

**HOW TO APPLY TO HAVE YOUR RECORD SEALED OR EXPUNGED**

Before beginning this process, make sure you **can** have your case sealed or expunged:

1. Do you have any convictions on your record, felony, misdemeanor or traffic crimes?

Yes

No

2. Have you ever had a case sealed or expunged before?

Yes

No

3. In the case you want sealed or expunged, did you plead guilty or no contest to, or were you found guilty after a trial, of any of the following crimes:

- |   |  |
|---|--|
| Arson   | Domestic Violence (as defined by Fla. statutes)                    |
| Aggravated Assault  | Home Invasion Robbery  |
| Aggravated Battery  | Attempts to Commit any of these crimes                             |
| Illegal Use of Explosives   | Conspiracy to Commit any of these crimes                           |
| Child Abuse   | Sexual Misconduct with a Mentally Ill Person                       |
| Abuse of an Elderly Person  | Sexual Misconduct with a Developmentally Disabled Person           |
| Abuse of a Disabled Person  | Luring or Enticing a Child   |
| Hijacking   | Procuring a Person under 18 for Prostitution                       |
| Kidnapping  | Scheme to Defraud/Organized Fraud                                  |
| Homicide  | Lewd Offense in the Presence of an Elderly Person                  |
| Manslaughter  | Lewd Offense in the Presence of a Disabled Adult                   |
| Sexual Battery  | Offense by Public Officer of Employee                              |
| Robbery   | Showing Obscene Literature to Minors                               |
| Carjacking  | Computer Pornography   |
| Lewd Assault on a Child under 16  | Selling or Buying Minors   |
| Sexual Activity with a Child 12 to 18   | Sexual Misconduct with a Mentally Deficient or Mentally Ill Person |
| Burglary of a Dwelling  | Manufacturing a Controlled Substance                               |
| Stalking  |  |
| Aggravated Stalking   |  |
| Trafficking in Drugs  |  |
| Voyeurism   |  |
| Any offense that would require registration as a sexual predator or sexual offender |  |

Yes

No

If you answered “Yes” to any of these questions, you cannot get your record sealed or expunged.

### Expungement:

You should apply for an expungement if all of the charges in the case were either dismissed by the judge or dropped by the State and did not proceed to trial.

### Sealing:

If you pled guilty or no contest to the charges, or were found guilty after a trial, and adjudication was withheld (meaning you were not convicted), then you can apply for sealing. Before you apply for a sealing, you should have completed **all** parts of your sentence, including completing your probation, paying all court costs and paying all restitution that was ordered by the judge.

## **The Application Process**

The first thing you need is an FDLE (Florida Department of Law Enforcement) Seal/Expunge packet. You can download this packet online at <http://www.fdle.state.fl.us/expunge/>, or call FDLE's Expunge Section in Tallahassee at (850) 410-7870 and request that a packet be sent to you. The packet contains the application form, instructions on how to complete and submit the form and a fingerprint form. Fill out the top part of the FDLE Application form completely. You must then sign the form, having your signature notarized by a notary public. (Some notary publics charge a fee for this service.)

You must obtain a certified copy of the disposition of the case you want to have sealed or expunged from the Criminal Court Clerk's Office. The main office is located at 1351 Northwest 12 Street, 8<sup>th</sup> Floor. There is a fee for this certified copy, currently \$7.00.

Go to your local police department and ask them to put your fingerprints on the fingerprint form that was in your packet. (Some police departments charge a fee for this service.) Make sure that you fill out the top part of the fingerprint card with your identifying information (name, race, sex, date of birth and social security number) and sign the card.

If you can only have your case **sealed** (you entered a plea or were found guilty) then you should send the completed application, fingerprint card, certified case disposition and a money order or cashier's check in the amount of \$75.00, made payable to Florida Department of Law Enforcement, to FDLE in Tallahassee. FDLE's address is on the back of the application form.

