



EXPUNGEMENT



INFORMATION ABOUT REMOVING
CRIMINAL AND CIVIL OFFENSE OR INFRACTION
RECORDS FROM PUBLIC ACCESS IN MARYLAND

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This guide is designed to give you pertinent information concerning the removal of criminal records and civil offense or infraction records from public access in Maryland and to help you understand the process of filing for expungement.

WHAT IS EXPUNGEMENT?

Expungement is the removal of records from public inspection. In Maryland, records may be expunged from 1) Motor Vehicle Administration files, 2) police files and 3) court and police files. Each process removes very specific files and must be done through the proper agency. You must apply for expungement of each arrest based on the date of arrest and according to the disposition. **No process expunges the records from all agencies.**

MOTOR VEHICLE ADMINISTRATION (MVA)

Many public driving records are automatically expunged, depending upon the offense for which you were convicted and the length of time since your last conviction. For additional information, contact the MVA at the following phone number: 1-800-950-1682.

POLICE RECORDS: WHEN NO CHARGES WERE FILED

- **Effective 10/1/2007**, if you were detained by a police agency, but were released without being charged, records will automatically be expunged within 60 days after release.
- **Prior to 10/1/2007**, if you were detained by a police agency, but were released without being charged, records may exist in police files. To get these records expunged, contact the arresting agency and request an *Investigative Release Form*. Ask the agency for specific information on how its process works. Expungement must be requested within eight (8) years of incident date.

COURT/POLICE RECORDS MAY EXIST:

- **If you have been arrested and charged** with a crime, including a traffic violation for which a term of imprisonment may be imposed.
- **If you have been charged** with a civil offense or infraction as a substitute for a criminal charge.

Court records are not automatically expunged. To remove these records, you may file a petition for expungement with the court if:

- You were found not guilty.
- You were found guilty of or not criminally responsible for certain nuisance crimes, specified misdemeanors, or specified felonies.
- The charge was dismissed.
- The crime on which the conviction was based is no longer a crime.

- The charge resulted in probation before judgment (excluding charges of driving while under the influence or driving while impaired).
- The State’s Attorney did not prosecute (nolle prosequi) your charge.
- The court indefinitely postponed your case (stet).
- Your case was compromised.
- You were convicted of only one non-violent criminal act and you were granted a full and unconditional pardon by the Governor.
- You were convicted of a crime listed under Criminal Procedure Article § 10-110.
- You were convicted of possession of marijuana under Criminal Law Article § 5-601.

*See § 10-105 and § 10-110 of the Criminal Procedure Article for additional information

WHEN CAN I FILE FOR EXPUNGEMENT?

The waiting period required for filing a petition for expungement varies, depending on how your case was concluded and whether you file a *General Waiver and Release* (CC-DC-CR-078).

- If your petition is based on an **acquittal**, a **nolle prosequi**, or a **dismissal**, you may file a petition three (3) years after the disposition, or within three (3) years if you file a *General Waiver and Release* of all legal claims and lawsuits arising from the charge.
- If your petition is based on a **probation before judgment**, you may file:
 - ❖ three (3) or more years after probation was granted or discharged, whichever is later.
- If your petition is based on a **guilty verdict or a finding of not criminally responsible for a specified nuisance crime**, you may file:
 - ❖ three (3) or more years after the guilty conviction or satisfactory completion of the sentence, including probation, whichever is later.
 - ❖ three (3) years after finding of not criminally responsible under CP §§ 10-105(a)(9) and (a)(10).
- If your petition is based on a conviction of a crime and the act on which the conviction was based is no longer a crime, you can file at any time.
- If your petition is based on a **stet** or a **compromise**, you may file three (3) years after the disposition.
- You may also petition the court for expungement at any time on a showing of good cause.

