SPONSOR: Sen. Lawson & Sen. Henry & Sen. Townsend &
Rep. Hudson & Rep. J. Johnson & Rep. Yearick
Sens. Cloutier, Delcollo, Ennis, Lavelle, Lopez,
Pettyjohn, Richardson, Sokola; Reps. Baumbach, Bennett,
Bentz, Bolden, Collins, Keeley, Kowalko, Mulrooney,
Osienski, Ramone, D. Short, Viola, K. Williams

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 146
AS AMENDED BY
SENATE AMENDMENT NO. 1
AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO JUVENILE EXPUNGMENTS

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

Section 1. Amend § 1017, Title 10 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 1017. Mandatory expungement.

(c) During the Court proceeding where any felony, misdemeanor or violation case is terminated in favor of the child, the Court sua sponte, or upon request of any party, may immediately order expungement of the juvenile criminal history, including all indicia of arrest. Prior to ordering expungement pursuant to this subsection, the Court shall review a name-based Delaware criminal background check conducted through the Delaware Justice Information System (DELJIS), in order to ensure eligibility. In cases reviewed by the Court pursuant to this subsection, the children must otherwise qualify for expungement under subsection (a)(1) or (a)(2) of this section. The Court may waive the one year waiting period under subsection (a)(2). The Court has discretion to deny immediate expungement and require compliance with § 1015(d) of this title. An order to expunge a felony, misdemeanor, or violation case from the juvenile's record, pursuant to § 1017 (c), shall be stayed for 30 days and may, upon motion by the Attorney General, be vacated within that 30 days, as prescribed by Delaware law. This stay shall not toll the applicable appeal period.

Section 2. Amend § 1019, Title 10 of the Delaware Code by making deletions as shown by strikethrough 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 of any expungement order. If an order expunging 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

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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.

(f) Nothing contained in this section shall require the destruction of photographs or fingerprints taken in connection with any ~~felony~~ arrest and which are utilized solely by law-enforcement officers in the lawful performance of their duties in investigating criminal activity.