If you can have your case **expunged** (all the charges were dismissed by the judge or dropped by the state), then Section B of the application form must be completed by the State Attorney's Office. If the case you want to have expunged is a misdemeanor or criminal traffic case, take or mail the application to the State Attorney's Office County Court Division at 1469 Northwest 13 Terrace, Miami, Florida 33125. If the case is a

juvenile case, take or mail it to the State Attorney's Office Juvenile Division at 3302 Northwest 27 Avenue, Miami, Florida 33142. If the case is a felony, take or mail it to the State Attorney's Office at 1350 Northwest 12 Avenue, Miami, Florida 33136. Also include the certified copy of the case disposition with your application form. There is no charge for this service by the State Attorney's Office. Your application and certified case disposition will be returned to you. Once you get the application back with Section B completed, then you mail the completed application, certified case disposition, fingerprint card and \$75.00 fee to FDLE in Tallahassee.

FDLE will then research your criminal history to determine if you are eligible to have your case sealed or expunged. They will do a criminal history records check in Florida and throughout the United States. This process takes about a month. Once FDLE has finished reviewing your application, they will send you one of three things:

- 1.) A letter telling you that your case is not eligible and why,
- 2.) A Certificate of Eligibility to Seal your case, or
- 3.) A Certificate of Eligibility to Expunge your case.

If you get a letter from FDLE telling you that your case is not eligible, then you cannot proceed with this process until you take care of whatever they tell you the problem is. Sometimes the problem cannot be "fixed" and you are not eligible to have your case sealed or expunged.

### **The Court Process**

Once you get your Certificate of Eligibility back from FDLE, you are halfway through the process. Take your Certificate of Eligibility back to the main office of the Clerk's Office (1351 Northwest 12<sup>th</sup> Street, 8<sup>th</sup> floor); this can only be done at this location, not at the branch courts. Show them your Certificate of Eligibility, which will authorize either sealing or expungement. If your certificate is for a sealing, they will give you three forms that need to be filled out: a Petition to Seal, an Affidavit in Support of Petition to Seal and an Order to Seal. These are all fill-in-the-blank forms, asking for information such as your name, court case number, the date you were arrested, the charges involved and what police department arrested you. When you complete the Affidavit form, be sure to read it very carefully and make sure that it is right, because you will have to swear to it when you sign it before a Notary Public. If you are asking for an expungement, the process is the same but the forms are called Petition to Expunge, Affidavit in Support of Petition to Expunge and Order to Expunge. \*Note that a Certificate of Eligibility is only valid for 12 months, so you should follow up in scheduling the matter for court promptly.

When you have filled in these forms, you must file them with the Clerk's Office. There is a filing fee, which is currently \$42.00. The Clerk's Office will schedule your hearing date before the judge and tell you the time and date. You then appear at the hearing that has been set, your case will be called and the judge will hear your petition. If the State Attorney's Office does not object to your petition, then the judge will grant your petition.

### **Results of an Order to Seal or Expunge**

You do not need to do anything further in order for your case to be sealed or expunged. The Clerk's Office will send certified copies of the judge's order to all of the law enforcement agencies involved, and they will either seal or expunge your record as the judge has ordered.

### **The Effects of a Sealing or Expungement**

If your criminal history record is ordered **sealed** you may lawfully deny the existence of the record, except when you are

1. Applying for a job with a criminal justice agency,
2. A defendant in a criminal prosecution,
3. Applying for another sealing or expungement,
4. Applying for admission to the Florida Bar,
5. Seeking employment or licensing by the Department of Children and Family Services, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or in a sensitive position having direct contact with children, the developmentally disabled, the aged or the elderly,
6. Seeking employment or licensing with the Department of Education, any district school board, university laboratory school, charter school, any private or parochial school or any local governmental entity that licenses child care facilities,
7. Attempting to purchase a firearm and are subject to a criminal history background check, and
8. Seeking authorization from a Florida seaport for employment within or access to one or more seaports.

Your sealed record is available only to you, your attorney, criminal justice agencies for their criminal justice purposes, judges in the state courts system for the purpose of assisting them in their case-related decision-making responsibilities, or any of the groups listed above when you apply for employment, licensing or access authorization.

When your criminal history record has been ordered **expunged**, it may be lawfully denied, with the exception of the same circumstances listed above (except number 7). A record that has been ordered expunged is to be physically destroyed or obliterated (except for the record held by FDLE) and is not available to anyone without a court order, even you.

Remember – you are only permitted to have *one* criminal history record sealed *or* expunged in your lifetime, so make your choice carefully.

September 8, 2008