

JAN 20 2023

A BILL FOR AN ACT

RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS.

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

1 SECTION 1. The legislature finds that approximately
2 seventy million people living in the United States, or one in
3 three adults, have a criminal record. In some instances, the
4 person was arrested but ultimately not convicted of any crime.
5 The legislature recognizes that arrest and conviction records
6 often adversely affect a person's financial and housing security
7 by limiting the person's access to employment, housing, or a
8 professional license.

9 The legislature also finds that many states, including
10 Hawaii, have laws that allow persons who meet certain
11 eligibility criteria to petition or apply for the removal of a
12 criminal record. However, making the procedure automatic would
13 eliminate the need for an eligible person to navigate this
14 process and pay any required processing fees. According to
15 research compiled by the National Conference of State
16 Legislatures, twenty states have at least one statutory
17 automatic record-clearing provision as of July 2021. Michigan,



1 New Jersey, Pennsylvania, and Utah are examples of states having
2 laws that automate the record-clearing process; these laws are
3 sometimes known as "clean slate laws".

4 The purpose of this Act is to expand eligibility for, and
5 automate, the expungement of arrest and conviction records if
6 certain criteria are met, including the lack of a conviction
7 record for a specified time period following the date of an
8 arrest or conviction.

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

12 "§831- Automatic expungement orders; records of arrest
13 and conviction. (a) Notwithstanding the provisions of sections
14 291E-64(e), 706-622.5(4), 706-622.9(3), 712-1200(4)(c),
15 853-1(e), and any other law having more restrictive eligibility
16 requirements for expungement than those set forth in this
17 subsection, a person who is eligible to apply for expungement of
18 an arrest record under section 831-3.2 shall be eligible for
19 automatic expungement of an arrest record and records of any
20 court proceedings stemming from the same arrest, including a
21 record of conviction and a person with a conviction record for a



1 petty misdemeanor, misdemeanor, or non-violent class C felony
2 offense; provided that the person meets the following criteria:

3 (1) If the person has an arrest or conviction record for a
4 petty misdemeanor or misdemeanor offense:

5 (A) Five years or more have elapsed from the date of
6 conviction for the offense or from the date of
7 arrest if there was no resulting conviction; and

8 (B) The person has not subsequently been convicted of
9 any petty misdemeanor, misdemeanor, or felony
10 offense in the State within the five-year waiting
11 period; and

12 (2) If the person has an arrest or conviction record for a
13 non-violent class C felony offense:

14 (A) Seven years or more have elapsed from the date of
15 conviction for the offense or from the date of
16 arrest if there was no resulting conviction; and

17 (B) The person has not subsequently been convicted of
18 any petty misdemeanor, misdemeanor, or felony
19 offense in the State withing the seven-year
20 waiting period.



1 (b) Beginning on December 1, 2025, the department of the
2 attorney general, on a monthly basis, shall:

3 (1) Identify arrest records that meet the criteria for
4 issuance of an expungement order under section
5 831-3.2(a); provided that the person whose arrest is
6 reflected in the arrest record also meets the criteria
7 specified in subsection (a); and

8 (2) Automatically issue an expungement order annulling,
9 canceling, and rescinding the record of arrest.

10 (c) A person associated with arrest or conviction records
11 who is eligible for automatic expungement under this section
12 shall not be required to file a written application seeking
13 expungement in order for the expungement process to occur as
14 prescribed by this section; provided that nothing in this
15 section shall preclude a person who is eligible for automatic
16 expungement under this section from filing a written application
17 for expungement of records under section 831-3.2 if the
18 automatic expungement required by subsection (b) has not timely
19 occurred.

20 (d) Beginning on December 1, 2025, the judiciary, on a
21 monthly basis, shall automatically seal or otherwise remove from



1 the judiciary's publicly accessible electronic databases all
2 judiciary files pertaining to the applicable arrest, court
3 proceeding, or conviction, with respect to any person for whom
4 an expungement order has been issued pursuant to subsection (b).

5 The court shall make good faith diligent efforts to seal or
6 otherwise remove the applicable files and information within a
7 reasonable time after issuance of the expungement order.

8 (e) Sealed arrest and court records after expungement
9 shall not be divulged except by inquiry by:

10 (1) The prosecuting attorney acting within the scope of
11 their duties; or

12 (2) Immigration officials acting within the scope of their
13 duties.

14 (f) The affected person under this provision may obtain a
15 copy of their sealed arrest and conviction records after
16 expungement upon a request in writing.

17 (g) As used in this section:

18 "Arrest record" has the same meaning as in section 831-3.2.

19 "Conviction" has the same meaning as in section 831-3.2.

20 (h) The attorney general shall adopt rules pursuant to
21 chapter 91 necessary for the purpose of this section.



1 (i) Nothing in this section shall affect the compilation
2 of crime statistics or information stored or disseminated as
3 provided in chapter 846."

4 SECTION 3. Section 831-3.2, Hawaii Revised Statutes, is
5 amended by amending its title to read as follows:

6 "§831-3.2 Expungement orders[-]; records of arrest."

7 SECTION 4. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

10

INTRODUCED BY: 

S.B. NO. 1168

Report Title:

Criminal Records; Arrest; Conviction; Automatic Expungement

Description:

Expands eligibility for, and automates, the expungement of arrest and conviction records if certain criteria are met, including the lack of a conviction record for a specified time period following the date of an arrest, conviction, or release from incarceration. Requires the Attorney General to issue automatic expungement orders for certain arrests and convictions beginning 12/1/2025. Requires the Judiciary to automatically seal or remove information for certain arrests and convictions from publicly accessible databases beginning 12/1/2025.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

