

Juvenile Expungements in Delaware

“THE CONTINUED EXISTENCE AND DISSEMINATION OF JUVENILE CRIMINAL HISTORIES HAMPERS AN INDIVIDUAL’S ABILITY TO BE SUCCESSFUL AND A PRODUCTIVE MEMBER OF SOCIETY.” -SB 198 SYNOPSIS

What is an expungement?

- Delaware’s laws allow for expungement of a juvenile record, *which removes any juvenile arrests, charges, or adjudications* from an individual’s record. **Here’s why:**
 - Juvenile criminal histories hinder a person’s ability to obtain employment, housing, education and credit
 - Studies show that children age out of criminal behavior
 - Expungement of juvenile criminal histories allows youth and adults to move beyond past youthful indiscretions
- After an expungement, an individual’s arrest history does not have to be disclosed for any reason, including employment, housing, education and credit purposes.

The expungement process:

- To get an expungement, the petitioner must not have any pending criminal charges and must not have any adult convictions. *Expungements are also prohibited for certain serious, violent felonies.*
- There are 2 types of expungements: **mandatory**, which means the Court *must* grant an expungement, and **discretionary**, which means the Court *may* grant an expungement.
- Individuals qualify for a **mandatory expungement** if:
 - 1 or more misdemeanor or violation cases was "terminated in the child's favor" (this includes successful completion of diversion programs, dismissals, or NPs [dropped])
 - 1 or more felony, misdemeanor, or violation cases was "terminated in the child's favor"
 - ** There is a 1 year waiting period for an expungement where the child was charged with a felony in the case**
 - They have exactly 1 adjudication for a felony, misdemeanor, or violation, and at least 3 years have passed since the date of adjudication
 - ** Adjudications for violent felonies, and misdemeanor and felony sex offenses are excluded from this category**
- Individuals may apply to the Court for a **discretionary expungement** if:
 - 3 years have passed since the date of adjudication, and they have exactly 1 adjudication for a misdemeanor sex offense or a violent felony
 - 5 years have passed since the date of the most recent adjudication, and they have:
 - Multiple adjudications for felonies, misdemeanors, or violations, except for violent felonies and felony sex offenses
 - No more than 1 case that resulted in an adjudication for a felony sex offense
 - 7 years have passed since the date of the most recent adjudication, and they have multiple adjudications for felonies, including violent felonies and felony sex offenses, misdemeanors, and violations

Interested in seeking a juvenile expungement?

Contact Alanna Farber, Esq. at the Office of Defense Services at (302) 577-5120.