



Office of the Circuit Clerk

Katie M. Blakeman · Champaign County Circuit Clerk

2015 Criminal Expungement and Sealing Procedural Guide

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What is the difference between expungement and sealing?

Expunged records are destroyed or returned to you. If the judge grants your expungement petition and orders the Illinois State Police to “expunge” your records, both the Illinois State Police and the arresting agency will destroy your records or return them to you. If the judge grants your expungement petition and orders the Illinois State Police to “impound” your records, only the arresting agency will destroy your records or return them to you, while the Illinois State Police will impound, or seal, your records. The Department of Corrections can access your impounded records if you are convicted on a subsequent offense. Sealed cases are maintained by the agencies. Most of the general public will not have access to your sealed records. However, law enforcement and prosecutors will still have access to sealed records to carry out the duties of their offices. The following entities also have access to sealed convictions: Department of Children and Family Services if it determines the information is necessary to perform its duties under the Abused and Neglected Child Reporting Act, the Child Care Act of 1969, or the Children and Family Services Act); school boards/regional school superintendents, fire departments, private child services organizations that devote a major portion of their time to the provision of recreational, social, educational, or child safety services to children; private carrier companies that provide public transportation to ascertain whether a job applicant for a driving position has been convicted of a criminal or drug offense listed in the Metropolitan Transit Authority Act; the Department of Corrections upon conviction for any offense; healthcare organizations/hospitals. *For both expungement and sealing, the Circuit Clerk’s Office impounds the court file and does not destroy it or return it to you. Your name is, however, erased from the Circuit Clerk’s Office’s electronic docket system from that day forward and your case is not accessible to the public.*

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SECTION ONE – GETTING STARTED

How Do I Start this Process?

Criminal Record:

It is important that you obtain a copy of your entire criminal record.

When You Have Been Arrested:

If you are interested in expunging or sealing only the record of an arrest or arrests, you will find this information with the arresting agency or police department. For example, if you were arrested by the Champaign Police Department, but not charged by the State's Attorney, you will need a copy of the arrest record from the Champaign Police Department.

You may also obtain a criminal history sheet from the Illinois State Police (ISP), but it will only contain information on convictions: ISP Division of Administration, Bureau of Identification, 260 N. Chicago St., Joliet, IL, 60432 (815) 740-5160 ext. 2743, www.isp.state.il.us. The fee for non-fingerprint conviction information is \$16.00 and the fee for fingerprint conviction information is \$20.00.

When You Have Been Formally Charged:

If you are interested in expunging or sealing a case where you were formally charged, you will need certified copies of the disposition of each case. A disposition is the final outcome of your case. This is necessary whether you are found guilty, not guilty, or received court supervision. The Champaign County Circuit Clerk's Office can perform a criminal record search of all cases filed in Champaign County. The cost for a record search is \$6 for each year searched. Our office can also provide certified copies of dispositions to attach to your petition. The fee is \$2 per copy.

Use of an Internet background checking company to obtain your criminal record is not recommended for the purpose of expungement or sealing. The records you receive may be expensive, incomplete, or inaccurate. It is recommended that you instead go directly to the source of the records: the police agencies and the Circuit Clerk's Office.

Do I need a lawyer?

The law was designed to allow people clear their criminal records without an attorney. However, the process can be confusing and complex, and it is often desirable to have help completing the petitions. An attorney will often understand the legal process better, and provide better results than if you attempt the process on your own. If you cannot afford an attorney, there are many pro-bono or free legal resources available. The Circuit Clerk's Office cannot provide legal advice, but we can refer you to organizations.

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There are a number of resources in the State of Illinois and in Champaign County to help you. A few are listed below:

Office of the State Appellate Defender: www.OSAD.Illinois.gov

Forms, Instructions, lists of attorneys and legal aid services

Illinois Legal Aid Online: <http://www.illinoislegalaid.org>

Forms, self-help guides, links to local legal resources, legal information in plain language

Land of Lincoln Legal Assistance Foundation: www.lollaf.org

Legal assistance for some kinds of civil cases, including housing, family and public assistance law

Champaign County Legal Self-Help Center: <http://champaign.illinoislegalaid.org>

Champaign County Courthouse;
101 E. Main Street Urbana, IL 61801.

The Champaign County Legal Self-Help Center provides legal information to Champaign County residents about their legal rights and responsibilities, instructions on how to handle common legal problems, assistance with some legal documents and forms, and referrals to free and low-cost legal services.

Champaign County Bar Association: <http://www.champaigncobar.org>

Lists of attorneys practicing in Champaign County and contact information.

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SECTION TWO – DOES MY RECORD QUALIFY FOR EXPUNGEMENT OR SEALING?

Expungement (PART ONE of this Section) is an “all or nothing” remedy. Your entire criminal record must qualify for expungement; If one case on your record does not qualify for expungement, then no cases on your record can be expunged.

BUT, sealing (PART TWO of this Section) can be done on a case by case basis. So, you can ask for certain cases on your record to be sealed even if there are other case(s) on your record that do not qualify for expungement or sealing.

Part One – Does My Entire Record Qualify for Expungement?

1) Check the disposition (the result of the case) on every case in the chart that you completed (see previous page). Does anything say:

- Probation (other than first-offender drug probation, known as 710, 1410, Section 10, Section 410, or 40-10 probation)?
- Conditional discharge?
- Fine (without the word “supervision”)?
- Time considered served?
- Jail or DOC time?
- Finding of guilty by a judge or jury (without the word “supervision”)?

If YES, then you have a conviction and none of your records can be expunged. But, some or all of your records might qualify to be sealed. Skip the remainder of this section and go to *Part Two – Do Cases on My Record Qualify for Sealing?*

If NO, then continue to the next question to see if your entire record qualifies for expungement.

