

ILLINOIS

Juvenile Record Contents

In Illinois, a “law enforcement record” includes but is not limited to records of arrest, station adjustments, fingerprints, probation adjustments, the issuance of a notice to appear, or any other records maintained by a law enforcement agency relating to a minor suspected of committing an offense. 705 ILL. COMP. STAT. § 405/5-915.

Confidentiality of Law Enforcement Records

No distinction between law enforcement and court records.

Confidentiality of Court Records

Juvenile court records are generally not available to the public. 705 ILL. COMP. STAT. § 405(C).

Exceptions: The following parties can view a juvenile’s records (705 ILL. COMP. STAT. § 405(A)):

- Law enforcement, if inspecting a juvenile record is essential to executing an arrest or search warrant or other compulsory process, or to conducting an ongoing investigation, or relating to a minor who has been adjudicated delinquent and there has been a previous finding that the act that constitutes the previous offense was committed in furtherance of criminal activities by a criminal street gang. 705 ILL. COMP. STAT. § 405(A)(2).
- Judges, hearing officers, prosecutors, probation officers, social workers, or other individuals assigned by the court in the course of performing their essential responsibilities. 705 ILL. COMP. STAT. § 405(A)(3), (4).
- Authorized military personnel. 705 ILL. COMP. STAT. § 405(A)(6).
- Victims and their legal representatives. 705 ILL. COMP. STAT. § 405(A)(7).
- Child’s attorney. 705 ILL. COMP. STAT. § 405(A)(1).
- Child’s parents or guardian. 705 ILL. COMP. STAT. § 405(A)(1).
- The child. 705 ILL. COMP. STAT. §405(A)(1).
- Other parties, upon general or special order of the court, including representatives of agencies, associations, and news media, and persons involved in bona fide research or operating substance abuse programs. 705 ILL. COMP. STAT. §§ 405(C), (A)(8), (A)(10).

Exceptions to Confidentiality

Nature of Offense: The court will allow the general public to have access to the name, address, and offense of a minor in cases of first-degree murder, attempt to commit first-degree murder, aggravated criminal assault, or criminal sexual assault.

The court will also allow the general public to access this information if the child was at least 13 years old at the time of the crime and adjudicated delinquent for one of the following offenses:

- An act in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang;
- An act involving the use of a firearm in the commission of a felony;
- An act that would be a Class X felony offense, or the minor’s second or subsequent Class 2 or greater felony offense under the Cannabis Control Act if committed by an adult;
- An act that would be a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act if committed by an adult;
- A act that would be an offense under Section 401 of the Illinois Controlled Substance Act if committed by an adult;
- An act that would be a second or subsequent offense under Section 60 of the Methamphetamine Control and Community Protection Act; or
- An act that would be an offense under another Section of the Methamphetamine Control and Community Protection Act. 705 ILL. COMP. STAT. § 5-805.

Availability of Records Online or in Commercial Background Reports

No information found.

Consequences for Unlawfully Sharing Confidential Information

No information found.

Sealing or Expungement

Expungement: 705 ILL. COMP. STAT. §§ 405/5-915, /1-9. Expungement does not require the physical destruction of the internal office records, files, or databases maintained by a State’s Attorney’s Office or other prosecutor.

Sealing: 705 ILL. COMP. STAT. § 405/5-915(5)

Excluded Offenses

Juvenile adjudications that are based on first-degree murder or sex crimes that would be felonies if committed by an adult *cannot* be expunged. 705 ILL. COMP. STAT. § 405/5-915(2).

