willing to take custody of the person who is under the influence of alcohol or drugs. Amends the Civil Administrative Code of Illinois Department of State Police Law. Provides that the Department of State Police shall adopt a policy and provide training to State Police officers concerning response and care for persons under the influence of alcohol or drugs. Provides that the policy shall be consistent with the Alcoholism and Other Drug Abuse and Dependency Act and shall provide guidance for the arrest of persons under the influence of alcohol or drugs, proper medical attention if warranted, and care and release of those persons from custody. Provides that the policy shall provide guidance concerning the release of persons arrested under the influence of alcohol or drugs who are under the age of 21 years of age which shall include, but not be limited to, language requiring the arresting officer to make a reasonable attempt to contact a responsible adult who is willing to take custody of the person who is under the influence of alcohol or drugs. Amends the Illinois Vehicle Code. Provides that whenever a peace officer reasonably believes that a person under arrest for a violation of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof or a similar provision of a local ordinance is likely, upon release, to commit a subsequent violation, or a similar provision of a local ordinance, the arresting officer shall have the vehicle which the person was operating at the time of the arrest impounded for a period of 12 hours after the time of arrest (rather than for not more than 12 hours)

Commented (MA1): The policy created by the Training Standards Board

Commented (MA2): SP required to adopt a policy and train on it

Commented (MA3): The SP developed policy

Commented (MA4): This amendment impacts all police officers now

## Aren't Juvenile Records Already Hidden?

Somewhat.

All records in juvenile court are confidential under the law. This means that they can be shared under certain circumstances. However, there are many exceptions to the general rule of confidentiality.

Expunging juvenile ensures others can not see the records. Effective January 1, 2018, all juvenile records that have not been expunged will be automatically sealed. Juvenile records will not be shown to the general public or made widely available except in some cases. Sealed records will be shown only if there is *good cause*. Also, a juvenile court judge may unseal records for anyone who is not authorized to see them. Anyone who is not authorized and reveals a sealed juvenile record can be sued and fined \$1,000.

*"good cause"*

### NO WAITING PERIOD

You used to have to wait until your 18th birthday to file to expunge any part of a juvenile record. As of January 1st, 2017, some juvenile records are eligible to be expunged as soon as the matter is closed, even if you are not 18 at that time. The situations where you can expunge a juvenile record as soon as the case is closed are as follows:

- You were arrested BUT *(this includes informal and formal station adjustments, and some diversion programs)*;
- A juvenile case was filed, and the charges were dismissed;
- A juvenile case was filed, and you were found not guilty;
- A juvenile case was filed, you were found guilty of charges, and you were sentenced to "supervision," which you finished; or
- A juvenile case was filed, and you were found guilty of a Class B or C *offense (for example, mob action or disorderly conduct)*.

*misdemeanor*



## WAITING PERIOD

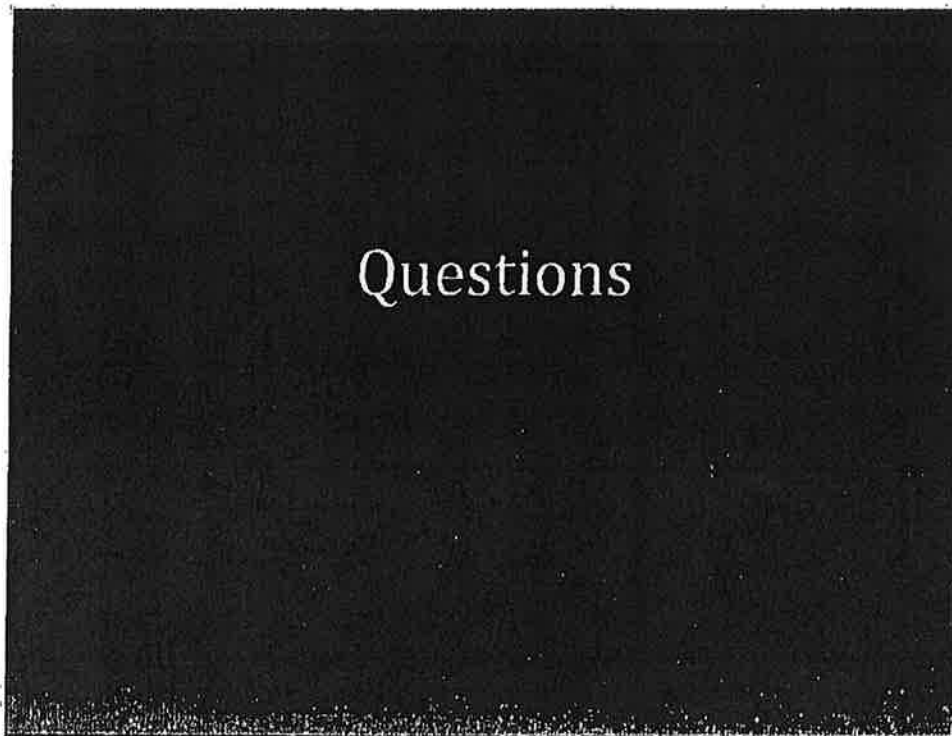
Sometimes there is a waiting period before you can expunge a juvenile record. If you were arrested as a juvenile, a case for a Class A misdemeanor or offense (not including exceptions above) was filed against you, and you were found guilty of that offense, you are eligible to expunge that record under the following circumstances:

