

---

---

A BILL FOR AN ACT

RELATING TO EXPUNGEMENTS.

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

1 SECTION 1. Section 831-3.2, Hawaii Revised Statutes, is  
2 amended as follows:

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

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

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

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

- 1           (3) In the case of an arrest of any person for any offense  
2           where conviction has not been obtained because the  
3           person has rendered prosecution impossible by  
4           absenting oneself from the jurisdiction;
- 5           (4) In the case of a person acquitted by reason of a  
6           mental or physical defect under chapter 704; and
- 7           (5) For a period of one year upon discharge of the  
8           defendant and dismissal of the charge against the  
9           defendant in the case of a deferred acceptance of  
10          guilty plea or nolo contendere plea, in accordance  
11          with chapter 853.

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

1 photographs or fingerprints may be retained by the agencies  
2 holding such records."

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

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

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

9 (2) "Arrest record" means any existing photographic images  
10 and fingerprint cards relating to the arrest."

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

13 SECTION 4. This Act shall take effect upon its approval.

# PROPOSED

**Report Title:**

Criminal Records; Expungent

**Description:**

Requires the deletion of digitized arrest records, rather than the return of hard copy materials, if applicable. Clarifies the definition of "crime" as it relates to expungeable offenses. Limits expungements to applicants that have no convictions on their criminal record. (SD1)