Automatic (without application)

Under newly enacted 705 ILCS 17/1, the Department of State Police shall automatically expunge, on an annual basis, law enforcement records pertaining to a minor who has been arrested if: (1) the minor had been arrested and no delinquency petition was filed with the clerk of the circuit court; (2) the minor has attained the age of 18 years; and (3) since the date of the minor's most recent arrest, at least 6 months have elapsed without an additional arrest. The new law also provides that the Department of State Police shall expunge all law enforcement records described in this provision on an annual basis, and that it will establish a process for an individual to confirm that all law enforcement records described in this provision have been expunged on an annual basis. Automatic expungement of records applies to law enforcement records of minors arrested or taken into custody on or after January 1, 2015 and access and review expungement of records of an incident no earlier than 30 years before the effective date of the amendatory Act applies to law enforcement records of minors arrested or taken into custody before January 1, 2015. *Available at:* <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=978&GAID=12&DocTypeID=SB&LegId=70667&SessionID=85&GA=98>.

Eligibility

Law enforcement and juvenile court records other than those regarding delinquency proceedings can be expunged pursuant to 705 ILL. COMP. STAT. § 405/1-9. This applies when the person has reached the age of 18 or when all juvenile court proceedings relating to that person have been terminated, whichever is later. The juvenile may petition to expunge records relating to incidents occurring before his or her 18th birthday or his or her juvenile court records, or both, but only in the following circumstances (705 ILL. COMP. STAT. §§ 405/5-915(1)(a)-(d)):

- Child was arrested and not charged;
- Child was charged but found not delinquent
- Child was placed under supervision pursuant to 705 ILL. COMP. STAT. § 405/5-615, and the order of supervision has since been successfully terminated; or
- Child was adjudicated delinquent for an offense that would be a Class B misdemeanor, Class C misdemeanor or a petty or business offense if committed by an adult.

- Youth who has turned 21 years old, or has had 5 years elapse since the termination of any juvenile court proceedings related to him or her, whichever is later, may petition the court to expunge all law enforcement records related to any incident that occurred before his or her 18th birthday which did not result in juvenile or criminal court proceedings, with the exception of those based on first-degree murder and sex offenses which would be felonies if committed by an adult. 705 ILL. COMP. STAT. § 405/5-915(2).

Notification

Under 705 ILL. COMP. STAT. § 405/5-915(2.5), if a minor is arrested and no petition for delinquency is filed with the clerk of the circuit court at the time the minor is released from custody, the youth officer, if applicable, or other designated person from the arresting agency, shall notify the minor's parents or guardians verbally and in writing 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 18 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. Additionally, the youth officer 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.

Similarly, under 705 ILL. COMP. STAT. § 405/5-915(2.6), if a minor is:

- Arrested and not charged;
- Charged but found not delinquent;
- Placed under supervision pursuant to 705 ILL. COMP. STAT. § 405/5-615, and the order of supervision has since been successfully terminated; or
- Adjudicated delinquent for an offense that would be a Class B misdemeanor, Class C misdemeanor or a petty or business offense if committed by an adult;

at the time of sentencing or dismissal of a case, the judge shall inform the 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 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:

- Once the case is expunged, it shall be treated as if it never occurred
- The youth may apply to have the petition fees waived

- Once the youth obtains an expungement, he or she may not be required to disclose that he or she had a juvenile record; and
- The youth 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 reversal of an adjudication of delinquency, a new trial, or an appeal. 705 ILL. COMP. STAT. § 405/5-915(2.6).

Under 705 ILL COMP. STAT. § 405/5-915(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” postcard 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 18 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 705 ILL. COMP. STAT. § 405/5-915(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).

In addition, the State Appellate Defender shall develop juvenile expungement brochures, pamphlets, and other materials in printed form and through the agency’s website. The pamphlets and other materials shall include, at a minimum the following information (705 ILL. COMP. STAT. § 405/5-915(7)):

- An explanation of the State’s juvenile expungement process;
- The circumstances under which juvenile expungement may occur;
- The juvenile offenses that may be expunged;
- The steps necessary to initiate and complete the juvenile expungement process; and
- Directions on how to contact the State Appellate Defender.

The State Appellate Defender shall also 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. The State Appellate Defender shall also compile a statewide list of volunteer attorneys willing to assist eligible individuals through the juvenile expungement process. 705 ILL. COMP. STAT. § 405/5-915(7).

