



IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALEX OSGOOD, OSAMA)	
QAIYMAH, and ERIC FRITZ,)	Nos. 1, 2023
)	& 2, 2023
Petitioners-Below,)	Consolidated
Appellants,)	
v.)	
)	
STATE OF DELAWARE,)	
)	
Respondent-Below,)	
Appellee.)	

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF DELAWARE

STATE'S CONSOLIDATED ANSWERING BRIEF

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NATURE AND STAGE OF THE PROCEEDINGS

On May 21, 2021, Osama Qaiymah filed a petition for mandatory expungement of his criminal record under 11 *Del. C.* § 4373(a)(3). The State Bureau of Investigation (“SBI”) denied the petition based on Qaiymah’s convictions in Pennsylvania and Maryland. Upon review, the State opposed expungement on the same basis. A Superior Court Commissioner denied the petition on June 30, 2022.

On August 3, 2021, Alex Osgood filed a petition for discretionary expungement of his criminal record under 11 *Del. C.* § 4374(a)(3). The State opposed, based on his prior conviction in West Virginia. A Superior Court Commissioner denied the petition on July 1, 2022.

On September 21, 2021, Eric Fritz filed a petition for discretionary expungement of his criminal record under 11 *Del. C.* § 4374(a)(2), (3). The State opposed, based on his subsequent conviction in Pennsylvania. A Superior Court Commissioner denied the petition on July 1, 2022.

The Superior Court consolidated the three cases on appeal from the Commissioner’s denials, finding the cases all presented the same basic issue: “whether the language of 11 *Del. C.* § 4373 and 11 *Del. C.* § 4374, which provides that to be eligible for expungement of criminal convictions under the sections, a

person must have ‘no prior or subsequent convictions’ means no prior or subsequent conviction in the State of Delaware or no prior or subsequent convictions in any state.”¹

On January 3, 2023, Osgood docketed an appeal (No. 1, 2023) from the Superior Court’s December 6, 2022 order, and filed an opening brief on February 20, 2023. On January 4, 2023, Qaiymah and Fritz filed a joint appeal (No. 2, 2023), and filed an opening brief on March 7, 2023. On March 14, 2023, the American Civil Liberties Union Foundation of Delaware moved to file an Amicus Curiae Brief in Support of Reversal in Case No. 2, 2023, which the Court granted on March 15, 2023. On March 21, 2023, the State moved to consolidate the cases. The Court granted the unopposed motion the same day.

This is the State’s Consolidated Answering Brief.

¹ *Eric Fritz, Alex Osgood, and Osama Qaiymah v. State*, Del. Super., ID Nos. 21X-00195, 21X-00167, 21X-00109, Scott, J. (Dec. 6, 2022) (Order) (Ex. A to Op. Brfs) (hereinafter “Super. Ct. Order”).

SUMMARY OF THE ARGUMENT

I. Appellants' claims are denied. The Superior Court did not err in finding that the plain and unambiguous language in the eligibility provisions of the adult expungement statutes, "no prior or subsequent convictions," included both in-state and out-of-state convictions. Read in context, the language is consistent with the General Assembly's intent to provide an efficient and expansive process to obtain expungements of their Delaware criminal record for petitioners with limited and historical offenses. Reading the language at issue to mean only Delaware convictions creates an absurd result, allowing expungement of Delaware records while continuing to commit crimes in other jurisdictions. Expungements are meant to allow individuals who have put their criminal past behind them to move forward in life without impediments to their ability to participate successfully in society. Because the language of the statutes is clear, this Court should not graft additional language into the statutes to achieve a result inconsistent with the legislative intent as expressed in the plain words of the statutes.

STATEMENT OF FACTS

Alex Osgood

In May 2005, Delaware Division of Natural Resources and Environmental Control (DNREC) Park Rangers arrested Osgood (dob 1987) for Underage Consumption of Alcohol, which was resolved in the Court of Common Pleas by a guilty plea, after which Osgood was placed on probation before judgment. Osgood was discharged without conviction or delinquency findings on August 1, 2005.² The SBI expunged this arrest in July 2021.³

In April 2006, West Virginia law enforcement officers arrested Osgood for Possession of a Controlled Substance with Intent for Sale.⁴ Osgood entered into a plea agreement, pleading guilty to Possession of Marijuana, greater than 15 grams.⁵ The parties agreed to a sentence of six months in jail, suspended for one year of probation.⁶

² A25 (Case No. 1, 2023).

