

# EXPUNGEMENT

## Expungement Basics

Expungement (also called "expunction") is a court-ordered process in which the legal record of an arrest or a criminal conviction is "sealed," or erased in the eyes of the law. When a conviction is expunged, the process may also be referred to as "setting aside a criminal conviction." The availability of expungement, and the procedure for getting an arrest or conviction expunged, will vary according to the state or county in which the arrest or conviction occurred.

## Legal Effect of an Expungement

An expungement ordinarily means that an arrest or conviction is "sealed," or erased from a person's criminal record for most purposes. After the expungement process is complete, an arrest or a criminal conviction ordinarily does not need to be disclosed by the person who was arrested or convicted. For example, when filling out an application for a job or apartment, an applicant whose arrest or conviction has been expunged does not need to disclose that arrest or conviction.

In most cases, no record of an expunged arrest or conviction will appear if a potential employer, educational institution, or other company conducts a public records inspection or background search of an individual's criminal record.

An expunged arrest or conviction is not necessarily completely erased, in the literal sense of the word. An expungement will ordinarily be an accessible part of a person's criminal record, viewable by certain government agencies, including law enforcement and the criminal courts. This limited accessibility is sometimes referred to as a criminal record being "under seal." In some legal proceedings, such as during sentencing for any crimes committed after an expungement, or in immigration / deportation proceedings, an expunged conviction that is "under seal" may still be considered as proof of a prior conviction

## Expungement Eligibility

When expungement of an arrest or conviction is an option in a state or county, in most instances a person's criminal record must meet certain standards in order to qualify for the process.

Whether or not a person is eligible for expungement will usually depend on a number of factors, including:

- The amount of time that has passed since the arrest or conviction
- The severity and nature of the event for which expungement is sought (i.e. a conviction for a sex offense may lead to a denial of expungement)
- Events in the applicant's criminal record (including arrests or convictions in all jurisdictions, not just the offender's state/county)
- The severity and nature of other events in the applicant's criminal record

Depending on the state and/or county, special eligibility rules might exist for expungement of arrests or convictions that occurred while the offender was a juvenile, and arrests or convictions for sex offenses.

# What type of convictions cannot be expunged from my record?

The following are convictions that cannot be expunged:

- Convictions when the offender is subject to a mandatory prison term;
- Convictions deals with three main categories of crimes: sexual assaults and displays; prostitution offenses; and offenses related to the dissemination of obscenity and matter harmful to juveniles
- Convictions of an offense of violence when the offense is a misdemeanor of the first degree or a felony and when the offense is not a violation of (Riot (Assault to an unborn child), (Inciting violence) (Inducing panic) of the Revised Code that is a misdemeanor of the first degree;
- Convictions of an offense in circumstances in which the victim of the offense was under eighteen years of age when the offense is a misdemeanor of the first degree or a felony;
- Convictions of a felony of the first or second degree;
- Bail forfeitures in a traffic case as defined in Traffic Rule 2.