

Expungement Overview – Tennessee

What is expungement?

People who have been charged with (and in some instances convicted of) eligible misdemeanors and felonies may apply to have their public records removed and destroyed.

Tennessee Code Annotated § 40-32-101 sets forth the procedure for expungement, or “expunction” as referred to in the statute, for removal of the conviction from the public record.

Which records are expunged?

“Public records,” i.e. court records.

Tennessee statutes also provide for expungement of certain fingerprint and photograph records of juveniles pursuant to Tennessee Code Annotated § 37-1-155 and records of citation for underage possession, consumption, and transportation of alcohol pursuant to Tennessee Code Annotated § 57-3-301.

Which records are not expunged?

Arrest histories, investigative reports, intelligence information of law enforcement agencies, or files of district attorneys general. Department of Children’s Services and Department of Human Services – which must be maintained by state or federal law – are also not destroyed. However, these documents are not open for the inspection by members of the public. They will also be destroyed when their maintenance is no longer required by state or federal law.

Are appellate court records eligible for expungement?

No, but pseudonyms may be used during the appellate process to protect the identity of the individual.

Who is eligible for expungement?

Most misdemeanors and some felonies are eligible for expungement. Generally, eligible individuals fall into three categories:

- Charges that have been dismissed or a non-guilty verdict has been found
- Successfully completed a judicial diversion program (excluding sexual offenses)
- Misdemeanor and felony class E convictions

How much does expungement cost?

Dismissed charges: free

Convictions: \$280 (previously \$450)

Diversion program: \$450 plus court fees

What if someone has more than one conviction?

Yes, as of May 5 of this year, Tennessee allows “double expungement” for people who have exactly two eligible convictions.

Timeline

- 1973: Tennessee’s first expungement statute was enacted

- 1973: Judicial diversion was enacted for misdemeanor offenses
- 2012: Tennessee expanded expungement law to include individuals who participate in judicial diversion programs
- 2012: Tennessee expanded expungement law to include misdemeanor and felony class E convictions
- 2017: Tennessee enacts a “double expungement” law allowing people with exactly two eligible convictions to have both expunged.
- 2017: Tennessee reduces the cost of conviction expungement for from \$450 to \$280.

Expungement Overview – Federal and State Survey

Federal Expungements

There is no federal statute expressly authorizing expungements, but some scholarship focuses use of the All Writs Act to give judges the authority to expunge criminal records.

Trends in Expungement Law

Advances in technology, including proliferation of criminal records databases, has led to increased legislation in the area of expungements.

- Mississippi, Wyoming, California, Illinois, Ohio: Expanded expungement access to offenders not previously covered—including first-time, nonviolent felony offenders
- Delaware, Colorado, Indiana: reduced waiting times to get records expunged
- North Carolina, Maryland, Ohio: increased ability to expunge juvenile records
- South Dakota, California, Indiana: clarified the scope of their expungement statutes
- Arkansas, Indiana: lowered the burden of proof for records to be expunged

Bibliography

David Louis Raybin, *Expungement of Arrest Records: Erasing the Past*, 44 TENN. B.J. 22, 28 (2008)

Fruqan Mouzon, *Forgive Us Our Trespasses: The Need for Federal Expungement Legislation*, 39 U. MEM. L. REV. 1 (2008).

Ram Subramanian, Rebecka Moreno, and Sophia Gebreselassie, *Relief in Sight? States Rethink the Collateral Consequences of Criminal Conviction, 2009-2014*,

<https://www.prisonlegalnews.org/media/publications/States%20Rethink%20Collateral%20Consequences%2C%20Vera%20Inst.%2C%202014.pdf>

Additional Resources

<http://ccc.nashville.gov/about-our-services/expungement-information>

<http://ccresourcecenter.org/restoration/>