

CHAPTER 14: JUVENILE AND CRIMINAL JUSTICE SYSTEM INVOLVEMENT AND EXPUNGEMENT

Introduction: This chapter provides you information on the juvenile justice and criminal justice systems so you know about your basic rights and how to get help if you are still in the foster care system. This chapter also provides information on how to expunge—or erase—your juvenile record. If you have a juvenile record, requesting to expunge it before you leave foster care at age 18 or older if you are eligible is very important. This is not a full guide to the juvenile and criminal justice systems in Pennsylvania; it just gives you some key information to use as you plan for your future and leaving the foster care system. See, “A Family Guide to Pennsylvania’s Juvenile Justice System,” for more information on the basics of juvenile justice system in PA.¹

What should I do if I get a ticket or am arrested?

- Let your lawyer in your dependency case know immediately if you have any sort of contact with police or law enforcement. This could include a stop, search, arrest, or getting a ticket or citation. Some offenses may impact your dependency case, and it is important that your lawyer knows.
- Even very minor offenses, like shoplifting, getting on the subway without paying, and disorderly conduct, can cause you to have a criminal record if they aren’t properly handled. The justice system can be complicated and in some cases you may not have a right to a lawyer. Getting help is especially important so you are not on your own.
- Let your lawyer know as soon as possible if you get any sort of citation or fine, or if you are arrested.

What happens if I am in foster care and get involved with the juvenile or adult criminal justice system?

- If you are arrested or are concerned that you may have charges filed against you, the most important thing for you to do is to let your lawyer in your dependency case know. Your lawyer can help make sure you are properly represented and get all the help and support you need as you go through the court process.
- In most cases, a youth who is under age 18 and is arrested and charged with an offense will be in the juvenile justice system.
 - There are some exceptions to this.² For example, if a youth is charged with murder at any age, they will be charged in the adult criminal system. If a youth is age 15 or older and charged with serious offenses like rape and aggravated

assault, they will be charged in the adult system. In these situations, they may be able to come back to the juvenile system in some cases.

- If you are age 18 or older and get arrested, you will be dealing with the adult criminal justice system, even if you are still in the foster care system.
- If you are arrested or encounter either justice system, you probably will have a lot of questions. The answers depend on the specific details of your case, so the best person to ask is the lawyer who is appointed to represent you in your juvenile or criminal case.

What is a summary offense?

- A summary offense is the most minor type of criminal offense in Pennsylvania, and is sometimes called a “non-traffic citation.”
- Summary offenses can include offenses like disorderly conduct, loitering, harassment, and low-level retail theft, among others.
- A conviction for a summary offense usually results in a fine. If you want to challenge the charge, you need to go to court on the date the ticket or notice tells you.
- You should get legal help and assistance if you get a summary citation or a ticket. Ignoring it will not make it go away.
- If you are convicted of a summary offense it is considered a criminal conviction even if you are under age 18, and it may appear on a background check that an employer runs.
- See below for information about if and how you can expunge or erase a criminal record from summary offense.

Who is my lawyer? Will I have more than one if I am in foster care and then get involved with the criminal or juvenile justice systems?

- If you become involved in the juvenile or criminal justice system, in most cases you will get appointed a lawyer to represent you.
- You have a right to a lawyer to represent you in most cases. As a child or youth you do not have to pay for the lawyer and a public defender is appointed to you.³ You can hire your own attorney if you want.
- Your lawyer in your juvenile or criminal case represents you and takes direction from you (not from your parents or other adults in your life.)
- The only situations where you may not get an attorney are if you are charged with a summary offense. See above.
- You will still have your lawyer from your dependency case, but they usually will only represent you in your dependency case, not in your juvenile or criminal justice case.
- This means that you will likely have *two* attorneys: one for your dependency case and one for your juvenile or criminal case. It is important that they are communicating and coordinating. You can help them do this by making sure they have each other’s contact

information and by keeping both of them updated about what is happening. Don't assume that they are talking to each other!

What will court be like if I have a juvenile or criminal justice matter?

- What happens in court can be very different depending on what county you are in. Ask your lawyer for your juvenile or criminal case what happens in your county, and how best to prepare for court.
- Some counties have a "crossover court," where the same judge hears both dependency and delinquency matters, and they can be addressed in the same hearing.
- Other counties may have a "one family – one judge" policy, where the same judge is assigned to both your dependency case and your delinquency case.
- In some counties, the cases might be handled entirely separately. This will also happen if you are facing adult charges in criminal court.

Will I be placed if I am adjudicated delinquent?

- If you are "adjudicated delinquent" (or found to have committed an offense through the juvenile justice system), the court will order some sort of "disposition."
- A disposition is like a sentence or requirements for what services you will receive and things you need to do. This disposition may or may not include "placement," probation, or a community-based program.
- Under Pennsylvania law, all of the same placements that are available through the child welfare system (foster care, kinship care, group homes, etc.) are also available as possible delinquency dispositions.⁴
- It's rare, but judges also have the option of placing you in a secure institution or state facility, which is the most restrictive type of setting.
- Talk to both of your lawyers about what your placement options may be for your specific case, so that you can get the best advocacy possible. If you are in a foster care or other placement in the dependency system and you want to stay there, let both of your lawyers know so they can advocate for that.

Will I still get child welfare services if I am in the juvenile justice or criminal justice system?

- You can be involved in the juvenile justice, criminal justice and dependency system at the same time. This is called shared case responsibility.⁵
- Even if you are involved in the juvenile or criminal justice systems, you are still entitled to all the available child welfare services for as long as you are involved in the dependency system and eligible for those services.

