

---

---

# HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF THE ATTORNEY GENERAL TO ADOPT  
UNAMBIGUOUS LANGUAGE REGARDING PHOTOGRAPHIC RECORDS ON  
EXPUNGEMENT CERTIFICATES.

1           WHEREAS, Black's Law Dictionary defines "expungement of  
2 record" as a "process by which record of criminal conviction is  
3 destroyed or sealed after expiration of time" and elaborates by  
4 stating that "some states also provide for expungement of  
5 criminal records if arrested person is not convicted or in the  
6 event of unlawful arrest"; and  
7

8           WHEREAS, each state may set its own guidelines regarding  
9 which records may be expunged and under which circumstances,  
10 including whether arrest record expungements may be granted at  
11 all; and  
12

13           WHEREAS, in general practice, once arrest records have been  
14 expunged, an individual may respond to any question or inquiry  
15 that he or she has no arrest record with respect to the specific  
16 records and incidents that have been expunged; and  
17

18           WHEREAS, several states allow for the expungement of arrest  
19 records with convictions, including Arizona, California,  
20 Illinois, and New Jersey; and  
21

22           WHEREAS, in Hawaii, the expungement process is codified in  
23 section 831-3.2, Hawaii Revised Statutes, and allows expungement  
24 of arrest records only in cases where there was no conviction;  
25 and  
26

27           WHEREAS, as part of an application for an expungement  
28 order, an individual may request the return of fingerprints and  
29 photographs; and



1           WHEREAS, once an expungement order is granted, an  
2 individual receives an Expungement Certificate that certifies  
3 the specific records of arrest that have been annulled; and  
4

5           WHEREAS, the Expungement Certificate also contains language  
6 that states that if digitized images were taken, those images  
7 cannot be returned to the individual since they have been  
8 deleted; and  
9

10           WHEREAS, due to the rapid development and proliferation of  
11 digital photographic equipment, it appears unlikely that law  
12 enforcement continues to use traditional film formats for  
13 procedures associated with arrests; and  
14

15           WHEREAS, clarifying the language used on Expungement  
16 Certificates regarding photographic records would help eliminate  
17 any ambiguity with respect to those documents that have not been  
18 returned to the individual; now, therefore,  
19

20           BE IT RESOLVED by the House of Representatives of the  
21 Twenty-fifth Legislature of the State of Hawaii, Regular Session  
22 of 2010, the Senate concurring, that the Legislature requests  
23 the Attorney General to adopt unambiguous language regarding  
24 photographic records on Expungement Certificates; and  
25

26           BE IT FURTHER RESOLVED that such language should clearly  
27 reflect current practices surrounding photographic records,  
28 including the almost certain use of digitized images; and  
29

30           BE IT FURTHER RESOLVED that certified copies of this  
31 Concurrent Resolution be transmitted to the Attorney General,  
32 Administrator of the Hawaii Criminal Justice Data Center, and  
33 the Police Chief of each county.  
34  
35  
36

OFFERED BY: *Della A. Belatti*

(BY REQUEST)

MAR 05 2010

