

JOSH GREEN, M.D.
GOVERNOR



DEPT. COMM. NO. 72

ANNE E. LOPEZ
ATTORNEY GENERAL

MATTHEW S. DVONCH
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
Ka 'Oihana O Ka Loio Kuhina
425 QUEEN STREET
HONOLULU, HAWAII 96813
(808) 586-1500

December 5, 2025

The Honorable Ronald D. Kouchi
President and Members of the Senate
Thirty-Third State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Nadine K. Nakamura
Speaker and Members of the
House of Representatives
Thirty-Third State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Nakamura, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Department of the Attorney General's Final Report on the Pilot Project to Expunge Certain Arrest Records, as required by Act 62, Session Laws of Hawaii 2024. In accordance with section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at <https://ag.hawaii.gov/publications/reports/reports-to-the-legislature/>.

If you have any questions or concerns, please feel free to call me at (808) 586-1500.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew S. Dvonch".

Matthew S. Dvonch
Acting Attorney General

c: Josh Green, M.D., Governor
Sylvia Luke, Lieutenant Governor
Legislative Reference Bureau (Attn: Karen Mau)
Leslie H. Kondo, State Auditor
Sabrina Nasir, Acting Director of Finance, Department of Budget and Finance
Stacey A. Aldrich, State Librarian, Hawaii State Public Library System
Wendy F. Hensel, President, University of Hawaii

Enclosure

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FINAL REPORT ON THE PILOT PROJECT TO EXPUNGE CERTAIN ARREST RECORDS

Pursuant to Act 62, Session Laws of Hawaii 2024

Submitted to the Thirty-Third State Legislature
Regular Session of 2026

I. INTRODUCTION

Act 62, Session Laws of Hawaii 2024 (Act 62), enacted on June 21, 2024, established a pilot project to be administered by the Department of the Attorney General to expunge certain arrest records and other records pertaining to prior arrests made under section 712-1249, Hawaii Revised Statutes (HRS), concerning the possession of less than one ounce of marijuana. Act 62 was subsequently amended by Act 5, Session Laws of Hawaii 2025 (Act 5) to broaden the scope of the pilot project to pertain to all arrests made under section 712-1249, HRS, not only those concerning the possession of marijuana. For purposes of the pilot project, the Department of the Attorney General used existing funding and resources of the Hawaii Criminal Justice Data Center (HCJDC).

Pursuant to section 2(b) of Act 62, as amended by Act 5, notwithstanding section 831-3.2, HRS, or any other law to the contrary, the department of the attorney general shall issue, without any written application by the holder of an arrest record and on the department's own initiative, an expungement order annulling, cancelling, and rescinding the arrest record where:

- (1) The arrest occurred before January 11, 2020;
- (2) The arrest resulted in a single charge of violating section 712-1249, Hawaii Revised Statutes;
- (3) The arrest occurred in a county having a population greater than two hundred thousand and less than five hundred thousand persons;
- (4) The criminal case terminated with a final disposition other than a conviction; and
- (5) An expungement order is not otherwise prohibited from being issued by law, including section 831-3.2(a), Hawaii Revised Statutes.

The department shall not charge the holder of the arrest record any fee for the issuance of an expungement order pursuant to the pilot project established by this section.

Act 62 requires the HCJDC to submit a report to the legislature regarding the progress of the pilot project, no later than twenty days prior to the convening of the regular sessions of 2025 and 2026, that shall include the following:

- (1) The total number of records identified to date as potentially eligible for expungement;
- (2) The total number of expungement orders granted to date by the department of the attorney general;
- (3) The total time and resources expended by the Hawai'i criminal justice data center to date on the pilot project; and
- (4) With respect to the report due to the legislature twenty days prior to the convening of the regular session of 2026, any future recommendations, including a statement of required resources and appropriations concerning state-initiated expungements.