- Your dependency case should not be closed just because you have become involved in the justice system, and you should still have a permanency goal, case planning, transition to adulthood services, and all other child welfare services.
- In addition, as long as you meet the eligibility criteria for extended foster care, you can stay in care past age 18, even if you have involvement with the juvenile or criminal justice system.
- Make sure both of your lawyers know about the services you are currently receiving so they can ensure you continue to get them. Let them know if you are not getting services you think you need.

How do I know if I have a juvenile or criminal record, and what do I do about it?

- Ask your lawyer about whether you have a record in the juvenile justice or criminal justice system and whether you can expunge these records.
- Whether or not you will have a record and whether it is eligible for expungement, depends on the particular offense. For more information check out the Expunge Philly Website or call your public defender or probation office.⁶

Are my juvenile justice records confidential?

- It depends:
 - If you were 14 or older and were charged with serious offenses, your record is open to the public.⁷
 - All other records juvenile records are kept confidential.⁸
- Your school will be notified if you were adjudicated delinquent and be given some information about the offense. This information must be kept separate from your school records.⁹

Is my juvenile record automatically expunged (erased) or sealed when I turn 18?

- No. Juvenile records are not automatically expunged or sealed in Pennsylvania.
- If you are eligible, you can request to have your juvenile record expunged.
- For more information, refer to the Expunge Philly Website.¹⁰

Who is eligible for juvenile record expungement in Pennsylvania?

- You can petition (file a request with) the court to expunge your juvenile record and the court **must** grant your petition if the following apply to your case:
 - The charges against you were withdrawn or dismissed, or you were found “not guilty.”
 - Six months have passed since supervision has ended under a “consent decree,” diversion program, or an informal adjustment and no new charges are pending.

- You were adjudicated delinquent and five years have passed since the end of your supervision with no new adjudications or adult convictions.
- You can petition (file a request with) the court to expunge your juvenile record and the court **may** grant your request and expunge your record if:
 - The District Attorney (the lawyer for the state) agrees to the expungement and the court approves after the consideration of a few factors required by the law.¹¹
- Visit the Expunge Philly Website to see if you are eligible to have your record expunged.¹²

How can I get a juvenile record expunged?

- Call the public defender's office or probation office in the county where your case was.
- Before you leave the child welfare system, ask if you are eligible for expungement and get help with the process if you are eligible. It is much easier to get help with this while you are still in care.
- Visit the Expunge Philly Website to see if you are eligible to have your record expunged.¹³

What is Expunge Philadelphia and can I use it even if I do not live in Philadelphia?

- Expunge Philadelphia is a website that gives you information on whether you are eligible to expunge or erase a juvenile record in Pennsylvania.
- You can get information on the website about whether you are eligible or not even if your case was not in Philadelphia.
- Once you get the information from the website, you will need to call the public defenders office in the county where your case was to get help with the actual expungement process.

Can I get a summary offense expunged if I was convicted of it before I turned 18?

You can petition (file a request with) the court to expunge your summary offense and the court must grant your petition if the following apply to your case:

- You were convicted of a summary offense when you were under age 18, you are now age 18 or older, and six months have passed since your completion of all conditions of your disposition or sentence and you have not had any new adjudications or adult convictions.
- You are 18 or older, and six months have passed since your completion of all conditions of your disposition or sentence related to an adjudication for underage drinking and you have not had any new adjudications or adult conviction.¹⁴

If I have a criminal record, is it confidential?

No. Criminal records, which are records of offenses in the adult criminal justice system, are public.

¹ PA. COUNCIL OF CHIEF JUVENILE PROBATION OFFICERS, A FAMILY GUIDE TO PENNSYLVANIA'S JUVENILE JUSTICE SYSTEM, <https://www.pachiefprobationofficers.org/docs/Family%20Guide%20to%20PA%20Juvenile%20Justice%20System.pdf>

² 42 Pa.C.S.A. § 6302 (2018) (definition of a "delinquent act").

³ 42 Pa.C.S.A. § 6337 (2012) (right to counsel); 42 Pa.C.S.A. § 6337.1 (2012) (specifying that all delinquent youth are presumed to be indigent (without any income) and that youth must have a lawyer at all delinquency proceedings).

⁴ 42 Pa.C.S.A. § 6352(a)(1) (2012).

⁵ OFFICE OF CHILD., YOUTH, & FAM., PA. DEPT. OF PUB. WELFARE, OCYF BULL. NO. 3130-10-01, SHARED CASE RESPONSIBILITY POLICY AND PROCEDURES (2010), <https://www.dhs.pa.gov/docs/Publications/Documents/FORMS%20AND%20PUBS%20OCYF/OCYF%203130-10-02%203140-10-03.pdf>.

⁶ *Expunge Philadelphia*, DEFENDER ASSOCIATION OF PHILADELPHIA & JUVENILE LAW CENTER, <http://expungephiladelphia.com/>

⁷ 42 Pa.C.S.A. § 6307(b)(1.1)(i) & (ii) (2019).

⁸ *Id.* § 6307(b).

⁹ 42 Pa.C.S.A. § 6341(b.1) (2018) (school notification).

¹⁰ *Expunge Philadelphia*, DEFENDER ASSOCIATION OF PHILADELPHIA & JUVENILE LAW CENTER, <http://expungephiladelphia.com/>

¹¹ 18 Pa.C.S.A. § 9123(a)(1)-(4) (2014).

¹² *Expunge Philadelphia*, DEFENDER ASSOCIATION OF PHILADELPHIA & JUVENILE LAW CENTER, <http://expungephiladelphia.com/>

¹³ *Id.*

¹⁴ 18 Pa.C.S.A. § 9123(a)(2.1) & (2.2) (2014).