

"FRESH START" WORKSHOP

HOW TO CLEAR YOUR RECORD

(VIA EXPUNGEMENT)



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Expungements

❑ What is an Expungement?

- Formal Name: “Order for Destruction of Arrest Records”
- The destruction or erasing of information about an arrest
- The removal of arrest/charge information from Public Record search and Criminal Record checks (“rap sheets”)

❑ What is a Criminal Record?

- **ARRESTS:** Record of all charges for which an individual has been **arrested** and/or fingerprinted
- **DISPOSITIONS:**
 - Dismissals
 - Convictions: Guilty Pleas, Nolo Contendere, Community Service, Forfeiting of Bail (Failure to Appear Convictions)

How do I get a copy of my Criminal Record?

- www.sled.sc.gov \$25 fee (this is NOT the same as the SLED fee for expungement)
- Get this before you apply for an expungement with the Solicitor’s Office

❑ Is an Expungement automatic? Sometimes!

- Yes, for dismissed Magistrate/ Municipal charges **after June 2009**
- No, for General Session dismissals and convictions

Expungements

- Where do you go?
 - This depends on the “type of expungement.”
 - For magistrate/municipal dismissals, you go to the COURT where the case was dismissed.
 - For magistrate/municipal convictions, and general sessions charges:
 - The Solicitor’s Office in the county where the charge originated.
- What do you bring?
 1. Ideally, a copy of your SLED criminal history (*see Slide 2*)
 2. Final Certified Disposition For Each Charge from the Court where it was disposed or Completion Letter from your Diversion Program
 3. Money Orders, Cashier's Checks, or Attorney Checks (no personal checks or cash accepted)
 4. Your Self Addressed, Stamped Envelope

Expungements:

What everyone wants to know... CO\$T!!!

- The CO\$T: Per state law:
 - \$310 **Total** Cost PER CHARGE sought to be expunged
 - Comprised of a separate money order for each agency: \$25 SLED, \$35 Clerk of Court, \$250 Solicitor's Office
 - Unless the charges arose from one incident, each charge requires its own form and costs \$310. If the charges arose from one incident, they may be included on one form and only one set of fees is charged.
 - The amounts are set by statute.
 - Neither SLED, the Clerk nor the Solicitor has the authority to waive fees.
 - The \$250 is non-refundable, per statute, if the charge is determined to be ineligible.

Expungements: The Good News on Costs!

THERE ARE EXCEPTIONS!

Fee Exceptions

- ❑ NP/Dismiss/Not Guilty General Sessions Court (GSC) 17-1-40
 - Charges that are dismissed, nolle prossed or you were found not guilty
 - The expungement process must be initiated by the Defendant or the Defendant's attorney, but it is free!
 - **However, If your charge was dismissed or nolle prossed as part of a plea to different charges, you are required to pay the \$250 Administration fee.**

Expungements

❑ Summary Court Expungements (Magistrate/ Municipal Court) 17-22-950

- Summary Courts are responsible for expunging the records of all criminal cases handled in their courts resulting in a not guilty finding, dismissed **at no cost**.
- Since June 2009: For fingerprinted **not guilty, dismissed or offenses**, the summary court expunges the criminal record **immediately, at no cost** unless the person has pending charges out of the same incident or unless the dismissal occurred at preliminary hearing.
 - For charges before 2009, a request must be made.
 - Expungement is till **free**.
- **Free and automatic:** Not guilty or dismissed **traffic tickets:**

Expungements: Diversion Cases

- ❑ **Diversion Services Expungements-Pretrial Intervention (PTI) and Alcohol Education Program (AEP)**
 - Upon completion of the program a Successful Packet is mailed out which contains the letter of completion, the Diversion Services Order for Destruction of Arrest Record (expungement order/application) and a list of the required fees to process the expungement.

Expungements for Convictions

22-5-910 Misdemeanor Conviction: a conviction for a crime that carries a penalty of not more than 30 days imprisonment and/or a fine not more than \$1000.

- To be expunged, there can be no additional convictions in any state within 3 yrs. (5yrs. for CDV/DV 3rd charge) of the disposition date.
- You cannot have any pending criminal charges
- If you had a misdemeanor conviction expunged prior to 2019, you cannot be eligible to have another misdemeanor expunged.

***This charge no longer has to be your first misdemeanor conviction BUT you can only get a misdemeanor conviction expunged once!**

This section does not apply to traffic violations.

Expungements for YOA Convictions

22-5-920 Youthful Offender must be sentenced under the Youthful Offender Act (17-24 years old at time of sentence) and cannot have any additional convictions in any state 5 years after completion of sentence to include Probation and Parole.

