Sealing/Expungement/Destruction of Juvenile Court Records: When is Sealing Not Sealing? (2005 Update)

Linda A. Szymanski, Esq., Director of Legal Research, NCJJ

As of the end of the 2004 legislative session, all states, except Rhode Island, have procedures that provide for the sealing/expungement/destruction of juvenile court records.

In 2001, Hawaii added a new statute that permitted the expungement of juvenile arrest records under specified circumstances. The new Hawaii statute defines “expunge” as a process defined by agency policy in which records are segregated and kept confidential, or destroyed.

Effective July 1, 2005, Tennessee has also added expungement provisions to its juvenile code. Under the Tennessee statute, the juvenile must prove by clear and convincing evidence that expungement serves the best interest of the juvenile and the community.

Typically, sealing means placing court records in a separate file or other repository not accessible to the general public. Expungement means the designation of court records whereby such records are deemed never to have existed or the actual destruction of court records. However, destruction does not always mean actual destruction of the records, but only putting them in a separate file where specified parties can access them, usually with a court order.

Over the years, the privacy of sealed records has eroded. For example, 29 states now have provisions that seriously restrict or prohibit the sealing/expungement/destruction of certain records: Alaska, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Montana, Nevada, New Jersey, New York, North Carolina, Ohio, Oregon, South Carolina, Texas, Utah, Virginia, Washington, West Virginia, and Wyoming.

Such unsealable records are typically for cases where the juvenile has committed a serious and/or violent offense.

Previously sealed records can be unsealed in some states under specified conditions. For example, any adjudication of delinquency or conviction of a felony or a crime involving moral turpitude subsequent to sealing has the effect of nullifying the sealing order in the following jurisdictions: Alabama, the District of Columbia, New Jersey, New Mexico, New York, and Washington.

Thirty-four jurisdictions have some provision for allowing specified parties access to sealed or expunged records: Alabama, Alaska, California, Colorado, the District of Columbia, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, South Dakota, Texas, Utah, Vermont, Washington, and West Virginia.

Sealed or expunged records may be used for research or statistical purposes in: Arizona, Arkansas, Illinois, Iowa, Maryland, Montana, New Jersey, New Mexico, Ohio, Oklahoma, and Washington. Generally, identifying information must be removed.

Jurisdictions That Allow Access to Sealed or Expunged Records to Specified Parties or for Certain Purposes

- Allow access to sealed or expunged records (34)
- No access to sealed or expunged records (16)
- No procedure (1)

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For additional information or to request a custom analysis, contact NCJJ at 3700 S. Water St., Ste. 200, Pittsburgh, PA  15203  Phone: (412) 227-6950.

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