- You have turned 21 years old, or it has been 5 years since the date your sentence was completed (whichever is later); and
- You have not been convicted of any offenses (including misdemeanors) since you turned 18. If you have been convicted as an adult, you are never eligible to expunge any findings of guilty for Class A misdemeanors, or felony offenses, from your juvenile record.

## Never

If you were found guilty of murder or a felony sex offense in juvenile court, those records are never eligible to be expunged.

If you are required to register as a sex offender for a juvenile case, a juvenile may file a petition asking a judge for an order removing the requirement to register



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IN THE INTEREST OF

\_\_\_\_\_, Case Number(s): \_\_\_\_\_

Date of Birth: \_\_\_\_\_

**AUTOMATIC EXPUNGEMENT ORDER**

[705 ILCS 405/5-915 (0.2)(a)]

This matter comes before the court because the above named individual was arrested, charged or adjudicated for an incident occurring before the individual's 18<sup>th</sup> birthday, and having been fully advised, pursuant to 705 ILCS 405/5-915 (0.2)(a), the court finds as follows:

**(Select one that applies)**

- A Petition for Delinquency has been dismissed.
- There has been a finding of not delinquent.
- There has been a successful termination of an order of supervision.
- There has been a successful termination of an order which resulted from an adjudication for a Class B or Class C misdemeanor, petty or business offense if committed by an adult.

**IT IS HEREBY ORDERED that:**

1. The Clerk of the Circuit Court shall expunge all records regarding the above captioned case within 60 days of entry of this Order.
2. The named Arresting Agency shall expunge all records relating to the arrest within 60 days of this Order.
3. The Illinois State Police Bureau of Identification shall expunge all records relating to the arrest within 60 days of this Order.

Arresting Agency: \_\_\_\_\_

Arrest Date: \_\_\_\_\_ Charge(s): \_\_\_\_\_

ENTERED:

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Date

STATE OF ILLINOIS  
JUDICIAL CIRCUIT COURT  
COUNTY, ILLINOIS

IN THE INTEREST OF

\_\_\_\_\_ Case Number(s): \_\_\_\_\_

Date of Birth: \_\_\_\_\_

**AUTOMATIC EXPUNGEMENT ORDER**

[705 ILCS 405/5-915 (0.3)(a)]

This matter comes before the court because the above named individual was arrested, charged or adjudicated for an incident occurring before the individual's 18<sup>th</sup> birthday, and having been fully advised, pursuant to 705 ILCS 405/5-915 (0.3)(a), the court finds as follows:

(All must apply and be selected):

- Two years have passed since the individual's juvenile case that resulted in an adjudication of delinquency was closed.
- The adjudication of delinquency in the above captioned case was for an offense not disqualified by 705 ILCS 405/5-915(0.3)(a).
- No delinquency or criminal proceeding is pending.
- There has been no subsequent delinquency adjudication or criminal conviction pertaining to the individual.

**IT IS HEREBY ORDERED that:**

1. The Clerk of the Circuit Court shall expunge all records regarding the above captioned case within 60 days of entry of this Order.
2. The named Arresting Agency shall expunge all records relating to the arrest within 60 days of this Order.
3. The Illinois State Police Bureau of Identification shall expunge all records relating to the arrest within 60 days of this Order.

Arresting Agency: \_\_\_\_\_

Arrest Date: \_\_\_\_\_ Charge(s): \_\_\_\_\_

ENTERED:

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Date