- If a person died before a disposition of a charge by nolle prosequi, dismissal, or a not guilty verdict, their attorney or personal representative may file on their behalf.
- If your petition is based on a conviction of a **misdemeanor** under Criminal Procedure Article § 10-110 or an attempt, conspiracy, or solicitation of any offense listed, you may file 10 or more years after you satisfy the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.
- If your petition is based on a conviction of a **felony** under Criminal Procedure Article § 10-110, you may file 15 or more years after you satisfy the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.
- If your petition is based on a violation of Criminal Law Article § 3-203, common law battery, or an offense classified as a domestically related crime under Criminal Procedure Article § 6-233, you may file 15 or more years after you satisfy the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.
- If your petition is based on a conviction of Criminal Law Article § 5-601, you may file four (4) years after the later of the conviction or satisfactory completion of the sentence, including probation.

GENERAL WAIVER AND RELEASE

This form releases all persons and agencies from any claims regarding the arrest or detention. It must be filed in order to process an expungement, if it is less than three (3) years from the time your case was concluded.

CASE INFORMATION

Who is the complainant?

The person who, under oath, signs a statement establishing reasonable grounds to believe that some named person has committed a crime. In criminal cases, the complainant is usually a police officer or a citizen.

How can I find the name of the complainant if I don't remember?

The Maryland Judicial Case Search website -- <http://casesearch.courts.state.md.us/casesearch/> may be helpful for finding case information. Not all information and/or parties involved may be available online.

What is my tracking number?

The assigned 12-digit number that identifies the defendant and incident throughout criminal proceedings.

What is the disposition?

The verdict given by the judge at the conclusion of the trial/sentencing.

PETITIONS FOR EXPUNGEMENT

Which version of the Petition should I file?

There are two (2) versions of the Petition for Expungement:

- Complete the **CC-DC-CR-072A** if your petition is based on an **acquittal** (found not guilty), **dismissal**, **probation before judgment**, **nolle prosequi**, **stet**, or **not criminally responsible** disposition.
- Complete the **CC-DC-CR-072B** if your petition is based on a **guilty** disposition and the charge is eligible for expungement.

Can I include all my case numbers on the petition?

A Petition for Expungement may include only the case numbers for one unit (see below for definition of "unit"), which may include criminal charges, traffic charges, and/or civil offenses or infractions. List all the case/citation numbers that apply to that unit.

Can the clerk help me complete the forms?

No. The clerk may only provide public information from the computer and/or case file, such as case number(s), date of service, service agency, and disposition of charges.

What do you mean by a “unit”?

According to Criminal Procedure § 10-107, a unit consists of two (2) or more charges, other than minor traffic violations, arising from the same incident, transaction, or set of facts.

Do I need an attorney?

You may be represented by an attorney, but you are not required to do so. However, it may be useful to consult with an attorney if you have questions regarding disclosure, security clearances, immigration or naturalization, or other questions about expungements.

Does my expungement paperwork have to be notarized?

No.

WHAT DO THE DISPOSITIONS MEAN AND HOW DO THEY AFFECT EXPUNGEMENTS?

Use the *Petition for Expungement of Records (Guilty Disposition)* (CC-DC-CR-072B) form for guilty dispositions.

GUILTY VERDICT

A verdict convicting the defendant of the crime charged.

- Under Criminal Procedure § 10-105, a person is eligible to file for expungement if they were convicted of a crime and the act on which the conviction is based is no longer a crime or the crime is considered a nuisance crime under this statute.
- Under Criminal Procedure § 10-107, if a person is not entitled to expungement on one (1) charge or conviction in a unit, the person is not entitled to expungement of any other charge or conviction in the unit.
- Under Criminal Procedure § 10-110, specified misdemeanors and specified felonies are eligible for expungement based on certain waiting periods and if you are not charged with a crime at the time that you requested the expungement. For a list of expungeable offenses, please see the *List of Expungeable Charges under Criminal Procedure Article § 10-110* (CC-DC-CR-072G2).

NOLO CONTENDRE (NOLO)

A plea in a criminal action having the same legal effect as a plea of guilty and on which the defendant may be sentenced.

Use the *Petition for Expungement of Records (Acquittal, Dismissal, Probation before Judgment, Nolle Prosequi, Stet, or Not Criminally Responsible Disposition)* (CC-DC-CR-072A) form for the following dispositions:

DISMISSED

A ruling by a judge that all or some of the charges in a case are terminated (thrown out), without further evidence or testimony.

