

HOUSE BILL 26-007

By Senator(s) Forbes

also Representative(s) Enriquez, Schneider, Spencer, Vasquez

AN ACT**CONCERNING THE SEALING OR EXPUNGEMENT OF JUVENILE CRIMINAL RECORDS.**

Be It Enacted by the General Assembly of the State of San Andreas:

SECTION 1. SHORT TITLE.

This Act shall be known and may be cited as the "Juvenile Records Act."

SECTION 2. LEGISLATIVE DECLARATION.

The General Assembly finds and declares that: The General Assembly hereby finds and declares that:

- (a) The juvenile justice system is intended to promote rehabilitation, accountability, and successful reintegration into society.
- (b) Juvenile records may create long-term barriers to education, employment, housing, and military service, even after a young person has successfully completed all court-ordered obligations.
- (c) Individuals who have complied with court sentences and demonstrated rehabilitation should have a meaningful opportunity to move forward without the lasting stigma of a juvenile record.
- (d) Providing a clear and consistent process for sealing or expungement of eligible juvenile records promotes public safety by encouraging rehabilitation and reducing recidivism.
- (e) It is the intent of the General Assembly to establish uniform standards for the sealing and expungement of juvenile records upon successful completion of court requirements, while preserving access for limited law enforcement and judicial purposes where necessary.
- (f) The General Assembly further finds that the interests of victims and public safety must be balanced with the goal of rehabilitation.

SECTION 3. DEFINITIONS.

For purposes of this Act, unless the context otherwise requires:

- (a) "Juvenile record" means any law enforcement, court, detention, probation, or diversion record relating to an offense committed while the individual was under eighteen years of age.
- (b) "Sealing" means restricting access to a record so that it is not publicly accessible but may be viewed by courts or law enforcement for limited purposes as provided by law.
- (c) "Expungement" means the destruction or permanent removal of a record such that it is treated as though it never occurred.
- (d) "Completed sentence" means full compliance with all court-ordered requirements, including probation, restitution, treatment programs, fines, and community service.

(e) "Nonviolent offense" means any offense that does not involve the use or threatened use of physical force against another person.

SECTION 4. ELIGIBILITY FOR RECORD SEALING.

(a) A person shall be eligible to petition the court for sealing of a juvenile record if:

- (I) The individual has completed all terms of the court-imposed sentence;
- (II) No new criminal or delinquent offenses have occurred for a period of twelve months for misdemeanor offenses and twenty-four months for felony offenses; and
- (III) The offense is not excluded under subsection (c) of this section.

(b) Upon a finding that the individual has complied with all requirements and that sealing is consistent with public safety, the court shall order the record sealed.

(c) The following offenses are not eligible for automatic sealing under this Act:

- (I) Offenses involving homicide;
- (II) Felony sexual offenses;
- (III) Offenses requiring registration as a sex offender under state law.

(d) Notwithstanding subsection (a) of this section, sealing of an eligible juvenile record shall occur automatically upon verification by the court that the individual has completed all terms of the sentence and has remained free of new criminal or delinquent offenses for the period specified in subsection (a)(II) of this section, and such determination shall be made within sixty days of eligibility where practicable. A petition shall not be required unless eligibility cannot be determined through existing court or law enforcement records.

(e) In determining whether sealing is consistent with public safety, the court shall apply a rebuttable presumption that successful completion of all court-ordered requirements demonstrates rehabilitation.

(f) For offenses involving an identifiable victim, the court shall provide notice of sealing to the victim upon request, provided such notice does not delay the sealing process.

SECTION 5. EXPUNGEMENT OF CERTAIN JUVENILE RECORDS.

(a) A person whose juvenile record has been sealed may petition for expungement after an additional period of three years without a new criminal or delinquent offense. Nothing in this section shall be construed to conflict with federal law or federal background check requirements.

(b) The court shall grant expungement upon finding that:

- (I) The individual has remained law-abiding;
- (II) All restitution obligations have been satisfied, or the court finds that nonpayment results primarily from financial hardship despite documented good-faith effort toward compliance; and
- (III) Expungement serves the interests of justice and rehabilitation.

