



The Office of the State Appellate Defender

<http://www.illinois.gov/osad>

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EXPUNGEMENT AND SEALING A RECORD Overview

The process of getting your record expunged or sealed can appear to be overwhelming and difficult. But the law established procedures so people can clear their records without needing to hire an attorney. The worksheets on our website are designed to assist you through the legal process by providing you with a simple step-by-step approach to successfully expunging or sealing your records. If you take your time and follow the steps and answer the questions in the worksheets, you will know whether you qualify to expunge or seal your record. Before starting with the [Criminal Expungement or Sealing - Do I Qualify Worksheet](#) carefully read the Appendix of this information page [Definitions](#), [Frequently Asked Questions](#), [Myths and Misconceptions](#), and [Quick Guide to Offenses](#). Most, if not all, of your questions will be answered by the information in those sections.

A. What the Law Says:

Section 5.2 of the Criminal Identification Act (20 ILCS 2630/5.2) allows qualifying arrests, supervision and probation to be expunged. If you have ever been convicted of a criminal offense or municipal ordinance violation, your offense may still be eligible for sealing under the Act, but you can not expunge the record of the criminal conviction (with the exception of Honorably Discharged Veterans convicted of Certain Class 3 or 4 felonies).

Only criminal records prosecuted and maintained by the State of Illinois are affected. Federal and out-of-state convictions cannot be expunged or sealed under the Illinois law.

The **Criminal Identification Act** was designed to expunge and seal criminal records. It does not apply to minor traffic offenses, divorces, the entry of an order of protection or other civil matters. For example, if somebody had an order of protection entered against you, that cannot be expunged or sealed. Also, simple traffic tickets, such as speeding tickets, do not qualify to be either expunged or sealed.

B. Felony Convictions

Certain special felony probations, such as TASC probation or First Offender drug probation under Section 10 of the Cannabis Control Act, Section 410 of the Controlled Substance Act and Section 70 of the Methamphetamine Control and Community Control Act are not considered convictions and **may** be eligible for expungement or sealing.

C. Juvenile Cases

Juvenile expungement is different from adult expungement. If you were ever charged as a juvenile in the State of Illinois, go to our agency website or contact our office for Juvenile Case information to see if you qualify to expunge your juvenile record. Care must be taken when attempting to expunge a juvenile record. If the youth was charged with a Municipal Ordinance (see [Appendix A](#)), the defendant/petitioner must file an Adult Expungement or Seal Petition.

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For questions or to request additional information contact us at **866 787-1776**
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The Office of the State Appellate Defender
cannot provide legal services for your expungement or sealing.

Appendix A. DEFINITIONS

The following terms are important for you to understand as you go through this process.

Word	Definition
Adjudication:	formal court judgment.
Conviction:	a final judgment of guilt by the court. A conviction includes terms such as: Probation (except "710," "1410," "Section 10," "Section 410," "40-10," or "TASC" probation), Conditional Discharge, Fine (without the term "supervision"), Time Served, Jail Time, Finding of Guilty by a judge or jury (without the term "supervision"), PG/FG (pleaded guilty/found guilty).
Criminal Identification Act:	the expungement and sealing law for Illinois. It can be found at 20 ILCS 2630/0.01 <i>et seq.</i> Section 5.2 of the Act deals with expungement and sealing eligibility.
Denial/Denied:	this means that the Court has rejected or not allowed something.
Disposition:	the final order of the court on your criminal case.
Expunge	to physically destroy records or to return the records to the petitioner, and to obliterate (remove) the petitioner's name from any official index or public record.
Felony	a crime that may be punished by imprisonment for more than one year in a state prison. More serious than a misdemeanor.
Illinois Compiled Statutes	the written law of Illinois. It is abbreviated as "ILCS."
Indigent	poor; a poor person.
Misdemeanor	a crime that may be punished by confinement in a county jail for a term of up to one year.
Municipal Ordinance	a law or regulation of a city or local government.
Objection	this is a protest made by the State against your Petition. It means that the State doesn't want your record expunged or sealed. The State has 60 days to object to a Petition to Expunge or a Petition to Seal. An objection is not the same as a denial.
Petition	a written request to the court.
Petitioner	a person who makes a written request to the court
Seal	to physically and electronically maintain records, but to make the records unavailable to the public without a court order and to obliterate (remove) the petitioner's name from any official index or public record. However, law enforcement agencies and the courts will still have access to the records, as will a few employers and other entities as allowed by law.
Supervision	a court order holding the case open for a specific period of time, usually between six months and two years. During that time, no judgment of guilt is entered. If all the conditions of supervision are followed, the case is dismissed and no conviction is ever entered against the defendant.