II. THE PROCESS AND PROCEDURES USED TO IMPLEMENT THE PILOT PROJECT

The HCJDC is the division of the Department of the Attorney General responsible for processing expungement orders pursuant to section 831-3.2, HRS, and for maintaining the Criminal Justice Information System-Hawaii (CJIS-HI). CJIS-HI is a centralized database for pertinent criminal justice data collected from all criminal justice agencies, including state and county law enforcement agencies, as well as the Judiciary. HCJDC was tasked with implementing the pilot project using criminal history record information in CJIS-HI to identify and expunge criminal records that meet the criteria of the pilot project.

Based on the criteria established in section 2(b) of Act 62, HCJDC determined that Hawaii County met the criteria of a county having a population greater than two hundred thousand and less than five hundred thousand persons. The initial focus of the pilot project, prior to the enactment of Act 5, was on arrests made in Hawaii County, before January 11, 2020, that resulted in a single charge for a violation of section 712-1249, HRS, for possession of marijuana.

The required criteria presented logistical issues that substantially increased the time and workforce needed to implement the pilot project. There was no way to easily determine that a person was charged under section 712-1249, HRS, for possession of marijuana. A person can be arrested and charged with an offense of promoting a detrimental drug in the third degree under section 712-1249, HRS, for possessing any amount of marijuana or any amount of a Schedule V substance. Schedule V substances include low-level narcotics such as prescription medications with small amounts of codeine, opium, and other opioids. The information in CJIS-HI is generally limited to identifying the charge by statute, not by substance. Therefore, a person charged with possession of a Schedule V drug will be shown only as being charged with

an offense under section 712-1249, HRS. The detail of the substance may not be included and would have to be determined by a manual review of the arrest record, charging documents, or court records.

Because the details of the incident, such as the substance possessed, are generally not included in CJIS-HI data, for most cases, the HCJDC expunger must manually review the arrest records, charging documents, and other court records to determine whether the individual charged with a 712-1249, HRS, violation is eligible for expungement under the pilot project. Obtaining these records is another step in the process, because arrest records are kept by the arresting law enforcement agency and are not automatically shared with HCJDC, and court records are kept by the Judiciary and are not automatically shared with HCJDC, although some court records are publicly available.

Given this background information, the process HCJDC employed to implement the pilot project had four basic steps:

- (1) **Identify records for potential expungement:** HCJDC used CJIS-HI to research and identify records potentially eligible for expungement;
- (2) **Verify arrest details.** HCJDC requested the arresting law enforcement agencies to review their arrest records and verify the type of drug involved in each arrest, and, where applicable, contacted the Judiciary for charging documents or other court records; and
- (3) **Determine eligibility.** Using CJIS-HI publicly available documents, and the additional information from step 2, HCJDC reviewed records to determine eligibility for expungement.
- (4) **Expunge records.** Once it was determined that a record qualified for expungement, HCJDC contacted the arresting law enforcement agency, identified the record to be expunged, and requested that the fingerprints and photographs associated with the record be transferred to HCJDC. Upon receipt of the fingerprints and photographs, HCJDC completed the expungement process.

The HCJDC initiated the process by using CJIS-HI to identify arrests in Hawaii County involving a single charge under section 712-1249, HRS, that occurred prior to January 11, 2020. A total of 2,268 records were identified as potentially eligible for expungement. Some individuals had been arrested for the same charge in separate incidents, resulting in multiple eligible records.