2) NO FINDING OF GUILT - NO WAITING PERIOD

You can apply for expungement of your entire criminal record right away if:

- You were never convicted of any crime; and you were released without charging (including for a minor traffic offense), you were acquitted, and/or your case(s) were dismissed. Here are examples of what these disposition types look like: FNG (Finding of Not Guilty), SOL (Stricken

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with Leave to Reinstate), FNPC (Finding of No Probable Cause), NP (Nolle Prosequi), and/or

- Your conviction(s) were vacated or reversed, or
- You were granted an Executive Pardon from the Governor which specifically authorizes expungement.

If your entire criminal record meets these criteria, your record qualifies for expungement.

3) SUPERVISION - FIVE YEAR WAITING PERIOD

You can apply for expungement of your entire criminal record 5 years after successful completion of your supervision if:

- You were never convicted of any crime; and there are no supervisions on your record for a sexual offense against a child, Driving Under the Influence (DUI) or reckless driving; and
- Your record consists of:
 - a. Domestic Battery supervision;
 - b. Criminal Sexual Abuse supervision;
 - c. Retail Theft supervision 5-year waiting period *through 12/31/2011*; 2-year waiting period beginning 1/1/2012;
 - d. Operation of Uninsured Motor Vehicle supervision;
 - e. Operation of Motor Vehicle when Registration Suspended for Non-Insurance supervision;
 - f. Display of False Insurance Card supervision; and/or
 - g. Scrap Processors to Keep Records supervision.

If your entire criminal record meets these criteria, and it has been five years since the successful termination of your supervision, you may skip the rest of this section, and proceed to completing your petition. If your criminal record has other dispositions on it we have not yet discussed, continue to the next question.

4) SUPERVISION - TWO YEAR WAITING PERIOD

You can apply for expungement of your entire criminal record 2 years after successful completion of your supervision if:

- You were never convicted of any crime; and there are no supervisions on your record for a sexual offense against a child, driving under the influence (DUI) or reckless driving; and
- Your record consists of order(s) of supervision for offenses that are not listed in Question #3, above.

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If your entire criminal record meets these criteria, and it has been two years since the successful termination of your supervision, you can skip the rest of this section and proceed to completing your petition. If your criminal record has other dispositions on it we have not yet discussed, continue to the next question.

5) PROBATION - FIVE YEAR WAITING PERIOD

You can apply for expungement of your entire criminal record 5 years after successful completion of your probation if:

- You were never convicted of any crime; and there are no supervisions on your record for a sexual offense against a child, driving under the influence (DUI) or reckless driving;
- and your record consists of:
 - a. Section 10, Cannabis Control Act probation;
 - b. Section 410, Illinois Controlled Substances Act probation;
 - c. Section 70, Methamphetamine Control and Community Protection Act probation;
 - d. Section 40-10, Alcoholism and Other Drug Use Dependency Act probation; and/or
 - e. Section 10 Steroid Control Act probation

If your entire criminal record meets these criteria, and it has been five years since the successful termination of your probation, you can skip the rest of this section and proceed to completing your petition. You must attach proof to your Petition that you have passed a drug test taken within 30 days before the filing of your Petition showing the absence within your body of all illegal substances. If your criminal record has other dispositions on it we have not yet discussed, continue to the next question.

- 6) If you have gone through all 5 questions, above, in this Part One, and if you still have questions about whether your entire record qualifies for expungement, you should seek the advice of an attorney, or visit the Champaign County Legal Self-Help Center on the first floor of the Champaign County Courthouse.

Part Two – Do Any of the Cases on My Record Qualify for Sealing?

If your entire record does not qualify for expungement, you may still be able to seal some or all of the cases on your record. Sealing, unlike expungement, can be done on a case by case basis. So, you can ask for certain cases on your record to be sealed even if there are other case(s) on your record that do not qualify for expungement or sealing.

7) NO FINDING OF GUILT - NO WAITING PERIOD

You can immediately apply for sealing of the cases on your record that meet the following criteria:

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- You were released without charging (including for a minor traffic offense), you were acquitted, and/or your case(s) were dismissed. Here are examples of what these disposition types look like: FNG (Finding of Not Guilty), SOL (Stricken with Leave to Reinstate), FNPC (Finding of No Probable Cause), NP (Nolle Prosequi), and/or
- Your conviction(s) were vacated or reversed.

For each case that meets the above criteria, you can apply for sealing right away. If the above criteria does not apply to any of your cases, or if one or more of your cases meet this criteria but you have more cases on your record, continue to the next question to see if any of them qualify for sealing.

8) SUPERVISION - THREE or FOUR YEAR WAITING PERIOD

Did any of the cases on your record result in supervision for the following offenses:

- a sexual offense committed against a minor, or
- an offense under Section 11-501 of the Illinois Vehicle Code (driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof) or a similar provision of a local ordinance, or
- an offense under Section 11-503 of the Illinois Vehicle Code (reckless driving; aggravated reckless driving) or a similar provision of a local ordinance, or
- an offense included in Article 11 of the Criminal Code of 2012 (indecent solicitation of a child; indecent solicitation of an adult; solicitation to meet a child; adultery; fornication; public indecency; sexual exploitation of a child; custodial sexual misconduct; presence within school zone by child sex offenders prohibited; approaching, contacting, residing, or communicating with a child within certain places; sexual misconduct with a person with a disability; sexual relations within families; bigamy; marrying a bigamist; solicitation of a sexual act; soliciting for a prostitute; soliciting for a juvenile prostitute; pandering; keeping a place of prostitution; keeping a place of juvenile prostitution; patronizing a prostitute; patronizing a juvenile prostitute; pimping; juvenile pimping and aggravated juvenile pimping; exploitation of a child; obscenity; child pornography; duty to report child pornography; aggravated child pornography; harmful material; tie-in sales of obscene publications to distributors; posting of identifying or graphic information on a pornographic Internet site; child photography by a sex offender; grooming; traveling to meet a minor) or a similar provision of a local ordinance, except Section 11-14 (prostitution) of the Criminal Code of 2012, or a similar provision of a local ordinance, or
- an offense under Sections 11-1.50 (criminal sexual abuse), 12-3.1 (battery of an unborn child/aggravated battery of an unborn child), 12-3.2 (domestic battery), 12-3.4 (violation of an order of protection), or 48-1 (dog fighting) of the Criminal Code of 2012 or a similar provision of a local ordinance, or
- an offense under Section 125 of the Stalking No Contact Order Act (violation of a stalking no contact order) or Section 219 of the Civil No Contact Order Act (violation of a civil no contact order) or a similar provision of a local ordinance, or
- an offense which is a Class A misdemeanor under the Humane Care for Animals Act (first offense owner's duties; first offense cruel treatment; first offense depiction of animal cruelty; first offense prohibited acts; first offense teasing, striking or tampering with police animals, service animals, or search and rescue dogs prohibited; first offense lame or disabled horses; first offense

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- horse poling or tripping; first offense poisoning prohibited; first offense confinement or detention during transportation; confinement in motor vehicle; first offense downed animals; first offense guide, hearing, and support dogs); or
- any offense or attempted offense that would subject the person to registration under the Sex Offender Registration Act (see list at 730 ILCS 150/2(B)).

If YES, then those case(s) do not qualify for sealing.

If you have misdemeanor supervisions for case(s) that are not on the above list, then those case(s) may qualify for sealing if the waiting period has been met. If you have never been convicted of a criminal offense, the waiting period is **3 years** after the termination of the last sentence on your record. If you were convicted of any offense, then the waiting period is **4 years** after the termination of the last sentence on your record. If you have other cases on your record, continue to the next question to see if any of your other cases qualify for sealing.

9) MISDEMEANOR CONVICTION - FOUR YEAR WAITING PERIOD

Did you receive a misdemeanor conviction for any of the following offenses:

- a sexual offense committed against a minor, or
- an offense under Section 11-501 of the Illinois Vehicle Code (driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof) or a similar provision of a local ordinance, or
- an offense under Section 11-503 of the Illinois Vehicle Code (reckless driving; aggravated *reckless driving*) or a similar provision of a local ordinance, or
- an offense included in Article 11 of the Criminal Code of 2012 (indecent solicitation of a child; indecent solicitation of an adult; solicitation to meet a child; adultery; fornication; public indecency; sexual exploitation of a child; custodial sexual misconduct; presence within school zone by child sex offenders prohibited; approaching, contacting, residing, or communicating with a child within certain places; sexual misconduct with a person with a disability; sexual relations within families; bigamy; marrying a bigamist; solicitation of a sexual act; soliciting for a prostitute; soliciting for a juvenile prostitute; pandering; keeping a place of prostitution; keeping a place of juvenile prostitution; patronizing a prostitute; patronizing a juvenile prostitute; pimping; juvenile pimping and aggravated juvenile pimping; exploitation of a child; obscenity; child pornography; duty to report child pornography; aggravated child pornography; harmful material; tie-in sales of obscene publications to distributors; posting of identifying or graphic information on a pornographic Internet site; child photography by a sex offender; grooming; traveling to meet a minor) or a similar provision of a local ordinance, except Section 11-14 (*prostitution*) of the Criminal Code of 2012, or a similar provision of a local ordinance, or
- an offense under Sections 11-1.50 (criminal sexual abuse), 12-3.1 (battery of an unborn child/aggravated battery of an unborn child), 12-3.2 (domestic battery), 12-3.4 (violation of an order of protection), or 48-1 (dog fighting) of the Criminal Code of 2012 or a similar provision of a local ordinance, or

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- an offense under Section 125 of the Stalking No Contact Order Act (violation of a stalking no contact order) or Section 219 of the Civil No Contact Order Act (violation of a civil no contact order) or a similar provision of a local ordinance, or
- an offense which is a Class A misdemeanor under the Humane Care for Animals Act (first offense owner's duties; first offense cruel treatment; first offense depiction of animal cruelty; first offense prohibited acts; first offense teasing, striking or tampering with police animals, service animals, or search and rescue dogs prohibited; first offense lame or disabled horses; first offense horse poling or tripping; first offense poisoning prohibited; first offense confinement or detention during transportation; confinement in motor vehicle; first offense downed animals; first offense guide, hearing, and support dogs); or
- any offense or attempted offense that would subject the person to registration under the Sex Offender Registration Act (see list at 730 ILCS 150/2(B)).

If YES, then those case(s) do not qualify for sealing.

If you have misdemeanor convictions for case(s) that are not on the above list, then those case(s) qualify for sealing when **4 years** have elapsed since the termination of the last sentence on your record. If you have other cases on your record, continue to the next question to see if any of your other cases qualify for sealing.

10) PROBATION - FOUR YEAR WAITING PERIOD

Did you receive probation on any of your case(s) for the following:

- Section 10, Cannabis Control Act probation;
- Section 410, Illinois Controlled Substances Act probation;
- Section 70, Methamphetamine Control and Community Protection Act probation;
- Section 40-10, Alcoholism and Other Drug Use Dependency Act probation; and/or
- Section 10 Steroid Control Act probation.

If YES, your case(s) qualify for sealing when **4 years** have elapsed since the termination of the last sentence on your record. You must attach proof to your Petition that you have passed a drug test taken within 30 days before the filing of your Petition showing the absence within your body of all illegal substances.

If you have other cases on your record, continue to the next question to see if any of your other cases qualify for sealing.

