

LAWS OF DELAWARE
VOLUME 83
CHAPTER 265
151st GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 111

AN ACT TO AMEND TITLE 10 AND TITLE 11 OF THE DELAWARE CODE RELATING TO AUTOMATIC EXPUNGEMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Part A, Subchapter III, Chapter 9, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1017A. Mandatory expungement; automatic.

(a) A case that is eligible for mandatory expungement under § 1017 of this title is eligible for automatic expungement under this section.

(b) Beginning August 1, 2024, on a monthly basis, the State Bureau of Identification shall identify cases that are eligible for mandatory expungement and proceed under § 1019 of this title to expunge the eligible records.

(c) The Department of Safety and Homeland Security may promulgate reasonable regulations necessary for the State Bureau of Identification to accomplish the purposes of this section.

(d) Nothing in this section precludes an individual from filing a petition for expungement of records under § 1017(a) of this title that are eligible for automatic expungement under this section if an automatic expungement has not occurred.

(f) An individual does not have a cause of action for damages as a result of the failure to identify an individual's case as eligible for automatic expungement.

Section 2. Amend § 1019, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1019. Effect of expungement; disclosure of expunged records.

(a) The Court shall notify the State Bureau of Identification (Bureau) of any expungement order. If an order expunging part or all of a juvenile criminal history is granted by the court, all indicia of arrest, including police and court records and any electronic records relating to the arrest, and any other items specified in the order shall, within 60 days of receipt of the order, be removed from the files and placed in the control of the Supervisor of the State Bureau of Identification who shall be designated to retain control over all expunged records, and who shall insure that the records or the information contained therein is not released for any reason except as specified in this subchapter. A court or police agency that receives a notice of expungement from the State Bureau of Identification shall provide the Bureau with written confirmation of the completion of the expungement. The State Bureau of Identification shall provide the court that entered the order with written confirmation of the execution of the order. In response to requests from nonlaw-enforcement officers for information or records on the person who was arrested, law-enforcement officers and departments shall reply, with respect to the arrest and proceedings which are the subject of the order, that there is no record. No order requiring an expungement of any record shall be entered or enforced if such order is contrary to the provisions of this subchapter. The State Bureau of Identification shall promptly notify the court if it is unable to comply with any order issued pursuant to this subchapter.

(j)(1) If the State Bureau of Identification determines that expungement is mandated under this subchapter, or receives an expungement order from a court, it shall promptly notify all courts and law-enforcement agencies where records pertaining to the case are located or maintained, and any court where the case was terminated, disposed of, or concluded.

(2) A court or law-enforcement agency which receives a notice of expungement from the Bureau shall provide the Bureau with written confirmation of the completion of the expungement. Where an expungement of an adjudication of delinquency is granted, all arrest records associated with any charge in that case must also be expunged.

Section 3. Amend Subchapter VII, Chapter 43, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4373A. Mandatory expungement; automatic.

(a) A case that is eligible for mandatory expungement under § 4373 of this title is eligible for automatic expungement under this section.

(b) Beginning August 1, 2024, on a monthly basis, the State Bureau of Identification shall identify cases that are eligible for mandatory expungement and proceed under § 4372(e)(2) of this title to expunge the eligible records.

(c) The Department of Safety and Homeland Security may promulgate reasonable regulations necessary for the State Bureau of Identification to accomplish the purposes of this section.

(d) Nothing in this section precludes an individual from filing a petition for expungement of records under § 4373(a) of this title that are eligible for automatic expungement under this section if an automatic expungement has not occurred.

(e) An individual does not have a cause of action for damages as a result of the failure to identify an individual's case as eligible for automatic expungement.

Section 4. This Act is effective immediately and is to be implemented on August 1, 2024.

Section 5. This Act is known as "The Clean Slate Act".

Approved November 8, 2021