To verify the arrest details of the identified arrest records, HCJDC requested information from the arresting agencies. Of the 2,268 total records identified, 2,247 arrests were made by the Hawaii County Police Department (HI-PD), and twenty-one arrests were made by the Department of Law Enforcement. On August 6, 2024, HCJDC contacted both agencies via email, seeking their assistance with the pilot project. Each agency received an Excel spreadsheet containing details of the arrests they handled, including the arrestee's name, State Identification number, Offender Tracking Number, arrest report number, and arrest date. HCJDC requested that the

arresting agency review its records for the identified incidents and verify the type of drug(s) that were involved. Given the volume of records HI-PD was asked to review, HCJDC suggested that up to fifty records be reviewed per month.¹

III. ACT 5's IMPACT ON THE PILOT PROJECT

Act 5 was enacted on April 10, 2025. Act 5 expanded eligibility for expungement under the pilot project to include all arrest records related to offenses under section 712-1249. While HCJDC no longer had to rely solely on HI-PD or court records to verify the type of drug involved, this change **did not eliminate the need for manual eligibility review**. Even after removing the drug type requirement, some arrests initially identified as potentially qualifying for expungement were found ineligible.

Despite criminal justice agencies being responsible for updating information in CJIS-HI, human review remained essential. At least 87 arrests that initially appeared to qualify for expungement ultimately did not. This underscores the critical importance of thorough human review to ensure that only records that truly qualify are sealed or expunged, which is vital for public safety.

Moreover, Act 5 did **not expedite the expungement process** as had been anticipated. HCJDC still had to wait an average of 45 days for HI-PD to confirm that records had been removed from its system, demonstrating that procedural delays persisted despite expanded eligibility.

IV. THE TOTAL NUMBER OF RECORDS IDENTIFIED AS POTENTIALLY ELIGIBLE FOR EXPUNGEMENT FOR THE FULL DURATION OF THE PILOT PROJECT

A total of 2,268 records were identified as potentially eligible for expungement.

V. TOTAL NUMBER OF EXPUNGEMENT ORDERS GRANTED BY THE DEPARTMENT OF THE ATTORNEY GENERAL FOR THE FULL DURATION OF THE PILOT PROJECT

Based on available resources, the Department of the Attorney General granted 1,321 expungement orders.

¹ On September 9, 2024, HCJDC followed up with the HI-PD via email after receiving no response during the first month of the pilot project. HI-PD did not respond until January 2025.

VI. TOTAL NUMBER OF EXPUNGEMENT ORDERS DENIED BY THE DEPARTMENT OF THE ATTORNEY GENERAL FOR THE FULL DURATION OF THE PILOT PROJECT

Based on the available resources, the Department of the Attorney General identified 87 arrests that did not qualify for expungement. The reasons for the denials included: initial arrest resulted in a conviction, subsequent arrest resulted in a conviction, disposition of arrest could not be determined, issuance of a warrant for arrest, or acquitted by reason of insanity.

VII. TOTAL NUMBER OF INQUIRIES FROM THE PUBLIC INQUIRING WHETHER THEIR ARREST QUALIFIED FOR THE PILOT PROJECT OR REQUESTING AN EXPUNGEMENT CERTIFICATE

There were no public inquiries associated with the pilot project at all as of the date of this report.

VIII. TOTAL TIME AND RESOURCES EXPENDED TO DATE BY THE HAWAII CRIMINAL JUSTICE DATA CENTER ON THE PILOT PROJECT.

Based on the available resources, the HCJDC spent approximately 888 hours on the pilot project and used the resources of four staff members, including the Administrator.

IX. RECOMMENDATIONS

To best inform the legislature with all information available, and to give this pilot project the broadest reach, on November 25, 2025, Attorney General Anne Lopez issued an administrative directive to continue with state-initiated expungements otherwise authorized by Act 62, as amended by Act 5, with respect to the remaining 860 records. A copy of this directive is attached to this report. The Department will provide a supplemental report to the chairs of the Senate Committee on Judiciary and House Committee on Judiciary and Hawaiian Affairs upon the completion of the examinations of the remaining 860 records.

Notwithstanding our inability to complete the expungement of all the eligible records in the time permitted by the pilot project, we have the following recommendations based upon what we have learned from the pilot project to date. Because human review is required to determine whether an arrest qualifies for expungement, those considering a state-initiated expungement or sealing process for certain offenses and convictions should understand the broader implications for both public safety and funding.

