

## THE CLEAN SLATE INITIATIVE: EXPUNGING JUVENILE ARREST RECORDS FACT SHEET ON SB978

Having a single juvenile arrest can impact the ability for youth to successfully compete for education, scholarships, employment, and service opportunities later on in life. Though Illinois law allows individuals with prior juvenile arrest and law enforcement records to expunge certain offenses, there are many logistical barriers that make it difficult to complete the process, particularly for those who lack resources to hire a trained advocate. **Despite approximately 21,000 youth arrests in 2013, only about 400 people were able to navigate the complicated process to have their juvenile records expunged.**

### Easing the barriers to clearing juvenile arrest records:

A significant number of juvenile arrests in Chicago never result in formal charges, and mere arrests can follow youth into adult life, potentially barring them from employment, housing, financial aid, professional licenses, and higher education.

Mayor Emanuel is supporting new legislation (SB978) sponsored by Rep. Arthur Turner and Sen. Kwame Raoul that will establish a new process for expunging records for those who are arrested but not charged. This legislation will require the Illinois State Police to automatically expunge on every six months all juvenile arrest records that meet the following conditions:

- The individual has turned 18
- The minor was arrested and no petition for delinquency was filed with the clerk of the circuit court
- At least 6 months have passed since the date of the arrest and there have been no other arrests during that period
- Record is electronically stored in the ISP database

This bill would have applied to an estimated 16,000 youth arrests in Chicago in 2013 alone. Additionally, a new process will be established so that individuals may request to have multiple juvenile arrest and law enforcement records expunged on a single petition.

### Current process

The current expungement process<sup>1</sup> is time consuming, complex, and resource-intensive. This process must be used by youth who were charged and found guilty of a serious crime but also by youth who were merely arrested and never charged or even referred to court. For each juvenile arrest or offense an individual wants to expunge, they must:

- Go to each arresting police department and get a copy of his or her arrest record or “rap sheet.”
- Fill out the appropriate expungement forms and a copy of the “criminal disposition” from the court clerk’s office.
- File a separate petition for every single arrest at a cost of \$64 each plus a one time \$60 fee.
- File the above forms and documents with the court clerk.
- Schedule and attend a hearing before a judge.
- If the judge orders the individual’s juvenile record to be expunged, the individual is responsible for informing all arresting police departments and the Illinois State Police about the expungement order.

### Impact of expunging records

Once a record is expunged, these records are “off-limits” to employers, schools, and the general public – as if they never existed. However, law-enforcement agencies can still consider expunged juvenile records while screening potential employees.

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<sup>1</sup> As described by the Children and Family Justice Center of the Bluhm Legal Clinic at Northwestern University School of Law and Models for Change.

## FREQUENTLY ASKED QUESTIONS

**Q: Why do we need automatic expungement in Illinois?**

A: People can petition to expunge their juvenile arrest records under current law, but the barriers are so high, very few people successfully navigate the process. A single juvenile arrest record can bar a young person from education, employment and housing opportunities. This bill will make sure that everyone enters adulthood with access to opportunity – not just the young people who can afford to navigate the legal system.

**Q: How many people would this bill affect?**

A: Roughly 75% of juvenile arrests each year do not result in charges and are diverted from formal court processing. In 2013, this bill would have applied to more than 16,000 arrests in Illinois.

**Q: What are the current consequences to having a juvenile arrest record and how would this bill help?**

A: Juveniles with prior arrest records are often denied access to housing, financial aid, education, and employment opportunities. Specifically, juveniles with prior arrests may be:

- Required to disclose the arrest on employment applications, limiting opportunities
- Unable to gain professional licenses, including nursing and cosmetology
- Denied admission to undergraduate and graduate institutions that require disclosure of any juvenile arrests or court records
- Denied scholarship and loan opportunities
- Ineligible to join the military
- Often rejected as tenants by landlords

**Q: How many individuals were able to expunge their records last year under the current system?**

A: Last year the court granted just under 700 petitions filed by about 400 individuals.

**Q: Why aren't more juveniles able to expunge their records under the current system?**

A: The process can take months, is difficult to navigate without legal assistance, and is expensive.

**Q: How long does the current process take, and how much does it cost?**

A: The current process typically takes months and often requires the assistance of a lawyer. A person must file a separate petition for each arrest, and each petition to expunge a juvenile record costs \$64 plus a one-time \$60 fee. By contrast, petitions to expunge adult arrests cost \$9 each.

**Q: Why are so many youth arrested but never charged?**

A: The Illinois juvenile justice laws give law enforcement discretion to divert youth from formal charges if they believe the youth will benefit from a community-based intervention program and never return to the justice system.

**Q: Will the Clean Slate Act retroactively expunge eligible juvenile arrest records?**

A: Yes, the current bill would require the Illinois State Police to retroactively clear all eligible electronic records in their database.

**Q: What happens when a juvenile arrest record is expunged?**

A: Once a record is expunged, these records are “off-limits” to employers, schools, and the general public – as if they never existed. However, law-enforcement agencies can still consider expunged juvenile records while screening potential employees, and prosecutors can review your juvenile record if you are charged with the same or a similar crime.

**Q: Will individuals be able to verify that their eligible juvenile records are expunged?**

A: Yes. The Illinois State Police will establish a system that allows individuals to verify that their eligible records have been expunged by the database. In addition, individuals will be able to request the Illinois State Police to issue a certificate of expungement that can be used to expunge local law enforcement records.

**Q: When will the records be expunged?**

A: All eligible records will be expunged from the ISP database twice a year, occurring every six months.

**Q: Will this bill require local law enforcement agencies to expunge their records?**

A: No. However, the bill will allow individuals to use the current process to expunge local law enforcement records. Individuals may request a certificate of expungement from the ISP which, like an order of expungement issued by a Circuit Court Judge, will require a local law enforcement agency to expunge the eligible arrest record.

**Q: If a juvenile arrest record isn't expunged, what happens to that record?**

A: In Illinois, all juvenile records are "sealed" or made confidential when the person reaches adulthood. While sealing those records may make them unavailable to the public, they are still maintained on electronic databases that are accessible to certain parties. In addition, sealed records can be opened after a successful petition. Some entities including schools can access those records under certain circumstances even though they are sealed. With a sealed record you do not necessarily have the right to say that you do not have criminal records on an employment or scholarship application.