11) CLASS FOUR FELONY CONVICTION - FOUR YEAR WAITING PERIOD

Are any of the cases on your record Class 4 felony convictions of the following offenses:

- Section 11-14 of the Criminal Code of 2012 (*prostitution*);

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- Section 4 of the Cannabis Control Act (*possession prohibited*);
- Section 402 of the Illinois Controlled Substances Act (*possession of controlled or counterfeit substance*);
- The Methamphetamine Precursor Control Act;
- The Steroid Control Act;
- Theft under Section 16-1 of the Criminal Code of 2012;
- Retail theft under paragraph (a) of 16-25 of the Criminal Code of 2012 (effective 1/1/2014);
- Deceptive Practices under Section 17-1 of the Criminal Code of 2012 (effective 1/1/2014);
- Forgery under Section 17-3 of the Criminal Code of 2012 (effective 1/1/2014); and
- Possession of burglary tools under Section 19-2 of the Criminal Code of 2012 (effective 1/1/2014).

If YES, your case(s) qualify for sealing when **4 years** have elapsed since the termination of the last sentence on your record. You must attach proof to your Petition that you have passed a drug test taken within 30 days before the filing of your Petition showing the absence within your body of all illegal substances for the following offenses: Illinois Controlled Substances Act, Methamphetamine Control and Community Protection Act, and the Cannabis Control Act.

If your criminal record has other dispositions on it we have not yet discussed, continue to the next question.

12) CLASS THREE FELONY CONVICTION - FOUR YEAR WAITING PERIOD

Are any of the cases on your record Class 3 felony convictions of the following offenses:

- a) Theft under Section 16-1 of the Criminal Code of 2012 (effective 1/1/2014);
- b) Retail theft under paragraph (a) of 16-25 of the Criminal Code of 2012 (effective 1/1/2014); Deceptive practices under Section 17-1 of the Criminal Code of 2012 (effective 1/1/2014);
- c) Forgery under Section 17-3 of the Criminal Code of 2012 (effective 1/1/2014); and
- d) Possession with intent to manufacture or deliver a controlled substance under Section 401 of the Illinois Controlled Substance Act (effective 1/1/2014).

If YES, your case(s) qualify for sealing when **4 years** have elapsed since the termination of the last sentence on your record. You must attach proof to your Petition that you have passed a drug test taken within 30 days before the filing of your Petition showing the absence within your body of all illegal substances for the following offenses: Illinois Controlled Substance Act, Methamphetamine Control and Community Protection Act, and the Cannabis Control Act.

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If your criminal record has other dispositions on it we have not yet discussed, continue to the next question.

13) If you have gone through all questions above, in this Part Two, and if you still have questions about whether one or more cases on your record qualify for sealing, should seek the advice of an attorney, or visit the Champaign County Legal Self-Help Center on the first floor of the Champaign County Courthouse.

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SECTION THREE – DEFINITIONS

CONVICTION – a final judgment of guilt by the court. A conviction includes terms such as PROBATION (except first-offender drug probation that was terminated satisfactorily, known as 710, 1410, Section 10, Section 410, 40-10, or TASC probation), CONDITIONAL DISCHARGE, FINE (without the term “supervision”), TIME CONSIDERED SERVED, JAIL TIME, and FINDING OF GUILTY by a judge or jury (without the term “supervision”). SUPERVISION or first-offender drug PROBATION that was terminated unsatisfactorily is also considered a conviction.

CRIMINAL OFFENSE – a petty offense, business offense, misdemeanor, felony, or municipal ordinance violation. A minor traffic offense is not a criminal offense, but a Class A or B misdemeanor traffic offense is a criminal offense.

DISPOSITION – the final result of your criminal case.

EXPUNGE – when the arresting agency and/or the Illinois State Police physically destroys your criminal records or returns the records to you. It also means that the Clerk’s Office will erase your name from the Clerk’s Office’s electronic docket system from that day forward. However, the Clerk’s Office always impounds the court file (removes it from public view and access) and is not permitted to destroy it.

FELONY – a crime that may be punished by imprisonment for more than one year in a state prison. A felony is more serious than a misdemeanor.

HEARING – If an objection is filed, you will receive a notice in the mail from the Clerk’s Office containing your court hearing date. At this hearing, the parties are in the courtroom with the judge, who hears evidence from you and the other present parties about whether your petition should be granted or denied.

LAST SENTENCE – If you are petitioning to seal your criminal record, “last sentence” means the sentence, order of supervision, or order of qualified probation for a criminal offense that terminates last in time, regardless of whether you have listed that offense on your petition.

MINOR TRAFFIC OFFENSE – a petty offense, business offense, or Class C misdemeanor under the Illinois Vehicle Code or a similar provision of a municipal or local ordinance. A minor traffic offense is not a criminal offense and cannot be expunged or sealed unless you were released without charging.

MISDEMEANOR – a crime that may be punished by confinement in a county jail for a term of up to one year.

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MOTION TO VACATE, MODIFY OR RECONSIDER – a written motion filed with the Clerk’s Office by you or by the prosecutor, arresting agency, chief legal officer of the unit of local government that arrested you, or Illinois State Police if you or one of these agencies disagrees with the judge’s decision to grant or deny your petition. You must file a motion to vacate, modify, or reconsider within 60 days after you receive your copy of the order granting or denying your petition. The motion to vacate, modify or reconsider will be ruled on by the same judge who granted or denied your petition.

MUNICIPAL ORDINANCE VIOLATION – an offense defined by a city, village, or other local ordinance that is criminal in nature.

