



Expungements

Expungement 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.

Louisiana's current expungement laws (enacted in 2014) are covered in Articles 971-986 of the Code of Criminal Procedure. Under the current laws, there are three types of expungements:

EXPUNGEMENT means to remove a record of arrest or conviction, photographs, fingerprints, disposition or any other information of any kind from public access. It does not mean "destruction" of the record.

EXPUNGEMENT BY REDACTION means that a person who is arrested or convicted with other persons who are not entitled to expungement may have his/her name or any other identifying information removed from public access, while the information on the other person(s) will be retained.

INTERIM EXPUNGEMENT means to expunge a felony arrest from the criminal history of a person who was convicted of a misdemeanor offense arising out of a felony arrest. Under this interim expungement process, only the felony arrest will be expunged.

"Records" includes any incident reports, photographs, fingerprints, disposition or any other such information in relation to a single arrest event in the possession of the clerk of court, any criminal justice agency, and local and state law enforcement agencies, but will not include DNA records.

When an expungement is completed, a court orders that the information about the arrest and/or conviction is shielded from public access. Yet, it will remain available for review by the Office of Financial Institutions, the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of

Psychologists, the Louisiana State Board of Pharmacy, the Louisiana State Board of Social Work Examiners, the Emergency Medical Services Certification Commission, the Louisiana Attorney Disciplinary Board (Office of Disciplinary Counsel), the Louisiana Supreme Court Committee on Bar Admissions, the Louisiana Department of Insurance, the Louisiana Licensed Professional Counselors Board of Examiners, the Louisiana State Board of Chiropractic Examiners, and many other agencies, certification boards, commissions and news-gathering organizations.

ELIGIBILITY

A person may file a motion for expungement of his/her record of arrest and conviction of a misdemeanor offense if either of the following apply:

- The conviction was set aside and the prosecution was dismissed pursuant to C.Cr.P., Article 894(B); or
- More than five years have elapsed since the person completed any sentence, deferred adjudication, or period of probation and parole, and the person has not been convicted of any felony offense during the five-year period, and has no felony charge pending against him/her.

No person shall be entitled to an expungement under any of the following circumstances:

- The misdemeanor conviction arose from circumstances involving or resulting from an arrest for a sex offense as defined in La.R.S. 15:541, except that an interim expungement may be available as authorized by C.Cr.P., Article 985.1.
- The misdemeanor conviction is for domestic abuse battery or stalking.

A person may file a motion for expungement of his/her record of arrest and conviction of a felony offense if either of the following apply:

- The conviction was set aside and the prosecution was dismissed pursuant to C.Cr.P., Article 893(E); or
- More than 10 years have elapsed since the person completed any sentence, deferred adjudication, or period of probation and parole, and the person has not been convicted of any criminal offense during the 10-year period, and has no felony charge pending against him/her.

No expungement shall be granted, and no person may be permitted to file a motion for expungement of an arrest and conviction, if the person was convicted of the commission or attempted commission of any of the following offenses:

- A crime of violence as defined by or enumerated in La.R.S. 14:2(B), unless the conviction is for aggravated battery, second-degree battery, aggravated criminal damage to property, simple robbery, purse snatching, or illegal use of a weapon or dangerous instrumentality, and all of the following apply:
- More than 10 years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole based on the felony conviction;
- The person has not been convicted of any other criminal offense during the 10-year period;
- The person has no criminal charge pending against him/her;

COSTS

The filing fee for a motion for expungement is \$550, payable to the Clerk of Court at the time that the motion is filed.

An applicant shall not be required to pay a filing fee if a certification from the District Attorney verifies that the applicant has no felony conviction, and no pending charges under a bill of information or indictment, and at least one of the following applies:

- The applicant was acquitted, after trial, of all charges derived from the arrest, and any lesser and included offenses;
- The District Attorney consents, and the case against the applicant was dismissed or the District Attorney declined to prosecute the case prior to the time limitations prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure and the applicant did not participate in a pretrial diversion program;
- The applicant was arrested and was not prosecuted within the time limitations prescribed in Chapter 1 of title XVII of the Code of Criminal Procedure and did not participate in a pretrial diversion program.

PROCEDURES

An individual desiring to have a criminal record of arrest and/or conviction expunged must first go to the Orleans Parish Clerk of Criminal District Court, or to the Clerk of Orleans Parish Municipal-Traffic Court, or to the Clerk of the Orleans Parish Juvenile Court to obtain an expungement packet.

An expungement packet is a group of forms used to file a motion for expungement. The expungement packet contains forms to be used for three types of expungement, as well as the forms to be used when filing a motion to set

aside conviction and dismiss prosecution under Articles 893 and 894, if applicable.

The person must also apply for a certification letter from the Office of the Orleans Parish District Attorney.

The person must also obtain a background check from the New Orleans Police Department, the Louisiana State Police or the Clerk of Criminal District Court (if the charge to be expunged was filed in the Criminal District Court).

Once the certification letter is issued by the District Attorney's Office, and the certification of fee waiver (if applicable) is obtained, these forms along with the background check must be filed with the appropriate Clerk of Court. At that point, the clerk will inform the applicant regarding any court date that will be scheduled.

Once the motion for expungement is properly filed, notification is forwarded to the applicable law enforcement agencies, and to the District Attorney, providing those agencies the opportunity to lodge objections if they so choose. The court would then schedule a hearing on the objections, or on the expungement request itself. If and when the court grants the motion for expungement, the applicant will receive two certified copies of the court judgment, and the applicable law enforcement agencies also will be provided with the order of expungement.

SPECIAL NOTES

When a person visits the District Attorney's Office to start the expungement process, he/she should be prepared to fill out a Certification Letter and Certification of Fee Waiver forms. These forms require information such as name, date of birth, sex, race, social security number, telephone number, date of arrest, case number, charge(s), and section or division of court. Individuals who visit the District Attorney's Office should be prepared to include all of the above information on the forms for that purpose. Therefore, it is helpful to obtain all of this information *before* visiting the District Attorney's Office

If eligibility is affirmed, the forms will be signed and dated by District Attorney's office personnel and returned to the applicant. The applicant must then obtain a form Motion for Expungement from the Clerk of Court and fill out the required information. The Certification Letter, Certification of Fee Waiver (if applicable), and criminal background check from the police department must be attached to the Motion for Expungement along with other documents provided by the Clerk of Court. Collectively, these documents will constitute the full "expungement packet" and must be filed with the Clerk of Court.

In order to prevent fraud, the District Attorney's Office will not process a Certification Letter or Certification of Fee Waiver in cases where the name on the forms does not match the name on the court record, or where the social security number listed on the form does not match the social security number shown in the court record, the arrest or booking record, or other criminal history database. Applicants who submit copies of court documents along with the Certification Letters and Certification of Fee Waivers must provide only certified copies of such documents.

Applicants who apply for Certification Letters after completing a Diversion program must provide their diversion completion letters in order to verify that they have completed the program.