NOT GUILTY (ACQUITTAL)

A judgment by a jury or judge that a defendant is not guilty of a crime as charged.

- Not guilty dispositions are not automatically expunged.
- If a General Waiver is submitted with the petition, you may petition the court to expunge a case that results in either a not guilty verdict or judgment of acquittal immediately after the disposition. If no General Waiver is submitted, the petition can be filed three (3) years after entry of disposition.

PROBATION BEFORE JUDGMENT (PBJ)

Guilty verdict was stricken and probation was assigned; not a conviction if probation was successfully completed.

- Under Criminal Procedure § 10-105(c)(2), a PBJ can only be expunged after probation is discharged or three (3) years after probation was granted, whichever date is later.
- If your probation was discharged in less than three (3) years, you may file a motion for a good cause exception. The court will decide whether there is good cause to grant the expungement early.

STET

A conditional stay of all further proceedings in a case. On motion of the State's Attorney, the court may indefinitely postpone trial of a charge by marking the charge "stet" on the docket.

- Under Criminal Procedure § 10-105 the waiting period to expunge the charge(s) that has been marked "stet" is three (3) years after the case was marked "stet" on the docket.
- If it has been less than three (3) years, you may file a motion for a good cause exception. The court will decide whether there is good cause to grant the expungement early.

NOT CRIMINALLY RESPONSIBLE

A finding in a criminal case having the same legal effect, for expungement purposes, as a plea of guilty.

- Under Criminal Procedure § 10-105, a limited number of minor common nuisance crimes and certain misdemeanors can be expunged if the person was found not criminally responsible. You may not file a petition for expungement until three (3) years have passed since the finding of not criminally responsible.

NOLLE PROSEQUI (NOL PROS)

A formal motion by a State's Attorney, indicating that the charge(s) will not be prosecuted.

- Nolle prosequi dispositions are not automatically expunged. You must file a Petition for Expungement of Records if you want this removed from court and law enforcement records.
- If the case was nolle prosequi and you were not served, you must still file for expungement. However, if a judge advises in court that such a case be expunged, a petition is not needed and there is no filing fee.

WHEN ARE YOU NOT ENTITLED TO AN EXPUNGEMENT?

You are not entitled to an expungement:

- In any case where a guilty finding was entered, except for certain nuisance crimes under Criminal Procedure § 10-105(a)(9), possession of marijuana under Criminal Law Article § 5-601, and specified crimes under Criminal Procedure § 10-110.
- If you received a probation before judgment, **except** a probation before judgment for a crime where the act on which the conviction is based is no longer a crime, AND within three (3) years of the entry of the probation before judgment you have been convicted of another crime (other than a minor traffic violation or a crime where the act on which the conviction is based is no longer a crime) OR
- If you are a defendant in a pending criminal proceeding.
- Civil lawsuits cannot be expunged; however, you can ask that civil case information be shielded or that the case be sealed to remove it from public inspection.

For information on this process see:

<http://www.mdcourts.gov/district/selfhelp/accesstojudicialrecords.html>

- In peace order and protective order cases. These civil proceedings are not covered under the expungement statute. Although peace and protective order cases cannot be expunged, you can ask the case information be removed from public inspection. For information on this process see:
<http://www.mdcourts.gov/district/selfhelp/accesstojudicialrecords.html>
- Of a disposition of probation before judgment or guilty for a violation of driving under the influence (DUI) or driving while impaired (DWI) (Transportation Article § 21-902, Criminal Law Article §§ 2-503, 2-504, 2-505, or 2-506, or former Article 27 § 388A or § 388B).
- If one charge in the unit is not eligible for expungement, the other charges in the unit are not eligible for expungement no matter what type of charges they are (criminal, traffic, boating violation, light-rail violation, etc.). However, because a related minor traffic violation that arises from the same incident is not considered part of the unit, the existence of related minor traffic charges will not affect whether other charges in the unit can be expunged.
- If you were charged with minor traffic offenses only. The court does not have authority to expunge minor traffic offenses. Only the MVA can expunge minor traffic offenses.
- A conviction that has been shielded under Criminal Procedure §§ 10-301 through 10-306 may not be considered a conviction for purposes of expungement.

