

## **EXPUNGEMENT INFORMATION**

### **WHAT IS AN EXPUNGEMENT?**

An "expungement" is the removal of a criminal record from public access.

### **DOES AN EXPUNGEMENT DESTROY MY CRIMINAL RECORD?**

NO. An expungement does NOT completely destroy evidence of your criminal record, but makes it confidential to many sources.

### **IS MY CRIMINAL RECORD STILL AVAILABLE TO CERTAIN PERSONS?**

YES. Your record may still be accessed by certain persons, including law enforcement agencies, criminal justice agencies, 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 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, and the Louisiana Department of Social Services as to approval of persons applying for a position of supervision or disciplinary authority of children.

### **CAN I GET A "TWIC" CARD (Transport Workers Identification Credential) IF MY RECORD IS EXPUNGED?**

In most cases, YES. However, certain crimes disqualify anyone from obtaining a TWIC card (such as treason). For specific information, you should contact your local Transportation Safety Administration office.

### **CAN I GET ANY CRIMINAL RECORD EXPUNGED?**

NO. If you were convicted of a felony and committed to custody with the Department of Corrections, you cannot expunge this conviction. If you were convicted of a "crime of violence" a sex offense, or a serious narcotics offense, you cannot obtain an expungement. If you were convicted of a felony, but your sentence was deferred, and later set aside after successful completion of probation, you may be able to obtain an expungement. If you were convicted of a misdemeanor and satisfactorily completed your probation, you may have your conviction set aside and obtain an expungement. You can only have one felony conviction set aside, and can only set aside a second misdemeanor conviction after certain periods of time elapse.

### **HOW DO I PROCEED TO APPLY FOR AN EXPUNGEMENT?**

Locate the contact person in the courthouse in the parish where you were convicted, and obtain forms and instructions from that person.

**IF YOU HAVE QUESTIONS AS TO YOUR ELIGIBILITY, YOU SHOULD CONSULT WITH YOUR ATTORNEY.**

**FELONY EXPUNGEMENT CHECKLIST**

**YOU ARE NOT ENTITLED TO AN EXPUNGEMENT, IF:**

**YOU MAY BE ENTITLED TO AN EXPUNGEMENT, IF:**

1- This is your 2 <sup>nd</sup> felony conviction	1- This is your 1 <sup>st</sup> felony conviction
2- You were convicted of a crime of violence *(see list)	2- Your sentence was deferred under Article 893 of the Code of Crim Pro
3- You were convicted of a sex offense against a juvenile	3- You satisfactorily completed your probation; <b><u>AND</u></b>
4- You were convicted of a narcotics offense which could be punished by more than 5 years imprisonment (distribution, possession w/intent, manufacture, etc.)	4- The charges were thereafter dismissed .  <b><u>OR</u></b>
5- You were sentenced to serve time on your felony	The charges were dismissed by the District Attorney
6- If you received probation, you did not satisfactorily complete your probation.	<b><u>OR</u></b>
7- Your felony sentenced was not deferred, or if deferred, was later dismissed by the court under Article 893 of the Code of Crim. Procedure	You went to trial and were found not guilty.  <b><u>OR</u></b>
	The time period to legally prosecute the charges has lapsed

**IF YOU WERE ARRESTED, BUT NOT CONVICTED, YOU NEED:**

- A- Copy of court minutes of judgment of acquittal; or
- B- Copy of court minutes showing charges dismissed by D.A.; or
- C- Date of arrest; charge(s) for which arrested, and proof that no charges were formally filed by D.A. within 6 years of alleged crime, if punishment is necessarily at hard labor, or 4 years, if not punishable at hard labor, or evidence from D.A. that he does not intend to prosecute. (NOTE: there is no time limitation on crimes that could result in life imprisonment or the death penalty and longer limitations on sex crimes involving juveniles)

**IF YOU WERE CONVICTED, YOU NEED:**

- A- Proof that you satisfactorily completed your probation; and
- B- Copy of judgment setting aside conviction under Article 893

**MISDEMEANOR EXPUNGEMENT CHECKLIST**

**YOU ARE NOT ENTITLED TO AN EXPUNGEMENT, IF:**

**YOU MAY BE ENTITLED TO AN EXPUNGEMENT, IF:**

1- The misdemeanor you were convicted of was a "crime of violence" or a domestic violence offense	1- You went to trial and were found not guilty.
2- You have other pending misdemeanor charges	2- The charges were later dismissed by the District Attorney
3- You did not successfully complete your probation	3- No charges were filed by the District Attorney after your arrest and two years has elapsed from the date on which the offense allegedly occurred
4- You have not had your conviction set aside by court order under Article 894, Code of Crim Procedure	4- You pled or were found guilty, you successfully completed probation, and your conviction was set aside under Article 894
5- You have had a prior misdemeanor conviction set aside under Article 894 within certain time periods.	5- You have not had another charge set aside under Article 894 for the past 5 years (10 years if DWI)

**IF YOU WERE ARRESTED, BUT NOT CONVICTED, YOU NEED:**

- A- Copy of court minutes of judgment of acquittal; or
- B- Copy of court minutes showing charges dismissed by D.A.; or
- C- Date of arrest; charge(s) for which arrested, and proof that no charges were formally filed by D.A. within 2 years of alleged crime.

**IF YOU WERE CONVICTED, YOU NEED:**

- A- Proof that you satisfactorily completed your probation; and
- B- Copy of judgment setting aside conviction under Article 894

**UNIFORM EXPUNGEMENT FORMS**

**ACT 587 OF 2010 REG. SESSION (R.S. 44:9. L.)**

**Provides that uniform expungement shall include:**

- A- Signatures of judge, district attorney and any other person required to sign**
- B- The statutory authority for granting or denying the expungement**
- C- A space for the court to provide written reasons, if denied**

**Forms are to be provided to Judicial Council for distribution to appropriate courts; the clerks of court are to make forms available.**

**To comply with this requirement, the form needs to have a checklist or it will be a killer for judges. Maybe something like this:**

- \_\_\_\_\_ - ORDER GRANTED. RECORD EXPUNGED (with appropriate language as directive to who is to expunge)**
- \_\_\_\_\_ - ORDER DENIED, for the following reason(s):**
  - \_\_\_\_\_ - Record cannot be expunged due to the offense for which Mover was convicted;**
  - \_\_\_\_\_ - Mover was sentenced for offense to custody of Department of Public Safety and Corrections;**
  - \_\_\_\_\_ - Conviction never set aside under Article 893/ 894 or probation not completed satisfactorily;**
  - \_\_\_\_\_ - Mover has prior dismissal under Article 893, or within prohibited time period under Article 894;**
  - \_\_\_\_\_ - Time limitations for prosecution of offense have not expired/ charges never dismissed by District Attorney**