

What is an Expungement

Contrary to popular belief, what happens in juvenile Court, doesn't always stay in juvenile Court. A juvenile record can follow a person for the rest of their lives. This can include the record of arrest, fingerprints, the record of adjudication and disposition, and DNA profiles. In most cases juveniles who have had successful case closure, without further adjudication or disposition, are entitled to an expungement of their record. However, few individuals petition the Court to seek expungement of their juvenile records.

WHAT DOES EXPUNGEMENT MEAN?

Expunge (noun): wipe out, obliterate, erase, delete, rub out. When a juvenile record is expunged, all documentation of a juvenile's arrest, adjudication, and disposition is destroyed. This includes all police reports, probation reports, fingerprints, photographs, Court records, etc.

Under Pennsylvania law, a juvenile adjudication of delinquency is not a criminal conviction. However, in many cases, a juvenile adjudication of delinquency may have the same effect as a criminal conviction. It is therefore important to seek expungement, whenever possible. Expungement of a juvenile record has many advantages. It enables a person who has successfully completed all conditions of supervision and who has been rehabilitated through the juvenile justice system to have a fresh start in life and move toward becoming a productive law-abiding adult, without the encumbrance that a juvenile record carries.

WHEN MAY A JUVENILE RECORD BE EXPUNGED?

The statute governing expungement of juvenile records is found at 18 Pa. C.S.A. §9123. A juvenile record may be expunged under the following circumstances:

- when a complaint is filed, which is NOT substantiated or the petition is dismissed by the Court;
- when six months have elapsed since the final discharge of the person from supervision under a consent decree and no proceeding seeking adjudication or conviction is pending;
- when five years have elapsed since the final discharge of the person from commitment, placement, probation or any other disposition and referral, and since such final discharge, the person has not been convicted of a felony or misdemeanor or adjudicated delinquent, and no proceeding is pending seeking such conviction or adjudication; or
- the individual is 18 years of age or older, the attorney for the Commonwealth consents to the expungement and a Court orders the expungement after considering the following:
- the individual's age, history of employment, criminal

- activity and drug or alcohol problems;
- the adverse consequences that the individual may suffer if the records are not expunged; and
- whether retention of the record is required for purposes of protection of the public safety.

WHAT ARE THE EFFECTS OF HAVING A JUVENILE RECORD?

Most people are unaware of how a juvenile record can impact upon their lives. Although a juvenile adjudication is not a *conviction*, an adjudication of delinquency has many consequences. Following are some of the consequences of having a juvenile record.

Adjudications of delinquency may be a basis for sentencing enhancements through a "prior record score point" system of the Criminal Sentencing Guidelines. This can result in longer periods of incarceration in the adult system.

Adjudications may affect employment opportunities. Although an adjudication is not a conviction, potential employers may have access to a juvenile's record, if the record has not been expunged. For example, juveniles who are adjudicated delinquent are required to be fingerprinted. Many employers (especially for jobs working with children and elderly) require job applicants to submit to criminal background checks. If a juveniles fingerprints are on file, the record may come up.

In certain cases, an adjudication of delinquency may affect eligibility for public housing and other benefits.

A felony adjudication may disqualify a person from serving in the military.

Some juvenile adjudications result in a lifetime ban on obtaining a license to carry a firearm.

Drug adjudications will affect ones eligibility for federal financial aid if the conviction occurs after the student reaches the age of 18.

A child's driving license may be suspended as a result of a delinquency adjudication for certain drug, alcohol, and driving offenses.

Children adjudicated of felony offenses and some misdemeanor offenses are required to submit a DNA sample to the State DNA Data Base. These DNA profiles can remain in the database forever.

A delinquency adjudication can affect a child's immigration status. It could even result in deportation!!

A juvenile's record of delinquency adjudications for certain offenses can significantly affect sentencing for a criminal conviction as an adult. This often results in

higher penalties or the imposition of mandatory sentences for a first offense in criminal Court.

Children may be expelled from school for delinquency adjudications for certain offenses, and information about delinquency adjudications will be sent to the next school if they choose to transfer.

Although a delinquency adjudication does not need to be reported on many college applications, and does not bar access to federal financial aid for higher education, without an expungement of the juvenile record, colleges may have access to a juvenile's record anyway.

Although the Juvenile Court may only retain jurisdiction over the juvenile until age 21, if fees, restitution and costs have not been paid in full at the time of case closure, then a judgment is indexed against the juvenile. This has a negative affect on an individual's credit rating and may prevent a person from qualifying for student loans, a car loan, credit cards, a mortgage, etc.

WHERE CAN I FIND ADDITIONAL INFORMATION?

As you can see, a juvenile record can affect a person well into adulthood. While the process for obtaining an expungement may be cumbersome, expungement is the only tool to prevent the long-term consequences of a juvenile record. Many Courts are attempting to simplify this process to enable individuals to easily file the petition for expungement *pro se*. For more information, see the following:

The Pennsylvania Juvenile Collateral Consequences Checklist, published by Pennsylvania Juvenile Indigent Defense Action Network (Pa-JIDAN) and Models for Change Systems Reform in Juvenile Justice (May 2010): www.modelsforchange.net/publications;

The Juvenile Delinquency Records Handbook and Expungement Guide, published by The Pennsylvania Juvenile Court Judges' Commission (2008) can be viewed through the internet:

http://www.portal.state.pa.us/portal/server.pt/directory/juvenile_delinquency_records_handbook_and_expungement_guide/6066?DirMode=1

Allegheny County Youth

Non-Adjudicated Juveniles

The Probation Department will automatically initiate the expungement process for non-adjudicated juveniles who have attained age 18 and meet either of the following criteria outlined in 18 Pa C.S.§9123:

- All of the charges (referrals) received have been informally adjusted, dismissed or withdrawn.
Or
- Six (6) months have elapsed since the successful completion (expiration) of a consent decree and no proceeding is pending in juvenile or Criminal Court.

Adjudicated Juveniles

The Probation Department will assist in the expungement process for adjudicated juveniles only if directed by a Judge or Court Administration. Adjudicated offenders must meet either of the following criteria outlined in 18 Pa. C.S. §9123:

1. Five years have elapsed since the final discharge of the person from the commitment, the placement, probation, or any other disposition, the person has not been convicted of a felony, misdemeanor or adjudicated delinquent, and no proceeding is pending seeking such conviction or adjudication.
Or
2. The person is 18 years of age or older, the District Attorney consents to the expungement, and the Court has considered the following factors:

The type of offense;

- The individual's age, employment history, criminal activity, and drug or alcohol problems;
- Adverse consequences that the individual may suffer if the records are not expunged; and
- Whether retention of the record is required for purposes of protection of public safety.



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