

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 262

BY WAYS AND MEANS COMMITTEE

AN ACT

1
2 RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-525A, IDAHO
3 CODE, TO REVISE PROVISIONS REGARDING EXPUNGEMENT OF JUVENILE RECORDS
4 AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PRO-
5 VIDING AN EFFECTIVE DATE.

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 20-525A, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 20-525A. EXPUNGEMENT OF RECORD -- HEARING -- FINDINGS NECESSARY --
10 SPECIAL INDEX -- EFFECT OF ORDER. (1) Any person who has been adjudicated in
11 a case under this act and found to be within the purview of the act for having
12 committed a felony offense or having been committed to the department of ju-
13 venile corrections may, after the expiration of ~~five (5)~~ three (3) years from
14 the date of termination of the continuing jurisdiction of the court, or, in
15 case the juvenile offender was committed to the juvenile correctional cen-
16 ter, ~~five (5)~~ three (3) years from the date of his release from the juvenile
17 correctional center, or after reaching age eighteen (18) years, whichever
18 occurs last, petition the court for the expungement of his record. Upon the
19 filing of the petition, the court shall set a date for a hearing and shall
20 notify the prosecuting attorney of the pendency of the petition and of the
21 date of the hearing. The prosecuting attorney and any other person who may
22 have relevant information about the petitioner may testify at the hearing.

23 (2) Any person who has been adjudicated in a case under this act and
24 found to be within the purview of the act for having committed misdemeanor or
25 status offenses only and not having been committed to the department of ju-
26 venile corrections may, after the expiration of one (1) year from the date
27 of termination of the continuing jurisdiction of the court or after reaching
28 age eighteen (18) years, whichever occurs later, petition the court for the
29 expungement of his record. Upon the filing of the petition, the court shall
30 set a date for a hearing and shall notify the prosecuting attorney of the pen-
31 dency of the petition and the date of the hearing. The prosecuting attorney
32 and any other person who may have relevant information about the petitioner
33 may testify at the hearing.

34 (3) In any case where the prosecuting attorney has elected to utilize
35 the diversion process or the court orders an informal adjustment, the per-
36 son may, after the expiration of one (1) year from the date of termination of
37 the continuing jurisdiction of the court or after reaching age eighteen (18)
38 years, whichever occurs later, petition the court for the expungement of his
39 record. Upon the filing of the petition, the court shall set a date for a
40 hearing and shall notify the prosecuting attorney of the pendency of the pe-
41 tition and the date of the hearing. The prosecuting attorney and any other

1 person who may have relevant information about the petitioner may testify at
2 the hearing.

3 (4) The court may not expunge a conviction for any of the following
4 crimes from a juvenile offender's record:

5 (a) Administering poison with intent to kill (18-4014, Idaho Code);

6 (b) Aggravated battery (18-907, Idaho Code);

7 (c) Armed robbery (chapter 65, title 18, Idaho Code);

8 (d) Arson (chapter 8, title 18, Idaho Code);

9 (e) Assault with intent to commit a serious felony (18-909, Idaho
10 Code);

11 (f) Assault with intent to murder (18-4015, Idaho Code);

12 (g) Assault or battery upon certain personnel, felony (18-915, Idaho
13 Code);

14 (h) Forcible sexual penetration by use of a foreign object (18-6604,
15 Idaho Code);

16 (i) Injury to child, felony (18-1501, Idaho Code);

17 (j) Kidnapping (18-4501, Idaho Code);

18 (k) Murder of any degree (18-4001 and 18-4003, Idaho Code);

19 (l) Rape, excluding statutory rape (18-6101, Idaho Code);

20 (m) Ritualized abuse of a child (18-1506A, Idaho Code);

21 (n) Sexual exploitation of a child (18-1507, Idaho Code);

22 (o) Unlawful use of destructive device or bomb (18-3320, Idaho Code);

23 (p) Voluntary manslaughter (18-4006 1., Idaho Code);

24 (q) A violation of the provisions of section 37-2732(a)(1)(A), (B) or
25 (C), Idaho Code, when the violation occurred on or within one thousand
26 (1,000) feet of the property of any public or private primary or sec-
27 ondary school, or in those portions of any building, park, stadium or
28 other structure or grounds ~~which~~ that were, at the time of the viola-
29 tion, being used for an activity sponsored by or through such a school;
30 or

31 (r) A violation of the provisions of section 37-2732B, Idaho Code, re-
32 lated to drug trafficking or manufacturing of illegal drugs.

33 (5) If the court finds after hearing that the petitioner has not been
34 adjudicated as a juvenile offender for any of the crimes identified in sub-
35 section (4) of this section, and has not been convicted of a felony, or of a
36 misdemeanor wherein violence toward another person was attempted or commit-
37 ted since the termination of the court's jurisdiction or his release from the
38 juvenile correctional center, and that no proceeding involving such felony
39 or misdemeanor is pending or being instituted against him, and if the court
40 further finds to its satisfaction that the petitioner has been held account-
41 able, is developing life skills necessary to become a contributing member
42 of the community and that the expungement of the petitioner's record will
43 not compromise public safety, it shall order all records in the petitioner's
44 case in the custody of the court and all such records, including law enforce-
45 ment investigatory reports and fingerprint records, in the custody of any
46 other agency or official sealed; and the court shall further order all ref-
47 erences to said adjudication, diversion or informal adjustment removed from
48 all indices and from all other records available to the public. However, a
49 special index of the expungement proceedings and records shall be kept by the
50 court ordering expungement, which index shall not be available to the public

1 and shall be revealed only upon order of a court of competent jurisdiction.
2 Copies of the order shall be sent to each agency or official named in the or-
3 der. Upon the entry of the order, the proceedings in the petitioner's case
4 shall be deemed never to have occurred and the petitioner may properly reply
5 accordingly upon any inquiry in the matter. Inspection of the records may
6 thereafter be permitted only by the court upon petition by the person who is
7 the subject of the records, or by any other court of competent jurisdiction,
8 and only to persons named in the petition.

9 SECTION 2. An emergency existing therefor, which emergency is hereby
10 declared to exist, this act shall be in full force and effect on and after
11 July 1, 2023.