

**Effective 7/1/2015**

**78A-6-1105 Expungement of juvenile court record -- Petition -- Procedure.**

- (1)
  - (a) A person who has been adjudicated under this chapter may petition the court for the expungement of the person's juvenile court record and any related records in the custody of a state agency, if:
    - (i) the person has reached 18 years of age; and
    - (ii) one year has elapsed from the date of termination of the continuing jurisdiction of the juvenile court or, if the person was committed to a secure youth corrections facility, one year from the date of the person's unconditional release from the custody of the Division of Juvenile Justice Services.
  - (b) The court may waive the requirements in Subsection (1)(a), if the court finds, and states on the record, the reason why the waiver is appropriate.
  - (c) The petitioner shall include in the petition any agencies known or alleged to have any documents related to the offense for which expungement is being sought.
  - (d) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.
  - (e) The petitioner shall send a copy of the petition to the county attorney or, if within a prosecution district, the district attorney.
  - (f)
    - (i) Upon the filing of a petition, the court shall:
      - (A) set a date for a hearing;
      - (B) notify the county attorney or district attorney, and the agency with custody of the records at least 30 days prior to the hearing of the pendency of the petition; and
      - (C) notify the county attorney or district attorney, and the agency with records the petitioner is asking the court to expunge of the date of the hearing.
    - (ii) The court shall provide a victim with the opportunity to request notice of a petition for expungement. A victim shall receive notice of a petition for expungement at least 30 days prior to the hearing if, prior to the entry of an expungement order, the victim or, in the case of a child or a person who is incapacitated or deceased, the victim's next of kin or authorized representative, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered. The notice shall include a copy of the petition and statutes and rules applicable to the petition.
- (2)
  - (a) At the hearing, the county attorney or district attorney, a victim, and any other person who may have relevant information about the petitioner may testify.
  - (b) In deciding whether to grant a petition for expungement, the court shall consider whether the rehabilitation of the petitioner has been attained to the satisfaction of the court, taking into consideration the petitioner's response to programs and treatment, the petitioner's behavior subsequent to adjudication, and the nature and seriousness of the conduct.
  - (c) The court may order sealed all petitioner's records under the control of the juvenile court and any of petitioner's records under the control of any other agency or official pertaining to the petitioner's adjudicated juvenile court cases, including relevant related records contained in the Management Information System created by Section 62A-4a-1003 and the Licensing Information System created by Section 62A-4a-1005, if the court finds that:
    - (i) the petitioner has not, since the termination of the court's jurisdiction or the petitioner's unconditional release from the Division of Juvenile Justice Services, been convicted of a:
      - (A) felony; or

- (B) misdemeanor involving moral turpitude;
  - (ii) no proceeding involving a felony or misdemeanor is pending or being instituted against the petitioner; and
  - (iii) a judgment for restitution entered by the court on the conviction for which the expungement is sought has been satisfied.
- (3) The petitioner shall be responsible for service of the order of expungement to all affected state, county, and local entities, agencies, and officials. To avoid destruction or sealing of the records in whole or in part, the agency or entity receiving the expungement order shall only expunge all references to the petitioner's name in the records pertaining to the petitioner's adjudicated juvenile court cases.
- (4) Upon the entry of the order, the proceedings in the petitioner's case shall be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter only be permitted by the court upon petition by the person who is the subject of the records, and only to persons named in the petition.
- (5) The court may not expunge a juvenile court record if the record contains an adjudication of:
- (a) Section 76-5-202, aggravated murder; or
  - (b) Section 76-5-203, murder.
- (6)
- (a) A person whose juvenile court record consists solely of nonjudicial adjustments as provided in Section 78A-6-602 may petition the court for expungement of the person's record if the person:
    - (i) has reached 18 years of age; and
    - (ii) has completed the conditions of the nonjudicial adjustments.
  - (b) The court shall, without a hearing, order sealed all petitioner's records under the control of the juvenile court and any of petitioner's records under the control of any other agency or official pertaining to the petitioner's nonjudicial adjustments.

Amended by Chapter 389, 2015 General Session