Appendix B. FREQUENTLY ASKED QUESTIONS

Question: Where do I file my petition?

Answer: The Petition must be filed in the county where you were arrested or where the charge was brought.

Question: Do I need a lawyer?

Answer: No, you can file your petition *pro se* (without an attorney). The law designed a procedure so people can clear their records without needing to hire an attorney. However, you may hire an attorney if you prefer. If you are unable to hire an attorney due to financial hardship, but feel you need legal assistance, you can contact an attorney on the “[Attorney List](#)” of our website. **DISCLAIMER:** The attorney list is made up of attorneys who have agreed to handle cases at a low or reduced fee. The Office of the State Appellate Defender does not endorse or recommend any attorney on the “Attorney List”.

Question: How much does it cost?

Answer: Getting your record expunged or sealed will cost you a filing fee at the courthouse plus \$60 for the Illinois State Police. Some local law enforcement agencies may also charge a processing fee. Filing fees vary from county to county and may be obtained from the appropriate Circuit Clerk.

Question: What if I can't afford the filing fee?

Answer: You can still file your petition, as long as you file it with a fee waiver application. Sometimes these are called "In Forma Pauperis" forms or "Application to Sue as an Indigent Person" forms. Not every jurisdiction will have such a form. If they do not, try the [Indigency Application](#) form available on our website. If the judge determines that you do not qualify to file as an indigent person, then you will have to pay the fee.

Question: What if the circuit clerk refuses to accept accept my petition because I can't afford the filing fee?

Answer: The law requires the circuit clerk to accept your petition, AS LONG AS you file it with an [Indigency Application](#) form available on our website. Keep in mind, however, that if the judge determines that you are able to pay the fee, you will have to pay it or your petition will be dismissed.

Question: How long does it take?

Answer: At least a few months. The State gets 60 days to object to a Petition to Expunge or a Petition to Seal. How long your case will take also depends on the size of the jurisdiction you are in, whether there is an objection to your Petition and how long it takes to get your case on the docket. If the judge orders your record expunged or sealed, it can take up to 60 days for the law enforcement agencies to process the order.

Question: What is a pardon?

Answer: A pardon is a type of executive clemency granted by the governor. It is considered to be an extraordinary remedy and is rarely granted. It only applies to cases which have resulted in a conviction. For more information, contact the Prisoner Review Board (even if you never went to prison) at (217) 782-7273 or see website at or see the website at: www2.illinois.gov/prb.

- Question:** What is the difference between expunging and sealing?
Answer: Expunged records are destroyed or returned to the petitioner. The agencies will destroy their records and remove all mention of your name from the public record. Sealed records are maintained by the agencies. Most of the general public will not have access to the contents of the record. However, law enforcement and the courts will still have access to the records, as will a few employers and other entities as allowed by law.
- Question:** Do I need to get a copy of my record?
Answer: Yes. Some jurisdictions require you to attach your record, or your "rap sheet," to your petition. Also, you should check your record for accuracy.
- Question:** What is the difference between a "rap sheet" and a "disposition"?
Answer: A "rap sheet" comes from the police department and will include a list of your arrests. A "disposition" comes from the circuit clerk and contains information regarding the final outcome of the case.
- Question:** I was found not guilty. Do I still need to have my record expunged or sealed?
Answer: Yes. Your criminal record contains all of your arrests, whether you were found guilty or not.
- Question:** I was pressured into pleading guilty. Isn't that a reason to expunge?
Answer: No. Once you pleaded guilty, any presumption of innocence was waived.
- Question:** What is a conviction?
Answer: Any finding of guilt which results in regular probation, conditional discharge, a fine, time served or sentence of incarceration.
- Question:** What is NOT a conviction?
Answer: Court supervision, nolle prosequi (NP), stricken off with leave to reinstate (SOL), finding of no probable cause (FNPC), dismissed, not guilty or successful completion of First Offender Drug offenses receiving TASC probation are eligible for expungement. See Appendix D.
- Question:** Who is the Chief Legal Officer of the local unit of government affecting the arrest?
Answer: This is the attorney for the municipality, village, city or county that handled the arrest. For example, if you were arrested by the Springfield Police Department, then the unit of local government that affected the arrest would be the City of Springfield. The Chief Legal Officer for the City of Springfield is the corporation counsel (city attorney). If, on the other hand, you were arrested by the Sangamon County Sheriff's Department, then the Chief Legal Officer would be the State's Attorney for Sangamon County.
- Question:** I live out of town. Can I do this by mail?
Answer: Possibly. Many jurisdictions have a process in place to accept filings by mail. Contact the circuit clerk of the court you are filing in and ask what their local procedures are for taking expungement or sealing petitions by mail.
- Question:** Do I have to appear in court?
Answer: Possibly. If a court hearing is required, then you should attend if at all possible. Sometimes, a judge will allow an attorney to appear on your behalf. However, you should expect that you need to appear in court or risk having your petition dismissed.

