

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 671

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO JUVENILES; AMENDING SECTION 20-525A, IDAHO CODE, TO ALLOW CER-
2 TAIN JUVENILE OFFENDERS TO PETITION THE COURT FOR THE EXPUNGEMENT OF
3 CRIMINAL RECORDS AFTER THREE YEARS AND TO MAKE A TECHNICAL CORRECTION.
4

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

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

8 20-525A. EXPUNGEMENT OF RECORD -- HEARING -- FINDINGS NECESSARY --
9 SPECIAL INDEX -- EFFECT OF ORDER. (1) Any person who has been adjudicated in
10 a case under this act and found to be within the purview of the act for having
11 committed a felony offense or having been committed to the department of ju-
12 venile corrections may, after the expiration of ~~five (5)~~ three (3) years from
13 the date of termination of the continuing jurisdiction of the court, or, in
14 case the juvenile offender was committed to the juvenile correctional cen-
15 ter, ~~five (5)~~ three (3) years from the date of his release from the juvenile
16 correctional center, or after reaching age eighteen (18) years, whichever
17 occurs last, petition the court for the expungement of his record. Upon the
18 filing of the petition, the court shall set a date for a hearing and shall
19 notify the prosecuting attorney of the pendency of the petition and of the
20 date of the hearing. The prosecuting attorney and any other person who may
21 have relevant information about the petitioner may testify at the hearing.

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

33 (3) In any case where the prosecuting attorney has elected to utilize
34 the diversion process or the court orders an informal adjustment pursuant to
35 section 20-511, Idaho Code, the person may, after the expiration of one (1)
36 year from the date of termination of the continuing jurisdiction of the court
37 or after reaching age eighteen (18) years, whichever occurs later, petition
38 the court for the expungement of his record. Upon the filing of the peti-
39 tion, the court shall set a date for a hearing and shall notify the prosecut-
40 ing attorney of the pendency of the petition and the date of the hearing. The
41 prosecuting attorney and any other person who may have relevant information
42 about the petitioner may testify at the hearing.

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

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

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

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

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

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

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

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

12 (h) Forcible sexual penetration by use of a foreign object (18-6608,
13 Idaho Code);

14 (i) Infamous crime against nature, committed by force or violence (18-
15 6605, Idaho Code);

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

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

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

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

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

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

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

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

24 (r) 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 were, at the time of the violation, be-
29 ing used for an activity sponsored by or through such a school;

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

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

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