

PENNSYLVANIA

An order of disposition or other juvenile adjudication is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment. 42 PA. CONS. STAT. § 6354.

Juvenile Record Contents

There are two types of juvenile records: juvenile court records and law enforcement records. Law enforcement records include any records the police keep, and are kept in the Pennsylvania State Police Central Repository or the local police station. A juvenile record “is the information collected and retained by juvenile justice agencies concerning juveniles, and arising from the initiation of delinquency proceedings, consisting of identifiable descriptions, dates and notations of arrest, written allegations, petitions, other formal charging documents, official court records, and any dispositions arising from those records. The juvenile record does not include intelligence information or investigative information that is maintained separately by law enforcement agencies.” PA.R.J.C.P. 120.

Confidentiality of Law Enforcement Records

Law enforcement records are generally confidential.

Exceptions: The following people may see and make a copy of a child’s law enforcement records and files (42 PA. CONS. STAT. § 6308):

- Child’s attorney
- Probation department personnel, including the parole board when considering parole or discharge
- Corrections department personnel of institutions to whom the child is committed
- Law enforcement officers of other jurisdictions, when necessary for official duties
- Court personnel

Confidentiality of Court Records

Juvenile court records are generally confidential.

Exceptions: The following people may see and make a copy of a child’s court records (42 PA. CONS. STAT. § 6307):

- Child
- Child’s attorney
- Victim(s)’ attorney
- Department of Corrections, the Parole Board, or any agency providing supervision or having custody of the child
- Court personnel, including judges, officers, and professional staff
- Administrative Office of Pennsylvania Courts

Additionally, under Pennsylvania Court Rule 163, the juvenile probation office provides a child’s court records to a school principal or his or her designee, for limited purposes. PA.R.J.C.P 163.

Exceptions to Confidentiality

Nature of offense: Records are publicly available if a juvenile was twelve or thirteen years old at the time of the conduct and committed one of the following offenses: murder, voluntary manslaughter, aggravated assault, arson, involuntary deviate sexual intercourse, kidnapping, rape, robbery, or attempt or conspiracy to commit these offenses. 42 PA. CONS. STAT. § 6308(b).

Age of juvenile: Records are publicly available if a juvenile was fourteen years of age or older at the time of the conduct and the conduct would be considered a felony if committed by an adult. 42 PA. CONS. STAT. § 6308(b).

National Security or Interest of Juvenile: Juvenile arrest records are also disclosed to the public if national security requires it. 42 PA. CONS. STAT. § 6308.

Court order: With leave of court, any other person or agency or institution having a legitimate interest in the proceedings or in the work of the unified judicial system may access records. 42 PA. CONS. STAT. § 6307.

Availability of Records Online or in Commercial Background Reports

Non-confidential juvenile record information can be accessed for \$10 through the Pennsylvania State Police online portal: PENNSYLVANIA STATE POLICE, Access to Criminal History, <https://epatch.state.pa.us/>.

Consequences for Unlawfully Sharing Confidential Information

No information found.

Sealing or Expungement

Expungement: 18 PA. CONS. STAT. § 9123

Excluded Offenses

Adjudications that occurred after the individual turned 14, for offenses classified as rape, involuntary deviate sexual intercourse or aggravated indecent assault, or an attempt, solicitation or conspiracy to commit any of these offenses are not eligible for expungement. 18 PA. CONS. STAT. § 9123.

