

service on him of the petition to object to the expungement. If the state's attorney does not object within the thirty day period, the records shall be forthwith expunged. The agency shall notify the court of its compliance with the order. A copy of the order shall be furnished to the person so charged."

Expungement in these cases would, therefore, appear to be mandatory, upon petition, with no discretion vested in the court.

Discretion is vested in the court in probation without verdict cases, or where there has been a nol pros or stet, but the limits on the judicial discretion in such circumstances are nowhere described.

Section 729(B) states:

"If any person is granted probation without finding a verdict in any criminal prosecution, or a nolle prosequi is entered in the proceedings or a court places the proceedings upon the stet docket, the person may petition the court having jurisdiction requesting expungement (1) upon the expiration of the term of probation or after one year if no term is stated in the case of probation without finding a verdict; (2) after one year in the case of a nolle prosequi, or (3) after three years in the case of a stet. If the court, after a hearing and determination of the matter, makes a finding of good conduct, the court may immediately order expungement of all records and shall furnish the person in question with a copy of the order."

Lastly, I would like to comment on the provisions of Section 730(a), which states:

"Expunged records may not be reviewed or opened by any person except by order of court upon good cause shown, or except in a valid emergency situation, for investigative purposes only, by direct order of the head of the law enforcement agency which made the arrest."

My reading of this section suggests that court records in a "valid emergency situation" may be opened or reviewed by direct order of a head of a law enforcement agency. I have serious doubts as to the constitutionality of a provision that authorizes the head of any executive agency to open or review records which have been sealed by the judicial branch of government.

It may very well be that requests for expungement will be so few in number as to avoid the serious problems