PARDONS

A pardon is an act of clemency in which the Governor, by order, absolves the grantee from the guilt of the grantee's criminal acts and exempts the grantee from any penalties imposed by law for those criminal acts. If you want to clear your record of a guilty charge that is currently not eligible, you must call the Parole Commissioner's Office to request a packet for a pardon. The granting of a pardon for an individual's criminal conviction does not automatically expunge the record of the conviction. Criminal Procedure Article § 10-105(c)(4) provides that a petition for expungement based on a full and unconditional pardon by the Governor may not be filed later than 10 years after the pardon was signed by the Governor. For more information regarding pardons contact the Parole Commission directly: **6776 Reisterstown Road #307, Baltimore, MD 21215 1-877-241-5428 (toll free) or 410-585-3200** <http://dpscs.maryland.gov/about/FAQmpc.shtml#pardon>

COST OF EXPUNGEMENT

Form CC-DC-CR-072A. There is no charge to expunge a verdict of acquittal, dismissal, probation before judgment (PBJ), nolle prosequi, stet, or not criminally responsible disposition.

Form CC-DC-CR-072B. The filing fee is \$30 and is nonrefundable, even if denied. The fee is for each case (not for each charge related within a unit of the case). If you cannot afford the fee, you may request that the court waive the filing fee.

JUVENILE RECORDS

As of October 1, 2014, juvenile records (a court record and police record concerning a child alleged or adjudicated delinquent or in need of supervision, or who has received a citation for a violation) may be expunged under certain circumstances. You may petition for expungement in the juvenile court if you meet the conditions set out in Courts & Judicial Proceedings Article, § 3-8A-27.1. You may file for expungement of the adult criminal record if the original charge was transferred to the juvenile court (Criminal Procedure § 4-202) or was transferred at sentencing (CP § 4-202.2). Petitions for expungement of adult criminal charges that have been transferred to the juvenile court must be filed in the court of original jurisdiction. Contact the **Juvenile Division** of the Circuit Court for more information.

HOW DO I FILE FOR EXPUNGEMENT?

1. Obtain a *Petition for Expungement of Records (Acquittal, Dismissal, Probation before Judgment, Nolle Prosequi, Stet, or Not Criminally Responsible Disposition)* (CC-DC-CR-072A), *Petition for Expungement of Records (Guilty Disposition)* (CC-DC-CR-072B), and the *General Waiver and Release* (CC-DC-CR-078), if necessary, at any District or Circuit Court. (Forms available online at: www.mdcourts.gov)
2. You will need to know the case number, date that you were arrested, summoned, or received a citation; the law enforcement agency that took the action; the offense with which you were charged; and the date your case was disposed.
3. Complete the forms and file with the clerk. Include an extra copy for the State's Attorney and each law enforcement agency named in the petition. You must file in the court in which your case was concluded.
4. Pay the nonrefundable filing fee (applicable only to guilty dispositions).

HOW LONG DOES IT TAKE?

The expungement process takes at least 90 days from the time you file your petition. If the State's Attorney and/or the law enforcement agencies object to your petition, the court shall hold a hearing and will notify you to attend.

If the State's Attorney and the law enforcement agencies do not object within 30 days of receiving the petition, the court shall pass an order requiring the expungement of all police and court records about the charges. The court will notify you that your petition has been granted or denied.

The expungement process cannot be expedited or "fast tracked" through the system. All cases are handled in exactly the same manner. There are no exceptions.

After the court orders are sent to each required agency, each agency has **60 days from receipt** to comply with the court order. You will receive a Certificate of Compliance in the mail to notify you that your expungement has been completed. Until you receive your Certificate of Compliance from each agency listed on your petition, do not assume that your records have been expunged.

Can an expungement be denied?

Yes.

Who do I call if I have a question about an expungement?

