



SPONSOR: Rep. George Sen. McDowell & Sen. Venables
Reps. Bennett, J. Johnson, Keeley, Kovach, Kowalko,
Mulrooney, Plant, Schooley & B. Short

HOUSE OF REPRESENTATIVES
145th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 169

AN ACT TO AMEND TITLES 10 AND 11 OF THE DELAWARE CODE RELATING TO RECORDS OF ARREST
AND PROSECUTION.

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

1 SECTION 1. Amend Chapter 43, Title 11 of the Delaware Code by striking § 4378 in its entirety.

2 SECTION 2. Amend Chapter 85, Title 11 of the Delaware Code by striking § 8513(h) in its entirety.

3 SECTION 3. Amend § 4373, Title 11 of the Delaware Code by adding a new subsection (f) to read as follows:
4 “(f) An offense for which records have been expunged pursuant to this Section shall not have to be disclosed by the person
5 as an arrest for any reason.”

6 SECTION 4. Amend § 4374, Title 11 of the Delaware Code by adding a new subsection (i) to read as follows: “(i)
7 An offense for which records have been expunged pursuant to this Section shall not have to be disclosed by the person as
8 an arrest for any reason.”

9 SECTION 5. Amend Title 10 of the Delaware Code by striking § 1026 in its entirety.

10 SECTION 6. Amend § 1025(d), Title 10 of the Delaware Code, by inserting the language “, including any
11 electronic records,” after the words “police records and court records” in the first sentence, and by inserting the following in
12 subparagraph (1) after the words “A court” in the second sentence: “or a police agency”.

13 SECTION 7. Amend § 1025(e), Title 10 of the Delaware Code by inserting the following after the words
14 “subsection (d) of this section”: “, provided, however, that where a person was charged with a criminal offense where
15 discretionary expungement pursuant to this subsection applies, but also was charged, within the same case, with a criminal
16 offense where mandatory expungement pursuant to § 1025 applies, such person must file a petition in the Family Court
17 pursuant to this Section.”.

18 SECTION 8. Amend § 1025(e)(2), Title 10 of the Delaware Code by inserting the following at the end of the
19 second sentence: “or case.”.

20 Section 9. Amend § 1025(e)(5), Title 10 of the Delaware Code by inserting the following after the end of the first
21 sentence and before the beginning of the second sentence: “A police agency which receives a notice of expungement from
22 the State Bureau of Identification shall provide the Bureau with written confirmation of the completion of the
23 expungement.”.

SYNOPSIS

This Act eliminates the five-year waiting period for a person who has successfully completed the Probation Before Judgment (“PBJ”) program, and the two-year waiting period for a person who has successfully completed the First Offenders Controlled Substances Diversion Program (“CSDP”), to obtain an expungement of the arrest and conviction records relating to that offense. This Act clarifies that offenses for which records have been expunged do not have to be disclosed as arrests. This Act also corrects for what appear to be inadvertent omissions in the amendments to the expungement statutes that were passed during the prior legislative session and corrects inconsistencies between the Family Court and Superior Court expungement statutes.