³ *See* A51 (Case No. 1, 2023).

⁴ *See* A28 (Case No. 1, 2023) (the State mistakenly listed the year 2015).

⁵ A37-39 (Case No. 1, 2023).

⁶ A37 (Case No. 1, 2023).

In June 2006, Newark Police officers arrested Osgood for Underage Consumption of Alcohol, which was dismissed in Newark's Alderman's Court on May 4, 2007.⁷ The SBI expunged this arrest in July 2021.⁸

In August 2006, Newark Police officers arrested Osgood for two counts of Graffiti (two separate case numbers), which were dismissed in Newark's Alderman's Court on May 4 and August 16, 2007.⁹ The SBI expunged this arrest in July 2021.¹⁰

In August 2010, Delaware State Police officers arrested Osgood for Trafficking in Marijuana, Possession with Intent to Deliver Marijuana (PWID), Maintaining a Dwelling, Possession of Drug Paraphernalia, and Possession of a Non-Narcotic Schedule I Controlled Substance.¹¹ Osgood pleaded guilty to PWID in the Superior Court, in exchange for which the State entered a *nolle prosequi* on the remaining charges.¹² The Superior Court sentenced Osgood to five years of

⁷ A25 (Case No. 1, 2023).

⁸ See A51 (Case No. 1, 2023).

⁹ A25 (Case No. 1, 2023).

¹⁰ See A51 (Case No. 1, 2023).

¹¹ A14 (Case No. 1, 2023).

¹² A17 (Case No. 1, 2023).

incarceration, suspended after 90 days for Level II probation.¹³ Because Osgood sought to transfer his probation to Vermont, in March 2021, the Superior Court reduced the probation to Level I.¹⁴ The court discharged Osgood from probation on March 26, 2012.¹⁵

In 2015, Osgood was arrested in Vermont for Driving Under the Influence.¹⁶ This matter was resolved with Osgood's conviction for Careless or Negligent Operation of a Vehicle.¹⁷

Osama Qaiymah

In June 2015, Delaware River and Bay Authority Police officers arrested Qaiymah (dob 1982) for Possession of Untaxed Tobacco Products.¹⁸ Qaiymah pleaded guilty to the charge, and the Court of Common Pleas found him guilty on November 25, 2015.¹⁹

¹³ A18 (Case No. 1, 2023).

¹⁴ A20-21 (Case No. 1, 2023).

¹⁵ A16 (Case No. 1, 2023).

¹⁶ *See* A28 (Case No. 1, 2023).

¹⁷ *See* A28 (Case No. 1, 2023).

¹⁸ A1, A29 (Case No. 2, 2023).

¹⁹ A29, A34 (Case No. 2, 2023).

In 2018, Qaiymah was arrested and pleaded guilty in Pennsylvania for Possession of Unstamped Cigarettes.²⁰

In 2020, Qaiymah was convicted in Maryland for Transport of Unstamped Cigarettes.²¹

Eric Fritz

On December 8, 2009, New Castle County Police officers arrested Fritz for Burglary Second Degree, Stalking, and Theft under \$1,500.²² A week later, Newark Police officers arrested Fritz for Attempted Robbery Second Degree, Stalking, Breach of Conditions of Bond, Malicious Interference with Emergency Communications, Offensive Touching, Criminal Mischief under \$1,000, and Noncompliance with Conditions of Recognizance Bond.²³

In 2011, Fritz was convicted of Disorderly Conduct in Pennsylvania.²⁴

²⁰ See A21, A39 (Case No. 2, 2023).

²¹ See A21, A39 (Case No. 2, 2023).

²² A83 (Case No. 2, 2023). On June 30, 2022, a Superior Court Commissioner granted Fritz's petition for expungement of his arrest in this case. A68 (Case No. 2, 2023).

²³ A82-83 (Case No. 2, 2023).

²⁴ A55, A90 (Case No. 2, 2023).