NOTICE OF APPEAL – a document you or the prosecutor, arresting agency, chief legal officer of the unit of local government that arrested you, or Illinois State Police files with the Clerk’s Office to begin an appeal of the judge’s decision granting or denying your petition. The order granting or denying your petition does not become a final and appealable order until 30 days after service of the order by the Clerk’s Office on you and the prosecutor, arresting agency, chief legal officer of the unit of local government that arrested you, or Illinois State Police.

OBJECTION – a written protest against your petition made by the prosecutor, arresting agency, chief legal officer of the unit of local government that arrested you, or Illinois State Police. It means that the objector does not want your record to be expunged or sealed. Objections must be filed by the above-listed entities within 60 days after they receive a copy of your petition. Objections must be in writing and must state with specificity the nature of the objection. An objection is not the same as a denial. Only the judge can deny your petition.

PARDON - a type of executive clemency granted by the Governor. It is considered to be an extraordinary remedy and is rarely granted. It only applies to cases that have resulted in a conviction. The clemency process is administered by the Prisoner Review Board (even if you never went to prison).

SEAL – to physically and electronically maintain the records, unless the records would be otherwise destroyed due to age, but to make the records unavailable without a court order, except that the law allows police agencies and prosecutors certain access to your sealed records. See 20 ILCS 2630/12 and 13. If your record is sealed, your name will also be erased from the Clerk’s Office’s electronic docket system from that day forward.

SUPERVISION – a court order holding the case open for a specific period of time, usually between 6 months and 2 years. During that time, no judgment of guilt is entered. If all of the conditions of the supervision are followed, the case is dismissed and no conviction is ever entered against you.

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SECTION FOUR – FREQUENTLY ASKED QUESTIONS

- 1) How much does it cost to file my petition?** The cost of filing a Petition to Seal or Expunge in Champaign County is \$136.00. When the order is granted, the State Police will receive \$60.00 of the \$136.00. If the order is denied that \$60.00 is refunded to the Petitioner.
- 2) What if I can't afford the filing fee?** If you cannot afford the filing fee, you may complete a Fee Waiver. The Fee Waiver, along with the Petition, will be forwarded to the Judge. If the Fee Waiver is granted, we will proceed with the expungement or sealing process. If the Fee Waiver is not granted, the Petitioner will be responsible for paying the filing fee in order for the process to go forward.
- 3) Do I have to attach a copy of my arrest record and certified copies of my dispositions to my petition?** We do not need a copy of your arrest record in order to process your Petition. However, a criminal record search prepared by the Circuit Clerk's Office is advisable.
- 4) Do I have to attach the results of a drug test to my petition?** There is a drug test requirement for any Petition to seal certain Class 4 felony drug possession (or felony first offender probation) cases, or a Petition to Expunge first offender probation or TASC probation. Those convictions include offenses under the following statutes or acts: 720 ILCS 550/4 Possession of Cannabis, 720 ILCS 510/402 Possession of a Controlled Substance, or the Methamphetamine Precursor Control Act. The test must be taken within the 30 days prior to the filing of your petition. The law does not specify what type of drug test must be attached to the petition. As there is no specific test required, it is recommended that you get a test from a physician or a state agency willing to give such a test and who would be willing to vouch for the authenticity of the test in court.
- 5) Where do I file my petition?** The Circuit Clerk's Office of the county in which your offense occurred. In Champaign County, that is on the first floor of the Champaign County Courthouse.
- 6) What Information do I need to bring with me to the courthouse to file my petition?** The Circuit Clerk's Office has addresses for all arresting authorities in Champaign County, as well as that of the Illinois State Police, so there is no need to bring that information.

You should be able to provide the following information:

1. The arresting authority. For example, were you arrested by the City of Urbana Police Department, or the Champaign County Sheriff?
2. The date of your arrest;
3. The charges that were brought against you;
4. The disposition of the case;
5. The date the case was completed. For example, if you were sentenced to Conditional Discharge, you must know the date the Conditional Discharge was terminated.

Most of the required information can be found within the court file, which can be viewed at the Champaign County Circuit Clerk's Office.

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- 7) **How many copies should I have with me to file?** We require one original and one copy. If you wish to retain a copy for your records please include 2 copies along with the original.
- 8) **Can I expunge or seal an Order of Protection?** No. The expungement statute does not apply to orders of protection, nor does it apply to minor traffic offenses, divorces or other civil matters. Questions about eligibility should be directed to an attorney.
- 9) **Am I eligible for expungement or sealing if there was an order entered for supervision or conviction of reckless driving?** Yes. If you had an order of supervision for Misdemeanor Reckless Driving, the arrest or charge was prior to your 25th birthday, and it has been 5 years since your 25th birthday, you may be eligible for expungement.
- 10) **Can the Circuit Clerk's Office help me fill out my petition?** No. Employees of the Circuit Clerk's Office are prohibited by law from giving legal advice or assisting customers in filling out any court form. The Clerk can, however, provide you with a copy of your disposition and the forms you will need to complete the petition for expungement or sealing of your record.
- 11) **What is a conviction?** A conviction is a final judgment of guilt by the court. This included a finding of guilt by the court or a jury or a plea of guilt that does not include the term "First Offender Probation" or "Supervision".
- 12) **What is not a conviction?** The following are NOT considered to be convictions: supervision completed satisfactorily, NOLLE PROSEQUI, STRICKEN WITH LEAVE TO REINSTATE, FINDING OF NO PROBABLE CAUSE, NON-SUIT, DISMISSED, NOT GUILTY, or successful completion of FIRST-OFFENDER DRUG probation.
- 13) **Someone else was arrested using my identity, how can I clear my record?** If someone else was arrested and used your identity, you should contact the Champaign County State's Attorney's Office, or the arresting agency.
- 14) **What if I was charged as a juvenile?** In Champaign County, the juvenile expungement process is no different than the process for expunging an adult record.
- 15) **If I wait long enough, isn't my record automatically expunged?** No. Once you are arrested, you will have an arrest record even if you were never charged, the case was dismissed, you were found not guilty, or you successfully completed court supervision. The only way to remove the arrest from your record is to file a petition to expunge or seal your court record.
- 16) **If I was found not guilty, do I still need to file a petition?** Yes. Your criminal record includes all your arrests, whether you are found guilty, not guilty or not charged as a result of the arrest.
- 17) **I was pressured into pleading guilty even though I was innocent. Does that qualify me for expungement?** No. Once you plead guilty, any presumption of innocence is waived. However, the

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case itself may qualify for expungement or sealing.

