

S.B. NO. 3098

JAN 28 2026

A BILL FOR AN ACT

RELATING TO EXPUNGEMENT ORDERS.

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

1 SECTION 1. The purpose of this Act is to amend section
2 831-3.2, Hawaii Revised Statutes, to reflect the Hawaii supreme
3 court's holding in *Barker v. Young*, 153 Hawaii 144 (2023), which
4 clarified that a person who is arrested for or charged with a
5 crime as a felony, misdemeanor, or petty misdemeanor, but is
6 later convicted of a violation for that incident, is eligible
7 for an expungement of that person's arrest record.

8 The Hawaii supreme court held that "Applying rules of
9 statutory interpretation, we hold that under the plain language
10 of HRS §§ 831-3.2(a) and 701-107(7), a person arrested for or
11 charged with a crime (including a petty misdemeanor), but
12 convicted of a violation, is eligible for arrest record
13 expungement because a 'violation' is not a 'crime.'"

14 The presence of an arrest on an individual's record may
15 interfere with the individual's ability to receive housing, —
16 employment, or other opportunities. The expungement of that
17 record is an appropriate action when the arrest led to a
18 conviction for a "violation," which is not considered a "crime."

1 SECTION 2. Section 831-3.2, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 " (a) The attorney general, or the attorney general's duly
4 authorized representative within the department of the attorney
5 general, upon written application from a person arrested for, or
6 charged with but not convicted of a crime, arrested for or
7 charged with a crime but convicted of a violation, or found
8 eligible for redress under chapter 661B, shall issue an
9 expungement order annulling, canceling, and rescinding the
10 record of arrest; provided that an expungement order shall not
11 be issued:

12 (1) In the case of an arrest for a felony or misdemeanor
13 where conviction has not been obtained because of bail
14 forfeiture;
15 (2) For a period of five years after arrest or citation in
16 the case of a petty misdemeanor or violation where
17 conviction has not been obtained because of a bail
18 forfeiture;
19 (3) In the case of an arrest of any person for any offense
20 where conviction has not been obtained because the
21 person has rendered prosecution impossible by
22 absenting oneself from the jurisdiction;

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2 (4) In the case of a person who was involuntarily
3 hospitalized pursuant to section 706-607, or who was
4 acquitted or had charges dismissed pursuant to chapter
5 704 due to a physical or mental disease, disorder, or
6 defect; and

7 (5) For a period of one year upon discharge of the
8 defendant and dismissal of the charge against the
9 defendant in the case of a deferred acceptance of
10 guilty plea or nolo contendere plea, in accordance
11 with chapter 853.

12 Any person entitled to an expungement order under this
13 section may by written application also request return of all
14 fingerprints or photographs taken in connection with the
15 person's arrest. The attorney general or the attorney general's
16 duly authorized representative within the department of the
17 attorney general, within one hundred twenty days after receipt
18 of the written application, shall, when requested, deliver, or
19 cause to be delivered, all fingerprints or photographs of the
20 person, unless the person has a record of conviction or is a
21 fugitive from justice, in which case the photographs or

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1 fingerprints may be retained by the agencies holding the
2 records."

3 SECTION 3. Section 831-3.2, Hawaii Revised Statutes, is
4 amended by amending subsection (g) to read as follows:

5 " (g) The meaning of the following terms as used in this
6 section shall be as indicated:

7 "Arrest record" means any existing photographic and
8 fingerprint cards relating to the arrest.

9 "Conviction" means a final determination of guilt whether
10 by plea of the accused in open court, by verdict of the jury or
11 by decision of the court.

12 "Crime" means a felony, misdemeanor, or petty misdemeanor
13 as specified in section 701-107.

14 "Violation" means an offense that does not constitute a
15 crime as specified in section 701-107."

16 SECTION 4. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



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BY REQUEST

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Report Title:

Expungement Orders; Violations; Penal Code

Description:

Amends section 831-3.2, HRS, to reflect that a person who is arrested for or charged with a crime but convicted of a violation is eligible for an expungement of their arrest record for that incident.

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

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JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO EXPUNGEMENT ORDERS.

PURPOSE: To amend the Hawaii Revised Statutes in accordance with a 2023 Hawaii Supreme Court ruling to reflect that a person who is arrested for or charged with a crime but convicted of a violation is eligible for an expungement of that person's arrest record for that incident.

MEANS: Amend section 831-3.2(a) and (g), Hawaii Revised Statutes.

JUSTIFICATION: Aligns criminal expungement law with Hawaii supreme court holding in *Barker v. Young*, 153 Hawaii 144 (2023), and clarifies criminal expungement for the public.

Impact on the public: This bill will allow for reduced negative impact of an arrest on an individual's record.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: Not applicable.

OTHER AFFECTED
AGENCIES: County Prosecutors, Attorney General, Department of Law Enforcement, Police Departments, Judiciary.

EFFECTIVE DATE: Upon approval.