I. THE SUPERIOR COURT CORRECTLY CONCLUDED THAT PETITIONERS' OUT-OF-STATE PRIOR AND SUBSEQUENT CONVICTIONS RENDERED THEM INELIGIBLE FOR EXPUNGEMENT UNDER DELAWARE LAW.

Question Presented

Whether the language of 11 *Del. C.* § 4373 and 11 *Del. C.* § 4374, which provide that to be eligible for expungement of criminal convictions under the sections, a person must have “no prior or subsequent convictions” means no prior or subsequent conviction in the State of Delaware or no prior or subsequent convictions in any jurisdiction.

Standard and Scope of Review

“Questions of law are reviewed *de novo*. Statutory interpretation is a question of law.”²⁵

Merits of the Argument

Appellants assert, as they did below, that the Delaware expungement statutes, 11 *Del. C.* §§ 4373 & 4374, preclude consideration of petitioners' out-of-state criminal history in determining eligibility for either mandatory or

²⁵ *Judicial Watch, Inc. v. Univ. of Delaware*, 267 A.3d 996, 1003 (Del. 2021) (quoting *Del. Dep't. of Nat. Res. & Env't Control v. Sussex Cnty.*, 34 A.3d 1087, 1090 (Del. 2011)) (cleaned up).

discretionary expungement of their Delaware arrest records.²⁶ Appellants contend that the language “prior or subsequent convictions,” as used in the statutes,²⁷ refers exclusively to Delaware convictions. They rely upon 11 *Del. C.* § 4372(a), which states: “This subchapter applies to all criminal cases brought and convictions entered in a court in this State.” Appellants argue that this language would be surplusage unless read to preclude consideration of out-of-state criminal histories. In addition, Appellants contend that the lack of any reference to foreign convictions and the General Assembly’s expressed intent to expand access to expungements support their position that out-of-state arrests should not be considered in determining eligibility for expungement of a petitioner’s Delaware criminal record.

The Superior Court disagreed. Both the Superior Court Commissioner and the Superior Court Judge found that section 4372(a) simply set forth the jurisdiction of all Delaware courts to consider expungement petitions for the

²⁶ See Opening Brief in No. 1, 2023 (hereinafter “Op. Brf. 1”) at 10-11; Opening Brief in No. 2, 2023 (hereinafter “Op. Brf. 2”) at 9.

²⁷ See 11 *Del. C.* §§ 4373(a)(3) & 4374(a)(1). The three cases consolidated by the Superior Court and this Court on appeal were all filed in 2021, and the versions at issue are included as Exhibits B (§ 4373) and C (§ 4374) to Op. Brf. 2. All references to those statutes in this brief are to these versions unless otherwise noted.

criminal records generated in those courts; the language did not address any other factors related to the eligibility for consideration of expungement petitions.²⁸ Instead, the Superior Court found that the language in sections 4373 and 4374 was clear – “no prior or subsequent convictions” means exactly what it says without limitation.²⁹ The Superior Court is correct.

Statutory Construction

As this Court has explained,

The principles of statutory interpretation under Delaware law are clear. When interpreting a statute, the Court’s priority is to determine and give effect to legislative intent. The starting point is the language of the statute. The most important consideration for a court in interpreting a statute is the language the General Assembly used in writing the statute. If the statute is found to be clear and unambiguous, then the plain meaning of the statutory language controls. Statutory language is ambiguous when it is reasonably susceptible to different conclusions or interpretations. When statutory language is ambiguous, it should be interpreted in a way that will promote its apparent purpose and harmonize it with the statutory scheme.³⁰

“When an unambiguous statute contains words or phrases that are undefined, those ‘[w]ords and phrases shall be read with their context and shall be construed

²⁸ Superior Court Order at 7 (Ex. A to Op. Brf. 1 and Op. Brf. 2); Superior Court Commissioner’s Orders at (A45)(Case No. 1, 2023), A19, A70 (Case No. 2, 2023).

²⁹ Superior Court Order at 7 (Ex. A to Op. Brf. 1 and Op. Brf. 2).