- 18) My case could be expunged but the time period has not passed yet. If it is also eligible for sealing can I seal it now and expunge it later?** Yes. If you do this, you may want to be sure to inform the Circuit Clerk that is your intention. When you reach the point of expungement, let the Circuit Clerk know you previously had the case sealed.
- 19) I live out of town. Can I do this by mail?** Yes. If, however, an agency files an objection to your petition, the court may require a hearing for which you may want, or be directed, to appear.
- 20) How do the police agency that arrested me, the prosecutor who prosecuted me, and any other required parties find out that I filed my petition?** The Circuit Clerk's Office is responsible for serving copies of the Petition to all parties involved. This includes the arresting authority/s and their chief legal officer (as indicated on your petition), the State's Attorney along with their chief legal officer, the Department of Illinois State Police Expungement Unit, the Sheriff and their chief legal officer and any other state agency you may list on the Notice of Filing found in your expungement packet.
- 21) What happens if an objection to my petition is filed?** If an objection is filed a hearing date may be set. Please note that you can request a hearing once you learn of the objection. At the hearing the judge will hear evidence from you and any other parties who received notice and are in attendance. You should expect that you need to appear in court or risk having your petition dismissed without presenting your facts. A judge may allow an attorney to appear on your behalf.
- 22) Do I have to appear in court?** Maybe. If no objection is filed, there is no court proceeding unless the petitioner files a motion the court deems necessary to set for a hearing. If an objection is filed, however, the court may set a hearing date.
- 23) How long does it take to have my record sealed or expunged?** The court process takes approximately 60 to 90 days. Each agency that is notified has 60 days to object to your petition. Once the order is signed, the law enforcement agencies have up to 60 days from the date the order is signed to expunge, seal or impound your record.
- 24) How do I find out if the Judge has granted or denied my petition?** Once the order is signed the Circuit Clerk will send Certified Copies of the order to the Petitioner at the last address the petitioner provided. If you relocate between the time you file your petition and the time the order is entered, please be sure to complete a change of address and file it with the Circuit Clerk's Office. Certified copies of the order will also be provided to the agencies that received the Petition asking for the Order to be entered.
- 25) If the court orders my record expunged or sealed do I have to take any action?** Once the order is signed and forwarded to all parties, there should be no further action necessary on your part. If you are concerned that one of those parties has not completed or followed through with the orders, you should contact them.

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- 26) Once my petition is granted, should I get a certified copy of the court's order?** Since your record will be unavailable to you after it is expunged, it is a good idea to keep a certified copy of your expungement order for your records. A “certified” copy is a copy containing a Circuit Clerk’s Office seal verifying it to be an authentic court document. It will save time and money if you already have a certified copy in a secure place. If you do not retain a certified copy of your expungement order, and you need one at a later date, you will have to file a petition with the court to temporarily unseal your case to obtain a certified copy, then re-seal the case. For example, people sometimes need certified copies of their order and disposition to provide to the Immigration and Naturalization Service (INS) for naturalization purposes.
- 27) Once my record is expunged or sealed, do I have to tell employers about it?** No, and it is against the law for employers or potential employers (except law enforcement, state’s attorneys and other prosecutors, the State Police, and the Department of Corrections) to ask you whether you ever had any records expunged or sealed. Once your record has been expunged, it “may not be considered by any private or public entity [other than by law enforcement agencies, the Department of Corrections, State’s Attorneys, or other prosecutors] in employment matters, certification, licensing, revocation of certification or licensure or registration” (20 ILCS 2630/12).
- 28) Once my petition is granted, do I have to disclose my expunged or sealed record when I get an occupational license or certificate?** No, unless the law requires it. A list of regulated licenses in the State of Illinois can be found at the Illinois Department of Financial and Professional Regulation’s website: www.idfpr.com. (This is not a list of licenses which will require disclosure of an expunged or sealed record).
- 29) What if my petition is denied?** If your Petition(s) is denied, you may ask the Presiding Judge of the Division(s), Department(s), or District(s) in which your case was heard to reconsider your Petition(s). To do this, you can file a *Motion to Reconsider* and a *Notice of Motion* and serve (mail) a copy of these on the four required agencies (State’s Attorney/Prosecutor, the Illinois State Police, the arresting agency, and the chief legal officer of the unit of local government where you were arrested). You must do this within 60 days of service of the order.
- 30) What is a pardon?** If you are unable to have your criminal record expunged or sealed, you may be eligible for a pardon (or clemency) from the governor.

A pardon is different from petitioning the court for expungement of your records. It is a type of executive clemency granted by the Governor. There are no statutory requirements describing who qualifies for a pardon – it is left to the judgment of the Governor. It is considered to be an extraordinary remedy and is rarely granted. For more information, contact the Prisoner Review Board (even if you never went to prison) at (217) 782-7273 or visit www.illinois.gov/prb.

If a pardon from the Governor states that your criminal record may also be expunged, you would file an expungement petition after obtaining the pardon. Whenever a person who has been convicted of an offense is granted a pardon by the Governor which specifically authorizes expungement, an objection to the petition may not be filed. If you receive a pardon based on actual innocence, you may petition the Illinois Court of Claims for monetary restitution if you were improperly imprisoned.