When defining which arrest or conviction records should be eligible for sealing or expungement, policymakers should carefully assess the potential effects on firearm eligibility, public safety, and funding to the HCJDC.

Expunging arrest records before the statute of limitations has expired presents significant legal and procedural challenges. While expungement is designed to relieve individuals from the collateral consequences of an arrest, doing so prematurely can interfere with ongoing or potential prosecutorial actions. If the statute of limitations has not expired, the underlying conduct may remain subject to criminal prosecution. Expunging an arrest record before the statute of limitations expires could hinder the law enforcement investigation and compromise the integrity of evidence records. It may also create confusion about an individual's legal status and the disposition of the original charge.

Sealing or expunging certain criminal records could inadvertently limit access to vital background information for non-criminal justice entities such as those in education, healthcare, childcare, and social services, as well as for law enforcement agencies conducting firearm background checks. Restricting access to complete criminal history information could increase the risk of hiring or licensing individuals whose prior conduct may raise serious concerns, thereby posing potential threats to public safety.

While the pilot project concerned a petty misdemeanor, for future consideration it is important to understand the legal implications of sealing or expunging felony arrests or convictions, as these actions can affect firearm eligibility and broader public safety. Under the federal Gun Control Act (18 U.S.C. § 922(g)), individuals who have been convicted of a felony, convicted of a misdemeanor crime of domestic violence, or who are unlawful users of or addicted to controlled substances as defined in 21 U.S.C. § 802 are prohibited from shipping, transporting, receiving, or possessing firearms or ammunition.

In Hawaii, any offense punishable by imprisonment for one year or more is classified as a felony and disqualifies an individual from owning or possessing a firearm under the National Instant Criminal Background Check System (NICS). Therefore, the sealing or expungement of felony arrests or convictions raises significant concerns, as it may allow individuals who should be prohibited from possessing firearms to obtain them.

Approximately 432,000 individuals in Hawaii have at least one arrest eligible for expungement. Before implementing a state-initiated expungement or sealing process, policymakers should carefully consider the fiscal and operational implications, ensuring the process serves both qualifying individuals and taxpayers. Managing this volume would place significant demands on HCJDC's resources and staffing, likely requiring at least two additional full-time positions and associated start-up and ongoing costs, estimated at \$103,000 in the first year. A decision of this scale carries long-term budgetary and operational consequences that must be weighed alongside the benefits to individuals.

The HCJDC currently relies on revenue from expungement application fees to support personnel salaries and general operations. If expungements are initiated by the

State without the collection of corresponding fees, this revenue stream will be significantly reduced and eventually eliminated. The loss of this funding source would jeopardize the HCJDC's ability to sustain current staffing levels and operational functions.

Based on the number of individuals eligible for expungement, the HCJDC projects an additional appropriation requirement of approximately \$15 million to offset lost fee revenue. This estimate is derived from the current expungement application fee of \$35 per application, multiplied by the estimated 432,000 eligible individuals.

Targeted funding or an appropriation would be essential to account for the loss of revenue and to support the increased workload required to ensure the process is implemented correctly. Funding must cover not only the Hawaii Criminal Justice Data Center but also law enforcement agencies that will be tasked with updating their records management system.

X. CONCLUSION

At the outset of the pilot project, several challenges emerged in implementing a state-initiated expungement program. The limited data in the CJIS-HI database, coupled with restricted access to detailed arrest records, made the process slow and labor-intensive. The information in CJIS-HI is often incomplete, especially for citation-based offenses, as these offenders do not undergo a formal booking process before or after conviction. This means that there are several individuals whose criminal convictions are unaccounted for in CJIS-HI. The project was further hindered by the lack of initial response from HI-PD.