³⁰ *Judicial Watch, Inc. v. Univ. of Delaware*, 267 A.3d 996, 1003-04 (Del. 2021) (cleaned up and citations and internal quotation marks omitted).

according to the common and approved usage of the English language.”³¹ “Delaware courts ‘also ascribe a purpose to the General Assembly’s use of statutory language, construing it against surplusage, if reasonably possible.’”³² “It is fundamental that the Courts ascertain and give effect to the intent of the General Assembly as clearly expressed in the language of a statute.”³³ Courts have a duty to read statutes “so as to avoid constitutional questionability and patent absurdity.”³⁴

The Expungement Statutes are not ambiguous.

In relevant part, under section 4373, a person is eligible for mandatory expungement of all charges related to a case if “[t]he person was convicted of 1 or more misdemeanors, or a combination of 1 or more misdemeanors and 1 or more violations, related to the same case, 5 years have passed since the date of

³¹ *Wiggins v. State*, 227 A.3d 1062, 1066 (Del. 2020) (quoting 1 *Del. C.* § 303; citing *Coastal Barge Corp.*, 492 A.2d 1242, 1245 (Del. 1985) (“A statute is passed by the General Assembly as a whole and not in parts or sections. Consequently, each part or section should be read in light of every other part or section to produce an [sic] harmonious whole.”)).

³² *In re Forum Mobile, Inc.*, 270 A.3d 878, 887–88 (Del. Ch. 2022) (quoting *Taylor v. Diamond State Port Corp.*, 14 A.3d 536, 538 (Del. 2011)).

³³ *Giuricich v. Emtrol Corp.*, 449 A.2d 232, 238 (Del. 1982) (holding that there is “no room” for judicial rewording of an unambiguous statute).

³⁴ *Opinion of the Justices*, 295 A.2d 718, 721–22 (Del. 1972); see *Monceaux v. State*, 51 A.3d 474, 477 (Del. 2012).

conviction, *and the person has no prior or subsequent convictions.*”³⁵ In relevant part, under section 4374, a person is eligible for consideration of a discretionary expungement if a person “was convicted of a felony and at least 7 years have passed since the date of conviction or the date of release from incarceration, whichever is later, *and the person has no prior or subsequent convictions.*”³⁶ The language itself is clear and unambiguous, that under these particular circumstances, the petitioner is not eligible for an expungement if they have a prior or subsequent conviction. There is no reason to believe that the convictions must be in Delaware.

The plain language of sections 4373 and 4374 addressing the eligibility requirement at issue simply refers to “no prior or subsequent convictions.” The language does not include “Delaware convictions,” “in the State of Delaware,” or any other limiting terms. That is because the requirement is not limited to Delaware convictions. Had the General Assembly wanted to limit the “prior or subsequent convictions’ to those only accrued in Delaware, it would have done so.

The Appellants rely in part upon the statement of applicability found in section 4372 of the same subchapter: “(a) This subchapter applies to all criminal

³⁵ 11 *Del. C.* § 4373(a)(3) (emphasis added). (Ex. B to Op. Brf. 2).

³⁶ 11 *Del. C.* § 4374(a)(3) (emphasis added). (Ex. C to Op. Brf. 2).

cases brought and convictions entered in a court in this State.”³⁷ This language originates from the June 2019 amendments to expand the availability of expungements.³⁸ At that time, the General Assembly made clear through this language that *all Delaware courts where a person could be convicted of a crime*, not just the Superior Court, were included in the provisions of the subchapter. Thus, any Delaware court with records of criminal arrest or conviction or other disposition would be required to comply with the process of expungement. This language is consistent with the General Assembly’s stated purpose: “The Act strikes provisions in Title 10 relating to expungement of adult records in Family Court and consolidates them with the Title 11 expungement provisions. Conforming changes are made to cross-references in Title 4 and 16.”³⁹ Thus, contrary to the Appellants’ contention, this language is not surplusage and does not modify the unambiguous “prior or subsequent conviction” language in sections 4373 and 4374. Further, if there is any ambiguity in that language, the Synopsis to Senate Bill 37 also provides: “In all cases, *the applicant for expungement must*

³⁷ 11 *Del. C.* § 4372(a).

³⁸ *See* SS 1 for SB 37 w/ SA 1 (GA 150) (signed 6/30/19), at 1 (Ex. B to Op. Brf. 1).

³⁹ Synopsis to SB 37 attached as Ex. A.