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31) What is a Certificate of Innocence? A Certificate of Innocence is available to a person convicted and subsequently imprisoned by the State of Illinois for one or more felonies which he/she did not commit. Certificates of Innocence are issued by a judge. A Certificate of Innocence allows you to petition the Illinois Court of Claims for monetary restitution for your improper conviction without obtaining a pardon from the Governor.

To receive a Certificate of Innocence, you must prove by a preponderance of the evidence that the judgment of conviction was reversed or vacated and that the indictment or information was dismissed -- or if a new trial had been ordered, that you were found not guilty at the new trial. Also, you must prove that you did not, by your own conduct, voluntarily cause or bring about your conviction. If the court grants a certificate of innocence, it must also enter an order expunging the conviction for which you have been determined to be innocent as provided in subsection (h) of Section 2-702 of the Code of Civil Procedure.

32) What is a Certificate of Eligibility for Sealing? A Certificate of Eligibility for Sealing is available to a person who has been convicted of a Class 3 or Class 4 felony who meets certain criteria. See 730 ILCS 5/3-3-2 (a)(10), *et. seq.* These certificates are issued by the Prisoner Review Board and can only be granted once in the petitioner's lifetime. A Certificate of Eligibility for Sealing allows you to petition the Illinois Circuit Court to have an order granted for your record to be sealed. By granting the Certificate, the Board recommends that the Court order the sealing of all official records of the arresting authority, the Clerk of the Circuit Court, and the Department of State Police concerning the arrest and conviction.

To receive a Certificate, you must receive a unanimous vote from a three member panel of the Prisoner Review Board. A person may petition the Board if at least five years has elapsed since the expiration of the sentence or since the arrest (Note: time requirement does not apply for petty, traffic, conservation, or local ordinance offenses). Additionally, if the person is seeking to have convictions for drug possession sealed, the petitioner must demonstrate that he or she has completed a drug abuse program for the offense sought and provide proof that he or she has completed the program successfully.

If you have been convicted of the following offenses, you are ineligible to apply for a Certificate of Eligibility for Sealing:

- a) A sex offense described in Article 11 or Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of the Criminal Code of 2012
- b) Aggravated assault
- c) Aggravated battery
- d) Aggravated domestic battery
- e) Violation of an order of protection
- f) An offense under the Criminal Code of 2012 involving a firearm
- g) Driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof
- h) Aggravated driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof
- i) Any crime defined as a crime of violence under Section 2 of the Crime Victims Compensation Act

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If a person has applied to the Board for a Certificate of Eligibility for Sealing and was denied, he or she must wait at least four years before reapplying or filing for pardon from the Governor unless the Chairman of the Prisoner Review Boards grants a waiver.

33) What is a Certificate of Eligibility for Expungement? A Certificate of Eligibility for Expungement is available to a person who has been convicted of a Class 3 or Class 4 felony and subsequently served in the United States Armed Forces or National Guard or who at the time of filing the petition is enlisted in the United States Armed Forces or National Guard of this or any other state and served one tour of duty and who meets the requirements of this paragraph. See 730 ILCS 5/3-3-2 (11), *et. seq.* A Certificate of Eligibility for Expungement allows you to petition the Illinois Circuit Court to have an order granted for your record to be expunged. By granting the Certificate, the Board recommends that the Court order expungement of all official records of the arresting authority, the Circuit Clerk, and the Department of State Police concerning the arrest and conviction for the Class 3 or 4 felony.

To receive a Certificate, you must receive a unanimous vote from a three member panel of the Prisoner Review Board.

If you have been convicted of the following offenses, you are ineligible to apply for a Certificate of Eligibility for Expungement:

- a) A sex offense described in Article 11 or Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of the Criminal Code of 2012;
- b) An offense under the Criminal Code of 2012 involving a firearm; or
- c) A crime of violence as defined in Section 2 of the Crime Victims Compensation Act or a similar provision of a local ordinance; or
- d) If the person has not served in the United States Armed Forces or National Guard of this or any other state or has not received an honorable discharge from the United States Armed Forces or National Guard of this or any other state or who at the time of the filing of the petition is serving in the United States Armed Forces or National Guard of this or any other state and has not completed one tour of duty.

If a person has applied to the Board for a Certificate of Eligibility for Expungement and was denied, he or she must wait at least four years before reapplying or filing for pardon from the Governor unless the Chairman of the Prisoner Review Boards grants a waiver.

34) What is a Certificate of Good Conduct? If you are unable to have your criminal record expunged or sealed, you may qualify for a Certificate of Good Conduct. Certificates of Good Conduct are issued by a judge. An employer cannot be held civilly or criminally liable for an act or omission by an employee who has been issued a Certificate of Good Conduct. So, even if you have a criminal record, an employer may be more likely to hire you if you have a Certificate of Good Conduct. See 730 ILCS 5/5-5.5-30.

Certificates of Good Conduct are not considered to be expungements, sealings or pardons. A Certificate of Good Conduct does not limit the prospective employer from accessing criminal background information, as it does not hide, alter, or expunge the criminal record. A person is eligible for a Certificate of Good Conduct if s/he has demonstrated that s/he is a fully rehabilitated,

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law-abiding citizen and:

- a) Has not been convicted more than twice of a felony;
- b) Was not convicted of the following offenses or attempted offenses:
- c) Sex Offender Registration Act
- d) Arsonist Registration Act
- e) Child Murderer and Violent Offender Against Youth Registration Act
- f) Class X Felony
- g) Aggravated DUI
- h) Aggravated Domestic Battery
- i) Forcible Felony

Certificates of Good Conduct are issued by a judge and can be revoked by the Circuit Court upon any subsequent conviction). The Court must make a specific finding of rehabilitation with the force and effect of a final judgment on the merits when the court is satisfied that:

- a) You have conducted yourself in a manner warranting issuance
- b) Relief is consistent with your rehabilitation
- c) Relief is consistent with the public interest.

