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# A BILL FOR AN ACT

RELATING TO EXPUNGEMENT.

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

1 PART I

2 SECTION 1. The legislature finds that approximately  
3 seventy-seven million persons in the United States have a  
4 criminal record. In some instances, the person was arrested but  
5 ultimately not convicted of a crime. The legislature recognizes  
6 that arrest and conviction records can adversely affect a  
7 person's financial security and limit their ability to obtain  
8 housing, employment, or a professional license.

9 The legislature also recognizes that many persons in the  
10 United States have been arrested or convicted of a  
11 marijuana-related offense that has since been decriminalized by  
12 the State. In 2019, the legislature passed Act 273, Session  
13 Laws of Hawaii 2019, decriminalizing the possession of three  
14 grams or less of marijuana. Despite the decriminalization, some  
15 persons still have prior arrest records or conviction records  
16 for related charges that affect their employment and housing  
17 options.





1 rescinding all criminal records, including records of arrest and  
2 any records of conviction, for offenses pursuant to section  
3 712-1249, including any:

4 (1) Civil violation;

5 (2) Petty misdemeanor conviction;

6 (3) Juvenile conviction;

7 (4) Arrest record for persons charged with an offense  
8 pursuant to section 712-1249 but not convicted of a  
9 crime; or

10 (5) Conviction pursuant to section 712-1249 that is  
11 eligible for redress pursuant to chapter 661B.

12 (b) In eligible cases, an expungement order shall be  
13 issued pursuant to this section notwithstanding the existence of  
14 any:

15 (1) Prior arrests, convictions, or civil adjudications;

16 (2) Other pending criminal charges;

17 (3) Convictions for other counts within the same case that  
18 are not eligible for expungement pursuant to this  
19 section or other applicable laws; or

20 (4) Outstanding court-imposed or court-related fees,  
21 finances, costs, assessments, or charges.



1       (c) Any outstanding fees, fines, costs, assessments, or  
2 charges related to a case eligible for expungement pursuant to  
3 this section shall be waived.

4       (d) Upon the issuance of an expungement order, a person  
5 whose criminal record has been expunged shall be treated as not  
6 having been arrested or convicted in all respects and for any  
7 purposes, including for purposes of sentencing or the imposition  
8 of any penalty for any subsequent crime or civil violation.

9       (e) Upon the issuance of the expungement order, all  
10 records pertaining to the arrest or conviction that are in the  
11 custody or control of any law enforcement agency of the State or  
12 any county government shall be sealed or destroyed.

13       (f) Records sealed or destroyed pursuant to subsection (e)  
14 shall not be divulged pursuant to section 831-3.2(d).

15       (g) Any person with an arrest or conviction eligible for  
16 expungement pursuant to this section may request a copy of the  
17 person's criminal history to verify that the record has been  
18 updated.

19       (h) Any person for whom an expungement order has been  
20 issued may obtain from the department of the attorney general,  
21 for a reasonable fee, an expungement certificate stating that



1 the expungement order has been issued and that its effect is to  
2 annul the record of a specific arrest or conviction.

3 (i) Nothing in this section shall be construed to restrict  
4 or modify a person's rights to have a record expunged pursuant  
5 to section 831-3.2 or to diminish or abrogate any other rights  
6 or remedies available to the person.

7 (j) The department of the attorney general may adopt rules  
8 pursuant to chapter 91 necessary for the purpose of this  
9 section.

10 (k) For purposes of this section:

11 "Arrest record" shall have the same meaning as defined in  
12 section 831-3.2.

13 "Conviction" shall have the same meaning as defined in  
14 section 831-3.2."

15 PART III

16 SECTION 3. (a) Within thirty days of the effective date  
17 of this Act, the Hawaii criminal justice data center shall  
18 identify all available records that qualify for expungement  
19 pursuant to section 831- , Hawaii Revised Statutes, and shall  
20 provide a list of these records to:

21 (1) The department of the attorney general;



1 (2) The office of the prosecuting attorney for each  
2 county;

3 (3) Each county police department; and

4 (4) Each state court.