*have no prior or subsequent convictions (other than traffic offenses, and underage alcohol or marijuana possession) in order to be eligible.”*⁴⁰

Thus, because the plain and unambiguous language provides that applicants must have no prior or subsequent convictions to be eligible for expungement of their Delaware case, there is no reason to read in additional language to alter the words of the statute.

Application of the statutes as written does not create an absurd result.

The General Assembly expressly limited eligibility for expungements to a single case resulting in conviction. Precluding expungement under the statutes where the applicants have additional out-of-state convictions is consistent with the intent of limiting expungements to a single case. Moreover, as explained by the Superior Court Commissioner:

If out-of-state convictions were not considered, then a Petitioner who has two minor misdemeanor convictions stemming from two separate cases in the State of Delaware would not be statutorily eligible to seek an expungement under § 4373 or 4374, but a Petitioner who has one misdemeanor conviction in the State of Delaware and multiple felony convictions in neighboring states would be entitled to seek an expungement of the Delaware conviction under § 4373 or 4374. The Legislature could not have envisioned such an unjust result.

⁴⁰ *Id.* (emphasis added).

It appears that the Legislature intended to give a person who had one misstep, one criminal conviction, and who had thereafter demonstrated he had learned from his mistake and not reoffended, the opportunity to erase that one mistake from the public eye. It does not appear that the intent of the expungement statute was to give a person who had one conviction in Delaware, and who thereafter continued to engage in criminal activities in New Jersey, Maryland, and Pennsylvania (and rack up multiple convictions in those states) the benefit of expunging that person's Delaware conviction because only one of the person's multiple convictions occurred in the State of Delaware.

Petitioner's reading of the statute would unfairly benefit those who cross the state's borders and commit crimes from those who solely committed crimes in this state.⁴¹

The Commissioner is correct in her analysis. The ability to have one's criminal history expunged should not be bestowed on those who continue to commit crimes, but simply commit their crime in another jurisdiction.

To read the statutes to only consider in-state convictions when determining eligibility would be unjust and contrary to the general accepted concepts of criminal law where consideration of the nature and number of prior arrests and convictions are considered when determining risk factors, criminal penalties, classifications, and remedial programs for offenders. Just as a sentencing court may consider any relevant information with some indica of reliability to craft an

⁴¹ A46 (Case No. 1, 2023).

appropriate sentence, there is no mention of whether that information comes from within Delaware.

Appellants also rely upon this Court's decision in *Fuller v. State*⁴² concerning eligibility for discretionary expungement for juvenile adjudications of delinquency. The *Fuller* majority was concerned that a subsequent adult conviction for a Title 21 traffic offense (a Delaware offense) could preclude expungement of an otherwise eligible juvenile adjudication of delinquency. The decision does not include any discussion of out-of-state convictions or adjudications. Moreover, the Family Court had issued conflicting decisions interpreting whether subsequent adult traffic offenses were bars to expungement of juvenile records. While the dissenting justices "acknowledge[d] the policy reasons set forth in the majority's decision, the strict canons of statutory construction compel[ed them] to respectfully dissent."⁴³ The *Fuller* decision is simply inapposite and lends no assistance to the issue here.

In sum, the Adult Expungement Reform Act made clear its intent through the plain and unambiguous language found in sections 4373(a)(3) and 4374(). The Synopsis included in the official minutes of the Senate Judicial Committee

⁴² 104 A.3d 817 (Del. 2014).

⁴³ *Fuller*, 104 A.3d at 826.

Meeting is equally clear: “The General Assembly has expanded the availability of expungement for juvenile adjudications of delinquency quite dramatically in recent years, in recognition that people can and do change and move beyond mistakes of their past. The intent of this Act is to extend that same recognition to some categories of adult records of arrest and conviction.”⁴⁴ Allowing expungement of Delaware criminal history while the applicant is still committing crimes in other jurisdictions, sometimes the same crimes for which they seek a Delaware expungement, is inconsistent with the express intent of the law. The General Assembly is fully capable of crafting a statute to implement its intent. This Court should decline to read language into the statute in contravention of rules of statutory construction and legislative intent.

⁴⁴ A110-11 (Case No. 2, 2023).

CONCLUSION

For the foregoing reasons, the judgment of the Superior Court should be affirmed.

