Notice about Expunction (Dependency) in cases related to child's act or behavior (ORS 419A.260)

You may have the right to request expunction of records relating to your contact with law enforcement (police), the juvenile department, the juvenile court, and other related agencies, if that contact was related to your behavior.

> Note: The information below is only a partial summary of Oregon law on expunction. For a more detailed and complete statement of the law, please read ORS 419A.260 to ORS 419A.265 or talk to an attorney.

What is expunction?

Expunction is a process allowed under Oregon law (ORS 419A.262) that allows a judge to order the destruction or sealing of certain court, agency and law enforcement records about a child or youth.

Which records can be expunged?

Records that have information about **a child's behavior** that resulted in contact with law enforcement, the juvenile court, the juvenile department, the Psychiatric Security Review Board, the Department of Human Services and the Oregon Health Authority, may be expunged, with some exceptions. For example, appellate court records can't be expunged. There are other types of records outlined in ORS 419A.260(1)(d) that can't be expunged, including records of certain serious offenses.

Records that contain information about a case or investigation that was **based on the parent's behavior** (neglect or abuse) **cannot be expunged unless the parent is a minor (under 18)**.

Who can request expunction?

The child who the records are about may request that the records be expunged. The juvenile department may also request the records be expunged. The court may also order expunction after providing notice to the child, in some circumstances.

How do I ask the judge to expunge my records?

Check with the juvenile court in the county where you resided when your case was closed. Follow any instructions provided by the court. A statewide application is also posted on the Oregon Judicial Department website here under "Expunction of Juvenile Records": https://bit.ly/3GZwPWX

What happens when records are expunged?

When the court orders records be expunged, the juvenile court sends a copy of the judgment to each agency subject to the judgment. To comply, records of the child's contact with those agencies must be removed and destroyed or sealed, with some exceptions. The juvenile court assembles a list of complying agencies and sends it, along with a copy of the expunction judgment, to the person whose records have been expunged.

When a record has been expunged, it's treated like it no longer exists. The person who was the subject of the record may say that the record never existed, and the contact never occurred without committing perjury or false swearing under Oregon law. The person also has a right of action against any person who intentionally violates the confidentiality provisions of ORS 419A.262.

When can I request that my records be expunged?

The court has authority to expunge a record (with or without a hearing) when:

- ✓ The person is at least 18 years old and was never found within the jurisdiction of the court; or
- ✓ The court finds expunction is in the best interests of the person and the public; or
- ✓ At least five years have passed since the case was dismissed and (1) there are no pending juvenile or criminal proceedings against the person; (2) the juvenile department is aware of no pending law enforcement investigation into the conduct of the person; and (3) since the juvenile case was dismissed, the person has not been convicted of a felony or Class A misdemeanor.

Can an attorney help me with the request for expungement?
Yes. You may hire your own attorney or ask the court to appoint one for you. In most cases, the expunction request is approved without a hearing (because the state is not asking for one).

The Oregon State Bar offers programs to help find a lawyer, including lawyers who are willing to work for a reduced rate. Please visit https://www.osbar.org/public/ris/ or call 503-684-3763 or toll-free in Oregon at 800-452-7636 for more information.