

RES18-063

Wilmington, Delaware
September 20, 2018

#4574

Sponsors:

Council
Members
Turner
Walsh

Co-Sponsors:

Council
President
Shabazz

Council
Members
McCoy
Harlee
Dixon
Oliver

WHEREAS, people with criminal arrest records often face difficulties in applying for and obtaining employment, housing and other opportunities, even if they were never convicted of a crime. The social consequences of a criminal record can also lead to the denial of an individual's right to civic participation; and

WHEREAS, there is a growing body of research regarding the detrimental effects to an individual and society relating to the collateral consequences of arrests and criminal convictions. Expungements are based on the premise that those with criminal records will have trouble reintegrating into society and will encounter barriers that prevent participation in public life. Inability to participate in society in these basic ways contributes to Delaware's high rate of recidivism and lowers the overall productivity and efficiency of the City of Wilmington; and

WHEREAS, in Delaware there are two types of expungements: (1) mandatory, which means the Court *must* grant an expungement, and discretionary, which means the Court *may* grant an expungement. At present, Delawareans are only allowed to petition to have a record expunged if the arrest or charges never led to a conviction, or after a pardon is granted for certain misdemeanor offenses only. Strategic efforts to lessen these consequences call for the automatic expungement of criminal records if (1) an arrest did not lead to a guilty disposition or (2) an isolated conviction has been followed by a significant amount of time spent staying out of trouble with the law; and

WHEREAS, on any given day, criminal charges, including charges that did not result in convictions, are publicly available online in the state of Delaware. Discrimination based on criminal records creates a significant socioeconomic barrier to employment and self-sufficiency. After individuals convicted of misdemeanor crimes have served their sentences and remained crime free long enough to demonstrate their rehabilitation, their access to employment, housing, education and other necessities of life should be fully restored; and

WHEREAS, comparable to legislation enacted in Pennsylvania, the criminal history record information of all individuals convicted of misdemeanor offenses would receive automatic expungement when completion of the court-ordered obligations of the sentence – including the payment of all fines, the completion of all terms of incarceration, probation, and other sanctions imposed as part of the sentence in the case – have been satisfied. The enactment of such legislation in Dover would require that Delawareans do not acquire subsequent convictions after a certain period of time – a decade for misdemeanors and five years for low-level summary offenses in any court of the unified judicial system.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON, that Wilmington City Council calls upon the Delaware General Assembly to introduce and pass legislation amending Title 11 of the Delaware Code relating to the dissemination of criminal history record information, enacting regulations for automatic expungement for convictions of misdemeanors and for charges not leading to convictions, under specified guidelines.

Passed by City Council,
September 20, 2018

Attest: Maribel Seijo
City Clerk

SYNOPSIS: This Resolution urges the Delaware General Assembly to introduce and pass legislation that enables the automatic expungement of arrests not leading to conviction from an individual's criminal record. Furthermore, the resolution calls for a modification of expungement guidelines in allowing for expungement of misdemeanor convictions for individuals who have avoided arrest or prosecution for ten years, or five years for summary offenses. The adoption of such legislation would move more Delawareans toward productive and fulfilling lives, systematically reducing the likelihood of recidivism while encouraging an individual's reintegration back into society.