

Columbia County Juvenile Probation

Expungement Policy and Procedure

It shall be the policy of the probation office to assist any current or previous juvenile probationer interested in obtaining an expungement of their juvenile record that has been supervised on probation by this office and have met the necessary criteria for expungement. The office will not favor, support or recommend an expungement for juveniles under the age of 18 with certain exceptions that will be noted in this policy. The office will also not support an expungement for individuals that have outstanding balances of restitution, court costs or fees until payment of such is satisfied in full.

Definition of Expunge: The Criminal History Record Act which applies to alleged and adjudicated delinquents whose fingerprints and photographs are taken, and to any juvenile justice agency which collects, maintains, disseminates or receives juvenile history record information, defines “expunge” as follows:

1. To remove information so there is no trace or indication that such information existed;
2. To eliminate all identifiers which may be used to trace the identity of an individual, allowing remaining data to be used for statistical purposes;
3. Maintenance of certain information required or authorized under the provisions of 18 PA. C.S.A. 9122 (c) relating to expungement, when an individual has successfully completed the conditions of any pretrial or post-trial diversion or probation program.

Requirements for Expungement of Records

18 PA C.S. 9123 sets forth requirements for the expungement of juvenile records. Juvenile delinquency records are required to be expunged following a 30 day notice to the district attorney, whenever the court, upon its motion or upon the motion of a child or the parents or guardian finds:

1. A complaint is filed which is not substantiated or the petition which is filed as a result of a complaint is dismissed by the court shall be expunged immediately;
2. Informal cases shall be expunged immediately after 6 months have elapsed and no proceeding is pending;
3. Consent decree cases shall be expunged after 6 months have elapsed since the final discharge of the person from supervision and no proceeding is pending seeking such conviction or adjudication;
4. Formal cases shall be expunged after 5 years have elapsed since the final discharge of the person from commitment, placement or probation or any other disposition and

referral and since such final discharge, the person has not been convicted of a felony, misdemeanor or adjudicated delinquent and no proceeding seeking such conviction or adjudication is pending; OR

5. The individual is 18 years of age or older, the attorney for the commonwealth consents to the expungement and a court orders the expungement after giving consideration to the following factors;
 - The type of offense;
 - The individual's age, history of employment, criminal activity and drug or alcohol problems;
 - Adverse consequences that the individual may suffer if the records are not expunged;
 - Whether retention of the record is required for purposes of protection of the public safety.

Exceptions:

There are areas of exception for the office to support the expungement of a juvenile record prior to the juvenile attaining the age of 18:

1. In cases where the original offense is a DUI, Retail Theft or certain drug offenses which are considered escalating penalty offenses. They will be determined on a case by case basis.
2. Unusual and serious victim impact cases that call for an exception to office policy which will be considered on a case by case basis.
3. Cases that were not successfully completed and closed with the Court.

Processing Expungement Cases:

The practices for processing the expungement of juvenile cases shall be as follows:

1. The juvenile probation office shall supply the juvenile offender and their parent(s) and/or guardian(s) with the information related to expungement at or near time of successful completion of probation in order for them to initiate the process with the juvenile probation office when the necessary criteria for consideration is met.
2. The juvenile probation office shall assist the individual requesting an expungement of a prior delinquency case and provide them with the necessary information in order to proceed with the process if all criteria is met.
3. Once determined eligible for expungement, the juvenile probation office shall:
 - a. Review the case
 - b. Determine that all restitution, court costs and fees are paid in full

- c. Obtain a current Pennsylvania Criminal History Record
- d. Prepare the expungement motion and court order which includes the following information:
 1. Name of the juvenile
 2. Date of birth of juvenile;
 3. Juvenile's case docket number;
 4. Complete allegation listing to which the order pertains;
 5. Law enforcement agency that initiated the allegations;
 6. Reference number of the police report or written allegation to be expunged;
 7. Date of arrest;
 8. Disposition of the written allegation or petition;
 9. Reasons and statutory authority for expunging and destroying the document;
 10. Agencies upon which certified copies of the court order shall be served.
4. The Chief Juvenile Probation Officer shall forward the motion indicating approval or not to the District Attorney's Office for review and recommendation. If all parties agree, the motion and materials shall be forwarded to the clerk of courts office for filing along with an order. The clerk of courts office will present the order to the Judge for signature. If any of the parties disagree, the Court must schedule and conduct a hearing and thereafter grant or deny the motion.
5. At any time, the juvenile and/or parent(s) may utilize an attorney to file the motion on their behalf for consideration with the Court. The Chief Juvenile Probation Officer and District Attorney will review the case for their response.
6. As per Administrative Court Order dated September 21, 2022, any and all filing fees or costs imposed by the Clerk of Courts Office associated with petitions for expungements for juvenile offenders is hereby waived.

Distribution of Expungement Orders

The clerk of courts must serve certified copies of the expungement order to any and all other persons or agencies as directed by the Court. The agencies would include PA State Police Repository, arresting police department, District Attorney's Office, Juvenile Probation Office(s). Upon receipt of the expungement order, the juvenile probation office shall mail a copy to the juvenile and the principal of the school district juvenile attended related to where adjudication and disposition notification was released. The juvenile probation office shall also indicate all juvenile case information as expunged via Juvenile Court Management System (JCMS) as well as forward the information to the Juvenile Court Judges Commission (JCJC) regarding the juvenile statistical records. The expungement order will be retained in a secure area.

Expungements Related to the Intercounty Transfer of Cases

The Court making disposition in an inter-county juvenile delinquency case should be the court that orders the expungement of records associated with the case. In these instances, copies of the motion for expungement should be provided to the juvenile probation office, district attorney and clerk of courts offices from which the case was transferred.

Collateral Consequences

The juvenile probation office shall include, in the form sent to juveniles upon closure of their cases, information on the potential collateral consequences that may occur that accompany having a juvenile record. This list is not exhaustive and is subject to change. There is also a notice that the expungement process does take some time to complete and they should not have unrealistic expectations that juvenile records will be immediately expunged and they not suffer any potential adverse consequences.

Reference: The Juvenile Act, 42 PA C.S. Sec 6301 et seq. Appendix II, Expungement of Juvenile Records, 18 PA C.S. 9123 and the Juvenile Delinquency Records Handbook and Expungement Guide published by the Juvenile Court Judges' Commission, 2008; ACT 204-2012.