- **Offenses sentenced at a single sentencing proceeding, that are closely connected/ arose out of the same incident may be treated as one conviction/expungement.**
 - There can be no additional convictions in any state during the sentence, including probation and parole and for a 5 year period following the completion of the sentence.
- **You can only have one YOA conviction expunged.**

This section does not apply to:

- Offense involving motor vehicles (traffic violations)
- Violent Crimes
- Offense requiring one to register for SC Sex Offender

Expungements: Other Convictions

34-11-90(e) First Offense Misdemeanor Fraudulent Check Conviction: only one check can be expunged under this law. No other convictions in any state within 1 year following the conviction date

*** Each check is considered a separate violation/offense**

44-53-450(b) Conditional Discharge requires successful completion of court ordered probation and payment of court fees. There is no waiting period. The fee for obtaining a conditional discharge (\$350) is separate and apart from the expungement order/application fee (\$285 TOTAL).

56-5-750(f) Misdemeanor First Offense Failure to Stop: There can be no additional convictions within 3 years following the completion of the terms and conditions of the sentence.

Drug Convictions

Effective December 27, 2018

22-5-930 First Offense Drug Convictions

First offense conviction for simple possession of a controlled substance or Unlawful possession of a prescription drug (lowest gram/dosage amount)

- Does **not** include manufacturing, distribution, dispensing, delivering or purchasing.
- Requires no other convictions in any state within **3 yrs.** following the completion of the sentence to include probation and parole

First offense conviction for possession with intent to distribute a controlled substance (PWID not manufacturing)

- Requires no other drug conviction or felony conviction in any state during the **20 year period** following completion of the sentence to include probation and parole

Expungements After Identity Theft

☐ Identity Theft Cases (The Challenge Process):

- ☐ When someone else was arrested using your name, date of birth and social security information. SLED will require you be fingerprinted by law enforcement and submit the card along with identification to their office.
- ☐ We are allowed to WAIVE FEES for expunging this type of expungement.

SLED will check for a match, if the fingerprints do not match SLED will provide you with a letter to submit with your expungement order to the Solicitor's Office.

***The Challenge must be for a criminal arrest in South Carolina**

Juvenile Expungements

Section 63-19-2050 allows the destruction of a person's juvenile records in the following cases:

- Juveniles taken into custody and/or charged with, but not adjudicated for, a delinquent act, or
- Juvenile offenders adjudicated delinquent for a status offense or non-violent crime.

The following is required:

1. The person is **NOW** 18 years of age or older
2. Does not have any prior adjudications(convictions) for an offense that would carry a maximum sentence of 5 years or more if committed by an adult
3. The person has successfully completed the sentence imposed by the court
4. The person has not been subsequently adjudicated for or convicted of any criminal offense; and
5. The person does not have any criminal charges pending in family court or general sessions court.

Expungements

❑ Where can I find an Order/Application for Destruction of Arrest Records?

- South Carolina Judicial Website (<https://www.sccourts.org/>)
- Solicitor's Office or website (www.scsolicitor9.org)
- Municipal/ Magistrate Clerk of Court

❑ How long does it take?

- Expungement Order for Convictions and GSC 12-16wks.
- SLED removal from Criminal Record ≤30 days

❑ What else do I need along with my application?

- A certified disposition from the Court in which your case was closed
 - www3.charlestoncounty.org for all General Session and County Magistrate cases
 - Visit Municipal Clerk of Courts for city cases (ex. NCPD, CPD, MPPD)

EXPUNGEMENT FEES

Fees are determined by SC Law – No Authority to Waive

	Solicitor's Office Fee	SLED Fee Verification Fee	Clerk of Court Fee Filing Fee	Total
Dismissed/Nolle Prossed Charges	\$0	\$0	\$0	\$0
Dismissed Pled to Other or Related Charges	\$250	\$0	\$0	\$250
Convicted/Guilty/Pled Guilty	\$250	\$25	\$35	\$310
Diversion Services (PTI, TEP, AEP, Juvenile Diversion/ Arbitration Programs)	\$150	\$0	\$35	\$185
Conditional Discharge	\$250	\$0	\$35	\$285



Criminal Record Expungements

Amber Simmons, Expungement Coordinator
Ninth Circuit Solicitor's Office

www.scsolicitor9.org
(843) 958-1900

Charleston County Clerk of Court

www.charlestoncounty.org
(843) 958-5000

SC SLED

www.sled.sc.gov