



EXPUNGEMENT



INFORMATION ABOUT REMOVING CRIMINAL
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 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 motor vehicle records are automatically expunged after 3 years; other records may be manually 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.

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 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 certain nuisance crimes.
- The charge was dismissed.

- 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 (settled).
- You were convicted of only one non-violent criminal act and you were granted a full and unconditional pardon by the Governor.

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* (Form CC-DC/CR 78).

- If your petition is based on an **acquittal**, a **nolle prosequi**, or a **dismissal**, you may file a petition three years after the disposition, or within three 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:
 - ❖ 3 or more years after probation was granted or discharged, whichever is later.
- If your petition is based on a **guilty verdict for a specified nuisance crime**, you may file:
 - ❖ 3 or more years after the conviction or satisfactory completion of the sentence, including probation, whichever is later.
- If your petition is based on a **stet** or a compromise, you may not file within 3 years of your cases’ disposition.
- You may also petition the court for expungement at any time on a showing of good cause.

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 3 years from the time your case was concluded. Check with the clerk in the court where you file to see if the General Waiver form requires a witness.

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/> 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

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 both criminal and traffic charges. If the unit included both criminal and traffic charges list all the case/citation numbers that apply to that unit.

Can the clerk help me complete the forms?

No. The clerk may 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 or more charges, other than minor traffic violations, arising from the same incident, transaction, or set of facts.

Do I need an attorney?

Under Maryland law, you may represent yourself, pro se, in this matter.

Does my expungement paperwork have to be notarized?

No.

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

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.

- Under Maryland Law, not guilty dispositions are not automatically expunged. You must file a *Petition for Expungement of Records* (Form CC-DC/CR 72) if you want this removed from public databases.
- If a General Waiver is submitted with the petition, you may petition the court to expunge a case that includes either a not guilty or judgment of acquittal immediately after the disposition. If no General Waiver is submitted, the petition can be filed three 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 Maryland Law, Criminal Procedure §10-105(c)(2)(I)(II), a PBJ can only be expunged after probation is discharged or 3 years after probation was granted, whichever date is later.
- If your probation was discharged in less than three years, you may file a motion for a good cause exception and see if the court will grant it.

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 Maryland Law, Criminal Procedure §10-105 the waiting period to remove a stet case is three years after the date of the judgment
- If it has been less than three years, you may file a motion for a good cause exception and see if the court will grant it.

GUILTY

A verdict convicting the defendant of the crime charged.

- Under Maryland Law, Criminal Procedure §10-105, except for a limited number of minor common nuisance crimes, guilty convictions are not eligible for expungement.
- According to Criminal Procedure §10-107, if a person is not entitled to expungement on one charge or conviction in a unit, the person is not entitled to expungement of any other charge or conviction in the unit.

NOLLE PROSEQUI (NOL PROS)

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

- Under Maryland Law, nolle prosequi dispositions are not automatically expunged. You must file a Petition for Expungement of Records if you want this removed from public databases.
- 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.

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.

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)).
- If you received a probation before judgment, a nolle prosequi, a stet, a pardon or conviction of a specified public nuisance crime, AND since then you have been convicted of another crime other than a minor traffic violation or are a defendant in a pending criminal proceeding.
- In civil cases, unless you were charged with a civil offense as a substitute for a criminal charge.
- In domestic violence, cases are a civil proceeding, which are not covered under the expungement statute.

- 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.).
- 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.

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 you must call the Parole Commissioner's Office to request a packet for a pardon. (Exception: A guilty verdict for certain public nuisance crimes under Criminal Procedure §10-105(a)(9) may be expungeable.) For more information regarding pardons contact the Parole Commission directly:

6776 Reisterstown Road

Baltimore, MD 21215

1-877-241-5428 (toll free) or 410-585-3200

<http://www.dpscs.state.md.us/aboutdpscs/FAQmpc.shtml#pardon>

COST OF EXPUNGEMENT

Ask the clerk about the fee or refer to the court's online fee/cost schedule. The filing fee 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. There is no charge to expunge a verdict of Not Guilty (Acquittal).

JUVENILE RECORDS

Juvenile records are sealed and should not appear in criminal records. However, you may file for expungement of the record if the original charge was transferred to the juvenile court. Contact the **Juvenile Division** of the circuit court for more information.

HOW DO I FILE FOR EXPUNGEMENT?

1. Obtain a petition for *Expungement of Police and Court Records* (Form CC-DC/CR 72) and the *General Waiver and Release* (Form CC-DC/CR 78), 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 cited; 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 fees.

HOW LONG DOES IT TAKE?

The process should take approximately 90 days from the time you file your petition, unless there is an objection or appeal. 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. 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 10-109) set specific time requirements for the various phases of an expungement. The entire process will take approximately 90 days from the date of filing.

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 for immigration if I lost all the paperwork?

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

After the case is expunged, could immigration obtain copies of the expungement documentation and case folder?

Immigration cannot obtain this information from any agency that has filed a Certificate of Compliance once the case has been expunged.

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.

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 of a person who applies for employment, etc.

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 or civil citations that have been expunged may not be the sole reason for refusal to hire the person.

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.

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, date of birth, and current address.
- 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 fee is nonrefundable.
- 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 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.

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

1-800-950-1MVA or see:

<http://www.mva.state.md.us>

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://www.dpscs.state.md.us/aboutdpscs>

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 10-109 of the Annotated Code of Maryland. You may wish to consult an attorney to determine how the law applies to your situation.

For more information, visit the Judiciary website at:



<http://www.mdcourts.gov>

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