

AN ACT relating to expungement of juvenile records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 610.330 is amended to read as follows:

- (1) Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635~~[(with regard to status offenses, misdemeanors, or violations only)]~~, or 645, but not KRS Chapters 620 or 640, may petition the court for the expungement of his or her juvenile court record, except for adjudications involving guilt of ***an offense listed in KRS 439.3401 or of a sex crime as defined in KRS 17.500***~~[an offense which would have been a felony if the offense was committed by an adult]~~. He or she shall be informed of such right at the time of adjudication. The court on its own motion, or on the motion of a probation officer of the court, a representative of the Department of Juvenile Justice or the cabinet, or any other interested person may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court. The petition shall be filed or the court order entered no sooner than two (2) years after the date of termination of the court's jurisdiction over the person, or two (2) years after his or her unconditional release from commitment to the Department of Juvenile Justice or the Cabinet for Health and Family Services or a public or private agency, except that the two (2) year period may be waived if the court finds that such extraordinary circumstances exist with regard to the petitioner as to make the waiver advisable.
- (2) Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the county attorney and anyone else whom the court or the child, his or her parents, relatives, guardian, or custodian has reason to believe may have relevant information related to the expungement of the record.
- (3) The court shall order ***the adjudication vacated and order expunged***~~[sealed]~~ all records in the petitioner's case in the custody of the court and any of these records in the custody of any other agency or official, including law enforcement and public or

private elementary and secondary school records, if at the hearing the court finds that:

- (a) Since the termination of the court's jurisdiction or his unconditional release from commitment to the Department of Juvenile Justice, the cabinet, or a public or private agency, the person whose record is in question has not been convicted of *an offense listed in KRS 439.3401 or of a sex crime as defined in KRS 17.500*~~[a felony]~~, and has not been adjudicated under KRS 610.010(1); and
 - (b) No proceeding concerning *an offense listed in KRS 439.3401 or of a sex crime as defined in KRS 17.500*~~[a felony]~~ and no petition under KRS 610.010(1) is pending or being instituted against him *or her*.
- (4) *If a child is adjudicated delinquent of a status or a public offense, other than an offense listed in KRS 439.3401 or a sex crime as defined in KRS 17.500, committed before the child attained fifteen (15) years of age, the court in which the child was adjudicated shall, when the child attains eighteen (18) years of age, order the adjudication vacated and the records expunged.*
- (5) *If a court dismisses a petition against a child or finds a child not delinquent in a juvenile proceeding, the court shall concurrently order the record of the proceeding expunged.*
- (6) *If a child is adjudicated delinquent of a status or a public offense, other than an offense listed in KRS 439.3401 or a sex crime as defined in KRS 17.500, committed after the child attained fifteen (15) years of age, the court in which the child was adjudicated shall, when the child attains eighteen (18) years of age, if the court's jurisdiction has been terminated and the child has had no further adjudications and no status offense, public offense, or criminal proceeding is pending or being instituted against the child, order the record of the adjudication sealed.*

(7) An order pursuant to subsection (4), (5), or (6) of this section shall not require any action by the child.

(8) A court that issues an order pursuant to subsection (4), (5), or (6) of this section shall inform the person in writing of the order, and of the consequences of the order, including protection from civil and criminal perjury, false swearing, and false statement laws with respect to the record.

(9) Upon the entry of an order to **expunge or** seal the records, the proceedings in the case shall be deemed never to have occurred and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter, **except that when records are sealed, a law enforcement agency may access a sealed record solely:**

(a) To determine whether the child is eligible for a diversion program;

(b) For investigative or prosecutorial purposes within the juvenile justice system; or

(c) For a background check that relates to law enforcement employment or any employment that requires a government security clearance.

~~(10)(5)~~ Copies of the order shall be sent to each agency or official named therein.

~~(11)(6)~~ Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named in such petition.