



# **SB 575 IMPLEMENTATION**

## **Toolkit for Reducing Barriers to Expunction of Juvenile Records**

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This guide should only be used as a reference tool. It is not a substitute for reading the applicable statutes

## ***What does Oregon Senate Bill 575 (SB 575) do?***

SB 575 eliminates some barriers to expunction of juvenile records by providing for the automatic expunction of some juvenile records and allowing individuals access to a court-appointed attorney at the beginning of the expunction process. Currently, the juvenile department may apply for expunction (in addition to the individual and the court). SB 575 requires, instead of allows, the juvenile department to initiate expunction for individuals over 18 years old who have never been found within the juvenile court's jurisdiction but have had a "contact" (a law enforcement report of a behavior that could have resulted in juvenile court involvement). SB 575 also allows an individual seeking expungement to request a court-appointed attorney before beginning the application process so they won't have to fill out the complex paperwork by themselves and will be able to get advice about eligibility before they start the process.

## ***Why reduce barriers to the expunction of juvenile records?***

Youth who were never found guilty of an offense or who have successfully participated in accountability and rehabilitative programs should have the opportunity to be productive community members. Expunction plays a crucial role in that opportunity. Barriers to applying for expunction and myths about the confidentiality of juvenile court records keep most eligible individuals from applying for expunction. Some information in juvenile court delinquency records is publicly available. Juvenile records can keep otherwise qualified individuals from educational, employment and housing opportunities. Limiting these opportunities make communities less safe. Research shows that the number one contributor to recidivism is joblessness. Research also shows that not only are youth of color overrepresented in the juvenile justice system, but also their juvenile records are more debilitating than the records of their white peers.

## ***When does SB 575 go into effect?***

Effective January 1, 2022, individuals can apply for expunction with the help of a court-appointed attorney. Also, individuals who turn 18 years old on or after January 1, 2022 and who completed diversion or who had contact with law enforcement but charges were never filed or were dismissed will have their records expunged automatically.

***What agencies who hold records can expect?***

In addition to an Expunction Judgment that agencies are used to receiving notifying them of their obligation to destroy records, agencies can also expect to receive a Notice of Expunction from county juvenile departments. Similar to a court order, the Notice of Expunction will direct the agency to expunge an individual’s records held by the agency. Unless an extension is approved by the juvenile department issuing the Notice of Expunction, SB 575 requires agencies to expunge records within 60 days from the date the Notice of Expunction was received. A 30-day extension may be granted. The agency must return an Indorsement of Compliance to the juvenile department once they have expunged the individual’s records.

***What happens if an agency doesn’t respond to the Notice of Expunction?***

If an agency fails to comply with the Notice of Expunction and does not return the Indorsement of Compliance, the juvenile department must file a Petition to Compel Compliance with the Notice of Expunction in court. The court will then enter an Order to Compel Agency Compliance with the Notice of Expunction. The juvenile department will send the agency the Order to Compel. The agency will then have 60 days to comply with the court’s order by expunging the individual’s records and returning the Indorsement of Compliance.

***How should an agency respond to an inquiry about the individual’s contact?***

When the juvenile department issues a Notice of Expunction or the court issues an Expunction Judgment, an agency may not disclose any information about the individual’s record. SB 575 requires an agency, that is subject to a Notice of Expunction or Expunction Judgment, to respond to any inquiry about the contact in indicating that no record or reference concerning the contact exists.

***What happens if an individual or agency releases an expunged record?***

An individual subject to a Notice of Expunction or Expunction Judgment has a right of action against any individual who intentionally violates the confidentiality provisions of this section. In the proceeding, punitive damages up to an amount of \$1,000 may be sought in addition to any actual damages. The prevailing party shall be entitled to costs and reasonable attorney fees.

Intentional violation of the confidentiality provisions of SB 575 by a public employee is cause for dismissal.

An individual who releases all or part of an expunged record commits a Class A violation.

***How do individuals get an expunction application form?***

The court is required to make applications for expunction available. Contact your local juvenile court or juvenile department for an application.

***If the court denies the expunction application, can the individual file again?***

Yes. Individuals may file more than one time. For assistance, contact YRJ's Expunction Clinic, your current (or former) attorney, the court, or the juvenile department in your county.

***How do individuals get a lawyer to help?***

All applicants have a right to be represented by court-appointed attorney, paid at state expense if the individual is financially eligible. Individuals can ask the court to appoint an attorney.