
A BILL FOR AN ACT

RELATING TO EXPUNGEMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 831, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§831- Expungement orders for violations. (a) The
5 attorney general, or the attorney general's duly authorized
6 representative within the department of the attorney general,
7 upon written application of a person convicted of a violation,
8 may issue an expungement order annulling, canceling, or
9 rescinding the record of violation.

10 (b) The attorney general, or the attorney general's duly
11 authorized representative within the department of the attorney
12 general, shall issue to the person for whom an expungement order
13 has been entered, a certificate stating that the order has been
14 issued and that its effect is to annul the record of violation,
15 and return any photographs or fingerprints within 120 days of
16 the issuance of the order.

17 (c) Upon the issuance of the expungement certificate, the
18 person applying for the order shall be treated as not having



1 committed the violation in all respects not otherwise provided
2 for in this section.

3 (d) Upon the issuance of the expungement order, all
4 records pertaining to the violation that are in the custody or
5 control of any law enforcement agency of the State or any
6 county, and that are capable of being forwarded to the attorney
7 general without affecting other records not pertaining to the
8 arrest, shall be so forwarded for placement of the arrest
9 records in a confidential file.

10 (e) Records filed under subsection (c) shall not be
11 divulged except upon inquiry by:

12 (1) A court of law or an agency thereof that is preparing
13 a presentence investigation for the court;

14 (2) An agency of the federal or state government that is
15 considering the subject person for a position
16 immediately and directly affecting the national or
17 state security; or

18 (3) A law enforcement agency acting within the scope of
19 their duties.

20 Response to any other inquiry shall not be different from
21 responses made about persons who have no arrest records.

1 (f) For purposes of this section, "violation" shall have
2 the same meaning as in section 701-107."

3 SECTION 2. Section 831-3.2, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (a) to read as follows:

6 "(a) The attorney general, or the attorney general's duly
7 authorized representative within the department of the attorney
8 general, upon written application from a person arrested for, or
9 charged with but not convicted of a crime, shall issue an
10 expungement order annulling, canceling, and rescinding the
11 record of arrest; provided that an expungement order shall not
12 be issued:

13 (1) In the case of an arrest for a felony or misdemeanor
14 where conviction has not been obtained because of bail
15 forfeiture;

16 (2) For a period of five years after arrest or citation in
17 the case of a petty misdemeanor or violation where
18 conviction has not been obtained because of a bail
19 forfeiture;

20 (3) In the case of an arrest of any person for any offense
21 where conviction has not been obtained because the

1 person has rendered prosecution impossible by
2 absenting oneself from the jurisdiction;

3 (4) In the case of a person acquitted by reason of a
4 mental or physical defect under chapter 704; and

5 (5) For a period of one year upon discharge of the
6 defendant and dismissal of the charge against the
7 defendant in the case of a deferred acceptance of
8 guilty plea or nolo contendere plea, in accordance
9 with chapter 853.

10 Any person entitled to an expungement order hereunder may
11 by written application also request return of all fingerprints
12 or photographs taken in connection with the person's arrest.
13 The attorney general or the attorney general's duly authorized
14 representative within the department of the attorney general,
15 within ~~[120]~~ one hundred twenty days after receipt of the
16 written application, ~~[shall,]~~ when so requested, shall deliver,
17 or cause to be delivered, or cause to be deleted in the case of
18 digitized images, all fingerprints or photographs of the person,
19 unless the person ~~[has a record of conviction or]~~ is a fugitive
20 from justice, in which case the photographs or fingerprints may
21 be retained by the agencies holding such records."

22 2. By amending subsection (f) to read as follows:



1 "(f) The meaning of the following terms as used in this
2 section shall be as indicated:

3 "Arrest record" means any existing photographic images and
4 fingerprint cards relating to the arrest.

5 [(1)] "Conviction" means a final determination of guilt
6 whether by plea of the accused in open court, by verdict of the
7 jury or by decision of the court.

8 [~~(2) "Arrest record" means any existing photographic and~~
9 ~~fingerprint cards relating to the arrest.]~~"]

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect upon approval.

Report Title:

Criminal Records; Expungent

Description:

Allows for the expungement of violations upon written application to the attorney general; allows for the deletion of digitized records. Requires the deletion of digitized arrest records, rather than the return of hard copy materials, if applicable. Limits the return of fingerprints, photographs, etc., to those persons entitled to expungements who are not fugitives. (CD1)