It is important to note that the expungement process cannot be fully automated. Human review and intervention will remain essential, as determining a final case disposition requires extensive research into arrest and court records. This necessity is compounded by the fact that arrest records are updated continuously. For the reasons stated above, it is the Department's position that the current application-based process continues to serve the broadest set of interests, including those of law enforcement and the state fisc.

The Department will continue its work on the remaining 860 records and will provide a supplemental report upon completion.

JOSH GREEN, M.D.
GOVERNOR



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ADMINISTRATIVE DIRECTIVE

TO: Phil Higdon, Administrator
Hawai'i Criminal Justice Data Center

DATE: November 25, 2025

RE: Continuation of Expungements Otherwise Authorized by Act 62 of 2024, as Amended by Act 5 of 2025

Pursuant to HRS § 831-3.2, expungements orders can be issued by the Attorney General, or the Attorney General's duly authorized representative within the Department, "upon written application from a person arrested for, or charged with but not convicted of a crime, or found eligible for redress under chapter 661B[.]" Act 62 of 2024, as amended by Act 5 of 2025, created a pilot project for limited state-initiated expungements in the County of Hawai'i for arrest records concerning offenses under HRS § 712-1249, subject to certain conditions and limitations. Pursuant to Act 62, the pilot project ended on October 1, 2025.

During the pendency of the pilot project, a total of 2,268 records were identified as potentially eligible for an expungement. The Department granted 1,321 expungement orders and identified 87 records that did not qualify for expungement. This was extraordinary work by your team in just a few months over a year, in addition to the Hawai'i Criminal Justice Data Center's other work, and I commend you and your team for your efforts.

While the official term for the pilot project has ended, 860 records that were designated as potentially eligible for an expungement have not yet been analyzed. The question is whether those records can be analyzed, and expungement orders granted, absent legislative action to extend the life of the pilot project.

This question concerns the interpretation of my Department's governing laws. When reading HRS § 831-3.2 and Act 62 of 2024, as amended by Act 5 of 2025, in pari materia, I conclude there is ambiguity. My interpretation of ambiguous laws governing my Department is entitled to deference, particularly

when that interpretation is consistent with the underlying legislative purpose. *Rosehill, Trustee of Linda K. Rosehill Revocable Trust v. State*, 155 Hawai'i 387, 57, 556 P.3d 387, 403 (2024) (affirming the continuation of *Chevron* deference analogue under Hawai'i law).

The underlying legislative purpose of Act 62 of 2024 is to advise the Legislature, through the submission of reports, of the results of the pilot project to assist with future legislative efforts concerning expungements. I find that the purpose of the October 1, 2025 termination date of the pilot project was to allow the Department sufficient time to complete the second of these reports to the Legislature. I find that the continuation of the examination of the remaining 860 records in strict compliance with the conditions and limitations set forth in Act 62 of 2024, as amended by Act 5 of 2025, along with the submission of a "final report" upon completion, is consistent with the underlying legislative purpose of the pilot project. Seeking a legislative extension of the pilot project is not legally necessary and would cause unnecessary delay, which would frustrate the underlying legislative purpose. *See Rosehill*.

Therefore, I issue the following administrative directive to the Hawai'i Criminal Justice Data Center:

1. HCJDC is authorized and shall complete the examination of the remaining 860 records in strict accord with the conditions and limitations set forth in Act 62 of 2024, as amended by Act 5 of 2025, and grant or deny expungement orders in the same manner as during the pendency of the pilot project.
2. Complete the work set forth in paragraph 1 in an expeditious manner.
3. Prepare a final report for submission to the chairs of the Senate Committee on Judiciary and House Committee on Judiciary and Hawaiian Affairs upon the completion of the work set forth in paragraph 1.
4. Promptly inform the Special Assistant to the Attorney General regarding any issues that may arise that inhibit the completion of the preceding directives.
5. Nothing herein shall be construed to affect any matter or records outside of the 860 records.

Anne E. Lopez

Anne E. Lopez
Attorney General