SPONSOR: Rep. Chukwuocha & Rep. Lynn & Rep. Dorsey Walker & Sen. Brown
Reps. Baumbach, Bolden, Cooke, Griffith, Kowalko; Sens. Gay, Sokola

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 447
AS AMENDED BY
HOUSE AMENDMENT NO. 2

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

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

Section 1. Amend Chapter 43, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4372. Applicability; definitions; effect of expungement.

(b) For the purposes of this subchapter, a case is ~~terminated~~ "terminated in favor of the accused" only if 1 or more of the following occurs:

(7) Where a case is 7 or more years old and contains a charge or charges without a disposition or the disposition is listed as unknown, unobtainable, or pending. This paragraph does not apply if there is an active warrant in the case, if there is documented case activity within the last 12 months, or if there are charges in the case that were not terminated in favor of the accused.

§ 4373. Mandatory expungement; application through SBI.

(a) *Eligibility.* — (3) For purposes of determining eligibility for expungement under this subsection, any charge that is 7 or more years old and for which there is no disposition indicated or the disposition is listed as unknown, unobtainable, or pending shall be considered dismissed and shall not negatively affect expungement eligibility. This subsection does not apply if there is an active warrant in the case or if there is documented case activity within the last 12 months.

§ 4374. Discretionary expungement; application to court.

(a) *Eligibility.* — Upon petition to the appropriate court designated in subsection (c) of this section, an expungement may be granted if the applicant meets 1 of the following:

(4) Was convicted of 1 or more violations or misdemeanors other than those listed in § 4373(b) of this title in more than one case and at least 5 years have passed since the date of the most recent conviction or the date of release from incarceration, whichever is later, and the person has no other prior or subsequent convictions that would not be

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eligible for a mandatory expungement under § 4373 of this title standing alone. For eligibility under this paragraph, the entire case in which each conviction appears must be eligible for expungement.

(k) For purposes of determining eligibility for expungement under this section, any charge that is 7 or more years old and for which there is no disposition indicated or the disposition is listed as unknown, unobtainable, or pending shall be considered dismissed and shall not negatively affect expungement eligibility in any case. This subsection does not apply if there is an active warrant in the case or if there is documented case activity within the last 12 months.

Section 2. Amend Chapter 9, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1016. Definitions applicable to juvenile expungements.

For purposes of juvenile expungement, unless the context otherwise requires:

(6) "Terminated in favor of the child" means 1 of the following occurs:

e. A charge or case is 7 or more years old and there is no disposition indicated or the disposition is listed as unknown, unobtainable, or pending. This paragraph does not apply if there is an active warrant in the case, if there is a documented case activity within the last 12 months, or if there are other charges in the case that were not terminated in favor of the child.

§ 1017. Mandatory expungement.

(d) For purposes of determining eligibility for expungement under this section, any charge that is 7 or more years old and for which there is no disposition indicated or the disposition is listed as unknown, unobtainable, or pending shall be considered dismissed and shall not negatively affect expungement eligibility. This subsection does not apply if there is an active warrant in the case or if there is documented case activity within the last 12 months.

§ 1018. Discretionary expungement.

(g) For purposes of determining eligibility for expungement under this section, any charge that is 7 or more years old and for which there is no disposition indicated or the disposition is listed as unknown, unobtainable, or pending shall be considered dismissed and shall not negatively affect expungement eligibility. This subsection does not apply if there is an active warrant in the case or if there is documented case activity within the last 12 months.