Call the clerk's office where you filed the expungement. The clerks can provide information about the court process, but cannot give legal advice. For legal advice, consult an attorney or contact the Maryland Courts Self-Help Center at mdcourts.gov/selfhelp or at (410) 260-1392. The clerk may not be able to provide specific information as to where in the process your expungement stands.

What can I do after the petition is denied by the Judge at the hearing?

You may file an appeal within 30 days of the denial.

How will I be notified about the answer to the petition?

The petitioner or attorney, whoever filed the petition, may receive an answer from the State's Attorney in the mail 30 days from the receipt of the petition. In some jurisdictions, the State's Attorney may not answer at all. According to the Maryland Rules, a failure to file an answer constitutes agreement.

Why does the expungement process take so long?

Maryland expungement laws (Criminal Procedure §§ 10-101 to 10-110) set specific time requirements for the various phases of an expungement. The entire process will take approximately 90 days from the date of filing, but could take more time.

CERTIFICATES OF COMPLIANCE

What can I do if I do not receive a copy of all the certificates of compliance?

First, contact the agency or agencies directly that you have not received certificates from. Then, contact the court to see if they have received certificates from those agencies. As a last resort, file a lawsuit against the state agency if they disseminate the information. The clerk can provide information about the court process, however you may want to seek the assistance of a lawyer before filing a lawsuit.

I just received a copy of the court order and certificate of compliance from the courts. Does this mean I am clear to apply for a job or adopt?

No, this is only your certification that the court has complied with the order and notified the parties on the form. Until you have received a compliance letter from each of the listed parties on the court order, do not assume that your record has been cleared of the petitioned charge.

EXPUNGEMENT ORDER

How long should I keep my copy of the Expungement Order?

Keep these documents **FOREVER**.

What does it mean when I receive an Order for Expungement of Police and Court Records and Certificate of Compliance?

It means that a particular agency has complied with the expungement order.

Will the public still be able to view records on case search after the record is expunged?

No.

If my record is expunged, can I come in again and get a copy if I lost all the paperwork?

You can petition the court to have the case reopened. However, three (3) years after the expungement has been granted, the file is shredded.

Why does my record still show on other databases after it has been expunged from the Court's system?

Each entity (courts, arresting agency, parole and probation, Criminal Justice Information Services (CJIS), Federal Bureau of Investigation (FBI), etc.) has its own stand alone database for which it is responsible. Since these databases are not connected, each entity will expunge their own database. Once CJIS expunges the record in Maryland's Central Repository, which is done within 60 days of the court order, the FBI will be notified to expunge their database.*

Even after a record has been expunged, it may continue to be visible to individuals performing background checks. Some companies and agencies download case information and retain it for a long period of time. If they have access to older data, they may find the information which has since been expunged. If you are asked about expunged information, you may need to provide a copy of the court order to prove the record has been expunged.

*Does not pertain to civil offenses or infractions.

MUST I DISCLOSE EXPUNGED CHARGES?

According to Maryland law, Criminal Procedure § 10-109:

Disclosure of expunged information about civil citations and criminal charges in an application, interview, or other means may not be required by an employer or educational institute.

A person need not refer to or give information concerning an expunged charge when answering a question concerning a criminal charge or civil citation that did not result in a conviction or that the Governor pardoned.

Refusal by a person to disclose information about criminal charges and/or civil offenses or infractions that have been expunged may not be the sole reason for an employer to discharge or refuse to hire the person.

Despite these provisions, you may be required to disclose information about expunged cases in certain situations not governed by Maryland law. Consult with an attorney if you need advice about how to comply with the law.

AMENDED PETITIONS

What are the procedures for filing an expungement in circuit court (or other agencies) after District Court has received/processed the paperwork?

Per Rule 4-506, the application, petition, or answer may be amended by the petitioner in the manner prescribed by Rule 2-341.

Unless the court orders otherwise, a party filing an amended pleading must file a comparison copy of the amended pleading. Language that is stricken should be lined through or enclosed in brackets (ex: ~~old language~~ or [old language]). The new language should be underlined or in boldfaced type (ex: new language or **new language**). The clerk will resubmit the amended petition to the agency.