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**CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENT
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1. This brief complies with the typeface requirement of Rule 13(a) because it has been prepared in Times New Roman 14-point typeface using Microsoft Word 2016.
2. This brief complies with the type-volume limitation of Rule 30(d) because it contains 2,747 words, which were counted by Microsoft Word 2016.

Dated: April 14, 2023

/s/ Elizabeth R. McFarlan
Elizabeth R. McFarlan
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Delaware General Assembly (/)



Senate Bill 37

150th General Assembly (2019 - 2020)

Bill Progress

Current Status:

Lieu/Substituted 4/15/19

What happens next?

The General Assembly has ended, the current status is the final status.

Bill Details

View Substitute:

[SS 1 for SB 37 w/ SA 1 \(/BillDetail/47355\)](#)

Introduced on:

3/21/19

Primary Sponsor:

[Brown](https://senatedems.delaware.gov/members/senate-district-2) (<https://senatedems.delaware.gov/members/senate-district-2>)

Additional Sponsor(s):

Sen. [McBride](#) (</LegislatorDetail?personId=87>), [Townsend](https://senatedems.delaware.gov/members/senate-district-11) (<https://senatedems.delaware.gov/members/senate-district-11>), [Delcollo](#) (</LegislatorDetail?personId=3132>)

Reps. [Lynn](https://housedems.delaware.gov/members/house-district-31) (<https://housedems.delaware.gov/members/house-district-31>), [Longhurst](#) (<https://housedems.delaware.gov/members/house-district-15>), [Dorsey Walker](#) (<https://housedems.delaware.gov/members/house-district-3>), [Cooke](#) (<https://housedems.delaware.gov/members/house-district-16>)

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Reps. [Baumbach](https://housedems.delaware.gov/members/house-district-23) (<https://housedems.delaware.gov/members/house-district-23>), [Bolden](#) (<https://housedems.delaware.gov/members/house-district-2>), [Brady](#) (</LegislatorDetail?personId=124>), [Chukwuocha](#) (<https://housedems.delaware.gov/members/house-district-1>), [Heffernan](#) (<https://housedems.delaware.gov/members/house-district-6>), [Jaques](#) (</LegislatorDetail?personId=111>), [K. Johnson](#) (<https://housedems.delaware.gov/members/house-district-5>), [Kowalko](#) (</LegislatorDetail?personId=176>)

Long Title:

AN ACT TO AMEND TITLE 4, TITLE 10, TITLE 11, AND TITLE 16 OF THE DELAWARE CODE RELATING TO EXPUNGEMENT OF RECORDS OF ADULT ARREST AND CONVICTION.

Original Synopsis:

In our modern society, a criminal record can limit a person's opportunities and the quality of life they can achieve for themselves and their families for years, and even decades, after that person has completed the terms of the criminal sentence imposed. Even the existence of an arrest record with no conviction can limit job opportunities, housing, access to