Eligibility

One can apply to have a juvenile record expunged after turning 18. An individual may seek expungement of a juvenile or summary offense committed while the individual was under 18 in four circumstances. First, the individual may expunge his or her record if the complaint filed against him or her is not substantiated or the petition is dismissed. This occurs when the written allegation is not approved for prosecution or six months have passed since the individual completed an informal adjustment and no proceeding is pending. This can result from a motion filed by the individual or sua sponte. PA.R.J.C.P 173. Second, the individual may expunge his or her record if six months have passed since the final discharge of the person under a consent decree or diversion program and no proceeding is pending. In this case the individual must be over 18 years old, must have satisfied all the conditions of the sentence, and must not have been subsequently convicted of an offense. However, if the offense was related to the purchase, consumption, possession or transportation of alcohol, the individual must satisfy all terms relating to the sentence. Upon successful completion, all criminal history records and administrative records of the Department of Transportation relating to the conviction will be expunged. Third, the individual may expunge his or her record if five years have elapsed since the final discharge of the person and that individual has not been subsequently convicted of any offense and no criminal or juvenile charges are pending against him or her. Finally, the individual's record may be expunged prior to the five-year mark if the attorney for the Commonwealth consents to the expungement and the court, after considering a variety of factors, orders the expungement. 18 PA. CONS. STAT. § 9123

Notification

Some counties have an informal notification process, but none exists in statute.

Automatic (without application)

The court may file on its own motion to expunge a juvenile's records. 18 PA. CONS. STAT. § 9123

Petition/Application

Each county court has its own process, including potentially its own petition. After the petition for expungement is filed, the District Attorney (or DA) has 30 days in which to provide consent. If the DA does not consent, a youth is entitled to go to court to have the expungement reviewed by a judge. In some counties, all cases, even those where the District Attorney does consent, may require a hearing.

Hearing

If the DA does not consent, a youth is entitled to go to court to have the expungement reviewed by a judge. In some counties, all cases, even those where the District Attorney does consent, may require a hearing. At the hearing, the individual's attorney will offer evidence as to why the record should be expunged. The District Attorney will provide argument as to why the record should not be expunged. Case law holds that absent DA consent, the Judge may not grant the child's expungement petition, despite the hearing process. 18 PA. CONS. STAT. § 9123; PA.R.J.C.P. 170.

Court Process

After the application, the court gives the DA 30 days in which to consent to the expungement. In most counties, when the District Attorney consents, the judge signs the order and the individual is notified by mail whether the expungement was granted. To grant the expungement, the court must consider various factors including: (1) the type of offense; (2) the individual's age, history of employment, criminal activity, and drug or alcohol problems; (3) adverse consequences that the individual may suffer if the records are not expunged; and (4) whether the retention of the record is required for purposes of public safety. 18 PA. CONS. STAT. § 9123.

Effect

Once a record is expunged, is it considered to be "erase[d] legally...making it permanently unavailable to the public." PA.R.J.C.P. 120. Under the comments to this new rule, however, "[d]estroy" and "expunge" do not have the same meaning. "Destroy" is to erase permanently, whereas "expunge" is to erase legally or seal the record. Unless authorized by rule or otherwise provided by law, no person is to have access to expunged items. Only in extraordinary circumstances would a record be opened by court order, such as to retrieve specific information not clarified or documented correctly pursuant to Rule 173. However, specific information from juvenile records could be retained for limited purposes. For example, after a record is expunged, under this Court Rule, law enforcement can retain "intelligence and investigative information" after a record has been expunged, including:

- 1) a list of juvenile names;
- 2) identifying information, such as date of birth;
- 3) intelligence information; and
- 4) investigative information.

Pennsylvania's juvenile expungement rule applies to documents, fingerprints, or photographs. See PA.R.J.C.P. 173 and its Comment.

Fee

Differs based on county in Pennsylvania.

Consequences for sharing expunged/sealed information

None.

Resources

JUVENILE LAW CENTER, *Juvenile Records Expungement* (2007), available at http://www.jlc.org/sites/default/files/publication_pdfs/expungeguide.pdf.

JUVENILE COURT JUDGES' COMMISSION, *Juvenile Delinquency Records: Handbook and Expungement Guide* (2009), available at www.jjc.state.pa.us.

PA Court Rules 120, 163, 167, 170, 172, 173, 370, 408, 1120, available at <http://www.pacourts.us/assets/opinions/Supreme/out/641spct-attach.pdf?cb=1?cb=>.