CJIS RELATED QUESTIONS*

How long will it take before it will not show on a record check?

If the employer does the record check through the Criminal Justice Information Systems – Central Repository (CJIS-CR) system, it will not show on the record after CJIS has complied with the order and finished processing the expungement.

Once my case is expunged, will it still be on my background check?

No, once CJIS has complied with the order and finished processing the expungement it will not show on your record in the CJIS system.

*Does not pertain to civil offenses or infractions.

If I have received my Certificates of Compliance, why does the FBI still show that I have a record?

The courts do not process expungements for the FBI's system. Once CJIS expunges the record in Maryland's Central Repository, which is done within 60 days of the court order, the FBI will be notified to expunge their database.

Why is my case still showing up in CJIS after four months?

CJIS handles expungements for the entire State of Maryland. The volume of expungement requests that CJIS processes is much greater than that of individual jurisdictions, and expungements are processed in the order received.

I recently had a background check done through my job and the charge that I had expunged still appears. What do I do?

If the record check was not processed through the State of Maryland, you must go back to your company and have them do a fingerprint supported check through CJIS to receive an accurate record check.

HELPFUL SUGGESTIONS

The following suggestions will help you succeed with an expungement:

- Make sure that you have completed the expungement petition completely and accurately with your full name, including any alias that you used at the time of arrest or when you received the citation, date of birth, and current address.

CRIMINAL CASES ONLY

- Request to have a background check done through CJIS-CR if you are not sure of dates of arrest and occurrences. This will also allow you to see what is on your criminal history.
- After the expungement process is completed and all Certificates of Compliance have been received, have a background check done. This is to double check that the expungement was done as well as check for any other occurrences that may appear.
- Ensure that you have filed at the appropriate time and not too soon. Filing too soon will cause the expungement to be denied. The \$30 filing fee for guilty dispositions is nonrefundable, even if denied.
- Make sure you are filing in the appropriate court jurisdiction (District or Circuit) because filing in the wrong jurisdiction can delay your case from being expunged from the State of Maryland in a timely manner. If your case was appealed to a higher court, that is where you need to file.
- Make sure you keep copies of all your court papers, the expungement documents, and the expungement order since they may be needed for future reference. Once the case has been expunged, all documents pertaining to the case will be destroyed.

LIMITING ACCESS TO COURT RECORDS

Expungement completely removes a criminal case or civil offense or infraction from public inspection. Although your court record may not be eligible for expungement, there are certain instances in which you may be able to ask the court to keep some or all information in a case private. There are several different ways that information contained in a court record can be removed from public inspection: certain information in a record can be shielded, the record can be sealed, or the record can be expunged, depending on your situation.

For more information see:

<http://www.mdcourts.gov/district/selfhelp/accesstojudicialrecords.html>

EXPUNGEMENT AGENCY CONTACT INFORMATION

Circuit Court: located in every county. For more information see:

<http://mdcourts.gov/circuit/index.html>

District Court: For more information see:

<http://mdcourts.gov/district/index.html>

Motor Vehicle Administration (MVA): For more information call 1-800-950-1682 or see:

<http://www.mva.maryland.gov/>

Criminal Justice Information System (CJIS) of the Department of Public Safety & Correctional Services collects and maintains criminal records. For information, call

Toll free 1-888-795-0011 or see:

<http://dpscs.maryland.gov/agencies/itcd.shtml>

Individuals can check their own criminal history by visiting their local police barracks to request an individual review. You will be fingerprinted and your fingerprint identification will be sent to the:

CJIS Central Repository (CJIS-CR)

P.O. Box 32708

Pikesville, MD 21282-2708

Once received, CJIS will then process the results and mail them back to you.

If you have further questions about the expungement law, please see Criminal Procedure Article §§ 10-101 to 10-110. You may wish to consult an attorney to determine how the law applies to your situation. The Maryland Courts Self-Help Centers provide free limited legal services for people who are not represented by a lawyer. See: <http://www.mdcourts.gov/selfhelp>

For more information, visit the Judiciary website at:



<http://www.mdcourts.gov>

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