In order to be issued a Certificate of Good Conduct, applicants must conduct themselves in a manner warranting the issuance of the Certificate for the following minimum time periods:

- a) One year if your most serious crime was a misdemeanor; or
- b) Three years if your most serious crime was a felony.

35) What is a Certificate of Relief from Disabilities? If you are unable to have your criminal record expunged or sealed, and you want to obtain a professional license listed below, you may qualify for a Certificate of Relief from Disabilities. Certificates of Relief from Disabilities are issued by a judge.

Even if you have a criminal record, you can still obtain or renew your professional license, and an employer may be more likely to hire you if you have a Certificate of Relief from Disabilities. See 730 ILCS 5/5-5.5-5 *et. seq.* The court may issue a Certificate of Relief from Disabilities at the time sentence is pronounced, or at any time thereafter upon verified application to the court.

You are eligible for a Certificate of Relief from Disabilities if you:

- a) Have not been convicted more than twice of a felony;
- b) Have not been convicted in Illinois or another jurisdiction of the following offenses:
 - Sex Offender Registration Act
 - Arsonist Registration Act
 - Child Murderer and Violent Offender Against Youth Registration Act
 - Class X Felony
 - Aggravated DUI
 - Aggravated Domestic Battery

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- Forcible Felony

For purposes of a Certificate of Relief from Disabilities, “conviction” includes a plea or a verdict of guilty upon which a sentence of probation, conditional discharge, or supervision has been imposed. 730 ILCS 5/5-5.5-5.

The court may issue a Certificate of Relief from Disabilities when:

- a) The relief sought is consistent with rehabilitation, and
- b) The relief sought is consistent with the public interest.

The licenses and certifications covered by the Certificate are as follows:

- a) The Animal Welfare Act – Animal Welfare Inspector (except for violations of Section 3 Owner’s Duties, 3.01 Cruel Treatment, 3.02 Aggravated Cruelty, 3.03 Animal Torture, 3.03-1 Depiction of Animal Cruelty, or 4.01 Animals in Entertainment of the Humane Care for Animals Act (510 ILCS 70/3, 510 ILCS 70/3.01, 510 ILCS 70/3.02, 510 ILCS 70/3.03, 510 ILCS 70/3.03-1, or 510 ILCS 70/4.01); or Section 26-5 of the Criminal Code of 2012 Dog Fighting (720 ILCS 5/48-1));
- b) The Illinois Athletic Trainers Practice Act – Athletic Trainer (225 ILCS 5/1 *et seq.*);
- c) The Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 (225 ILCS 410/1-1 *et seq.*);
- d) The Boiler and Pressure Vessel Repairer Regulation Act – Boiler & Pressure Vessel Repairperson (225 ILCS 203/1 *et seq.*);
- e) The Boxing and Full-Contact Martial Arts Act (225 ILCS 105/1 *et seq.*);
- f) The Illinois Certified Shorthand Reporters Act of 1984 – Certified Shorthand Reporter (225 ILCS 415/1 *et seq.*);
- g) The Interior Design Title Act – Interior Designer (225 ILCS 310/1 *et seq.*);
- h) The Illinois Professional Land Surveyor Act of 1989 – Land Surveyor (225 ILCS 330/1 *et seq.*);
- i) The Illinois Landscape Architecture Act of 1989 – Landscape Architect (225 ILCS 315/1 *et seq.*);
- j) *et seq.*;
- k) The Marriage and Family Therapy Licensing Act – Marriage & Family Therapist (225 ILCS 55/1 *et seq.*);
- l) The Private Employment Agency Act – Counselor for an Employment Agency (225 ILCS 515/0.01 *et seq.*);
- m) The Professional Counselor and Clinical Professional Counselor Licensing Act -- Counselor (225 ILCS 107/1 *et seq.*);
- n) The Real Estate License Act of 2000 – Real Estate Agent (225 ILCS 454/1-1 *et seq.*);
- o) The Illinois Roofing Industry Licensing Act -- Roofer (225 ILCS 335/1 *et seq.*);
- p) Professional Engineering Practice Act – Engineer (225 ILCS 325/1 *et seq.*);
- q) Water Well and Pump Installation Contractors License Act (225 ILCS 345/1 *et seq.*);

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- r) The Auction License Act (225 ILCS 407/5-1 et. seq.);
- s) Illinois Architecture Practice Act of 1989 (225 ILCS 305/1 et. seq.);
- t) The Dietician Nutritionist Practice Act (225 ILCS 30/1 et. seq.);
- u) The Environmental Health Practitioner Licensing Act (225 ILCS 37/1 et. seq.);
- v) The Funeral Directors and Embalmers Licensing Code (225 ILCS 4/1-1 et. seq.);
- w) The Land Sales Registration Act of 1999 (765 ILCS 86/1-1 et. seq.);
- x) The Professional Geologist Licensing Act (225 ILCS 745/1 et. seq.); and
- y) The Structural Engineering Practice Act of 1989 (225 ILCS 340/1 et. seq.).

For the purposes of determining whether to issue a Certificate of Relief from Disabilities, the court may request that the probation or court services department conduct an investigation of you, and that they submit a confidential report of the investigation. 730 ILCS 5/5-5.5-15(c).

Once issued, no application for one of the above qualified licenses shall be denied because the person with the Certificate of Relief from Disabilities was previously convicted of one or more criminal offenses, or has a “lack of good moral character” because of those convictions, unless:

- a) There is a direct relationship between one or more of the previous criminal offenses and the specific license sought; or
- b) The issuance of the license would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.