Expunction Law and Processes

What is expunction?

Expunction destroys or seals records of youth contact with police agencies, juvenile court, and the county juvenile department. If expunction occurs it means that any agency who had contact with the youth must remove their record, and agencies must say a youth never had a record if asked.

Who qualifies for expunction?

There are six ways that youth can qualify for expunction. The type of offense and type of involvement with the juvenile system impact when and how the case is expunged. These include:

1. Youth who were never adjudicated in court – juvenile department initiates expunction at age 18 and case is closed.
2. Youth who were adjudicated for a misdemeanor or violation – juvenile department initiates expunction at age 18 and case is closed, as long as no restitution is still owed to a victim.
3. Youth who were adjudicated for a felony – youth must apply for expunction at least four 4 years after the case was terminated, and other factors are met.
4. Youth who were adjudicated on particular marijuana offenses – youth must apply at least one year after the case was terminated, and other factors were met.
5. Youth who were referred for prostitution related offenses that occurred prior to age 18 – youth must apply for expunction.
6. Any youth can apply for expunction based on an argument that it is in the best interest of the youth and the public.

Can every type of case be expunged?

No, there are many records that cannot be expunged. This includes serious person-to-person crimes which were adjudicated; some other examples include Department of Transportation (DMV) records, samples and physical evidence retained by Oregon State Police, education records, and medical records.

Youth can apply for expunction for certain sexual offenses (Third degree Rape, Sodomy or Sexual Abuse, or attempts of any of those) including C Felony sex crimes if certain conditions are met. These conditions include: the youth was under age 16, the victim

was at least 12, there was not more than three and a half years difference in age, and the victim's lack of consent was due solely to being under a specific age.

Am I notified when a youth applies for expunction?

- If a youth is adjudicated on a misdemeanor or violation, the victim must be notified of the automated expunction process at or before the time of adjudication. This notification may be written or verbal.

- If the youth applies for expunction the district attorney (DA) is required to notify the victim by mailing a copy of the expunction application to the victim's last known address.

What if an expunction hearing is scheduled?

Expunction hearings are considered critical stage hearings in juvenile court. Victims have the right to be notified and present at all critical stage hearings if they have requested that right through the DA's Office or juvenile department.