5 (b) The Hawaii criminal justice data center shall submit a  
6 report to the legislature no later than June 30 and December 31  
7 of each year until an order of expungement has been issued for  
8 each record eligible for expungement pursuant to section  
9 831- , Hawaii Revised Statutes, as of the effective date of  
10 this Act. The report shall include:

11 (1) The total number of records initially identified as  
12 eligible for expungement pursuant to section 831- ,  
13 Hawaii Revised Statutes;

14 (2) The total number of past convictions remaining in the  
15 statewide central repository of adult criminal history  
16 that are potentially eligible for expungement;

17 (3) The total number of expungement orders granted by the  
18 department of the attorney general, disaggregated by  
19 county;

20 (4) The total number of records sealed or otherwise  
21 removed by each county police department, office of



1 the prosecuting attorney, and any state or county  
2 agency;

3 (5) The total number of records sealed or otherwise  
4 removed from the judiciary's publicly accessible  
5 electronic databases; and

6 (6) The demographics, where available, including age,  
7 race, ethnicity, gender, income level, and educational  
8 attainment level, of all persons granted an  
9 expungement pursuant to section 831- , Hawaii  
10 Revised Statutes.

11 PART IV

12 SECTION 4. (a) No later than sixty days after receiving  
13 from the Hawaii criminal justice data center the list of records  
14 eligible for expungement pursuant to section 831- , Hawaii  
15 Revised Statutes, the department of the attorney general shall  
16 issue an expungement order in each case and shall notify the  
17 judiciary of the applicable person's name, date of birth, and  
18 court case number, or the most appropriate identifying  
19 information for each expungement.

20 (b) If an expungement order applies only to certain counts  
21 of a conviction involving multiple counts, the department of the



1 attorney general shall clearly state in the expungement order  
2 which counts are expunged and which counts are not expunged. In  
3 these circumstances, any expungement pursuant to section  
4 831- , Hawaii Revised Statutes, shall not affect the records  
5 related to any count or conviction in the same case that is not  
6 eligible for expungement.

7 (c) The department of the attorney general and its  
8 employees and agents shall be immune from any civil liability  
9 for any act or omission, taken in good faith, arising out of and  
10 in the course of participating in or assisting with the  
11 expungement procedures set forth in this Act. The immunity  
12 shall be in addition to, and not in limitation of, any other  
13 immunity provided by law.

14 PART V

15 SECTION 5. (a) No later than one year after receiving  
16 notice of the records eligible for expungement pursuant to this  
17 Act, the judiciary shall seal or otherwise remove from its  
18 publicly accessible electronic databases all judiciary files and  
19 other information pertaining to each eligible case, including,  
20 where applicable, any records of arrest, indictment, trial,  
21 verdict, dismissal, or discharge.



1 (b) The judiciary shall update the Hawaii criminal justice  
2 data center on a monthly basis until all eligible records are  
3 sealed or otherwise removed pursuant to this Act.

4 (c) The judiciary and its employees and agents shall be  
5 immune from any civil liability for any act or omission, taken  
6 in good faith, arising out of and in the course of participating  
7 in or assisting with the expungement procedures set forth in  
8 this Act. The immunity shall be in addition to, and not in  
9 limitation of, any other immunity provided by law.

10 PART VI

11 SECTION 6. The judiciary and department of the attorney  
12 general may seek assistance from the university of Hawaii  
13 William S. Richardson school of law or Hawaii innocence  
14 project's beyond guilt clinic to carry out the purpose of this  
15 Act.

16 PART VII

17 SECTION 7. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on July 1, 3000.



**Report Title:**

Judiciary; Department of the Attorney General; Marijuana Possession; Expungement; Reports

**Description:**

Creates a state-initiated process to expunge records of arrests and convictions for the offense of promoting a detrimental drug in the third degree at no cost to the record holder. Requires the Hawaii Criminal Justice Data Center to submit biannual reports to the Legislature until all eligible records are expunged. Effective 7/1/3000. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

