



# System Initiated Expunction Process – 2023 Version

---

DEBBI MARTIN, OYA

JORDAN BATES, OJD

NOVEMBER/DECEMBER 2023

# Automatic Expunction - SB 519

---



CLOSER LOOK AT THE NEW LAW,  
AND REVIEW OF CURRENT LAW



QUALIFYING YOUTH



TIMELINES AND PROCESS FOR  
PROCESSING EXPUNCTION

# Elements Impacted by SB 519

---

- ✓ System-initiated expunction process for youth adjudicated for misdemeanors and violations.
- ✓ Destruction of motor vehicle, boating, or gaming waived to muni or criminal court.
- ✓ Timeline for expunction applications from youth.
- ✓ Timeline for agencies to comply with expunction orders.
- ✓ Venue for notice cases.

# Expunction Overview

---

- Three Paths for System-Initiated Expunction
  - Juvenile Department Notice
  - Application to Court - non-adjudicated
  - Application to Court - adjudicated on misdemeanor or violation
- Application to Court - adjudicated on felony
  - Four year wait, instead of five
- Individual Application to Juvenile Department
  - Can also request expunction if they did not qualify for system-initiated process

# Expunction Overview

---

- Other ways to qualify:
  - Marijuana Crimes
  - Prostitution
  - Best Interest
- Other change from SB 519
  - Everyone qualifies for an attorney

# Adjudicated Misdemeanors and Violations

---

- Expunction is system-initiated (meaning the youth does not have to request it) if the following conditions are met.
- Youth must:
  - Turn 18 after 1/1/2024,
    - or if the youth is 18 on that date and the case is open, within 90 days of termination of the case.
  - Be adjudicated on misdemeanor or violation *only*
    - *never* a felony
    - Not a crime on the exclusionary list in 419A.260
  - Not owe restitution,
  - Not have a pending petition,
  - Not have been waived to adult court,
  - Not had a referral resulting in a conviction under ORS 137.707.

# Formal Cases - Process

---

- Juvenile department must file application with the court within 90 days of youth turning 18, or when they become eligible.
- Court shall enter a Judgment of expunction *without a hearing*, if the youth qualifies based on requirements in previous slide.
  - Notice to DA is not required
- Juvenile court or juvenile department (*determine local practice*) must send each agency who had contact with the youth the judgment and details of the contacts/records.
  - They have 60 days to comply.
  - They can ask for a 30-day extension. ICJ can get a longer extension for audits.
    - Court must be notified of any granted extensions using OJD form

# Venue & Multiple Jurisdictions

---

1. VENUE:
  - For the Applicant Initiated Process (4 year) – File in county where subject was residing at the time of the most recent TERMINATION.
  - For all others – File in the county the subject was residing at the time of the most recent CONTACT.
2. Only **one** court issues order of expunction – which covers records in *all* jurisdictions and agencies.
3. If juvenile dept gets a notice of expunction from another court, expunge your records like any agency (but not the final JJIS piece!)
4. Cases/Records in multiple jurisdictions:
  - The application must be filed in the county where the subject was *residing* at the time of the most recent contact or termination (depending on the process).
  - If court process needed and the “residing” county *did not* have the adjudication, contact OJD or your own County Counsel with questions.



# Formal Cases – Process

---

- If the court denies expunction, the juvenile department must send the youth:
  - Notice of the court's decision and judgment,
  - Notice of their right to an attorney,
  - Right to file a new application, and
  - Right to file for expunction under other provisions of the law.
- No later than 90 days after the expunction judgment provided to agencies, **juvenile court** must send to the youth:
  - Expunction judgment,
  - List of complying and non-complying agencies, and
  - Rights and effects of expunction.

# DHS and Police Agencies

---

- DHS

- When sending expunction notices to DHS, please be specific as to what record (e.g. Salem Police Report #12345, Criminal Mischief). A face sheet is also an option and very helpful.
- Send notices/orders to the DHS Legal Affairs Unit - [dhs.expunctions@odhs.Oregon.gov](mailto:dhs.expunctions@odhs.Oregon.gov)

- Police agencies

- Communicate with your local police records unit
- Be specific as expunction only applies to cases where the youth is a subject/suspect, not a victim or witness
- Send notices/orders to OSP: [OSP\\_Set.Asides@osp.oregon.gov](mailto:OSP_Set.Asides@osp.oregon.gov)

# Motor vehicle, boating, and gaming cases

---

- The juvenile department may destroy any records in its possession relating to a youth's record of a motor vehicle, boating, or game violation:
  - Waived to criminal or municipal court (419C.370)
  - Destruction of these records is NOT considered expunction.
- If any of these types of charges, like a motor vehicle charge (e.g. DUI) kept in juvenile court, it is subject to expunction.

# Forms

---

- The judicial department updated the Expunction Application and Judgment forms to be submitted to the court.
  - Including adding a Declaration and Notice of Extension
- There are different versions of the Application: one the juvenile department uses and one the youth uses.
- New forms will be found on the OJD website at <https://bit.ly/3Ct2Q72> after [January 1](#), 2024.

# Forms (cont.)

---

- There is an Expunction Rights FAQ document, “All About Expunction”. This can be used at multiple points as required by ORS 419A.260 (dispo hearing or FAA, termination, notice of pending expunction, and at the time expunction is completed.)
- Each county can add a label so you can include phone numbers, websites, whatever else might be pertinent locally.

\*\*\*Spanish versions of FAQ will be updated

# Victim Notice

---

- Notice is required to victims in adjudicated cases. Must explain the system-initiated expunction process.
- Can be done at or before the time of adjudication.
- Must be done by the district attorney or the juvenile department.

# JJIS Report

---

- JJIS will send a report on the day of the youth's 18<sup>th</sup> birthday (or the date the youth becomes eligible) to the contact person each county provided.
- The report indicates the youth *may be* eligible – but further checking is always needed.
- The report will have a new fourth and fifth tab – adjudicated youth and boating, gaming, & motor vehicle violations.
- There will be a restitution flag – but **always** double check with the courts for any outstanding restitution.

# Billing

---

- The JJIS report will provide a list of Youth ID#s, which remain in the JJIS database after expunction, the list is the back-up documentation to be sent in with billing.
- It will calculate the rate based on the type of case:
  - The rate for non-adjudicated youth is \$206.15
  - The rate for adjudicated cases is \$257.70
  - There is no reimbursement for destruction of cases (dependency only; motor vehicle, boating, and gaming only)
- The invoice will go to (oyacountyigainvoicing@oya.oregon.gov) Laura Ward, just like JCP basic and diversion. (The IGAs are being updated.)
- Please invoice no less than quarterly, if possible.



# Questions??

---

## Contact information

Debbi Martin, OYA, [deborah.martin@oya.oregon.gov](mailto:deborah.martin@oya.oregon.gov)

Jordan Bates, OJD [jordan.f.bates@ojd.state.or.us](mailto:jordan.f.bates@ojd.state.or.us)