

WINNEBAGO COUNTY JUVENILE EXPUNGEMENT PACKET

What is a “record”?

Juvenile records are created and maintained both by law enforcement agencies and the court system. There are two types of juvenile records:

Juvenile Law Enforcement records:

These are records primarily maintained by the police. They include records of arrest, station adjustments, fingerprints, probation adjustments, the issuance of a notice to appear, or any other records or documents maintained by any police department relating to a minor suspected of committing an offense, and records maintained by the police that identify a juvenile as a suspect in committing an offense,

Juvenile law enforcement records **does not** include records identifying a juvenile as a victim, witness, or a missing juvenile and any records related to participating in any court diversion program.

OR

Juvenile Court records:

These include but are not limited to the following:

- a. All documents filed with or maintained by either the juvenile court or juvenile probation officers that relate to a specific incident, case or person.
- b. Any exhibits admitted into evidence at a juvenile court hearing.
- c. All documents or evidence, in any form, prepared by, maintained by, or released by any State or local government agency or department that indicates involvement with the juvenile court that relate to a specific incident, case or person.

**JUVENILE COURT AND LAW ENFORCEMENT RECORDS ARE
SUBJECT TO AUTOMATIC EXPUNGMENT
UNDER CERTAIN CIRCUMSTANCES**

1. **705 ILCS 405/5-915(0.1)(a) - Juvenile law enforcement records** are automatically expunged if:
 - a. One year or more has passed since the arrest or incident; AND
 - b. You did not have to go to court for the charges; AND
 - c. 6 months have passed since the date of the arrest or incident without additional arrests or charges being filed.

2. **705 ILCS 405/5-915(0.2)(a) – Juvenile law enforcement and juvenile court records** are automatically expunged under the following circumstances:
 - a. At the end of court involvement:
 - i. Following the dismissal of a petition alleging delinquency;
 - ii. Following a finding of not guilty after a trial;
 - iii. Successful termination of an order of supervision
 - iv. Successful termination of an order of probation for an offense which would be a Class B or C misdemeanor, a petty offense or a business offense.

3. **705 ILCS 405/5-915(0.3)(a) – Juvenile law enforcement and juvenile court records** are automatically expunged following adjudication for qualifying offenses:
 - a. 2 years have passed since the end of the minor’s case.
 - b. Offense the minor was adjudicated for was not disqualified from automatic expungement.
 - c. There has not been a subsequent delinquency adjudication or criminal conviction.

WHAT IF YOUR JUVENILE RECORDS ARE NOT SUBJECT TO AUTOMATIC EXPUNGEMENT?

An individual can file a petition asking the court to expunge both juvenile law enforcement and juvenile court records.

1. The juvenile court *shall* grant a petition to expunge records where:
 - a. The juvenile court case related to the incident is completed and;
 - i. Minor was arrested but no delinquency petition was filed;
 - ii. The court case against the juvenile was dismissed;
 - iii. The minor was found not guilty after trial;
 - iv. Minor successfully completed a period of *Continuance Under Supervision*; or
 - v. Minor was adjudicated for a Class B or C misdemeanor or a petty/business offense.
2. Where the record of a juvenile adjudication is not automatically expunged, the individual may still file a petition to expunge all juvenile law enforcement records and all juvenile court records where:
 - a. 2 years have passed since all juvenile court proceedings; and
 - b. Any commitment to the Department of Juvenile Justice has been terminated.
 - c. This request *cannot be granted* for where a minor was adjudicated for:
 - i. First degree murder; or
 - ii. Sex offenses if the individual is still required to register as a sex offender at the time the expungement petition is granted.

Once a record has been expunged, the event is treated as if it never occurred. If a person/party requests information on an expunged record, the police, government offices and agencies must respond that no such record or file exists.

HOW MUCH DOES IT COST TO FILE A PETITION TO EXPUNGE THE RECORDS?

Nothing. There is no cost associated with filing a petition to expunge your juvenile records.

CAN I FILE THE PETITION MYSELF?

Yes, you can. You can also hire an attorney to help you with the process.

WHAT RECORDS CANNOT BE EXPUNGED?

Records related to an adjudication for:

- first degree murder; or
- an offense from which the individual is still required to register under the Sex Offender Registration Act
- municipal or ordinance violations
- traffic violations – unless resolved in juvenile court, these are considered adult offenses.

WHAT DO I DO AFTER MY RECORDS ARE ORDERED TO BE EXPUNGED?

Obtain a certified copies of your Expungement Order from the Clerk's office.

- The Clerk's Office will send the certified copies to the following agencies where applicable:
 - The Police Dept that has the records relating to your case
 - The Illinois State Police

DO I NEED A "CERTIFIED" COPY OF MY EXPUNGMENT ORDER?

No, but a "certified" copy is a copy containing the Clerk's Office seal, which verifies that it is an authentic court document. Since your record will be *unavailable* to you after it is expunged, it is a good idea to keep a certified

copy of your expungement order for your records. Should you not get an extra copy and find yourself needing one, a court order is necessary to temporarily unseal records.

MY JUVENILE RECORD HAS BEEN EXPUNGED, NOW WHAT?

Your name is no longer associated with the arrest, incident, or case.

As far as the general public, possible employers, landlords, or prospective schools, the record should be treated as if it never existed. It does not need to be disclosed to employers, landlords, schools or anyone else.

DEFINITIONS FOR NAVIGATING EXPUNGEMENT OF JUVENILE RECORDS

Adjudication: entry of judgement in a juvenile delinquency case. It is the same as a conviction in an adult case. *i.e.:* The minor was found guilty and adjudicated as a delinquent minor.

Arrest: When a person is taken into custody by the police.

Continuance Under Supervision: A type of sentence where a minor admits guilt but no adjudication enters on the minor's record. The minor is supervised for a period of time.

Conviction: entry of judgement after finding of guilt in an adult case. *i.e.:* After the jury returned a guilty verdict, the defendant was convicted of the offense.

Delinquent minor – any person who has violated or attempted to violate any law of any jurisdiction.

Delinquency Petition: The document used to formally charge minors in juvenile court.

Dismissal: Charges have been thrown out of court without a determination of whether the charges could be proven.

Diversion: a minor who is arrested but referred into a program rather than brought to court.

Expunge: To destroy or obliterate records. To remove the petitioner's name from any records subject to the process

Felony: A criminal offense punishable by more than a year in a state facility. More serious than a misdemeanor

Minor: An individual subject to the Juvenile Court Act. Once involved in juvenile court, an individual is still referred to as a minor until they reach 21.

Misdemeanor: A criminal offense punishable by less than a year in jail. Less serious than a felony

Objection: If raised by the State, it means they oppose your request to expunge your records. Just because the State objects, does not mean your request will be denied.

Petition: A written request to the court

Petitioner: The individual who makes a written request to the court

Probation Adjustment: A conference arranged by a juvenile probation officer with the minor who has been arrested for an offense, parents/guardians of the minor, the victim, the juvenile police officer, the State's Attorney or other interested persons concerning whether a minor should be brought to juvenile court. This conference is considered part of a minor's juvenile law enforcement record.