
SENATE RESOLUTION

REQUESTING THE DEPARTMENT OF THE ATTORNEY GENERAL TO ADOPT
UNAMBIGUOUS LANGUAGE REGARDING PHOTOGRAPHIC RECORDS ON
EXPUNGEMENT CERTIFICATES.

1 WHEREAS, Black's Law Dictionary defines "expungement of
2 record" as a "process by which record of criminal conviction is
3 destroyed or sealed after expiration of time" and elaborates by
4 stating that "some states also provide for expungement of
5 criminal records if arrested person is not convicted or in the
6 event of unlawful arrest"; and

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8 WHEREAS, each state may set its own guidelines regarding
9 which records may be expunged and under which circumstances,
10 including whether arrest record expungements may be granted at
11 all; and

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13 WHEREAS, in general practice, once arrest records have been
14 expunged, an individual may respond to any question or inquiry
15 that he or she has no arrest record with respect to the specific
16 records and incidents that have been expunged; and

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18 WHEREAS, several states allow for the expungement of arrest
19 records with convictions, including Arizona, California,
20 Illinois, and New Jersey; and

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22 WHEREAS, in Hawaii, the expungement process is codified in
23 section 831-3.2, Hawaii Revised Statutes, and allows expungement
24 of arrest records only in cases where there was no conviction;
25 and

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27 WHEREAS, as part of an application for an expungement
28 order, an individual may request the return of fingerprints and
29 photographs; and

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31 WHEREAS, once an expungement order is granted, an
32 individual receives an Expungement Certificate that certifies
33 the specific records of arrest that have been annulled; and



1 WHEREAS, the Expungement Certificate also contains language
2 that states that if digitized images were taken, those images
3 cannot be returned to the individual since they have been
4 deleted; and

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6 WHEREAS, due to the rapid development and proliferation of
7 digital photographic equipment, it appears unlikely that law
8 enforcement continues to use traditional film formats for
9 procedures associated with arrests; and

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11 WHEREAS, clarifying the language used on Expungement
12 Certificates regarding photographic records would help eliminate
13 any ambiguity with respect to those documents that have not been
14 returned to the individual; now, therefore,

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16 BE IT RESOLVED by the Senate of the Twenty-fifth
17 Legislature of the State of Hawaii, Regular Session of 2010,
18 that this body requests the Attorney General to adopt
19 unambiguous language regarding photographic records on
20 Expungement Certificates; and

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22 BE IT FURTHER RESOLVED that such language should clearly
23 reflect current practices surrounding photographic records,
24 including the almost certain use of digitized images; and

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26 BE IT FURTHER RESOLVED that certified copies of this
27 Resolution be transmitted to the Attorney General, Administrator
28 of the Hawaii Criminal Justice Data Center, and the Police Chief
29 of each county.

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OFFERED BY:



