

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 482

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-525A, IDAHO  
2 CODE, TO PROVIDE THAT A PARENT OR GUARDIAN SHALL NOT BE REQUIRED TO BE  
3 REPRESENTED BY AN ATTORNEY AT AN EXPUNGEMENT HEARING AND TO MAKE TECHNICAL  
4 CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE  
5 DATE.  
6

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

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

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

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

35 (3) In any case where the prosecuting attorney has elected to utilize  
36 the diversion process or the court orders an informal adjustment, the per-  
37 son may, after the expiration of one (1) year from the date of termination of  
38 the continuing jurisdiction of the court or after reaching age eighteen (18)  
39 years, whichever occurs later, petition the court for the expungement of his  
40 record. Upon the filing of the petition, the court shall set a date for a  
41 hearing and shall notify the prosecuting attorney of the pendency of the pe-  
42 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) A parent or guardian of a juvenile for whom a hearing is being held  
4 pursuant to this section who is appearing before or testifying at such hear-  
5 ing shall not be required to be represented by an attorney.

6 ~~(4)~~ (5) The court may not expunge a conviction for any of the following  
7 crimes from a juvenile offender's record:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 ~~(5)~~ (6) If the court finds after hearing that the petitioner has not  
36 been adjudicated as a juvenile offender for any of the crimes identified in  
37 subsection ~~(4)~~ (5) of this section and has not been convicted of a felony  
38 or of a misdemeanor wherein violence toward another person was attempted or  
39 committed since the termination of the court's jurisdiction or his release  
40 from the juvenile correctional center and that no proceeding involving such  
41 felony or misdemeanor is pending or being instituted against him, and if the  
42 court further finds to its satisfaction that the petitioner has been held ac-  
43 countable, is developing life skills necessary to become a contributing mem-  
44 ber of the community, and that the expungement of the petitioner's record  
45 will not compromise public safety, it shall order all records in the peti-  
46 tioner's case in the custody of the court and all such records, including  
47 law enforcement investigatory reports and fingerprint records, in the cus-  
48 tody of any other agency or official sealed; and the court shall further or-  
49 der all references to said adjudication, diversion or informal adjustment  
50 removed from all indices and from all other records available to the public.

1 However, a special index of the expungement proceedings and records shall be  
2 kept by the court ordering expungement, which index shall not be available  
3 to the public and shall be revealed only upon order of a court of competent  
4 jurisdiction. Copies of the order shall be sent to each agency or official  
5 named in the order. Upon the entry of the order, the proceedings in the pe-  
6 titioner's case shall be deemed never to have occurred and the petitioner may  
7 properly reply accordingly upon any inquiry in the matter. Inspection of the  
8 records may thereafter be permitted only by the court upon petition by the  
9 person who is the subject of the records, or by any other court of competent  
10 jurisdiction, and only to persons named in the petition.

11 SECTION 2. An emergency existing therefor, which emergency is hereby  
12 declared to exist, this act shall be in full force and effect on and after  
13 July 1, 2024.