

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

# A Bill

HOUSE BILL 2830

4  
5 By: Representative Pate  
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7

## For An Act To Be Entitled

9 AN ACT TO PROVIDE THAT CERTAIN CRIMINAL RECORDS  
10 OF FELONIES AND MISDEMEANORS MAY BE EXPUNGED; TO  
11 CLARIFY THAT A CRIMINAL RECORD MAY BE EXPUNGED  
12 WHEN SENTENCING WAS NOT UNDER A STATUTE THAT  
13 PROVIDED FOR EXPUNGEMENT OF RECORDS; AND FOR  
14 OTHER PURPOSES.

## Subtitle

15  
16 AN ACT TO PROVIDE FOR EXPUNGEMENT OF  
17 CRIMINAL RECORDS OF FELONIES AND  
18 MISDEMEANORS AND TO CLARIFY THAT A  
19 CRIMINAL RECORD MAY BE EXPUNGED WHEN  
20 SENTENCING WAS NOT UNDER A STATUTE THAT  
21 PROVIDED FOR EXPUNGEMENT OF RECORDS.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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27 SECTION 1. Arkansas Code § 16-90-901 is amended to read as follows:  
28 16-90-901. Definition.

29 (a)(1) As used in §§ 5-64-407, 5-4-311, 16-90-601, 16-90-602, 16-90-  
30 605, 16-93-301 - 16-93-303, and 16-93-1207, "expunge" shall mean that the  
31 record or records in question shall be sealed, sequestered, and treated as  
32 confidential in accordance with the procedures established by this  
33 subchapter.

34 (2) Unless otherwise provided by this subchapter, "expunge"  
35 shall not mean the physical destruction of any records.

36 (3) No person who pleads guilty or nolo contendere to, or is



1 found guilty of, a sexual offense as defined in this section and in which the  
 2 victim was under the age of eighteen (18) years shall be eligible to have the  
 3 offense expunged under the procedures set forth in this subchapter.

4 (b) For purposes of this subchapter, "sexual offense" shall be defined  
 5 as conduct prohibited by § 5-14-101 et seq., §§ 5-26-202, 5-27-602, 5-27-603,  
 6 5-27-605, 16-93-303(a)(1)(B), and any other subsequently enacted criminal law  
 7 prohibiting sexual conduct with a child.

8 (c)(1) As used in this subchapter, "record or records" means the  
 9 criminal record of a felony or misdemeanor conviction for an offense that was  
 10 adjudicated prior to or after the effective date of this subdivision (c)(1).

11 (2) The provisions of subdivision (c)(1) of this section shall  
 12 not apply if expungement of a record of an offense is expressly prohibited by  
 13 a law of this state.

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 15 SECTION 2. Arkansas Code § 16-90-905 is amended to read as follows:  
 16 16-90-905. Uniform petition and order to seal records.

17 (a)(1) The Arkansas Crime Information Center shall adopt and provide a  
 18 uniform petition and order to seal records that shall be used by all  
 19 petitioners and by all circuit and district courts in this state.

20 (2) No order to seal or expunge records covered by this  
 21 subchapter shall be effective unless the uniform order is entered.

22 (3)(A) The petition shall include a statement verified under  
 23 oath indicating whether the petitioner has felony charges pending in any  
 24 state or federal court and the status of those charges.

25 (B) The petition shall also include a statement that the  
 26 information contained in the petition is true and correct to the best of the  
 27 petitioner's knowledge, and the order shall contain, at a minimum, the  
 28 following data elements:

29 (i) The person's full name, race, sex, and date of  
 30 birth;

31 (ii) The person's full name at the time of arrest  
 32 and adjudication of guilt, if different from the person's current name;

33 (iii) The crimes for which the person was  
 34 adjudicated guilty and the date of the disposition;

35 (iv) The identity of the court;

36 (v) The provision, if any, under which the

1 individual was sentenced that provides for sealing or expungement of the  
2 record; and

3 (vi) The specific records to be sealed.

4 (b)(1) If no record exists in the state central repository of the  
5 arrest for the charges in the petition, a record shall be established before  
6 the uniform order to seal becomes effective.

7 (2) When no record exists in the state central repository, it  
8 shall be the duty of the petitioner and the original arresting agency to  
9 submit fingerprint cards on the petitioner, according to § 12-12-1006 and  
10 procedures established by the Arkansas Crime Information Center.

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