
A BILL FOR AN ACT

RELATING TO EXPUNGEMENT ORDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 831-3.2, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (a), (b), and (c) to read:

4 "(a) The attorney general, or the attorney general's duly
5 authorized representative within the department of the attorney
6 general, upon written application from a person arrested for[~~r~~]
7 or charged with but not convicted of a crime, shall issue an
8 expungement order annulling, canceling, and rescinding the
9 record of arrest[~~r~~], and the judiciary, upon written application
10 from a person who was charged by complaint or indictment for a
11 crime but not convicted of the crime, shall issue an expungement
12 order sealing the entire court file of the complaint or
13 indictment; provided that [~~an~~] expungement [~~order~~] orders shall
14 not be issued:

15 (1) In the case of an arrest for a felony or misdemeanor
16 where conviction has not been obtained because of bail
17 forfeiture;



1 (2) For a period of five years after arrest or citation in
2 the case of a petty misdemeanor or violation where
3 conviction has not been obtained because of a bail
4 forfeiture;

5 (3) In the case of an arrest of any person for any offense
6 where conviction has not been obtained because the
7 person has rendered prosecution impossible by
8 [~~absenting oneself~~] being absent from the
9 jurisdiction; or

10 (4) In the case of a person acquitted by reason of a
11 mental or physical defect under chapter 704[; ~~and~~

12 ~~(5) For a period of one year upon discharge of the~~
13 ~~defendant and dismissal of the charge against the~~
14 ~~defendant in the case of a deferred acceptance of~~
15 ~~guilty plea or nolo contendere plea, in accordance~~
16 ~~with chapter 853].~~

17 Any person entitled to [an] expungement [~~order hereunder~~]
18 orders as provided in this subsection may also request, by
19 written application [also request], the return of all
20 fingerprints or photographs taken in connection with the
21 person's arrest. The attorney general or the attorney general's
22 duly authorized representative within the department of the



1 attorney general, within [~~120~~] one hundred twenty days after
2 receipt of the written application, [~~shall,~~] when so requested,
3 shall deliver, or cause to be delivered, all fingerprints or
4 photographs of the person, unless the person has a record of
5 conviction or is a fugitive from justice, in which case the
6 photographs or fingerprints may be retained by the agencies
7 holding such records.

8 (b) Upon the issuance of the expungement certificate[~~]~~ or
9 order, the person applying for the certificate or order shall be
10 treated as not having been arrested or charged by complaint or
11 indictment for the crime in all respects not otherwise provided
12 for in this section.

13 (c) Upon the issuance of the expungement order, all arrest
14 records pertaining to the arrest [~~which~~] that are in the custody
15 or control of any law enforcement agency of the state or any
16 county government[~~]~~ and [~~which~~] that are capable of being
17 forwarded to the attorney general without affecting other
18 records not pertaining to the arrest[~~]~~ shall be so forwarded
19 for placement of the arrest records in a confidential file[~~]~~,
20 and all court records pertaining to the charge, including any
21 court records maintained in an electronic medium, shall be
22 sealed."



1 2. By amending subsection (e) to read:

2 "(e) The attorney general or the attorney general's duly
3 authorized representative within the department of the attorney
4 general shall issue a certificate to the person for whom an
5 expungement order has been entered, [~~a certificate~~] stating that
6 the order has been issued and that its effect is to annul the
7 record of a specific arrest. The certificate shall authorize
8 the person to state, in response to any question or inquiry,
9 regardless of whether [~~or not~~] under oath, that the person has
10 no record regarding the specific arrest. Such a statement shall
11 not make the person subject to any action for perjury, civil
12 suit, discharge from employment, or any other adverse action.

13 The judiciary or the court shall issue an order to the
14 person for whom an expungement order has been entered, stating
15 that the expungement order has been issued and that its effect
16 is to seal the court records of the specific complaint or
17 indictment. The order shall authorize the person to state, in
18 response to any question or inquiry, regardless of whether under
19 oath, that the person has no complaint or indictment filed
20 against the person regarding the specific crime. Such a
21 statement shall not make the person subject to any action for



Report Title:

Criminal History Records; Expungement Orders

Description:

Requires the judiciary to issue orders sealing the records of cases that meet the criteria for expungement.