higher education, credit, and access to jobs that require professional licensing. The General Assembly has expanded the availability of expungement for juvenile adjudications of delinquency quite dramatically in recent years, in recognition that people can and do change and move beyond mistakes of their past. The intent of this Act is to extend that same recognition to some categories of adult records of arrest and conviction. At present, Delaware allows adults to petition to have a record expunged in only 2 circumstances: (1) for an arrest that did not lead to conviction and (2) after a pardon is granted – but for certain misdemeanor offenses only. Under this Act, a person may have a record expunged through a petition to the State Bureau of Identification (SBI) for (1) charges resolved in favor of the petitioner; (2) a record that includes violations only after the passage of 3 years; and (3) after 5 years for some misdemeanors. Excluded from this SBI-only expungement process are convictions for any misdemeanor crimes of domestic violence, misdemeanor crimes where the victim is a child or a vulnerable adult, and unlawful sexual contact in the third degree. Allowing expungements for arrests without convictions and minor, isolated convictions through an application to the SBI will ease the burden on the courts and the Board of Pardons. This Act also provides that the court may grant a petition for expungement upon a showing of “manifest injustice” in the following situations: (1) 3 years have passed since the date of a single misdemeanor conviction; (2) a person has a single conviction in a felony case, and 7 years have passed from the date of conviction or release from incarceration, whichever is later; (3) 7 years have passed since conviction or release from incarceration on misdemeanor domestic violence or misdemeanor conviction with child or vulnerable adult victim. A felony conviction for any of the following crimes is not eligible for expungement through this court process: Title 11 violent felonies; 16 Del C. § 1136; 31 Del C § 3913; any “felony conviction involving physical or sexual assault crimes” as defined in the Beau Biden Child Protection Act. A conviction for unlawful sexual contact third degree may not be expunged through the court-only process. The Department of Justice will have an opportunity to state its position on the expungement petition to the court, and is empowered to seek input from any victim in the case. In all cases, the applicant for expungement must have no prior or subsequent convictions (other than traffic offenses, and underage alcohol or marijuana possession) in order to be eligible. Any person who applies for relief under this section, must essentially be a first offender in order to be eligible. A person is not allowed to apply for expungement under this process if an expungement has been granted within the last 10 years. Fines, fees, and restitution must be paid before an expungement may be granted; however, courts are empowered to waive outstanding fines or convert them to a civil judgement if they are unpaid for reasons other than willful noncompliance. Most Title 21 (traffic offenses), including DUI, are ineligible for expungement under this Act. However, traffic offenses (other than DUIs) will also not operate as a bar to the expungement of other charges. The Act also removes all limitations on the availability of court-ordered expungement after a pardon. The Act strikes provisions in Title 10 relating to expungement of adult records in Family Court and consolidates them with the Title 11 expungement provisions. Conforming changes are made to cross-references in Title 4 and 16. Implementation of the Act is delayed for 180 days to allow State agencies to prepare necessary procedures and forms. Finally, this Act is to be known as the Adult Expungement Reform Act.

Volume:Chapter: 

N/A

Advisory Number:

N/A

Fiscal Note/Fee Impact:F/N (Complete) [View PDF \(/json/BillDetail/GetPdfDocument?fileAttachmentId=286762\)](/json/BillDetail/GetPdfDocument?fileAttachmentId=286762)*You may need to disable your browser's pop-up blocker to view linked documents.***Effective Date:**

Takes effect upon being signed into law

Sunset Date:

N/A

Bill Text

Original Text:

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Amendments

Amendment	Status	Introduction Date	Primary Sponsor	View Details
<i>No Records Available</i>				

Committee Reports

Date	Committee	# Members	Favorable	On Its Merits	Unfavorable	
4/9/19	Judicial (/CommitteeDetail?committeeId=526)	5	2	1	0	view()

Roll Calls

Chamber	Result	Date	Vote Type	Yes	No	Not Voting	Absent	PDF
<i>No Records Available</i>								

Actions History

Date	Action
3/21/19	Introduced and Assigned to Judicial Committee in Senate
4/9/19	Reported Out of Committee (Judicial) in Senate with 2 Favorable, 1 On Its Merits
4/15/19	Substituted in Senate by SS 1 for SB 37
4/17/19	SS 1 for SB 37 - - Passed By Senate. Votes: 21 YES
4/17/19	SS 1 for SB 37 - Passed By Senate. Votes: 21 YES
4/18/19	SS 1 for SB 37 - Assigned to Judiciary Committee in House
5/8/19	SS 1 for SB 37 - Reported Out of Committee (Judiciary) in House with 6 On Its Merits
5/16/19	SS 1 for SB 37 - Assigned to Appropriations Committee in House
6/18/19	SS 1 for SB 37 - Reported Out of Committee (Appropriations) in House with 5 On Its Merits
6/26/19	SS 1 for SB 37 - Passed By House. Votes: 35 YES 5 NO 1 ABSENT
7/2/19	SS 1 for SB 37 - Signed by Governor

Legislation Detail Feeds

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Multi-Case Filing Detail: The document above has been filed and/or served into multiple cases, see the details below including the case number and name.

Transaction Details

Court: DE Supreme Court

Document Type: Answering Brief

Transaction ID: 69827521

Document Title: State's Consolidated Answering Brief. (with certificate of compliance) (eserved) (jkh)

Submitted Date & Time: Apr 14 2023 1:21PM

Case Details

Case Number	Case Name
1,2023C	Osgood, Alex v. State of Delaware
2,2023C	Qaiymah, Osama, et al. v. State of Delaware