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FILED 5:50 p.m.  
09.17.2015

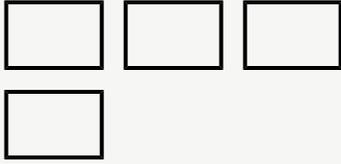
NEWS

# Five Things You Didn't Know About Clearing Your Record

A primer on the complicated road to expungement.

By **CHRISTIE THOMPSON**

A Nashville lawyer hopes to wipe clean some arrest records for



128,000 Tennesseans. The lawyer, Daniel Horwitz, who has worked on multiple cases regarding incarceration and re-entry, has filed a class-action motion in county court to have the case files destroyed for hundreds of thousands of arrests and charges that never resulted in a conviction.

Many of those who could benefit from the process, called expungement, do not even know it. "A lot of the people who are affected by this already believe they've had their records expunged," Horwitz told the Tennessean. That's the thing about expungement: many who are eligible for it don't know they are, advocates say, and many who know they are don't know how to get it.

Expungements are a legal process that can clear arrests, charges and minor convictions from someone's record (the Tennessee motion does not apply to convictions). Though "expunge" and "seal" are often used interchangeably, expungement means to erase such documents while "sealing" simply means they are no longer public record. The law on who is eligible for either varies state by state, and there is no encompassing federal law on expunging adult crimes.

Here are some additional things to know about expungements and sealed records:

## **In the Internet age, expungement**

## **only goes so far.**

If your record is approved for expungement, the court agrees to toss out its records. But what about Google? News archives? Mugshots.com? “It’s impossible to expunge information in this cyber-age,” said James Jacobs, a law professor at New York University and author of “The Eternal Criminal Record.” “You can have an official expungement, but to actually erase the events from history, I don’t think so.”

But Horwitz says that doesn’t mean expungements are not still an important step. “I don’t think anybody believes this is going to be a silver bullet, but any bit you can pare down someone’s record helps them gain access to employment or housing. It’s vital.”

## **An expunged record can still hurt your chances of landing a job.**

Beyond doing a simple Internet search for your name, employers often turn to private information providers to run background checks on job candidates. “[Companies] have downloaded the databases of the courts periodically, and they have them stored on their own databases,” Jacobs said. “Then it’s in the hands of the private people. Could you tell them not to ever tell anybody that they found an expunged record?”

An expunged record in many states does legally allow you to

leave the box blank when a job application asks if you have ever been convicted of a crime. But some applications — like many for law school or the legal bar — will ask about former run-ins with the law, *even* if they are sealed or tossed out.

## **Congress is considering whether to make even more people eligible for expungement.**

The highly publicized REDEEM Act introduced by Senators Cory Booker, Democrat of New Jersey, and Rand Paul, Republican of Kentucky, actually stands for “Record Expungement Designed to Enhance Employment.” Under the proposal, those convicted of nonviolent federal crimes could apply to have them sealed, and nonviolent juvenile offenses would automatically be expunged or sealed, depending on age.

“The biggest impediment to civil rights and employment in our country is a criminal record,” Sen. Paul said in a 2014 statement. “Many of these young people could escape this trap if criminal justice were reformed, if records were expunged after time served, and if nonviolent crimes did not become a permanent blot preventing employment.”

## **If you aren't a citizen, even an**

## **expunged crime can still make you deportable.**

Under immigration law passed in 1996, a “conviction” for the purposes of deportation includes any instance in which a person pleads guilty to a crime or some kind of punishment is imposed, such as some mandatory diversion programs. Even if the record was sealed or expunged, it could still be used as a reason to remove someone from the country.

## **If you're trying to clear your record — there's an app for that.**

In Chicago, Maryland, and Louisiana, advocates and developers have built apps to help people understand whether or not they are eligible for expungement, and how to get in touch with a lawyer. (While a lawyer is not required, legal expertise can help navigate a complicated process.)

Previously, if someone tried to search for expungement help online, “the top results in Maryland was a 20-page pdf from the judiciary that walked you through every nuance of the statute,” said Jason Tashea, founder of Justice Codes and creator of [expungemaryland.org](http://expungemaryland.org). “For the average person, that is irrelevant.” The website asks users basic questions about their crime, and then connects them with a free or low-cost attorney to help with the application.

Cathy Deng of expunge.io in Chicago found the same thing — a 25-page document full of legalese when people searched for information on juvenile expungement. Her goal, along with the youth nonprofit Mikva Challenge, was to try and close the information gap on eligibility. “The vast majority of arrest records for kids in Chicago can be expunged, but very few people apply because it’s confusing,” she said. Both websites are open-sourced on github. 

ORIGINALLY FILED Thursday, September 17, 2015 at 5:50 p.m. ET

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