

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-fourth Legislature Second Regular Session - 2018

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 671

BY WAYS AND MEANS COMMITTEE

AN ACT

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

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

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

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

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

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