Petition/Application

To get one’s records expunged, a juvenile must petition the court to obtain the expungement. 705 ILL. COMP. STAT. § 405/5-915(2.8) provides the proper form for a petition for expungement, which must include the juvenile’s current address. A petition for expungement may include multiple offenses on the same petition, if the petitioner is 18 years of age or older and when a minor was arrested and no delinquency petition was filed or if filed, the minor was found not delinquent of the offense or the young person successfully completed supervision, or the offense would be a Class B misdemeanor or lesser offense if committed by an adult. The petitioner must also promptly notify the clerk of the circuit court of any change of address. 705 ILL. COMP. STAT. § 405/5-915(3). *See also* STATE APPELLATE DEFENDER, *Instruction and Forms*, available at http://www.illinois.gov/osad/Expungement/Instructions_Forms/Pages/default.aspx.

The petition is also included in the statute (705 ILL. COMP. STAT. § 405/5-915). In addition, forms may also be obtained by contacting the Clerk of the Circuit Court’s office in the county where the juvenile was arrested, or by contacting the State Appellate Defender’s Expungement Unit in Springfield or Chicago.

Contact Information for Springfield Office:

Phone: 1 (866)431-4907

Email: Expungement.Springfield@osad.state.il.us

Contact information for Chicago Office:

Phone: 1 (866)787-1776

Email: Expungement.Chicago@osad.state.il.us

Cook County defendants must use the Cook County forms and procedures. The forms can be downloaded from the Clerk of the Circuit Court website at: <http://cookcountyclerkofcourt.org>.

Hearing

Under 705 ILL. COMP. STAT. § 405/5-915(3), 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 45 days of the notice of the petition, the clerk of the circuit court shall set a date for hearing after the 45 day objection period ends. At the hearing, the court will hear evidence on whether the expungement should or should not be granted.

Court Process

Unless the State's Attorney or prosecutor, the Department of State Police, or an arresting agency objects to the expungement within 45 days of the notice, the court may enter an order granting expungement—this is to be effectuated by 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. 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. 705 ILL. COMP. STAT. § 405/5-915(3).

Effect

Expunged 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. 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. 705 ILL. COMP. STAT. § 405/5-915(8)(a).

Nothing in the statute is to 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. 705 ILL. COMP. STAT. § 405/5-915(6).

Finally, under 705 ILL. COMP. STAT. § 405/5-915(5), records which have not been expunged are sealed, and may be obtained only under the provisions of Sections 5-901 (Court File), 5-905 (Law Enforcement Records) and 5-915 (Expungement of Juvenile Law Enforcement and Court Records).

Fee

The fee is \$64 for each arrest a youth seeks to have expunged, plus a one-time fee of \$64. A youth seeking expungement can apply to have the petition fees waived. 705 ILL. COMP. STAT. § 405/5-915(2.6).

Consequences for Sharing Sealed/Expunged Information

The Department of State Police or any employee of the Department shall be immune from civil or criminal liability for failure to expunge any records of arrest that are subject to expungement under the new provisions because of inability to verify a record (nothing in the expungement provisions shall create Department of State Police liability or responsibility for the expungement of law enforcement records it does not possess). 705 ILCS 17/1, available at: <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=978&GAID=12&DocTypeID=SB&LegId=70667&SessionID=85&GA=98>.

Resources

Expunge.io (web-based expungement intake application).

JUVENILE EXPUNGEMENT HELP DESK: <https://www.facebook.com/JuvenileExpungementHelpDesk> (last visited July 25, 2014).

LEGAL ASSISTANCE FOUNDATION, *LAF Legal Clinics and Help Desks*, <http://www.lafchicago.org/images/pdfs/FINAL%20LAF%20Legal%20Clinics%20and%20Help%20Desks.pdf>.

OFFICE OF THE STATE APPELLATE DEFENDER, *Juvenile Expungement Guide*, <http://www.illinois.gov/osad/Expungement/Documents/Juvenile%20Exp%20Guide/JuvenileExpungementGuide.pdf>.