Question: Once my record is expunged or sealed, do I have to tell employers about it?

Answer: No. In Illinois, it is against the law for employers or potential employers (except those specifically allowed by law) to ask you whether you ever had any records expunged or sealed. BUT if you have filed for your record to be expunged or sealed and the court has not ruled on it yet, you still have to disclose your criminal history on a job application if you are asked.

Question: How will I know when it is expunged or sealed?

Answer: In most cases, you will get a response in the mail from the Court, the arresting authority and/or the Illinois State Police.

Question: Once my record is expunged or sealed, do I have to disclose it when I get an occupational license or certificate?

Answer: No, unless the law requires it. A list of regulated licenses in the State of Illinois can be found at the Illinois Department of Financial and Professional Regulation's website: <http://www.idfpr.com> (this is NOT a list of licenses which will require disclosure of an expunged or sealed record).

Question: What if my petition is denied?

Answer: You can do one of two things. Within the first 60 days after your Petition is denied, you can petition the judge to reconsider. Alternatively, you may file a Notice of Appeal and take your case to the Appellate Court. The circuit clerk should have those forms. In the event it becomes necessary to file a motion to reconsider or an appeal, you should consult with an attorney.

Question: What is a Certificate of Rehabilitation?

Answer: Certificates of Rehabilitation are issued by the Circuit Court. They can be issued regardless of whether your record can be expunged or sealed. There are two types of Certificates: The Certificate of Good Conduct and the Certificate of Relief from Disabilities. Neither will remove any offense from your criminal record, but both may have a positive impact on your ability to find employment. The Certificate of Good Conduct removes civil and criminal liability from the employer, should they choose to hire you. The Certificate of Relief from Disability allows you to obtain a professional license despite your criminal history.

Eligibility for the Certificates include:

- No more than two felony convictions
- No convictions for any of the following offenses:
 - Sex Offender Registry Offense
 - Arsonist Registration Act
 - Child Murderer and Violent Offender Against Youth Registration Act
 - Class X Felony
 - Aggravated DUI
 - Aggravated Domestic Battery
 - Forcible Felony

For a full list of licenses affected by the Certificate of Relief Disabilities, see "[Other Remedies](#)" available on our website.

Appendix C. COMMON MYTHS AND MISCONCEPTIONS ABOUT EXPUNGEMENT

Myth/Misconception

Truth

All non-violent felonies can be expunged or sealed. The vast majority of felony convictions cannot be expunged. Most felony convictions are eligible to be sealed. With the Exception of DUI/Reckless Driving, animal crimes, sex crimes, domestic battery/violations of orders of protection. For any of those offenses you will need to get a pardon authorizing expungement or sealing from the governor. That information is available on the [Prisoner Review Board](#) website www.illinois.gov/prb or by calling at (217) 782-7273.

My case was dismissed so there isn't anything to expunge. Once you are arrested, you have a record. If you want the record of your arrest expunged, you must be proactive and take it upon yourself to expunge the record.

I was wrongly arrested to begin with and I shouldn't have to pay the filing fee to get my arrest expunged. The **Criminal Identification Act** makes no distinction between "good" arrests and "bad" arrests. It specifically states that "a person whose records have been expunged or sealed is not entitled to remission of any fines, costs, or other money paid as a consequence of the sealing or expungement." 20 ILCS 2630/12(b). If you feel that you were wrongly accused or charged, you should contact an attorney regarding the issue.

They told me that if I completed my supervision, I wouldn't have a record. So how come I still have a record? You were likely told that you wouldn't have a conviction on your record. Court supervision is not considered by the courts to be a conviction, so if you completed it successfully, you don't have a conviction on your record. However, you still have a record—namely, the arrest and the charges.

The Circuit Clerk's office was supposed to help me. But when I got there, they wouldn't answer my questions about the forms or help me fill them out. The Clerks of Courts Act absolutely forbids any clerk from giving legal advice. Legal advice includes telling you whether you qualify for an expungement or a sealing and how to fill out the forms. The clerks CAN tell you what is in your court file, including the disposition of your case, as well as local procedures for filing and the relevant fees.