(c) Upon expungement, all agencies shall destroy or permanently delete records subject to the order, except statistical data that does not identify the individual.

(d) Upon receipt of a petition for expungement, the court shall issue a ruling within forty-five days unless good cause is shown. The court shall prioritize expungement petitions and provide written justification for any delay beyond forty-five days.

(e) Eligible sealed juvenile records shall be automatically eligible for expungement upon expiration of the waiting period where eligibility can be verified through court records without petition, except for felony offenses, which shall require a petition and judicial review.

SECTION 6. EFFECT OF SEALING OR EXPUNGEMENT.

(a) A person whose record has been sealed or expunged shall be restored, in the eyes of the law, to the status occupied before the arrest or adjudication and may lawfully state for all purposes that the underlying offense, arrest, or adjudication did not occur, except where disclosure is expressly required by state or federal law. Exceptions to disclosure are as follows;

(I) Employment with a law enforcement agency;

(II) Judicial or prosecutorial positions; or

(III) Situations otherwise required by state or federal law.

(b) Sealed records may be accessed by courts and law enforcement only for sentencing, investigation, or background checks authorized by law.

(c) No state agency, political subdivision, or contractor shall disclose, sell, transfer, or otherwise disseminate sealed or expunged juvenile record information to any private data broker, background check company, or commercial entity. Any record disclosed in violation of this subsection shall be deemed unlawfully released and subject to immediate removal.

(d) Upon sealing or expungement of a juvenile record, any corresponding public school disciplinary record arising solely from the underlying offense shall also be sealed unless retention is required by federal law.

(e) Any private entity knowingly retaining or disseminating sealed or expunged juvenile record information shall be subject to civil penalties not exceeding five thousand dollars per violation.

(f) No public institution of higher education, housing authority, or state licensing agency shall deny opportunity solely on the basis of a sealed juvenile record.

SECTION 7. AUTOMATIC SEALING FOR CERTAIN OFFENSES.

(a) The Department of Law, in coordination with the Judicial Branch, shall develop procedures for automatic sealing of all eligible juvenile records, including misdemeanor and nonviolent felony offenses, within ninety days after completion of the sentence when eligibility requirements are met.

(b) Individuals shall not be required to pay a filing fee for automatic sealing under this subsection.

(c) No filing fee shall be required; however, the court may assess a nominal administrative fee not to exceed fifteen dollars, which may be waived for indigent applicants.

(d) Upon sealing or expungement of a juvenile record, the court shall provide written notice to all agencies known to possess the record and shall require confirmation of compliance within fifteen days, unless the agency demonstrates technical impossibility.

(e) Within thirty days of determining that an individual has satisfied eligibility requirements for sealing or expungement, the court shall provide written or electronic notice to the individual informing them of eligibility and explaining available rights under this Act.

(f) The Judicial Branch shall establish a secure electronic notification system to automatically transmit sealing or expungement orders to all law enforcement agencies, detention facilities, prosecutors, and authorized record holders.

(g) The Judicial Branch may implement automatic sealing in phases based on available technology and funding, prioritizing misdemeanor offenses.

SECTION 8. RULEMAKING AUTHORITY.

The Judicial Branch and the Department of Law may promulgate rules necessary to implement this Act. Rules shall include standards for data security and interagency information sharing.

SECTION 9. PROGRAM REVIEW AND REPORTING.

(a) Beginning two years after enactment, the Judicial Branch shall submit an annual public report including:

(I) Number of records sealed;

(II) Number expunged;

(III) Average processing time;

(IV) Demographic and geographic trends;

(V) Implementation challenges; and

(VI) Recidivism rates of individuals whose records have been sealed or expunged, to the extent data is available.

(b) Personally identifying information shall not be disclosed.

SECTION 10. SEVERABILITY.

If any provision of this Act or its application is held invalid, such invalidity shall not affect other provisions which may be given effect without the invalid provision.