



Petition to Seal (Expungement) Fact Sheet

Introduction

In some cases, you can ask the court to seal your criminal records. This used to be called expungement. It is now called Petition and Order to Seal. Your criminal records will not be physically destroyed, but they will be sealed and treated as confidential.

What Records Can Be Sealed?

When you were sentenced, the sentencing had to be under a law that allows your criminal records to be sealed. Before you can ask to have your records sealed, you must complete all the terms and conditions of your probation and pay any fines or costs that were part of your sentence.

After you have finished your sentence, you have to wait 5 years to seal your record for:

- eligible felonies
- negligent homicide (if it was a Class A misdemeanor)
- driving while intoxicated
- battery in the third degree
- indecent exposure
- public sexual indecency
- sexual assault in the fourth degree
- domestic battering in the third degree

What Records Cannot Be Sealed?

The following records cannot be sealed:

- a sexual offense in which the victim was under the age of 18 years
- a felony in which you spent any time in the Arkansas Department of Corrections
- a Class Y felony
- a Class A or B felony that was not a drug offense
- manslaughter
- an unclassified felony with a maximum sentence that was more than 10 years
- a violent felony

Benefits of Sealing Your Records

When your criminal records are sealed, you may have an easier time finding employment and housing. When you interview for a job or housing, you can legally state that you have not been convicted or arrested of a crime.

Sealing Your Criminal Records Cannot:

- restore your gun rights if you are sealing a felony conviction (unless you were sentenced under a deferred sentence statute)
- allow you to have guardianship over another person (unless you were sentenced under a deferred sentence statute)
- prevent your record from being used against you in a trial, by the police, or by the prosecutor if you are arrested or go to court
- block access by employers in law enforcement, day care, nursing homes, and teaching

Who Can See Your Sealed Records?

- the defendant and their attorney
- the Criminal Justice Agency for a job reference
- a court if you have been convicted of another crime
- a prosecuting attorney
- the Arkansas Crime Information Center (ACIC)

If your criminal records appear in a background check after they have been sealed, you have a right to ask for the background check company's information and give them the Order to Seal. The company will have to correct their records. (Background check companies are still governed by the Fair Credit Reporting Act.) When certain employers (like teachers, day care workers, nursing homes, and law enforcement agencies), do a background check, all convictions show up. This means that they can see any sealed criminal records.

For more information, visit acic.org.

This fact sheet is a collaboration of the Center for Arkansas Legal Services and Legal Aid of Arkansas, Inc. These nonprofit organizations provide free legal assistance to eligible Arkansans who meet income, asset, and other guidelines. Legal assistance may also include advice and counsel, brief services, or full representation depending on the situation. For more information about civil legal aid in Arkansas, please visit arlegalservices.org. For information specific to Legal Aid of Arkansas, Inc., visit arlegalaid.org. Apply for services online or by calling 1-800-9-LAW-AID (1-800-952-9243).

The information and statements of law in this fact sheet should not be considered legal advice. This fact sheet is provided as a broad guide to help you understand how certain legal matters are handled in general. Courts may interpret the law differently. Before you take action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.

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