Appendix D. Quick Guide to Offenses which may be Expunged or Sealed

You may not begin any petition process if you have a case pending.

Offense	How long to wait since disposition?
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YOUR CASE MAY QUALIFY for Expungement: If the final disposition of your case was one of the following:

Acquittal (Finding of Not Guilty) SOL (Stricken with Leave) FNPC (Finding of No Probable Cause) NP (Nolle Prosequi) No charges filed Dismissal	No waiting period
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YOUR CASE MAY QUALIFY for Expungement: **If the sentence you received on the offense was court supervision:**

625 ILCS 3-707 Operating an Uninsured Motor Vehicle	5 years
625 ILCS 3-708 Suspended Registration for Noninsurance	5 years
625 ILCS 3-710 Displaying of False Insurance	5 years
625 ILCS 401.3 Failure of Scrap Dealer to Keep Records	5 years
720 ILCS 5/12-3.2 Domestic Battery	5 years
720 ILCS 5/12-15 Criminal Sexual Abuse (if the victim was 18 years of age or older) Renumbered as 720 ILCS 5/11-1.50, eff. July 1, 2011.	5 years

YOUR CASE MAY QUALIFY for Expungement: **If the final disposition was one of the below:**

<p>All offenses that apply to Section 10 ("710"), Section 410 ("1410"), or Section 70 probation ("First Offender" drug probation) or 40-10 probation ("TASC" probation)</p> <ul style="list-style-type: none"> • 720 ILCS 550/4 Possession of Cannabis • 720 ILCS 570/402 Possession of a Controlled Substance • The Steroid Control Act (Repealed) • Section 70 of the Methamphetamine Control and Community Protection Act. 	5 years if successfully completed
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YOUR CASE MAY QUALIFY for Expungement: If the final disposition was **2nd Chance probation.**

<p>Successfully completion of 2nd Chance probation, will result in the dismissal of the charges. This means that the following offenses may be expunged:</p> <ul style="list-style-type: none"> • 720 ILCS 570/402 Class 4 Possession of a Controlled Substance • 720 ILC 646/80 Possession of Methamphetamine • 720 ILCS 5/16-1(b)(1.1) Theft, if school, place of worship or governmental • 720 ILCS 5/21-1(d)(1)(D) Criminal Damage to Property • 720 ILCS 5/21-1.01 Criminal Damage to Government Supported Property • 720 ILCS 5/16-1(b)(4) Class 3 Theft based on value of property • 720 ILCS 5/16-22(f)(1)Retail Theft 	5 years if successfully completed
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YOUR CASE MAY QUALIFY for Expungement: If you have a Class 3 or Class 4 felony conviction and the following conditions apply:

<p>You are an Honorably Discharged Veteran.</p> <p>You joined the military with a Class 3 or Class 4 felony conviction already on your record OR you were enlisted in the military at the time of conviction. This excludes any offense of violence, sex-related or gun-related.</p> <p>You served at least one full tour of duty in the U. S. military.</p> <p>To qualify you must first submit a Request for Consideration Illinois Prisoner Review Board. The mechanism for procedure this has not yet been developed. Continue to check this website for updated information.</p>	<p>5 years</p>
<p>YOUR CASE MAY QUALIFY for Expungement: If you received and successfully completed supervision for Reckless Driving and the following conditions apply:</p>	
<p>The incident must have occurred on or after January 1, 2013.</p> <p>The incident must have occurred prior to your 25th birthday</p> <p>You do not have any convictions on your record for DUI or Reckless Driving.</p>	<p>After 26th birthday</p>
<p>You were placed on court supervision for something other than the offenses listed above.</p>	<p>2 years</p>

YOUR CASE MAY QUALIFY FOR SEALING:

Any guilty conviction, misdemeanor or felony charge (not listed below) as long as it has been 3 years from the completion of the most recent case, or when removed from the Murder or Violent Offender Against Youth Registry.

The Expansion of Sealing Eligibility (Effective August 24, 2017) is part of the Initiative of the Restoring Rights and opportunities Coalition of Illinois.

Following CANNOT be Sealed:

Driving Under the Influence (even if court supervision was given) -Misdemeanor or Felony

Reckless Driving (Unless the circumstances listed above are applicable) -Misdemeanor or Felony

Animal Crimes - Misdemeanor or Felony

Sex Crimes - Misdemeanor or Felony (Unless 720 ILCS 5/12-15 exception listed under Appendix D. exceptions also are prostitution and misdemeanor public indecency)

Domestic Battery/Violations of Orders of Protection - Misdemeanor or Felony